

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

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|---------------------------------|---|---------------------------------|
| In the Matter of |) | |
| |) | |
| Estate of George V. Domerese, |) | NAL/Account No. MB-202141410066 |
| Timothy Domerese, Administrator |) | FRN: 0027257005 |
| KMTL(AM), Sherwood, Arkansas |) | File No. 0000105222 |
| K250CF, Sherwood, Arkansas |) | Facility ID Nos. 23871, 201566 |
| |) | |

MEMORANDUM OPINION AND ORDER

Adopted: December 28 , 2021**Released: December 28 , 2021**

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. We have before us an application (Renewal Application) filed by the Estate of George V. Domerese, Timothy Domerese, Administrator (Estate) to renew the licenses of AM station KMTL(AM), Sherwood, Arkansas, and its associated cross-service FM translator station, K250CF, Sherwood, Arkansas (collectively, Stations).¹ Also before us are informal objections (Objections) to the Renewal Application filed by Oscar Reyes (Reyes), and Edward Vega (Vega) (collectively, Objectors).² For the reasons discussed below, we grant in part and otherwise deny the Objections, and adopt the attached Consent Decree, which resolves issues raised during our review of the Renewal Application and the Objections. As set forth in the Consent Decree, we will grant the Renewal Application so long as the Estate fully and timely pays the civil penalty required by the Consent Decree, and there are no issues other than those resolved by the Consent Decree that would preclude grant of the Renewal Application.³

II. BACKGROUND

2. During a filing window opened as part of the Commission's efforts to revitalize the AM radio service,⁴ the Estate applied for and was granted a construction permit for a new cross-service FM

¹ See Application File Nos. 0000099076 (Renewal Application, as originally filed), 0000105222 (Renewal Application, as amended on February 3, 2020).

² See Pleading File Nos. 0000114088 (Reyes Objection), 0000116629 (Vega Objection). We note that, in addition to allegations regarding the Stations, the Objections include allegations about another AM station—KTUV(AM), Little Rock, Arkansas, and its associated FM translator—K260DT, Little Rock, Arkansas. Because the Objectors also make these allegations in objections to the renewal application for KTUV(AM) and K260DT, we will address them in a separate decision regarding that application. We also note that a third informal objection was filed in the name of Naún Domínguez. Pleading File No. 0000113752. However, Mr. Domínguez subsequently requested to withdraw the objection. See Opposition to Informal Objection of the Estate of George V. Domerese, Timothy Domerese, Administrator, Application File No. 0000105222, at Attach. 1 (filed June 1, 2020) (Opposition). We grant this request and dismiss the objection.

³ Consent Decree at para. 11.

⁴ See *FCC Announces Opening of First Auction Filing Window for AM Broadcasters Seeking New FM Translators*, Public Notice, 32 FCC Red 5159 (2017).

translator for KMTL(AM).⁵ On June 3, 2019, we issued a license for this translator—K250CF⁶—to the Estate. The license authorizes K250CF to operate with a transmitter output power (TPO) of 400 watts and an effective radiated power (ERP) of 250 watts.⁷ The K250CF license includes the following conditions: (1) “[T]his facility may only, in perpetuity, be used to rebroadcast the authorized facilities of the AM primary station set forth in this construction permit,” and (2) “[I]f the authorization of the AM primary station set forth in this construction permit is rescinded, revoked, surrendered, subject to special temporary authorization (STA) to remain silent, or is otherwise suspended from operation, the authorization of this cross-service FM translator station shall likewise be rescinded, revoked, surrendered, silent for the duration of the AM primary station’s STA to remain silent, or suspended from operation.”⁸

3. On January 21, 2020, the Estate filed the Renewal Application. On May 20, 2020, we received the Reyes Objection.⁹ Therein, Reyes alleged that KMTL(AM) had been silent without special temporary authority (STA) in violation of section 73.1740(a)(4) of the Rules.¹⁰ He also asserted that K250CF continued to operate during KMTL(AM)’s silence. As a result, Reyes argued that K250CF had failed to comply with the conditions placed on its license, and had either originated programming in violation of sections 74.1231(h) and 74.1263(b),¹¹ or rebroadcast the signal of a different AM station—KTUV(AM)—in violation of section 74.1231(e).¹² Finally, Reyes alleged that K250CF had been operating over the power limit in its license in violation of section 74.1251(b)(7) of the Rules.¹³

4. On June 10, 2020, the Estate responded to the Reyes Objection.¹⁴ The Estate argued the Reyes Objection was procedurally defective.¹⁵ The Estate also asserted that “questions have been raised” about the legitimacy of the Reyes Objection.¹⁶ The Estate further alleged that the Reyes Objection was

⁵ See Application File No. BNPFT-20171220ACT. See also *Broadcast Actions*, Public Notice, Report No. 49158, at 21 (MB Jan. 24, 2018).

⁶ Application File No. BLFT-20190531AAO; *Broadcast Actions*, Public Notice, Report No. 49502, at 7 (MB June 6, 2019). That license listed the translator’s call sign as K249FE because, as originally licensed, the translator operated on Channel 249. The Estate has since moved the translator to Channel 250. See Application File No. 0000097746; *Actions*, Public Notice, Report No. PN-2-200923-01, at 1 (MB Sept. 23, 2020). A license to cover the translator’s operation on that channel was issued on January 19, 2021. See Application File No. 0000129467; *Actions*, Public Notice, Report No. PN-2-210121-01, at 2 (MB Jan. 21, 2021). On that date, the translator’s call sign became K250CF. We refer to the translator by its current call sign herein.

⁷ The translator’s TPO and ERP did not change when it changed channels.

⁸ These conditions were set forth in K250CF’s initial license, and every license issued since.

⁹ Pleading File No. 0000114088.

¹⁰ Reyes Objection at para. 4. See also 47 CFR § 73.1740(a)(4) (requiring Commission approval if an AM station discontinues operations “for 30 or more consecutive days”).

¹¹ Reyes Objection at para. 5. See also 47 CFR §§ 74.1231(h), and 74.1263(b) (prohibiting an FM translator station from originating programming while its primary station is off the air, except under limited circumstances).

