

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

In the Matter of)	File No. EB-07-TP-064
)	
Halifax Christian Community Church, Inc.)	NAL/Acct. No. 200832700014
)	
Licensee of WFBO-LP)	FRN: 0006871339
Flagler Beach, Florida)	.
Facility ID # 133320)	
)	File No. EB-07-IH-9610
)	

ORDER

Adopted: April 13, 2009

Released: April 15, 2009

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Halifax Christian Community Church, Inc. (“Halifax”). The Consent Decree cancels the forfeiture¹ imposed by the Bureau against Halifax for violations of Section 73.845 of the Commission’s Rules (“Rules”)² and Section 301 of the Communications Act of 1934, as amended (“Act”),³ regarding Halifax’s operation of its station in a manner inconsistent with its station authorization and its operation of an unlicensed radio transmitter. The Consent Decree also terminates an investigation by the Bureau of possible violations of Section 73.503(b) of the Rules⁴ and Section 399(b) of the Act,⁵ regarding Halifax’s broadcast of announcements in violation of the Commission’s underwriting rules.

2. The Bureau and Halifax have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

¹ *Halifax Christian Community Church, Inc.*, Forfeiture Order, 23 FCC Rcd 10081 (Enf. Bur. South Central Region, 2008).

² 47 C.F.R. § 73.845.

³ 47 U.S.C. § 301.

⁴ 47 C.F.R. § 73.503(b).

⁵ 47 U.S.C. § 399(b).

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree, terminating the investigation, and canceling the forfeiture.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Halifax possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization, however, Halifax has agreed to refrain from applying for any new licenses for a five-year period, as stated in the Consent Decree.

5. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended,⁶ and sections 0.111 and 0.311 of the Commission's Rules,⁷ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED** and the eight thousand one hundred dollar (\$8,100) forfeiture imposed in the June 30, 2008 Forfeiture Order **IS CANCELLED**.

7. **IT IS FURTHER ORDERED** that Halifax Christian Community Church, Inc. **SHALL NOTIFY** the Media Bureau of its desire to cancel its license for station WFBO-LP within two business days of the Effective Date.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Halifax Christian Community Church, Inc. at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

⁶ 47 U.S.C. § 154(i), 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311.

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Halifax Christian Community Church, Inc. (“Halifax”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s forfeiture proceeding for violations of Section 73.845 of the Commission’s Rules (“Rules”)¹ and Section 301 of the Communications Act of 1934, as amended (“Act”),² regarding Halifax’s operation of its station in a manner inconsistent with its station authorization and its operation of an unlicensed radio transmitter. The Consent Decree also terminates an investigation by the Bureau of possible violations of Section 73.503(b) of the Rules³ and Section 399(b) of the Act,⁴ regarding Halifax’s broadcast of announcements in violation of the Commission’s noncommercial underwriting rules.

I. DEFINITIONS

1. 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 Enforcement Bureau of the Federal Communications Commission.
- (c) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.

¹ 47 C.F.R. § 73.845.

² 47 U.S.C. § 301.

³ 47 C.F.R. § 73.503(b).

⁴ 47 U.S.C. § 399(b).

- (d) “Complaint” means the complaint from Dawn M. Sciarrino, Esq. to Hillary S. DeNigro, Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, dated December 1, 2007.
- (e) “Effective Date” means the date on which the Commission releases the Adopting Order.
- (f) “Forfeiture Order” means the Forfeiture Order issued by the South Central Region of the Enforcement Bureau to Halifax on June 30, 2008, DA 08-1508, 23 FCC Rcd 10081, for its operation of station WFBO-LP inconsistent with its station authorization and its operation of an unlicensed radio transmitter.
- (g) “Halifax” means Halifax Christian Community Church, Inc. and its predecessors-in-interest and successors-in-interest.
- (h) “Investigation” means the investigation commenced by the Bureau’s June 4, 2008 Letter of Inquiry⁵ regarding whether Halifax violated the Commission’s noncommercial underwriting rules.⁶
- (i) “Order” or “Adopting Order” means an Order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (j) “Parties” means Halifax and the Bureau.
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Federal Regulations.

II. BACKGROUND

2. Pursuant to Section 301 of the Act, no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license.⁷

3. Pursuant to Section 73.845 of the Rules, each Low Power FM (“LPFM”) licensee is responsible for maintaining and operating its broadcast station in a manner in accordance with the terms of the station authorization.⁸

4. Under the Act, advertisements are defined as program material broadcast "in exchange for any remuneration" and intended to "promote any service, facility, or product" of

⁵ See Letter from Priya Shrinivasan, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, to Halifax Christian Community Church, Inc., dated June 4, 2008 (“LOI”).

