Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of	)	
	)	
Brooks Broadcasting Corporation	)	NAL/Acct. No. MB-201441410018
	)	FRN: 0001693555
For Renewal of License for	)	
	)	
Station KPSO-FM	)	Facility ID No. 7212
Falfurrias, Texas	)	File No. BRH-20130124ACX

ORDER

Adopted: May 27, 2015 **Released: May 28, 2015**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau ("Bureau") and Brooks Broadcasting Corporation ("Licensee"), licensee of Station KPSO-FM, Falfurrias, Texas ("Station"). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal application ("Renewal Application") for the Station as to whether the Licensee violated Section 73.1740(a) of the Commission's Rules ("Rules")[1] by failing to operate the Station according to the minimum daily operating requirements for FM stations.[2]

2. The Consent Decree stipulates that Licensee violated Section 73.1740(a) and provides, among other things, that Licensee will make a Two Thousand Five Hundred Dollar ($2,500) civil penalty payment to the United States Treasury, reduced from the proposed forfeiture amount based on the Bureau's review of Licensee's tax returns. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's consideration of potential violations of the Rules disclosed in Licensee's Renewal Application.

4. Based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact whether Licensee possesses the basic qualifications to remain a Commission licensee and has satisfied the standards in Section 309(k)(1) of the Act for renewal of the Station's license.

[1] *See* 47 C.F.R. § 73.1740(a).

[2] *See Brooks Broadcasting Corporation,* Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 2705 (MB 2014) (proposing $5,000 forfeiture for apparent violation of Section 73.1740(a) of the Rules).

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,[3] and by the authority delegated by Sections 0.61 and 0.283 of the Rules,[4] the Consent Decree attached hereto IS ADOPTED.

6. IT IS FURTHER ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules,[5] that the *Notice of Apparently Liability for Forfeiture* issued to Brooks Broadcasting Corporation, for willfully violating Section 74.1740(a) of the Commission's Rules, IS HEREBY REDUCED to $2,500.

7. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Brooks Broadcasting Corporation, 304 E. Rice, Falfurrias, TX 78355, and to its counsel Robert L. Olender, Esq., Koerner & Olender, P.C., 11913 Grey Hollow Court, North Bethesda, MD 20852.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

[3] 47 U.S.C. § 4(i).

[4] 47 C.F.R. §§ 0.61, 0.283.

[5] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

CONSENT DECREE

I. Introduction

1. This Consent Decree is entered into by: (a) the Media Bureau of the Federal Communications Commission; and (b) Brooks Broadcasting Corporation, licensee of Station KPSO-FM, Falfurrias, Texas.

II. Definitions

2. For the purposes of this Consent Decree, the following definitions shall apply:

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*;

(b) "Bureau" means the Media Bureau of the Federal Communications Commission;

(c) "Commission" or "FCC" means the Federal Communications Commission;

(d) "Effective Date" means the date on which the Bureau releases the Order;

(e) "Final Order" means the status of the Order after the period for administrative and judicial review has lapsed;

(f) "Investigation" means the Bureau's investigation of Licensee's violations of the Minimum Daily Operation Rule;

(g) "Licensee" means Brooks Broadcasting Corporation, licensee of Station KPSO-FM, Falfurrias, Texas;

(h) "Minimum Daily Operation Rule" means Section 73.1740(a) of the Commission's Rules, 47 C.F.R. § 73.1740(a);

(i) "Order" means an order of the Bureau adopting this Consent Decree;

(j) "Parties" means Licensee and the Bureau;

(k) "Renewal Application" means the pending application for the renewal of the license for Station KPSO-FM, Falfurrias, Texas (File No. BRH-20130124ACX);

(l) "Rules" means the Commission's regulations set forth in Title 47 of the Code of Federal Regulations;

(m) "Station" means Station KPSO-FM (Facility ID No. 7212), licensed to Brooks Broadcasting Corporation; and

(n) "Violations" means the violations of the Minimum Daily Operation Rule.

