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

In the Matter of	)	
	)	
ZGS Raleigh, Inc.	)	Facility I.D. No. 41095
Licensee of Station WZGS-CD	)	File No.: BRTTA - 20120731AGS and
Raleigh, North Carolina	)	Reclassification Proceeding[1]
	)	Acct. No.: 201541420014
	)	FRN: 0016833139

ORDER

Adopted: June 4, 2015 **Released: June 4, 2015**

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau (the "Bureau") of the Federal Communications Commission (the "Commission") and ZGS Raleigh, Inc. (the "Licensee"), licensee of Station WZGS-CD, Raleigh, North Carolina (the "Station"). Currently pending before the Commission is an application for renewal of the Station's license (FCC Form 303-S) and the Licensee's response to the Video Division's Order to Show Cause ("Reclassification Proceeding") why the Class A authorization for station WZGS-CA should not be modified to low power television status.[2]

2. The Bureau and the Licensee have negotiated the terms of the Consent Decree that terminate the above-referenced matters. 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. A copy of the Consent Decree is attached and incorporated by reference.

3. In the absence of new material evidence relating to this matter, we conclude that the matters referenced above raise no substantial or material questions of fact as to whether the Licensee possesses the basic qualifications to hold a Commission license and that grant of the above-captioned pending license renewal application is consistent with Section 309(k) of the Communications of 1934, as amended (the "Act").[3] We have further examined the record surrounding the Reclassification Proceeding

---

[1] *See Reclassification of License of Class A Television Station WZGS-CA, Raleigh, North Carolina*, Order to Show Cause, 27 FCC Rcd 2990 (Vid. Div. MB 2012).

[2] *Id.*

[3] Section 309(k)(1) of the Act states that the Commission shall grant a license renewal application "if it finds, with respect to that station, during the preceding term of its license—(a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Act or Commission rules and regulations; and (c) there have been no other violations by the licensee of the Act or Commission rules or regulations which, taken together, would constitute a pattern of abuse." 47 U.S.C. § 309(k)(1). Section 309(k) of the Act states, however, that if the licensee fails to meet this three part standard, the Commission may deny the application—after notice and comment, and opportunity for hearing under Section 309(e) of the Act—"or grant the application on terms and conditions as are appropriate...." 47 U.S.C. §§ 309(k)(2) and 309(k)(3).

and find that, pursuant to Section 316(a) of the Act, changing the status for Station WZGS-CD would not serve the public interest.

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

5. **IT IS FURTHER ORDERED** that, pursuant to Section 309(k) of the Communications Act of 1934,[6] the application to renew the broadcast license of WZGS-CD, Raleigh, North Carolina, BRTTA - 20120731AGS, **IS GRANTED**.

6. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i) and 316 of the Communications Act[7] and Section 1.87 of the Commission's rules,[8] the WZGS-CD Reclassification Proceeding[9] **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by both First Class mail and Certified Mail, Return Receipt Requested, to Licensee's counsel, David M. Silverman, Esq., Davis Wright Tremaine LLP, 1919 Pennsylvania Avenue, NW, Suite 800, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

[4] 47 U.S.C. §§ 154(i), 154(j), 503(b).

[5] 47 C.F.R. §§ 0.111, 0.311.

[6] 47 C.F.R. § 309(k).

[7] 47 U.S.C. §§ 154(i) and 316.

[8] 47 C.F.R. § 1.87.

[9] *See Reclassification of License of Class A Television Station WZGS-CA, Raleigh, North Carolina*, Order to Show Cause, 27 FCC Rcd 2990 (Vid. Div. MB 2012).

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

In the Matter of	)	
	)	File No.: BRTTA - 20120731AGS and
ZGS Raleigh, Inc.	)	Reclassification Proceeding[1]
Station WZGS-CA	)	Acct. No.: 201541420014
Raleigh, North Carolina	)	FRN: 0016833139

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and ZGS Raleigh, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of: (1) terminating the proceeding to consider the license modification of Station WZGS-CA, Raleigh, North Carolina from Class A to low-power status pursuant to Section 316(a) of the Communications Act of 1934, as amended, as set forth in the Video Division's March 29, 2012, Order to Show Cause[2] proceeding (the "Reclassification Proceeding") and (2) terminating the investigation of possible violations of the Commission's public file rules, pursuant to Sections 73.3526 and 73.3514 of the Commission's rules.

I. DEFINITIONS

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

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

b) "Adopting Order" means the Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.

c) "Bureau" means the Media Bureau of the Federal Communications Commission.

d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

e) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which ZGS Raleigh, Inc. is subject by virtue of it being a Commission licensee, including but not limited to 47 C.F.R. §§ 73.3526(b)(2), 73.3526(e)(11)(i), 73.3526(e)(11)(ii), 73.3526(e)(11)(iii), 73.3526(e)(17), and 73.3514(a).

f) "Current License Period" means from the first quarter of 2005 to the effective date.

