

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

In the Matter of	)	File No. EB-07-IH-5371
	)	
<b>Sunshine Broadcasters, Inc.</b>	)	Facility ID No. 63979
	)	
	)	FRN No. 0003754843
	)	
	)	NAL/Acct. No. 200832080092

**ORDER**

**Adopted: August 1, 2008**

**Released: August 6, 2008**

By the Investigations and Hearings Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (the “Bureau”) and Sunshine Broadcasters, Inc., licensee of Station WIGN(AM) Bristol, Tennessee (Facility ID No. 63979) (the “Licensee”). The Consent Decree terminates the Bureau’s investigation regarding whether the Licensee violated Section 310(d) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> and Section 73.3540 of the Commission’s rules<sup>2</sup> by engaging in a stock transfer that resulted in a transfer of control of the Licensee without first obtaining Commission approval.

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

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 and terminating the investigation.

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 Licensee possesses the basic qualifications including, but not limited to, those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act and Sections 0.111 and 0.311 of the Commission’s rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

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<sup>1</sup> See 47 U.S.C. § 310(d).

<sup>2</sup> See 47 C.F.R. § 73.3540.

<sup>3</sup> See 47 U.S.C. § 154(i); 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that all third-party complaints against Sunshine Broadcasters, Inc. before the Enforcement Bureau related to the above-captioned investigation as of the date of this Consent Decree **ARE DISMISSED**.

8. **IT IS FURTHER ORDERED** that Sunshine Broadcasters shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument payable to the order of the Federal Communications Commission, to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Sunshine Broadcaster will also send an electronic notification on the date each said payment is made to: Hillary DeNigro (Hillary.Denigro@fcc.gov), Rebecca Hirselj (Rebecca.Hirselj@fcc.gov) and William Knowles-Kellett (William.Knowles-Kellett@fcc.gov).

9. **IT IS FURTHER ORDERED** that Sunshine Broadcasters, Inc. will file reports with the Commission 12 months, 24 months, and 36 months after the Effective Date, as that term is defined in the attached Consent Decree, unless the Station License is assigned after prior approval by the Commission. In each report, Sunshine Broadcasters, Inc. shall confirm that it has complied with the compliance plan set forth in the Consent Decree. Each report shall include a compliance certificate from an officer, as an agent of Sunshine Broadcasters, Inc., stating that the officer has personal knowledge that Sunshine Broadcasters, Inc. has complied with the provisions of the compliance plan in the Consent Decree together with an accompanying statement explaining the basis for the officer’s compliance certification. All reports shall be submitted to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and, if practicable, also via e-mail at Hillary.Denigro@fcc.gov.

10. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail, postage prepaid, and certified mail, return receipt requested, to Timothy Brady, Esquire, P.O. Box 930, Johnson City, Tennessee, 37605-0930.

FEDERAL COMMUNICATIONS COMMISSION

Hillary DeNigro  
Chief, Investigations and Hearings Division  
Enforcement Bureau

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

In the Matter of	)	File No. EB-07-IH-5371
	)	
	)	Facility ID No. 63979
<b>Sunshine Broadcasters, Inc.</b>	)	
	)	FRN No. 0003754843

**CONSENT DECREE**

The Enforcement Bureau (“Bureau”) and Sunshine Broadcasters, Inc. (“Sunshine Broadcasters” or the “Licensee”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether Sunshine Broadcasters, Inc. violated Section 310(d) of the Communications Act of 1934, as amended,<sup>1</sup> and Section 73.3540 of the Commission’s rules<sup>2</sup> by engaging in a stock transfer that resulted in a transfer of control of the Licensee.

**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.
  - (d) “Complaint” means any third-party complaint that may have been received by or is otherwise in the possession of the Commission or Bureau alleging that Sunshine Broadcasters, Inc. engaged in an unauthorized transfer of control.
  - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 8.
  - (f) “Effective Date” means the date on which the Commission releases the Adopting Order.

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<sup>1</sup> See 47 U.S.C. § 310(d).

<sup>2</sup> See 47 C.F.R. § 73.3540.

- (g) “Investigation” means the investigation commenced by the Bureau’s Investigations and Hearings Division’s January 11, 2008, Letter of Inquiry<sup>3</sup> regarding whether Sunshine Broadcasters, Inc. engaged in an unauthorized transfer of control with respect to Station WIGN(AM).<sup>4</sup>
- (h) “Investigations and Hearings Division” means the Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, acting on behalf of the Enforcement Bureau.
- (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 Sunshine Broadcasters, Inc. and the Bureau.
- (k) “Rules” means the Commission’s regulations found in Title 47 of the Federal Regulations.
- (l) “Sunshine Broadcasters” or “Licensee” means Sunshine Broadcasters, Inc. licensee of Station WIGN(AM), Bristol, Tennessee Facility ID No. 63979.
- (m) “Station” means Station WIGN(AM), Bristol, Tennessee, Facility ID No. 63979.
- (n) “Station License” means the FCC license for Station WIGN(AM), Bristol, Tennessee, Facility ID No. 63979.