III. Background

3. On January 24, 2013, the Licensee filed the Renewal Application for the Station's current license term. The Renewal Application indicated that Licensee had operated the Station for less than its prescribed minimum operating hours because from January 16, 2009, until December 24, 2012, the Station ceased its daily programming at 7:00 p.m. Monday through Saturday.[6] Licensee did not obtain authority from the Commission to operate at reduced hours during this period. On March 12, 2014, the Bureau issued a *Notice of Apparent Liability for Forfeiture* for the Violations.[7] The Licensee has timely disputed the *NAL* based on financial hardship and submitted a copy of its tax returns in support of this claim.

4. Because of the issues identified in the Bureau's investigation and the violation of the Minimum Daily Operation Rule, the Parties have agreed to enter into this Consent Decree, to which both the Licensee and the Bureau intend to be legally bound.

IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the Licensee's violations of the Minimum Daily Operation Rule, referred to in Paragraph 3 above, would be time consuming and require substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, and to promote the Licensee's future compliance with the Minimum Daily Operation Rule, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. The Licensee and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. Both the Licensee and the Bureau each represent and warrant that its signatory is duly authorized to enter into this Consent Decree on its behalf. The Licensee agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree.

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Licensee and the Bureau concerning the Licensee's Violations at the Station, as discussed herein.

8. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees that it will not use the Violations in any action against the Licensee, provided that the Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

9. The Licensee hereby stipulates that it violated the Minimum Daily Operation Rule by not operating the Station for at least 4 hours between the hours of 6 p.m. and midnight from January 16, 2009, until December 24, 2012.

10. The Bureau has agreed to accept and Licensee has agreed to make a civil penalty payment to the United States Treasury in the amount of Two Thousand Five Hundred Dollars ($2,500) in

---

[6] *See* 47 C.F.R. § 73.1740(a).

[7] *See Brooks Broadcasting Corporation,* Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 2705 (MB 2014) (proposing $5,000 forfeiture for apparent violation of Section 73.1740(a) of the Rules).

two payments of One Thousand Two Hundred Fifty Dollars ($1,250), the first of which will be within 30 days of the Effective Date, and the remaining will be paid on or before the 180th day of the due date of the first payment. Licensee will also send electronic notification of *each* payment to Alexander Sanjenis at Alexander.Sanjenis@fcc.gov and Penelope Dade at Penelope.Dade@fcc.gov on the date said payment is made. Such payments will be made, without further protest or recourse to a *trial de novo,* by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2- GL, 1005 Convention Plaza, St. Louis, MO 63101.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

11. The Bureau will grant the pending Renewal Application for the Station (File No. BRH-20130124ACX) after the Effective Date, provided that the following conditions have been met: 1) the Licensee has fully and timely satisfied its obligation to make the first payment referenced in Paragraph 10 of this Decree; and 2) there are no issues other than the Violations that would preclude the grant of the Renewal Application.

12. The Licensee agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent the Licensee fails to satisfy any condition, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, designation of the matter for hearing, letters of admonishment, or forfeitures.

13. The Consent Decree will be binding on the Licensee's successors-in-interest and assigns. The Licensee agrees that any future application to assign or transfer control of the Station will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties set forth in this Consent Decree with regard to the Station.

14. The Licensee waives any and all rights that it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided that the Order adopts the Consent Decree without change, addition or modification.

15. The Licensee waives any claims that it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 et seq., relating to the matters discussed in this Consent Decree.

16. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Order, none of the Parties shall contest the continuing validity of the Consent Decree or the Order. The Licensee and the Bureau further agree that they will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and that they will consent to a judgment incorporating the terms of this Consent Decree.

17. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

18. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
William T. Lake, Chief

Date: _____

BROOKS BROADCASTING CORPORATION

By: _____
Mr. Raymond O. Creely, President

Date: 5-23-15