¹² Reyes Objection at paras. 4, 5. See also 47 CFR § 74.1231(e) (“An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized to retransmit.”).

¹³ Reyes Objection at para. 4. See also 47 CFR § 74.1251(b)(7) (requiring “formal application on FCC Form 349” for “[a]ny increase of authorized effective radiated power”).

¹⁴ See Opposition.

¹⁵ *Id.* at 1-2. Specifically, the Estate asserts the Reyes Objection is procedurally defective because (1) it lacks “properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity,” (2) Reyes failed to demonstrate that he is a “party in interest,” and (3) Reyes failed to serve the Estate with a copy of his pleading. *Id.*

¹⁶ *Id.* at 3, n.1.

factually unsupported and incorrect.¹⁷ Finally, the Estate stated that K250CF had not been operating at a higher power than authorized, and had operated as a standalone station “only for a very brief duration in early March.”¹⁸

5. On June 26, 2020, the Objectors filed the Vega Objection, which serves as Reyes’ reply to the Opposition, and as Vega’s informal objection to the Renewal Application.¹⁹ The Objectors asserted the Reyes Objection was submitted with Reyes’ consent and was legitimate.²⁰ They also clarified certain allegations made in the Reyes Objection. Specifically, they stated that (1) another AM station had been using K250CF to rebroadcast its programming while KMTL(AM) was off the air²¹, (2) the individual who oversees the programming for KMTL(AM) and K250CF admitted that K250CF was the only one of the four stations on the air on the day the Reyes Objection was filed,²² (3) KMTL(AM) had been off the air for extended periods of time,²³ and (4) KMTL(AM) had been operating at reduced power since July 12, 2018.²⁴ They submitted video evidence to support their claims. The information contained in these videos is summarized below.

¹⁷ *Id.* at 3-4.

¹⁸ *Id.* at 4-5.

¹⁹ *See* Vega Objection.

²⁰ *Id.* at 3.

²¹ *Id.* at 4.

²² *Id.*, citing Opposition at Attach. 3 (Gutierrez Decl.).

²³ *Id.* at 5.

²⁴ *Id.* at 5. The FCC’s records indicate that KMTL(AM) went silent on March 1, 2018, and requested STA to remain silent. Application File No. BLSTA-20180712AAD. Staff granted the STA request on July 27, 2018. Letter from Lisa Scanlan, Deputy Chief, Audio Division, Media Bureau, FCC, to Dan J. Alpert, Esq., Counsel for Estate of George V. Domerese, Timothy Domerese, Administrator, Application File No. BLSTA-20180712AAD (dated July 27, 2018). On February 26, 2019, KMTL(AM) resumed operations at reduced power. *See* Application File No. BSTA-20190225ABA; Letter from Jerome J. Manarchuck, Audio Division, Media Bureau, to Timothy Domerese, Application File No. BSTA-20190225ABA (dated Feb. 26, 2019); Resumption of Operations (filed Feb. 28, 2019). KMTL(AM) has continued to operate at reduced power except for a period of silence from October 17, 2020, to November 25, 2020.. *See* Application File No. BSTA-20191120AAQ; Letter from Jerome J. Manarchuck, Audio Division, Media Bureau, to Estate of George V. Domerese, Application File No. BSTA-20191120AAQ (dated Nov. 25, 2019); Application File No. BESTA-20200522AAA; Letter from Joseph Szczesny, Engineer, Audio Division, Media Bureau, to Timothy Domerese, Administrator, Estate of George V. Domerese, Application File No. BESTA-20200522AAA (dated June 10, 2020); Application File No. BLSTA-20201127AAF; Resumption of Operations (dated Dec. 2, 2020); Application File No. BESTA-20201202AAM; Letter from Joseph Szczesny, Engineer, Audio Division, Media Bureau, to Timothy Domerese, Administrator, Estate of George V. Domerese, Application File No. BESTA-20201202AAM (dated Dec. 22, 2020); Application File No. BESTA-20210726AAA; Letter from Joseph Szczesny, Engineer, Audio Division, Media Bureau, to Timothy Domerese, Administrator, Estate of George V. Domerese, Application File No. BESTA-20210726AAA (dated July 26, 2021).

6.

| Date | Location of Recording | KMTL(AM) | KTUV(AM) | K250CF |
|---------|---|-------------|-------------|---|
| 3/26/20 | Stagecoach Road and Sibley Hole Road, Alexander, Arkansas | Static | Operational | Operational Audio is the same as audio on KTUV(AM). |
| 5/6/20 | Calais Cove and Bascom Drive, Little Rock, Arkansas | Static | Operational | Operational Audio is the same as audio on KTUV(AM). |
| 5/14/20 | Stagecoach Road and Ottercreek, Little Rock, Arkansas | Static | Operational | Operational Audio is the same as audio on KTUV(AM). |
| 5/20/20 | Mabelvale Plaza and I-30, Little Rock, Arkansas | Static | Static | Operational. |
| 5/21/20 | Warden Rd and Somers Ave, Sherwood, Arkansas | Static | Static | Static |
| 5/23/20 | Stagecoach Road and Briner Circle, Little Rock, Arkansas | Static | | Operational. Audio includes station identification for "KMTL 760 AM and 97.7 FM." |
| 5/30/20 | Bass Pro Road, Little Rock, Arkansas | Static | Static | Operational. |
| 6/8/20 | Arkansas 5 and Alexander, Alexander AR | Operational | | Operational. Audio not the same as audio on KMTL(AM). |

7. The Estate did not respond to the Vega Objection or the videos that accompanied it. Accordingly, on October 14, 2020, we issued a Letter of Inquiry (LOI) to the Estate.²⁵ The LOI explained that, based on the evidence before us, it appeared that (1) KMTL(AM) was silent on seven days in March and May 2020, (2) K250CF was operational and either rebroadcasting the signal of a primary station other than KMTL(AM), or originating programming on seven days in March, May and June 2020, and (3) K250CF may have been operating at a higher power than authorized by its license.²⁶ The LOI directed the Estate to provide information regarding KMTL(AM)'s operational status between January 1, 2020, and the present.²⁷ It further required the Estate to identify the dates between January 1, 2020, and the present on which K250CF originated programming, and the dates during that time period on which K250CF rebroadcast the signal of a primary station other than KMTL(AM).²⁸ Finally, the LOI instructed the Estate to provide information regarding the TPO(s) and ERP(s) at which K250CF had operated since January 2020.²⁹

8. The Estate responded to the LOI. The Estate indicated K250CF had rebroadcast the signal of a station other than KMTL(AM) on at least four occasions.³⁰ It also admitted that, prior to June

²⁵ Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, FCC, to Dan J. Alpert, Esq., Counsel for Estate of George V. Domerese, Timothy Domerese, Administrator, Application File No. 0000105222 (dated Oct. 14, 2020) (LOI).

