

LAW OFFICES  
RICHARD F. SWIFT  
SUITE 350  
2175 K STREET, N. W.  
WASHINGTON, D. C. 20037

TEL: (202) 293-7979  
FAX: (202) 659-5711

April 7, 2000

RECEIVED

APR - 7 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: United Broadcasters Company  
Amendment to Application for Construction Permit  
FM Channel 247A  
Rio Grande, Puerto Rico  
File No. BPH-880816OW  
MM Docket No. 90-380

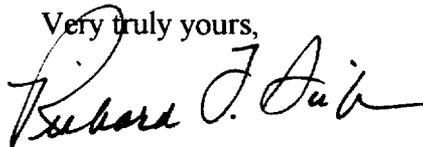
Dear Madam:

Forwarded herewith, on behalf of United Broadcasters Company, is an amendment to the above-referenced application for a construction permit for a new FM broadcast station on Channel 247A, Rio Grande, Puerto Rico.

This amendment is the subject of a concurrently filed Petition for Leave to Amend in MM Docket No. 90-380.

Should any questions arise with respect to the amendment, please communicate with this office.

Very truly yours,



Richard F. Swift  
Counsel for  
United Broadcasters Company

RFS:dab  
enclosure

No. of Copies rec'd  
List ABCDE

012

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

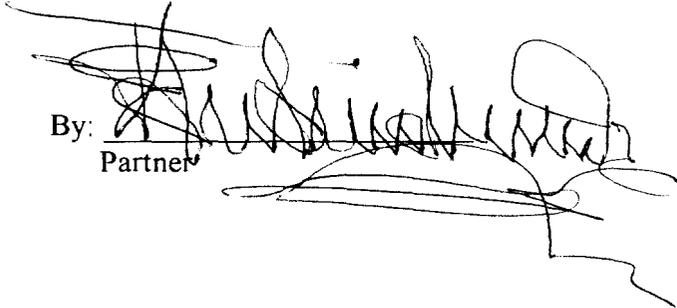
Re: United Broadcasters Company  
Amendment to Application for  
Construction Permit for  
New FM Broadcast Station on  
Channel 247A at  
Rio Grande, Puerto Rico  
File No. BPH-19880816OW

Dear Ms. Salas:

The above-referenced application is hereby amended by submission of the information  
attached as Exhibit A.

Very truly yours,

**United Broadcasters Company**

By:   
Partner

Date: 3/29/00

United Broadcasters Company  
Amendment to Application for Construction Permit  
for New FM Broadcast Station on Channel 247A at  
Rio Grande, Puerto Rico  
File No. BPH-19880816OW  
Exhibit A

This amendment is filed in conjunction with a Joint Request for Approval of Settlement Agreement filed on February 17, 2000. The Settlement Agreement, a copy of which is attached, involves a merger of interests among Rio Grande Broadcasting Co. ("RGB"), Irene Rodriguez Diaz De McComas ("McComas"), and United Broadcasters Company ("United"), competing applicants for a new FM broadcast station on Channel 247A at Rio Grande, Puerto Rico, and the dismissal of the competing application of Roberto Passalacqua. A copy of the Merger Agreement is also attached. In order to facilitate the merger United will assign its application to a new entity, Rio Grande Radio, Inc., in which RGB, McComas and United will each own one-third of the equity. The purpose of this amendment to the United application is to substitute Rio Grande Radio, Inc. as the applicant contingent upon approval of the Joint Request and dismissal of the Passalacqua application.

I. Applicant

The application is amended to substitute Rio Grande Radio, Inc. as the applicant in lieu of United Broadcasters Company.

Rio Grande Radio, Inc. is a Puerto Rico corporation in which the following three applicants will each have and vote one-third of the issued and outstanding stock of the corporation.

Rio Grande Broadcasting Co.  
Irene Rodriguez Diaz De McComas  
United Broadcasters Company

Pursuant to the terms of the Settlement Agreement the one-third interests held by RGB and United may be divided among the partners in proportion to each such partner's relative interest in their respective partnership. The following paragraphs A and B set forth the respective partnership interests of RGB and United.

- A. Rio Grande Broadcasting Co. is a partnership organized under the laws of the Commonwealth of Puerto Rico consisting of three partners with the following percentages of ownership:

Noe Marin	-	51%
Vilma Iris Arroyo	-	25.5%
Jorge Figueroa	-	24.5%

All of the partners are United States citizens, residents of Puerto Rico, and have no other media interests.

- B. United Broadcasters Company is a general partnership organized under the laws of the Commonwealth of Puerto Rico consisting of four individuals.

Luis A. Guzman Lluberes  
Ana M. Velez- Borrás  
Josantonio Mellado Romero  
Carmen Gonzales Vega

Luis A. Guzman Lluberes and Ana M. Velez Borrás are husband and wife, as are Josantonio Mellado Romero and Carmen Gonzales Vega. Each couple owns a fifty percent general partnership interest as joint tenants.

All of the partners are United States citizens, residents of Puerto Rico and have no other media interests.

- C. Irene Rodriguez Diaz De McComas is a United States citizen, a resident of Puerto Rico, and has no other media interests.
- D. The directors of Rio Grande Radio, Inc. are Irene Rodriguez Diaz de McComas, Jorge Figueroa, and Josantonio Mellado Romero.

The officers of the corporation will be chosen from the partners of RGB and United.

SETTLEMENT AGREEMENT

AGREEMENT made this 17 day of February, 2000, by and between Rio Grande Broadcasting Company ("RGB"), Irene Rodriguez Diaz de McComas ("McComas"), United Broadcasters Company ("United") and Roberto Passalacqua ("Passalacqua").

