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

In re Application of	)	
	)	
Bucknell University	)	NAL/Acct. No. MB-201541410001
	)	FRN: 0004112793
For Renewal of License for	)	Facility ID No. 7722
Station WVBU-FM	)	File No. BRED-20140310ABH
Lewisburg, Pennsylvania	)	

ORDER

Adopted: August 20, 2015 **Released: August 21, 2015**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau ("Bureau") and Bucknell University ("Bucknell"), the licensee for Station WVBU-FM, Lewisburg, Pennsylvania (the "Station"). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal application ("Renewal Application") for the Station. In particular, the Consent Decree resolves the Bureau's investigation of Bucknell's compliance with Section 73.3527[1] of the Commission's Rules (the "Rules").

2. Bucknell has shown that, at the time of the violations, the Station was a student-run noncommercial educational ("NCE") FM station licensed to Bucknell and that the violations at the Station are first-time documentation violations within the parameters of our policy concerning violations of documentation requirements of Rules by student-run NCE radio stations.[2] Specifically, Bucknell failed to prepare and place in the Station's public file certain quarterly issues-programs lists and it relocated the public file from the Station's restricted-access campus main studio to the publicly-accessible campus Student Center without waiver of Section 73.3527(b)(1), which requires that NCE radio licensees keep the public file at the Station's main studio.

3. We have negotiated the attached Consent Decree in which Bucknell stipulates that it violated Section 73.3527 of the Rules. The Consent Decree also requires that Bucknell adhere to a Compliance Plan as set forth in the Appendix to the Consent Decree and pay a civil penalty to the United States Treasury in the total amount of $2,200. Additionally, balancing Bucknell's legitimate need for

[1] 47 C.F.R. § 73.3527.

[2] *See William Penn University*, Policy Statement and Order, 28 FCC Rcd 6932 ¶ 2 (MB 2013) (in cases of "first-time violations of certain documentation requirements of our Rules by student-run NCE radio stations," instead of issuing a Notice of Apparent Liability, the Bureau will first afford the licensee an opportunity to negotiate a consent decree in which the licensee will pay a reduced civil penalty and agree to a compliance plan. In negotiating the amount, the Bureau will consider "the totality of circumstances, including giving appropriate consideration to the station's finances with respect to reducing the base forfeiture amount significantly.").

campus security[3] with the importance of providing the public with access at any time during regular business hours to the Station's public file,[4] we have concluded that special circumstances exist which, going forward, warrant a deviation from Section 73.3527(b)(1) of the Rules on the facts of this case and that waiver would serve the public interest.[5] Therefore, as part of this Consent Decree proceeding, we waive that provision to permit Bucknell to continue to locate the Station's public file at the university Switchboard in Bucknell's Elaine Langone Center and not at the Station's main studio location.

4. 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 the Renewal Application. In addition, based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact as to whether Bucknell possess the basic qualifications to be a Commission licensee.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i), 4 (j) and 503(b)of the Communications Act of 1934, as amended,[6] and by the authority delegated by Sections 0.61 and 0.283 of the Rules,[7] the Consent Decree attached hereto IS ADOPTED without change, addition or modification.

6. IT IS FURTHER ORDERED that Section 73.3527(b)(1) of the Rules IS WAIVED to permit Bucknell to locate the WVBU-FM public file at the university switchboard in Bucknell's Elaine Langone Center.

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 Amy C. Foerster, Esq., General Counsel, Bucknell University, Box C-3956, Provost's Office, Marts Hall, Lewisburg, PA 17837.

FEDERAL COMMUNICATIONS COMMISSION

Thomas Horan for

William T. Lake
Chief, Media Bureau

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[3] *See e.g. Isothermal Community College,* Memorandum Opinion and Order, 16 FCC Rcd 21360, 21364 (EB 2001) ("noncommercial licensees that are also educational institutions have legitimate security considerations . . . .").

[4] *See Paulino Bernal Evangelism KBRN(AM), Boerne, Texas*, Order on Review, 23 FCC Rcd 15959, 15960-61 (footnote omitted) (2008) ("The Commission has found that reasonable access to the public inspection file serves the important purpose of facilitating citizen monitoring of a station's operations and public interest performance, and fostering community involvement with local stations, thus helping to ensure that stations are responsive to the needs and interests of their local communities.").

[5] *See Network IP, LLC v. FCC,* 548 F.3d 116, 125-28 (D.C. Cir. 2008) (waiver appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest).