---

[1] *See Reclassification of License of Class A Television Station WZGS-CA, Raleigh, North Carolina*, Order to Show Cause, 27 FCC Rcd 2990 (Vid. Div. MB 2012).

[2] *Id.*

g) "Division" means the Video Division, Media Bureau of the FCC.

h) "Effective Date" means the date on which the Bureau releases the Adopting Order.

i) "Investigation" means both the Reclassification Proceeding and the examination of ZGS Raleigh's compliance with the Public File Rules as related to the above captioned application.

j) "Parties" means ZGS Raleigh and the Bureau, each of which is a "Party."

k) "Public File Rules" means 47 C.F.R. § 73.3526, including but not limited to, 47 C.F.R. §§ 73.3526(b)(2), 73.3526(e)(11)(i), 73.3526(e)(11)(ii), 73.3526(e)(11)(iii), and 73.3526(e)(17), and also 47 C.F.R. § 73.3514(a).

l) "Reclassification Proceeding" or "Order to Show Cause" means the order the Bureau released on March 29, 2012 requesting that ZGS Raleigh show cause why the Class A authorization for station WZGS-CA should not be modified to low power television status for failure to meet its ongoing Class A eligibility requirements.

m) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

n) "Station" means WZGS-CA, Raleigh, North Carolina.

o) "ZGS Raleigh" means ZGS Raleigh, Inc. and its predecessors-in-interest and successors-in-interest.

II. DISCUSSION

3. On March 29, 2012, the Division released an Order to Show Cause requesting that ZGS Raleigh demonstrate why the Class A authorization for station WZGS-CA should not be modified to low power television status for failure to meet its ongoing Class A eligibility requirements.[3] Section 316(a) of the Act permits the Commission to modify a station authorization if such action is in the public interest.[4] Commission records indicated that the Station was on the air for only slightly more than two weeks during the period between April 2010 and March 2012, and was silent for the remainder of that time. According to ZGS Raleigh, the reason for the silence was due to the Station's loss of its network affiliation and its financial circumstances. Counsel for ZGS Raleigh filed a response to the Order to Show Cause on May 1, 2012.[5]

4. On July 31, 2012, ZGS Raleigh filed its license renewal application (FCC Form 303-S) with the Commission. In the process of evaluating the application, the Bureau identified numerous potential violations of the Commission's Public File Rules, which are outlined below.

[3] WZGS-CA Reclassification Proceeding, 27 FCC Rcd at 2990.

[4] 47 U.S.C. § 316(a).

[5] Response to Order to Show Cause filed by ZGS Raleigh, Inc. (May 1, 2012).

5. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations. Subsection 73.3526(e)(11)(i) of the Rules requires every commercial television and Class A licensee to place in its public inspection file, on a quarterly basis, a list of issues and programs "that have provided the station's most significant treatment of community issues during the preceding three month period."[6] Copies of the issues and programs lists must be "retained in the public inspection file until final action has been taken on the station's next license renewal application."[7] Pursuant to subsection 73.3526(b)(2) of the Rules, a station's issues and programs lists must also be uploaded to a Commission-hosted website.[8] During the current license period, specifically between 2005 and 2012, ZGS Raleigh appears to have failed to comply with both of the aforementioned rules related to the preparation, maintenance and filing of quarterly issues and programs lists.

6. Subsection 73.3526(e)(11)(ii) of the Rules requires each commercial television and Class A licensee to prepare and place in its public inspection file, on a quarterly basis, records sufficient to substantiate the Station's certification, in its license renewal application, of compliance with the commercial limits on children's programming.[9] That subsection also requires licensees to file the reports with the Commission by the tenth day after the close of the reporting quarter.[10] During the current license period, ZGS Raleigh failed to file its children's commercial limit certifications in a timely manner for numerous quarters.

7. Subsection 73.3526(e)(11)(iii) of the Rules requires each commercial television and Class A licensee to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during the quarter to serve the educational and informational needs of children. That subsection also requires licensees to file the reports with the Commission by the tenth day after the close of the reporting quarter.[11] During the current license period, ZGS Raleigh failed to file its Children's Television Programming Reports (FCC Form 398) in a timely manner for numerous quarters.

8. Subsection 73.3526(e)(17) of the Rules requires each licensee of a Class A television station to provide documentation sufficient to demonstrate that it is continuing to meet the eligibility requirements set forth in Section 73.6001 of the Rules. During the current license period, ZGS Raleigh failed to consistently file Class A certifications for the Station.[12]

9. In addition, subsection 73.3514(a) of the Rules provides that "[e]ach application shall include all information called for by the particular form on which the application is required to be

---

[6] 47 C.F.R. § 73.3526(e)(11)(i).

[7] *Id.*

[8] *See generally, Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children's Television Programming Report,* Second Report and Order, 27 FCC Rcd 4535 (2012) (requiring broadcast television stations to post their public inspection files, with limited exception, online in a Commission-hosted database).

[9] 47 C.F.R. § 73.3526(e)(11)(ii).

[10] *Id.*

[11] 47 C.F.R. §73.3526(e)(11)(iii).