²⁶ *Id.* at 3, 4.

²⁷ *Id.* at 3-4.

²⁸ *Id.* at 4.

²⁹ *Id.* at 4.

³⁰ LOI Response at 3 (indicating K250CF rebroadcast the signal of KTUV(AM) on March 26, 2020, May 6, 2020, and May 14, 2020) and Attach. O (indicating K250CF rebroadcast KTUV(AM) on March 26, 2020, May 6, 2020, May 14, 2020, and May 23, 2020).

2020, K250CF had remained on the air even if KMTL(AM) was silent.³¹ The Estate explained that it had taken steps to assure that these incidents would not occur again.³² The Estate again denied that K250CF had operated at a higher than authorized power.

III. DISCUSSION

A. Procedural Issues

9. We reject the Estate's argument that the Reyes Objection is procedurally defective because it does not include an affidavit, does not include a showing regarding standing, and was not served upon the Estate.³³ The Estate confuses the requirements applicable to petitions to deny, petitions for reconsideration, and applications for review with those governing informal objections.³⁴ The only requirements applicable to informal objections are those set forth in section 73.3587 of the Rules.³⁵ That section requires that informal objections be made in writing, signed, and submitted prior to any action by the Commission on the challenged application. The Reyes Objection satisfies each of these requirements.

10. We further reject the Estate's assertion that we should disregard the Reyes Objection as illegitimate. The Estate submitted an email that purports to summarize statements made by Reyes indicating he did not file the Reyes Objection,³⁶ but Reyes and Vega both state that Reyes did file the Reyes Objection.³⁷ Because there is conflicting evidence in the record, we must exercise our discretion to

³¹ LOI Response at Attach. M (Morón Decl.) (noting that, before June 2020, he (the chief operator of KMTL(AM) and K250CF) was unaware that K250CF could not rebroadcast KMTL(AM)'s programming when KMTL(AM) was off the air, and explaining that he "had thought it was important to provide as much service as possible, even when the AM station was off the air"), and Attach. N (Gutierrez Decl.) (noting that, before June 2020, he—the general manager overseeing day-to-day operations at KMTL(AM) and K250CF—did not know that the translator was not allowed to air KMTL(AM)'s programming when KMTL(AM) was off the air).

³² LOI Response at 3-4. The Estate indicates that (1) the employee principally responsible for the violation has been terminated, (2) a Compliance Handbook is being prepared and will be used to train future employees, (3) the Compliance Handbook explains the FCC FM translator rules and the restrictions contained in the K250CF license, (4) a logging system will be established, and a log entry made on a daily basis confirming the station signal that K250CF is rebroadcasting, (5) the Chief Engineer for K250CF will review the logs on a weekly basis, and (6) steps will be taken to make it so the K250CF equipment cannot receive any an signal other than that of KMTL(AM). *Id.*

³³ Opposition at 1-2.

³⁴ Compare 47 U.S.C. §§ 309(d), 405(a) and 47 CFR §§ 1.106, 1.115, 73.3584 with 47 CFR § 73.3587. Notably, none of the precedents that the Estate cites discuss informal objections. See Opposition at 1-2, citing *William L. Zawila*, Memorandum Opinion and Order, EB Docket No. 03-152, 34 FCC Rcd 13049, 13051, n.12 (2019); *Tribune Media Co.*, Memorandum Opinion and Order, MB Docket 19-30, 34 FCC Rcd 8437, 8448, para. 23 (2019); *Jerry Russell*, Memorandum Opinion and Order, 27 FCC Rcd 8323, 8327, para. 12 (MB 2012).

³⁵ See 47 CFR § 73.3587. See also *Catawba Valley Broad. Co., Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 1913, 1913, para. 2 (1988) (stating that the Commission's "rules require that an informal objection be in written form, signed and submitted prior to any action by the Commission on the challenged application," and accepting informal objection because it satisfied the "listed criteria").

³⁶ Opposition at 3, n.1, and Attach. 2. In support of this claim, the Estate proffers an email that purports to summarize a telephone conversation between Carlos Morón (a principal of the company that we have authorized to acquire KMTL(AM) and K250CF) and Reyes. *Id.* at Attach. 2. See also BAL-20180711AAO; Broadcast Actions, Public Notice, Report No. 49314, at 1, 16 (MB Sept. 5, 2018). In this email, Morón claims to have had an in-person meeting with Reyes and to have recorded Reyes stating "I received a phone call [Vega] yesterday night [May 20, 2020], he told me that he is the one who is sending these emails to the FCC." *Id.* Morón also indicates that Reyes told him that he "did not create[], sign[], or sen[d] any document." *Id.* Finally, according to Morón, Reyes said Vega would "be sending an email under my name because I am his Radio Station General Manager and because he is paying me a check." *Id.*

³⁷ Vega Objection at 1, 3.

determine “how much weight to accord disputed facts.”³⁸ Having reviewed the existing record, we conclude that no weight should be accorded to the email submitted by the Estate. In reaching this determination, we took into account that (1) the email relied upon by the Estate was written by an interested party,³⁹ (2) the factual allegations made in the email were not supported by an affidavit (or declaration made under penalty), and (3) the credibility of the email is undermined by statements made under penalty of perjury by Reyes and Vega, which deny the Estate’s allegations, and indicate the Reyes Objection was filed with Reyes’ knowledge and consent.⁴⁰ Accordingly, we find the Estate has not raised a substantial and material question of fact regarding the legitimacy of the Reyes Objection.⁴¹