## II. BACKGROUND

2. Pursuant to Section 310(d) of the Act, control of a station license may not be transferred “except upon application to the Commission and a finding that the public interest, convenience, and necessity are served thereby.”<sup>5</sup> Section 73.3540 of the Commission’s rules<sup>6</sup> provides that prior consent of the Commission is required to voluntarily transfer control of a broadcast license.<sup>7</sup>

3. On January 11, 2008, the Bureau issued a letter of inquiry (“LOI”) to Sunshine Broadcasters. Upon receiving the LOI and in apparent response thereto, Sunshine Broadcasters admitted that it engaged in a stock transfer involving a transfer of control of the Company

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<sup>3</sup> See Letter from Rebecca Hirselj, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Sunshine Broadcasters, Inc., January 11, 2008.

<sup>4</sup> See 47 U.S.C. § 310(d); 47 C.F.R. § 73.3540.

<sup>5</sup> 47 U.S.C. § 310(d).

<sup>6</sup> See 47 C.F.R. 73.3540.

<sup>7</sup> See 47 C.F.R. § 73.3540(a).

without having obtained prior Commission approval.<sup>8</sup> Sunshine Broadcasters informed the Commission that it reversed the transaction at issue after realizing that prior approval was required.<sup>9</sup> Sunshine Broadcasters asserted that it was unaware such approval was necessary and that, by failing to request such authorization, it did not intend to deceive the Commission regarding the stock transfer. In apparent support of this assertion, Sunshine Broadcasters noted that it reported that the transfer had occurred in FCC applications. Sunshine Broadcasters proposed resolution of this matter by consent decree.

### III. TERMS OF AGREEMENT

4. **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.

5. **Jurisdiction.** Sunshine Broadcasters 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.

6. **Effective Date: Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the FCC 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.

7. **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 dismiss the Complaint. In consideration for the termination of said Investigation and dismissal of the Complaint, Sunshine Broadcasters 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 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 Sunshine Broadcasters concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts 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 Sunshine Broadcasters with respect to Sunshine Broadcasters' basic qualifications, including its character qualifications, to be a Commission licensee.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Sunshine Broadcasters agrees to maintain a Compliance Plan related to future compliance with the Act, the

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<sup>8</sup> See Letter from Timothy K. Brady, Esq., counsel for Sunshine Broadcasters, to Rebecca Hirselj, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated February 11, 2008.

<sup>9</sup> See *id.* at 2.

Commission's Rules, and the Commission's Orders for a period of three years. The Plan will include, at a minimum, the following components:

The President of Sunshine Broadcasters will conduct a compliance examination of Sunshine Broadcasters using the AM Station Checklist published by the Commission's Media Bureau. Such examination will be conducted, at a minimum, every six months, beginning on the Effective Date, and concluding three years thereafter. The President shall also consult with the Licensee's telecommunications counsel regarding the Station's overall compliance with the Commission's rules on an annual basis if not more frequently.

9. **Compliance Reports.** Sunshine Broadcasters will file compliance reports with the Commission 12 months, 24 months, and 36 months following the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of Sunshine Broadcasters, stating that the officer has personal knowledge that Sunshine Broadcasters has complied with the compliance plan set forth herein, together with an accompanying statement explaining the basis for the officer's compliance certification. All compliance reports shall be submitted to Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and, if practicable, also via e-mail at [Hillary.Denigro@fcc.gov](mailto:Hillary.Denigro@fcc.gov).

10. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire three years from the Effective Date.

11. **Voluntary Contribution.** Sunshine Broadcasters agrees that it will make a voluntary contribution to the United States Treasury in the amount of Five Thousand Dollars (\$5,000). Such contribution shall be made in five monthly payments of One Thousand Dollars (\$1,000) each. The first payment is to be made within ten calendar days of the Effective Date of the Adopting Order. The payment must include the NAL/Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Sunshine Broadcaster will also send an electronic notification on the date each said payment is made to: Hillary DeNigro ([Hillary.Denigro@fcc.gov](mailto:Hillary.Denigro@fcc.gov)), Rebecca Hirselj ([Rebecca.Hirselj@fcc.gov](mailto:Rebecca.Hirselj@fcc.gov)) and William Knowles-Kellett ([William.Knowles-Kellett@fcc.gov](mailto:William.Knowles-Kellett@fcc.gov)).

12. **Waivers.** Sunshine Broadcasters 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 Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Sunshine Broadcasters 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 Sunshine Broadcasters nor the Commission shall contest the validity of the

Consent Decree or the Adopting Order, and Sunshine Broadcasters shall waive any statutory right to a trial *de novo*. Sunshine Broadcasters 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.

13. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be determined to be or otherwise held invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall continue in full force and effect and construed and enforced accordingly. 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.

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 Sunshine Broadcasters does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** Sunshine Broadcasters 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. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders.

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.

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Hillary S. DeNigro  
Chief, Investigations and Hearings Division

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Date

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Rick Mitchell  
President  
Sunshine Broadcasters, Inc.

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Date