[12] For example, the Station filed Class A certifications consistently between 2006 and 2009, but did not file any certifications between 2010 and 2012.

filed...."[13] Section IV, Question 3 of the license renewal application requires the licensee to certify that during the license term it has placed all documents required by Section 73.3526 of the Commission's rules into the Station's public file at appropriate times.[14] Section IV, Question 6 of the application requires the licensee to certify that during the license term it has filed with the Commission all of its Children's Television Programming Reports (FCC Form 398).[15] In response to Questions 3 and 6 in its license renewal application, ZGS Raleigh certified that it had placed all required documents in its public inspection file at the appropriate times. However, ZGS Raleigh failed to disclose in the application that it did not file all of its public file documents required by 47 C.F.R. § 73.3526, including its Children's Television Programming Reports.

10. Since July 31, 2012 when ZGS Raleigh filed its license renewal application, the Station has been compliant with the Rules. ZGS Raleigh agrees to continue complying with the Rules moving forward.

III. TERMS OF AGREEMENT

11. **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.

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

13. **Effective Date; Violations**. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of 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 the enforcement of a Commission order.

14. **Termination of Investigation; Grant of Renewal Application**. 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, ZGS Raleigh agrees to the terms and conditions contained herein. Furthermore, pursuant to Section 309(k)(2) of the Act, the Bureau agrees to grant, in conjunction and simultaneously with the adoption of this Consent Decree, the Station's Renewal Application through December 1, 2020, without any additional conditions beyond those set forth herein. The Bureau further 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 any new proceeding, formal or informal, or take any action on its own motion against ZGS Raleigh 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 take any action on its own motion against ZGS Raleigh with respect to ZGS Raleigh's basic

[13] 47 C.F.R. § 73.3514(a).

[14] *FCC Form 303-S*, Section IV, Question 3.

[15] *FCC Form 303-S*, Section IV, Question 6.

qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

15. **Subsequent Investigations**. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints or other adjudicatory pleadings filed against ZGS Raleigh or its affiliates for alleged violations of the Act or the Commission's rules or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by ZGS Raleigh with the Communications Laws. It shall also not prevent the Commission or its delegated authority from determining whether reclassification of the station's status from Class A to low-power would be consistent with Section 316(a) of the Act in the future should new facts or evidence occurring subsequent to the release date of this Consent Decree come to light. Specifically, by issuance of this Consent Decree, the Commission reminds ZGS Raleigh that the *Class A Memorandum Opinion and Order on Reconsideration* has concluded that all Class A television licensees have a continuing eligibility requirement, and that the failure to meet this requirement may result in loss of Class A status.[16]

16. **Voluntary Contribution**. ZGS Raleigh agrees that it will make a voluntary contribution to the United States Treasury in the amount of fifty-five thousand dollars ($55,000) within thirty (30) calendar days after the Effective Date. ZGS Raleigh shall also send electronic notification of payment to Alison Nemeth at alison.nemeth@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[17] 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 you should follow based on the form of payment you select:[18]

- 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.

[16] *In the Matter of Establishment of a Class A Television Service*, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8257 (2001).

[17] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

[18] Should ZGS Raleigh have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e-mail at ARINQUIRIES@fcc.gov.

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.

17. **Waivers**. ZGS Raleigh 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 Adopting Order, provided the Bureau issues an Adopting Order as defined herein. ZGS Raleigh 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 ZGS Raleigh nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and ZGS Raleigh shall waive any statutory right to a trial *de novo*. ZGS Raleigh hereby agrees to waive any claims it may 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.

18. **Liability**. ZGS Raleigh admits, solely for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 13 hereof, that the facts discussed in paragraphs 3-9 above constitute violations of Sections 73.3526(b)(2), 73.3526(e)(11)(i), 73.3526(e)(11)(ii), 73.3526(e)(11)(iii), 73.3526(e)(17), and 73.3514(a) of the Rules. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or paragraph 13 hereof, or both, are breached by the Bureau, or are invalidated or modified to ZGS Raleigh's prejudice by the Commission, Bureau, or any court, then and in that event the provisions of the immediately-preceding sentence shall be of no force or effect whatever, and ZGS Raleigh shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning violations of Sections 73.3526(b)(2), 73.3526(e)(11)(i), 73.3526(e)(11)(ii), 73.3526(e)(11)(iii), 73.3526(e)(17), and 73.3514(a) of the Rules.

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

20. **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 ZGS Raleigh does not expressly consent) that provision will be superseded by such rule or Commission order.

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

22. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

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

24. **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.

25. **Authorized Representative**. The individual signing this Consent Decree on behalf of ZGS Raleigh represents and warrants that he is authorized by ZGS Raleigh to execute this Consent

Decree and to bind ZGS Raleigh to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

26. **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.

Media Bureau
Federal Communications Commission

By: _____
William T. Lake
Chief

5-27-15
Date

ZGS Raleigh, Inc.

By: _____
Eduardo Zavala
President, ZGS Communications, Inc.

05-27-15.
Date