B. Substantive Issues.

11. *KMTL(AM) Operational History.* We reject the Objectors’ assertion that KMTL(AM) has been off the air for long periods of time.⁴² While the video evidence before us indicates that KMTL(AM) was silent on specific dates in March and May 2020, it cannot support a finding that KMTL(AM) had not broadcast between the end of February 2020, and the end of June 2020. The Estate does, however, admit that KMTL(AM) was off the air for short periods of time between March and September 2020, due to transmitter malfunctions, and for a longer period of time in October and November 2020 when the transmitter was removed and sent out for more extensive repairs.⁴³ We note that the Estate was not required to notify us about the shorter periods of silence so long as they did not exceed ten consecutive days.⁴⁴ Further, as required by the Commission’s rules, the Estate sought special temporary authority for the longer period of silence.⁴⁵

12. *KMTL(AM) Station Logs.* We find that the Estate failed to maintain station logs for KMTL(AM) in violation of section 73.1820 of the Rules.⁴⁶ The LOI had requested that the Estate submit documentation—including the station logs it is required to maintain for KMTL(AM)—to support its statements regarding KMTL(AM)’s operational history.⁴⁷ While the Estate submitted other evidence

³⁸ See *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D. C. Cir. 1987).

³⁹ See *supra* note 36.

⁴⁰ Vega Objection at 1. Vega indicates that Reyes works for him. *Id.* Vega states, under penalty of perjury, that he helped Reyes put the Reyes Objection together because “his English skills are not sufficient to write a formal letter.” *Id.* He and Reyes also state under penalty of perjury that they decided to file the Reyes Objection in Reyes’ name because Reyes had knowledge of the facts set forth therein and had made the video recordings that supported the allegations made in the Reyes Objection. *Id.* Finally, Reyes states under penalty of perjury that he did not meet with Morón. *Id.* at 3.

⁴¹ We note that, even if we were to dismiss the Reyes Objection as illegitimate, we would still need to address all of the allegations made therein because those same allegations are made by the Objectors in the Vega Objection and the Estate has not disputed the legitimacy of that filing.

⁴² Reyes Objection at para. 4 (asserting that KMTL(AM) had been silent since the end of February 2020); Vega Objection at 5 (asserting that KMTL(AM) “has been off the air for long periods of time”).

⁴³ Opposition at 4 (noting KMTL(AM) was silent between March 6, 2020, and March 8, 2020, due to transmitter problems); LOI Response at 2 (stating transmitter malfunctions caused KMTL(AM) to be silent many times in March, April, and May 2020, and that KMTL(AM) was silent between October 17, 2020, and November 25, 2020, while its transmitter was removed and sent out for more extensive repairs), and Marcon Decl. (stating KMTL(AM) was off the air on May 23, 2020, May 26, 2020, June 24, 2020, June 29, 2020, July 9, 2020, August 2, 2020, and September 8, 2020).

⁴⁴ 47 CFR § 73.1740(a)(4) (requiring notice to the Commission if a station discontinues operations for 10 or more consecutive days).

⁴⁵ *Id.* (requiring Commission approval if a station discontinues operation beyond 30 days). See also Application File No. BLSTA-20201127AAF.

⁴⁶ 47 CFR § 73.1820.

⁴⁷ LOI at 3.

related to KMTL(AM)'s operations, the Estate submitted no station logs.⁴⁸ We address the Estate's failure to properly maintain station logs for KMTL(AM) in the Consent Decree adopted herein.

13. *KMTL(AM) Online Public Inspection File (OPIF)*. We find that the Estate has failed to place or failed to timely place various documents in the KMTL(AM) online public inspection file in violation of section 73.3526 of the Rules.⁴⁹ Specifically, in the Renewal Application, the Estate admits to delays uploading documents to the KMTL(AM) OPIF.⁵⁰ In addition, our review of the KMTL(AM) OPIF uncovered the following missing items: (1) issues/program lists for the first three quarters of 2021, and the fourth quarter of 2020,⁵¹ (2) a copy of the time brokerage agreement regarding the provision of programming for broadcast on the Stations,⁵² and (3) a statement certifying that the Estate had complied with the local public notice requirements applicable to renewal applications and set forth in section 73.3580 of the Rules.⁵³ These violations are addressed by the Consent Decree adopted herein.

14. *K250CF Rebroadcast of Different Primary Station*. We find that, as alleged by the Objectors,⁵⁴ K250CF rebroadcast the signal of another AM station—KTUV(AM)—in violation of a condition included in the K250CF license, and in violation of section 74.1251(c) of the Rules.⁵⁵ The Estate has acknowledged that K250CF did so on March 26, 2020, May 6, 2020, May 14, 2020, and May 23, 2020.⁵⁶ The Estate explains that this occurred because a person involved in operation of KMTL(AM) and K250CF—who was also involved in the operation of KTUV(AM)—mistakenly used a computer with KTUV(AM) programming for K250CF.⁵⁷ The Estate states that it discovered this error in June 2020, that it terminated the person who made the error, and that it has taken steps to ensure that this error cannot occur again in the future.⁵⁸ The Consent Decree adopted herein addresses these violations.

15. *K250CF Origination of Programming*. We conclude that, as the Objectors allege,⁵⁹ K250CF originated programming in violation of a condition included in the K250CF license, and in

⁴⁸ The person who is the chief operator of KMTL(AM) did indicate, under penalty of perjury, that he had “kept some station logs. LOI Response at Attach. M (Morón Decl.). However, he indicated that he “ha[d] not always been diligent.” *Id.*

⁴⁹ 47 CFR § 73.3526.

⁵⁰ Renewal Application, AM/FM/LPFM Certification, Online Public Inspection File, and Late Uploaded Documents Attach.

⁵¹ 47 CFR § 73.3526(e)(12) (requiring KMTL(AM) to prepare quarterly issues/programs lists, and place the lists in its OPIF by the tenth day of the succeeding calendar quarter).