[6] 47 U.S.C. § 154(i), 154(j), and 503(b).

[7] 47 C.F.R. §§ 0.61, 0.283.

CONSENT DECREE

I. Introduction

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and Bucknell University, by their respective authorized representatives, for the purpose of resolving certain issues regarding compliance with the Public File Rule that have arisen in the Media Bureau's review of the pending application for the renewal of the license for Noncommercial Educational FM Station WVBU-FM, Lewisburg, Pennsylvania.

II. Definitions

2. For 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) "Adopting Order" means the order of the Bureau adopting this Consent Decree;

(c) "Bureau" means the Media Bureau of the Commission;

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

(e) "Compliance Plan" means the processes and procedures to ensure compliance with the Public File Rule as set forth in the Appendix hereto;

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

(g) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;

(h) "Investigation" means the Bureau's investigation of licensee's compliance with the Public File Rule;

(i) "Licensee" or "Bucknell" refers to Bucknell University;

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

(k) "Public File Rule" means Section 73.3527 of the Commission's Rules, 47 C.F.R. § 73.3527;

(l) "Renewal Application" means the pending application, as amended, for the renewal of license for Station WVBU-FM, Lewisburg, Pennsylvania (File No. BRED-20140310ABH);

(m) "Rules" means the Commission's Rules, found in Title 47 of the Code of Federal Regulations;

(n) "Station" means Station WVBU-FM, Lewisburg, Pennsylvania (Facility ID. No. 7722); and

(o) "Violations" means the violations of the Public File Rule.

III. Background

3. On March 10, 2014, Bucknell filed the Renewal Application to renew its license for the Station. In the Renewal Application, Bucknell disclosed that the Station had not complied with the Public File Rule. Specifically, Licensee stated that prior to October 2011 quarterly issues and programs lists were not created and placed in the Station's public file. Additionally, in an October 28, 2014, email to Commission staff, Licensee further disclosed that as of May 2013 the Station's public file had been kept at the university's on-campus student center. In support of the public file's removal from the Station's main studio, Bucknell explained, in pertinent part:

> WVBU's main studio is located in the basement of one of the University's residence halls, Roberts Hall. To ensure the safety of our students, University residence halls are keycard access restricted such that only individuals with University keycards can access the building. In order to ensure that the Public File is available for public inspection at any time during regular business hours, the University moved the Public Inspection File to the University Switchboard in May 2013. The Switchboard is located in the publicly-accessible Elaine Langone Center ("Student Center") and is open from 8:00 a.m. to 10:00 p.m. When the Public Inspection File was moved to this publicly-accessible location at the University, numerous steps were taken to alert the public regarding it location. Specifically, a sign was placed at the entrance to Roberts Hall stating that the File is located at the Switchboard and listing the Switchboard telephone number. The University's Department of Public Safety, which operates 24 hours per day, was advised as to the location of the File and the requirement of public access.

4. Because of the compliance issues raised by Bucknell's disclosures, the Bureau and Bucknell negotiated this Consent Decree to terminate the Bureau's Investigation of Bucknell's compliance with the Public File Rule.

IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the compliance issues referenced in Paragraph 3 would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, to resolve the matter, and to promote Bucknell's compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. Bucknell and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. Bucknell further agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

7. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Bucknell 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 that Licensee fails to satisfy any condition or Commission Rule, 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, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures.

Any violation of the Adopting Order or the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to enforcement of a Commission order.

8. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Bucknell agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the Violations in any action against Bucknell, provided that 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. Bucknell hereby stipulates that it violated the Public File Rule during the 2006-2014 license term by removing the Station's public file from the Station's main studio without prior consent of the Commission in violation of Section 73.3527(b)(1) of the Rules and by failing to prepare and place in the Station's public file quarterly issues and programs lists of public affairs programming broadcast by the Station in violation of Section 73.3527(e)(8) of the Rules.

10. Bucknell agrees to pay a civil penalty to the United States Treasury in the amount of Two Thousand Two Hundred Dollars ($2,200.00), within thirty (30) calendar days after the Effective Date. Licensee will also send electronic notification of payment to Kim Varner at Kim.Varner@fcc.gov and Penelope Dade at Penelope.Dade@fcc.gov on the date said payment is made. Such payment 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 finds that special circumstances exist for waiver of Section 73.3527(b)(1) of the Rules to relocate the Station's public file from the Station's restricted access main studio, which is accessible only by keycard, to the publicly-accessible Student Center, both of which are located on

Licensee's campus. Therefore, the Bureau agrees to waive Section 73.3527(b)(1) of the Rules on a prospective basis as of the date the Adopting Order is released.