⁶ 47 C.F.R. § 73.503(b).

⁷ 47 U.S.C. § 301.

⁸ 47 C.F.R. § 73.845.

for-profit entities.⁹ The pertinent statute specifically provides that noncommercial educational stations may not broadcast advertisements.¹⁰ Although contributors of funds to such stations may receive on-air acknowledgements, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors' products, services, or businesses.¹¹ Specifically, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease.¹²

5. On December 1, 2007, the Bureau received a complaint alleging that Halifax had broadcast certain announcements in violation of the Commission's noncommercial underwriting rules.¹³ On June 4, 2008, the Bureau issued a LOI to Halifax, thereby commencing the Investigation.¹⁴ Halifax responded to the LOI on July 2, 2008.¹⁵

6. On April 8, 2008, the Commission's Tampa Office of the Bureau issued a Notice of Apparent Liability for Forfeiture ("NAL")¹⁶ proposing that Halifax be held liable for a forfeiture of \$24,000 under section 503(b)(1)(B) of the Act, and ordered the Company either to pay the proposed forfeiture or file a written response within thirty (30) days of the NAL release date stating why the proposed forfeiture should be reduced or canceled. Halifax submitted a response to the NAL, requesting a reduction of the forfeiture based on its inability to pay the forfeiture. On June 30, 2008, the South Central Region of the Bureau accepted Halifax's claim of inability to pay the forfeiture and issued the Forfeiture Order in the amount of \$8,100.

7. Following release of the Forfeiture Order, Halifax contacted the Bureau and voluntarily offered to relinquish its license for station WFBO-LP.

III. TERMS OF AGREEMENT

8. **Adopting Order**. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

⁹ See 47 U.S.C. § 399b(a).

¹⁰ See *id.*

¹¹ See *In the Matter of the Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice (1986), *republished*, 7 FCC Rcd 827 (1992) ("Public Notice").

¹² See *id.*

¹³ See Complaint from Dawn M. Sciarrino, Esq. to Hillary S. DeNigro, Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, dated December 1, 2007.

¹⁴ See LOI, *supra* note 5.

¹⁵ See Letter from Ronald L. Kocher, President, Halifax Christian Community Church, Inc., to Kenneth M. Schiebel, Jr., Assistant Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, dated July 2, 2008 ("Response").

¹⁶ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200832700014 (Enf. Bur., Tampa Office, April 8, 2008) ("NAL").

9. **Jurisdiction.** Halifax agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

10. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

11. **Termination of Investigation.** 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 its Investigation and cancel the forfeiture imposed in the Forfeiture Order. In consideration for the termination of said Investigation and cancellation of the forfeiture, Halifax agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts underlying the Forfeiture Order or developed in this Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Halifax concerning the matters that were the subject of the Forfeiture Order or the Investigation. The Bureau also agrees that it will not use the facts underlying the Forfeiture Order or developed in this Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Halifax with respect to Halifax's basic qualifications, including its character qualifications, to be a Commission licensee. The Commission, however, shall be permitted to take into account the facts underlying the Forfeiture Order and developed in this Investigation and the existence of this Consent Decree and its terms when evaluating any new applications for license submitted by Halifax.

12. **Cancellation of License and Other Terms.** For purposes of settling the matters set forth herein, Halifax agrees to (1) turn in its license for station WFBO-LP. Halifax shall submit to the Media Bureau a letter stating that it is relinquishing its license for WFBO-LP within two business days of the Effective Date; (2) Halifax shall refrain from applying for a new broadcast license for five (5) years from the Effective Date; and (3) Halifax shall disclose this Consent Decree and its terms with any application for a new broadcast license filed thereafter. The Bureau shall provide a copy of this Consent Decree and the Adopting Order to the Media Bureau upon its release.

13. **Waivers.** Halifax waives any and all rights 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 adopting this Consent Decree, provided the Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Halifax shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Halifax nor the Bureau shall contest the validity of the Consent Decree or the Adopting Order, and Halifax shall

waive any statutory right to a trial *de novo*. Halifax hereby agrees to waive any claims 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 addressed in this Consent Decree.

14. **Subsequent Rule or Order.** The Parties agree that if any provision of the 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 Halifax does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** Halifax agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

16. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties.

17. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

18. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

19. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

20. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kris Anne Monteith
Chief
Enforcement Bureau

Date

Ronald L. Kocher
President
Halifax Christian Community Church, Inc.

Date