⁵² *Id.* § 73.3526(e)(14) (requiring copies of any time brokerage agreements to be placed in KMTL(AM)'s OPIF). *See also* LOI Response at Attach. C.

⁵³ *Id.* §§ 73.3526(e)(13), 73.3580.

⁵⁴ Reyes Objection at paras. 4, 5, 6 (alleging K250CF had been rebroadcasting the signal of KTUV(AM) since late February 2020); Vega Objection at 5 (arguing that the video recordings submitted with the Vega Objection show that KMTL(AM) “has been off the air for long periods of time and [KTUV(AM)] was being used as the [p]rimary station for translator K250CF”).

⁵⁵ *See supra* para. 2; 47 CFR § 74.1231(3) (“An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized to retransmit. Precautions shall be taken to avoid unintentional retransmission of such other signals.”).

⁵⁶ LOI Response at 3 (stating “programming from [KTUV(AM)] was improperly broadcast by [K50CF] on March 26, 2020; May 6, 2020; and May 14, 2020”), and Attach. O (stating that K250CF rebroadcast KTUV(AM) programming on March 26, 2020, May 6, 2020, May 14, 2020, and May 23, 2020).

⁵⁷ *Id.* at 3-4, and Attachs. M (Morón Decl.), N (Gutierrez Decl.), and O.

⁵⁸ *Id.* at 3, and Attach. M (Morón Decl.).

⁵⁹ Reyes Objection at para. 6 (alleging that K250CF had been “broadcasting as a stand alone [sic] station . . . for the past couple of days”); Vega Objection at 4 (asserting K250CF was originating programming on the dates some of

violation of sections 74.1231(h) and 74.1263(b).⁶⁰ The Estate admits that (1) prior to June 2020, K250CF remained on the air even if KMTL(AM) was silent, and (2) KMTL(AM) was silent “many times in March, April, and May 2020.”⁶¹ The Estate indicates that the persons responsible for operating KMTL(AM) and K250CF were unaware that K250CF could not air the programming intended for broadcast on KMTL(AM) if KMTL(AM) was off the air.⁶² It states that it has taken steps to ensure that K250CF will not originate programming in the future.⁶³ Based on these admissions and the video evidence submitted by Reyes and Vega, we conclude that K250CF originated programming on at least five occasions (March 6, 2020, March 7, 2020, March 8, 2020, May 20, 2020, and May 30, 2020). These violations are addressed in the Consent Decree adopted herein.

16. *K250CF Power Levels.* We reject Reyes’ allegation that K250CF had been operating at a higher power than authorized in the K250CF license. He offered no evidence to support his claim.⁶⁴ Additionally, the Estate submitted declarations made under penalty of perjury by the person who oversees operation of K250CF.⁶⁵ He indicates that K250CF has operated at the TPO and ERP authorized in the K250CF license.⁶⁶

C. Consent Decree

17. As part of this Order, we are adopting a Consent Decree entered into by the Media Bureau (Bureau) and the Estate. The Consent Decree resolves issues related to (1) the Estate’s failure to maintain station logs for KMTL(AM) in violation of section 73.1820 of the Rules, (2) the Estate’s failure to upload (or timely upload) certain items to the KMTL(AM) OPIF in violation of section 73.3526 of the Rules, (3) K250CF’s rebroadcast of the signal of a station other than KMTL(AM) in violation of the condition included in the K250CF license, and section 74.1231(e) of the Rules, and (4) K250CF’s origination of programming in violation of the condition included in the K250CF license, and sections 74.1231(h) and 74.1263(b) of the Rules. As part of the Consent Decree, the Estate will pay a civil penalty to the United States Treasury of five thousand dollars (\$5,000).⁶⁷ Further, for three years from the date of this Order, the Estate will be subject to a compliance plan designed to ensure that the Estate operates both

the video recordings submitted with the objection were made, and that K250CF “continued operating as a stand alone [sic] for several days more”);

⁶⁰ 47 CFR §§ 74.1231(h) (“An FM translator station that rebroadcasts a Class D AM radio broadcast station as its primary station may originate programming during the hours the primary station is not operating . . .”); 74.1263(b) (permitting FM translators to rebroadcast Class D AM stations during nighttime hours when the AM stations do not operate only if the AM station has operated within the last 24 hours).

⁶¹ LOI Response at 3, and Attachs. M (Morón Decl.), and N (Gutierrez Decl.).

⁶² *Id.* at Attachs. M (Morón Decl.), N (Gutierrez Decl.), and O.

⁶³ *Id.* at 4.

⁶⁴ Reyes Objection at para. 4 (stating that Reyes monitored K250CF and it “was always over power” but offering no signal strength measurements or other information to back up the statement).

⁶⁵ Opposition at Attach. 3 (Gutierrez Decl.). *See also* LOI Response at Attach. N (Gutierrez Decl.).

⁶⁶ Opposition at Attach. 3 (“[A]t no time has K250CF broadcast in excess of its licensed TPO (400 watts) and ERP (250 watts.”); LOI Response at Attach. N (Dec. 14, 2020 Gutierrez Decl.) (stating K250CF operated with transmitter power 400 watts or less when it was on the air”). *See also* LOI Response at Attach. E (Tech. Statement of Canyon Lake Broad.) (noting that RadioSoft engineering software was used to calculate the TPO for K250CF, and enclosing the TPO calculations for K250CF).

⁶⁷ We note that the \$5,000 civil penalty in this case involves a reduction from the base forfeiture amount for the Estate’s violations based on inability to pay a higher amount. *See* 47 CFR §1.80, Note to Paragraph 8(b) (downward adjustment criteria include inability to pay). The Bureau reviewed the Estate’s financial records and agreed to accept the \$5,000 civil penalty based on those records.

KMTL(AM) and K250CF in a manner that complies with the Act, the Rules, and the conditions set forth in the Stations' licenses.