12. The Bureau agrees to grant the Renewal Application, after the Effective Date provided that the following conditions have been met: 1) Bucknell has fully and timely satisfied its obligation to make the civil penalty payment referenced in paragraph 10 of this Decree; and 2) there are no issues other than the Violations that would preclude grant of the Renewal Application.

13. Bucknell represents that, in addition to its existing policies and procedures, it has adopted, is currently in the process of implementing, and agrees to abide by the Compliance Plan for the purpose of ensuring compliance with the Rules. Licensee further agrees, to the extent that it has not already done so, to implement this Compliance Plan at the Station no later than thirty (30) days after the Effective Date and to keep such Compliance Plan in effect for three (3) years after the Effective Date.

14. Bucknell represents that as of the Execution Date, apart from the issues and programming lists noted in paragraph 3, the Station's public file fully complies with the Public File Rule.

15. As of the Effective Date, Bucknell waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If either Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither Bucknell nor the Commission will contest the validity of the Consent Decree or Adopting Order, and Bucknell will waive any statutory right to a *trial de novo*. Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 47 C.F.R. Section 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

16. The Parties agree that if a court of competent jurisdiction renders any of the provisions of this Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

17. The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Licensee does not expressly consent), such provision will be superseded by such Commission rule or order.

18. The Consent Decree will be binding on Bucknell's successors-in-interest and assigns. 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.

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

20. This Consent Decree cannot be modified or amended without the advance written consent of both Parties.

21. Each Party represents and warrants to the other Party that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

22. 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: Thomas Horan for
William T. Lake, Chief

Date: 8/20/15

BUCKNELL UNIVERSITY

By: _____
David J. Surgala
Vice President for Finance and Administration

Date: 8/20/15

APPENDIX

COMPLIANCE PLAN FOR STATION WVBU-FM

For a period of three (3) years commencing as of the Effective Date of the Consent Decree, Bucknell University, or its successor-in-interest, as appropriate, will institute the following procedures to ensure compliance with the Commission's Rules. Unless otherwise provided, all terms defined in the Consent Decree apply to this Compliance Plan.

I. A. The Station Manager and other appropriate staff of the Station will log all broadcasts of programming which, in the Licensee's judgment, constitutes public affairs and public service programming, broadcast by the Station. These logs will be compiled into quarterly issues and programs lists and will be timely placed in the public file of the Station.

B. All such quarterly issues and programs lists will be signed and dated by their preparer before they are placed in the public file.

C. Late-filed lists will be reviewed and signed by the Station's management and accompanied in the Station's public file with a statement indicating the nature of the document, the date placed in the public file, and the reason for the late filing.

D. Within 30 days of the Effective Date of this Compliance Plan, Licensee will conduct training for all Station staff and management on compliance with Commission Rules applicable to Station operations. It will also designate a Compliance Officer responsible for responding to staff questions and consulting with counsel familiar with Communications law regarding compliance matters. Additionally, Licensee will conduct refresher training for staff and management at least once every twelve (12) months, and will train any new Station staffer within five (5) business days of commencement of his or her duties at the Station.

II. Licensee and/or any successor licensee, as appropriate, will conduct annual audits of the Station's public file on or about the anniversary date of the Effective Date of the Consent Decree. The three-year period will terminate on the successful completion of the third annual public file audit. The second and third audits will be due on the anniversary of the first audit.

III. Licensee shall annually submit a sworn certification to the Commission, signed by Licensee, that the Station's public file fully complies with the Public File Rule. If the Licensee cannot truthfully make this certification, it shall set forth in detail any public file deficiencies and describe any corrective measures taken. This report shall be filed within ten (10) days of the completion of the first annual public file audit pursuant to Item II above, and on that date yearly thereafter for two additional years. A copy will be served on Peter H. Doyle, Chief, Audio Division, Media Bureau, Federal Communications Commission and e-mailed to him at Peter.Doyle@fcc.gov.

IV. This Compliance Plan will be under the direct supervision of James F. Lee, Student Media Advisor or by any member of Bucknell University designated by Kari M. Conrad, Associate Dean of Students, or in the event Kari M. Conrad is no longer with Bucknell University or if the license has been assigned, by his/her successor or his/her successor's designee who is affiliated with the successor Licensee's Board.