18. We conclude that nothing in the record before us creates a substantial or material question of fact whether the Estate possesses the basic qualifications to be a Commission licensee. After reviewing the terms of the Consent Decree, we find the public interest would be served by its approval and by terminating the Bureau's investigation of the Estate's violations of the Rules and the conditions set forth in the K250CF license, subject to the terms of the Consent Decree. We note that, given the Estate's acknowledgment that K250CF did rebroadcast the signal of a station other than KMTL(AM) and did originate programming, we grant the Objections in part. As provided in the Consent Decree,⁶⁸ however, we otherwise deny the Objections.

IV. CONCLUSION/ACTIONS

19. **IT IS ORDERED** that the Request to Withdraw Informal Objection filed by Naún Domínguez, on June 10, 2020, **IS GRANTED**, and the Informal Objection filed by Naún Domínguez on May 14, 2020, **IS DISMISSED**.

20. **IT IS FURTHER ORDERED** that the Informal Objection filed by Oscar Reyes on May 20, 2020, and the Informal Objection filed by Edward Vega on June 26, 2020, **ARE GRANTED IN PART AND OTHERWISE DENIED**.

21. **IT IS FURTHER ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended,⁶⁹ and by the authority delegated by sections 0.61 and 0.283 of the Commission's rules,⁷⁰ the Consent Decree attached hereto **IS ADOPTED**.

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

23. **IT IS FURTHER ORDERED** that copies of this Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to the Estate of George V. Domerese, Timothy Domerese, Administrator, 226 CR 3530, Clarksville, Arkansas, 78230; counsel for the Estate of George V. Domerese, Timothy Domerese, Administrator, Dan J. Alpert, Esq., 2120 N. 21st Road, Arlington, VA 22201; Naún Domínguez, 5318 Baseline Road, Little Rock, AR 72209; Oscar Reyes, 17102 N. Alexander Rd, #415A, Alexander, AR 72002; and Edward Vega, 2323 Old Missouri Road, Springdale, AR 72764.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division, Media Bureau

⁶⁸ See Consent Decree at para. 9.

⁶⁹ 47 U.S.C. § 154(i).

⁷⁰ 47 CFR §§ 0.61, 0.283.

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

| | | |
|---------------------------------|---|---------------------------------|
| In the Matter of |) | |
| |) | |
| Estate of George V. Domerese, |) | NAL/Account No. MB-202141410065 |
| Timothy Domerese, Administrator |) | FRN: 0027257005 |
| KMTL(AM), Sherwood, Arkansas |) | File No. 0000105222 |
| K250CF, Sherwood, Arkansas |) | Facility ID Nos. 23871, 201566 |
| |) | |

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and the Estate of George V. Domerese, Timothy Domerese, Administrator (hereafter “Licensee,” as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau’s investigation into the Licensee’s operation of AM station KMTL(AM), Sherwood, Arkansas, and its associated FM translator station K250CF, Sherwood, Arkansas. To resolve this matter, the Licensee agrees to pay a civil penalty in the amount of Five Thousand Dollars (\$5,000), and agrees to implement a comprehensive Compliance Plan to ensure its future compliance with the Communications Act of 1934, as amended, the Commission’s Rules, and any conditions placed on the authorizations for KMTL(AM) and K250CF.

I. 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 an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Application” means the pending application (Application File No. 0000105222) filed on January 21, 2020, for renewal of the Stations’ licenses.
 - (d) “Bureau” means the Media Bureau of the Commission.
 - (e) “Civil Penalty” means the payment the Licensee has agreed to pay to the United States Treasury.
 - (f) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
 - (g) “Covered Employees” means all employees and agents of the Licensee who are responsible for performing, supervising, overseeing, or managing the operation of either or both of the Stations.
 - (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (i) “Execution Date” means the date by which both the Bureau and the Licensee have signed the Consent Decree.
 - (j) “Investigation” means the Bureau’s investigation into the Licensee’s operation of the Stations;
 - (k) “Licensee” means the Estate of George V. Domerese, Timothy Domerese, Administrator (FRN: 0027257005).

- (l) “Objections” means the pleadings filed by Oscar Reyes on May 20, 2020 (Pleading File No. 0000114088), and Oscar Reyes and Edward Vega on June 26, 2020 (Pleading File No. 0000116629).
- (m) “Online Public Inspection File Rule” means 47 CFR § 73.3526.
- (n) “Parties” means the Licensee and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations;
- (p) “Stations” means KMTL(AM), Sherwood, Arkansas (Facility ID No. 23871); and its associated FM translator station K250CF, Sherwood, Arkansas (Facility ID No. 201566).
- (q) “Violations” means the violations of sections 73.1820, 73.3526, 74.1231(e), 74.1231(h), and 74.1263(b) of the Rules, and the violations of the conditions set forth in the license for K250CF, which are stipulated in paragraph 10 of this Consent Decree.

II. BACKGROUND

3. Section 73.1820 of the Rules requires the Licensee to maintain station logs for KMTL(AM). Section 73.3526 requires the Licensee to maintain an online public inspection file for KMTL(AM), and to upload certain documents to the Commission’s public inspection file database throughout the year. It is crucial that the Licensee maintain an online public inspection file that is complete and up to date because the information in it directly affects, among other things, the public’s ability to be informed about KMTL(AM)’s compliance with its obligations.

4. Section 74.1231(e) prohibits an FM translator from deliberately retransmitting the signals of any station other than the station it is authorized to retransmit, and the license for K250CF authorizes K250CF to retransmit only the signal of KMTL(AM).¹ Section 74.1231(h) of the Rules permits K250CF to originate programming during the hours KMTL(AM) is not operating.² However, per section 74.1263(b) of the Rules, K250CF may only originate programming when KMTL(AM) is off the air at night if KMTL(AM) has operated within the last 24 hours.³ Lastly, if KMTL(AM)’s authorization is “rescinded, revoked, surrendered, subject to special temporary authorization . . . to remain silent, or is otherwise suspended from operation,” K250CF’s authorization likewise is “rescinded, revoked, surrendered, silent for the duration of [KMTL(AM)’s] STA to remain silent, or suspended from operation.”⁴

5. The Licensee owns and operates the Stations. The Licensee recently filed the Application, in which it disclosed violations of the Online Public Inspection File Rule. The Objections were filed in response to the Application and contain allegations related to the Stations’ operations, and K250CF’s compliance with the Rules and license conditions requiring it to retransmit only the signal of KMTL(AM), and prohibiting it from originating programming when KMTL(AM) is not operational. In

¹ *Revitalization of the AM Service*, First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry, MB Docket 13-249, 30 FCC Rcd 12145, 12154, para. 17 (2015) (explaining that any translator acquired as part of the filing windows opened for AM station licensees to apply for new cross-service FM translators “will be permanently linked to the AM primary station acquiring it”). The K250CF license contains a condition setting forth this restriction. Application File No. BLFT-20190531AAO.

² 47 CFR § 74.1231(h) (“An FM translator station that rebroadcasts a Class D AM radio broadcast station as its primary station may originate programming during the hours the primary station is not operating”). KMTL(AM) is a Class D, daytime-only AM station.

³ 47 CFR § 74.1263(b).

⁴ Application File No. BLFT-20190531AAO.

light of the compliance issue noted in the Application and the compliance issues uncovered by the Investigation, the Parties have agreed to enter into this Consent Decree by which both the Licensee and the Bureau intend to be legally bound.

III. AGREEMENT

6. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

7. **Jurisdiction.** The Licensee 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.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. As of the Effective Date, this Consent Decree shall have the same force and effect as any other order of the Commission. 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 that the Licensee fails to satisfy any condition or 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.

9. **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 the Investigation. In addition, the Bureau agrees to grant the Objections in part and deny them in all other respects, and agrees to process the Application in the ordinary course. In consideration for such, the Licensee agrees to the terms, conditions, and procedures contained herein.

10. The Bureau agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action on its own motion against the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.⁵

11. **Admission of Liability.** The Licensee hereby stipulates that (1) it failed to maintain station logs for KMTL(AM) in violation of section 73.1820 of the Rules, (2) it failed to upload (or timely upload) materials to the KMTL(AM) online public inspection file in repeated violation of section 73.3526 of the Rules, (3) K250CF retransmitted the signal of a station other than KMTL(AM) in violation of section 74.1231(e) of the Rules and a condition set forth in the K250CF license, and (4) K250CF originated programming at times when KMTL(AM) was not operational in violation of sections 74.1231(h), 74.1263(b), and a condition set forth in the K250CF license.

12. Pursuant to section 503(b)(2)(E) of the Act, in exercising its forfeiture authority, the Commission may consider, among other things, "any history of prior offenses" by the Licensee.⁶ The Licensee acknowledges that the Commission or its delegated authority may consider the Licensee's admission of liability in this Consent Decree in proposing any future forfeiture against the Licensee in the event the Licensee is determined to have apparently committed a violation of the Act, the Rules, the

⁵ See 47 CFR § 1.93(b).

⁶ See 47 U.S.C. § 503(b)(2)(E).

conditions set forth in either of the Stations' authorizations, or of any orders of the Commission after the Effective Date, whether related to the Violations or otherwise.

13. **Civil Penalty.** The Licensee agrees to pay a Civil Penalty to the United States Treasury in the amount of Five Thousand Dollars (\$5,000), within thirty (30) calendar days after the Effective Date. The Licensee acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in Section 3701(b)(1) of the Debt Collection Improvement Act of 1996.⁷

14. **Payment.** The Licensee shall send electronic notification of payment to Heather Dixon at Heather.Dixon@fcc.gov, and Tom Hutton at Tom.Hutton@fcc.gov on the date payment of the Civil Penalty is made. Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),⁸ or by wire transfer. Payments by check or money order to pay a civil penalty are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:⁹

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁰ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/paymentFrmLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which

⁷ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

⁸ Payments made using CORES do not require the submission of an FCC Form 159.

⁹ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

¹⁰ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

15. **Compliance Officer.** Within 30 calendar days after the Effective Date, the Licensee shall designate FCC legal counsel, the Licensee's Administrator, or a senior manager to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall report directly to the Licensee's Administrator (or, in the case of successors and assigns, FCC counsel or the Licensee's Chief Executive Officer or another equivalent senior officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of the Act, the Rules (including the Online Public Inspection File Rule), and the conditions contained in the Stations' authorizations prior to assuming his/her duties. The Bureau acknowledges that the Compliance Officer, Administrator (or, in the case of successors and assigns, the Licensee's Chief Executive Officer), and/or owner may be the same individual.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees that it shall, within 30 calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the provisions of the Act and the Rules governing operation of AM stations and cross-service FM translators (including the Online Public Inspection File Rule), the conditions set forth in the Stations' authorizations, and the terms and conditions of this Consent Decree. The Compliance Plan shall contain, at a minimum, the following elements:

- (a) **Compliance Manual.** The Compliance Plan shall include a Compliance Manual that is distributed to all Covered Employees. The Licensee may adopt a Compliance Manual that it has prepared or one that has been prepared by an outside source, such as a trade association (e.g., the National Association of Broadcasters), another licensee, or a law firm. The Compliance Manual shall:
 - (i) thoroughly explain the requirements related to operation of AM stations and cross-service FM translator stations (including the Online Public Inspection File Rule), and any restrictions on KMTL(AM) or K250CF operation set forth as conditions on the Stations' authorizations;
 - (ii) contain Operating Procedures that Covered Employees must follow to help ensure the Company's compliance with the Act, the Rules (including the Online Public Inspection File Rule), and the conditions set forth in the Stations' authorizations. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that (1) station logs are maintained for KMTL(AM), (2) KMTL(AM) uploads all required information to its online public inspection file in a timely manner and otherwise maintains full, complete and up-to-date information therein, and (3) a log is maintained (and updated on a daily basis) regarding the primary station being rebroadcast by K250CF. Among other things, the Operating Procedures shall include a compliance checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Online Public Inspection File Rule; and
 - (iii) be periodically reviewed and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective.
- (b) **Compliance Training Program.** If the Licensee has Covered Employees, the Compliance Plan shall include a Compliance Training Program to provide periodic training to those Covered Employees on (1) the provisions of the Act and the Rules governing operation of AM and cross-service FM translator stations, including those related to the maintenance of station logs for AM stations, those related to

KMTL(AM)'s online public inspection file, and those limiting program origination by FM translators, and (2) the specific conditions placed on the Stations' authorizations, including the condition prohibiting K250CF from rebroadcasting the signal of a station other than KMTL(AM), and the condition prohibiting K250CF from operating when KMTL(AM) is not.

As part of the compliance training program, Covered Employees shall be advised of the Licensee's obligation to report any noncompliance with the Act, Rules, conditions on the Station's licenses, or this Consent Decree, and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall receive initial training under the Compliance Training Program within 30 calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after such initial training is provided shall receive training under the Compliance Training Program within 30 calendar days after the date he or she becomes a Covered Employee. The Company shall provide training under the Compliance Training Plan on at least an annual basis, and it shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current, complete, and effective.

- (c) **Compliance Report.** The Licensee shall submit a Compliance Report to the Commission 120 days after the Effective Date and annually thereafter on the anniversary of the Effective Date until the Termination Date.
- (i) The compliance report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that the Licensee: (i) has established and implemented the Compliance Plan; (ii) has utilized the operating procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the Act, the Rules, conditions on the Stations' licenses, or the terms and conditions of this Consent Decree.
 - (ii) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with section 1.16 of the Rules,¹¹ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
 - (iii) If the Compliance Officer is unable to provide the requisite certification, the Compliance Officer shall provide the Bureau with a report detailing the noncompliance, as described below.
 - (iv) The Licensee's Administrator (or, in the case of successors or assigns, the Licensee's Chief Executive Officer or another equivalent senior officer/owner) shall also certify that he or she has reviewed the compliance report and that, based on his or her knowledge, the compliance report does not contain any untrue statement of a material fact, does not omit to state a material fact necessary to make the statements made therein, and is not misleading with respect to the period covered by the compliance report.
 - (v) The compliance report shall be submitted to Albert Shuldiner, Chief, Audio Division, Media Bureau, Federal Communications Commission, at Albert.Shuldiner@fcc.gov; Tom Hutton, Deputy Division Chief, Audio Division,

¹¹ 47 CFR § 1.16.

Media Bureau, Federal Communications Commission, at Tom.Hutton@fcc.gov; and Heather Dixon, Attorney-Advisor, Audio Division Media Bureau, Federal Communications Commission, at Heather.Dixon@fcc.gov.

17. **Reporting Noncompliance.** The Licensee shall report any instance of noncompliance with the Act, the Rules, or the conditions on the Stations' licenses, and any instance of noncompliance with any applicable terms and conditions of this Consent Decree within 10 calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance, including the schedule on which such actions will be taken; and (iii) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. All reports of noncompliance shall be submitted to Albert Shuldiner, Chief, Audio Division, Media Bureau, Federal Communications Commission, at Albert.Shuldiner@fcc.gov; Tom Hutton, Deputy Division Chief, Audio Division, Media Bureau, Federal Communications Commission, at Tom.Hutton@fcc.gov; and Heather Dixon, Attorney-Advisor, Audio Division Media Bureau, Federal Communications Commission, at Heather.Dixon@fcc.gov.

18. **Termination Date.** The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate 3 years after the filing of the compliance report referenced above, provided the Bureau is satisfied that the Licensee has demonstrated substantial compliance with the Act, the Rules, the conditions on the Stations' licenses, and its obligations under this Consent Decree. If the Bureau is not satisfied that the Licensee has demonstrated substantial compliance with the Act, the Rules, the conditions on the Station's licenses, and/or its obligations under this Consent Decree, the Bureau may, within its sole discretion and authority, extend the termination date of this Consent Decree for up to an additional 24 months.

19. **Further Violations.** The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation by the Licensee of the Act, the Rules, or the conditions on the Stations' licenses that occurs during the term of this Consent Decree.

20. **Waivers.** As of the Effective Date, the Licensee 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. The Licensee 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 Consent Decree or Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or Adopting Order, and the Licensee shall waive any statutory right to a *trial de novo*. The Licensee hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 47 CFR Section 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

21. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

22. **Invalidity.** 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.

23. **Subsequent Rule or Order.** 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 the Licensee does not expressly consent), such provision will be superseded by such Rule or Order.

24. **Successors and Assigns.** The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees. The Licensee agrees that any future application to assign or transfer control of the Stations will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties of the Licensee set forth in this Consent Decree. We note that the Bureau already has approved an application (File No. BAL-20180711AAO) to assign the Stations' licenses to another entity. Because that application was filed and granted prior to the Effective Date of this Consent Decree, the application did not include a statement regarding assumption of the responsibilities and duties of the Licensee set forth in this Consent Decree. Should the assignment of the Stations' licenses to Radio La Patrona, LLC, be consummated, the Licensee agrees that the Consummation Noticed filed with the Commission shall be signed by an officer of Radio La Patrona, LLC, and shall include a written acceptance of the responsibilities and duties set forth in this Consent Decree.

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

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

27. **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.

28. **Authorized Representative.** Each Party represents and warrants to the other 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.

29. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: 

Albert Shuldiner
Chief, Audio Division, Media Bureau

Date: 12/28/2021

**ESTATE OF GEORGE V. DOMERESSE, TIMOTHY
DOMERESSE, ADMINISTRATOR**

By: _____
Timothy Domeresse, Administrator

Date: _____

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27. **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.

28. **Authorized Representative.** Each Party represents and warrants to the other 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.

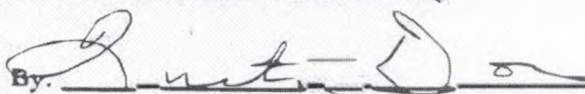
29. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
Albert Shuldiner
Chief, Audio Division, Media Bureau

Date: _____

**ESTATE OF GEORGE V. DOMERESE, TIMOTHY
DOMERESE, ADMINISTRATOR**

By: 
Timothy Domerese, Administrator

Date: December 22, 2021