RECITALS:

WHEREAS, each of the parties has an application pending before the Federal Communications Commission (the "Commission"), requesting authority to construct and operate a new FM broadcast station to operate on FM Channel 247A at Rio Grande, Puerto Rico, as follows:

RGB	File No. BPH-880815MV
McComas	File No. BPH-880816OR
United	File No. BPH-880816OW
Passalacqua	File No. BPH-880816NN

which applications have been designated for hearing in MM Docket No. 90-380; and

WHEREAS, RGB, McComas and United have determined to resolve the mutual exclusivity between their applications through a merger of their respective interests, pursuant to the terms of a Merger Agreement, dated February 17, 2000 (the "Merger Agreement"); and

WHEREAS, Passalacqua is willing to dismiss his application with prejudice in exchange for the consideration to be paid hereunder in accordance with the terms and conditions hereof; and

WHEREAS, prior approval of the Commission is required to give effect to this Agreement and the Merger Agreement;

NOW, THEREFORE, in consideration of their mutual promises and other good and valuable considerations, the parties agree as follows:

1. Within five (5) days after execution of this Agreement, the parties hereto shall file this Agreement with the Commission, together with a Joint Petition for Approval thereof. The parties further agree that they will seek to demonstrate in such Petition that the public interest will be served by the approval of this Agreement, the dismissal of the applications of RGB, McComas and Passalacqua, and the grant of the application of United, as amended in accordance with the terms of the Merger Agreement. The parties further agree that they will seek to demonstrate in such Petition that the public interest will be served by the approval of this Agreement.

2. RGB, McComas and United agree, within five (5) days of the finality of the last of an order or orders of the Commission, approving this Agreement, approving the Merger Agreement and dismissing the application of Passalacqua, to pay to Passalacqua the sum of NINETY THOUSAND DOLLARS (\$90,000.00), or such lesser amount as the Commission may approve, as compensation for the dismissal of his application. Payment will be paid to Passalacqua's communications counsel.

3. Within fifteen (15) days following the execution of this Agreement RGB, McComas and United will establish an escrow account, to be held by counsel for United, into which they shall deposit the entire consideration specified in Section 2, hereof, pending Commission approval and finality of such approval.

4. The parties agree that the obligation hereunder to pay the consideration specified in Section 2, hereof, are made specifically contingent upon Commission action by final order: (a) approving

this Agreement, (b) approving the Merger Agreement and (c) dismissing with prejudice the application of Passalacqua.

5. For the purposes of this Agreement, "finality" or a "final order" shall mean action by the Commission which is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing, or appeal is pending, and as to which the time for filing any such request, petition or appeal has expired.

6. The parties agree that this Agreement shall not become effective or be carried out unless and until the Federal Communications Commission has approved it.

7. Each of the parties hereto hereby certifies under penalty of perjury that: (a) this Agreement will serve the public interest by expediting the inauguration of a new radio service in Rio Grande, Puerto Rico; (b) its application was not filed for the purpose of reaching or carrying out this Agreement or any other settlement; and (c) except as set forth herein, there is no consideration to be paid or provided to the parties in connection with this Agreement and no other consideration, direct or indirect, has been paid or promised to each of the Parties or its principals for the mutual promises made herein.

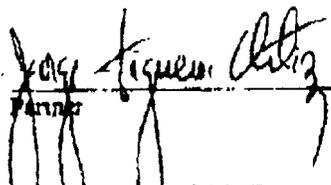
8. This Agreement and the Consulting Agreement constitutes the entire understanding of the parties, and no other consideration, action or forbearance is contemplated or relied upon by them.

9. Counterparts. This Agreement may be executed in counterparts, each of which, when all are executed, shall have the same effect as if the parties had executed a single instrument.

- \* \* \* THE SIGNATURE PAGE IS NEXT \* \* \*

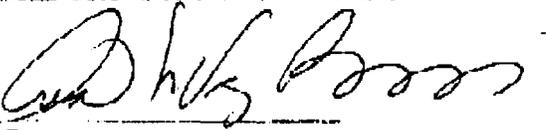
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as  
of the day and year first above written.

RIO GRANDE BROADCASTING COMPANY

By:   
Partner

IRENE RODRIGUEZ DIAZ DE MCCOMAS

UNITED BROADCASTERS COMPANY

By:   
Partner

ROBERTO PASSALACQUA

Received Feb-16-00 06:03pm from 202 659 5711 → MCO INDUSTRIES INC page 3  
02/16/00 04:58 REDDY BEGLEY MCCORM → 17877362599PP001 NO. 378 P003  
02/15/2000 13:56 7436538 JUDGE FIGUEROA ORTIZ

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as  
of the day and year first above written.

**RIO GRANDE BROADCASTING COMPANY**

By: *Irene Rodriguez Diaz*  
Partner  
**IRENE RODRIGUEZ DIAZ DE MCCOMAS**

*Roberto Passalacqua*

**UNITED BROADCASTERS COMPANY**

By: \_\_\_\_\_  
Partner  
**ROBERTO PASSALACQUA**

FEB-16-00 WED 16:22 ROY F PERKINS, JR

P. 13

02/11/00 02:48 REDDY BEGLEY MCCORM 17034359701PP001

NO.331 P006

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as  
of the day and year first above written.

RIO GRANDE BROADCASTING COMPANY

By: \_\_\_\_\_  
Partner

IRENE RODRIGUEZ DIAZ DE MCCOMAS

UNITED BROADCASTERS COMPANY

By: \_\_\_\_\_  
Partner

ROBERTO PASSALACQUA

X 

DECLARATION

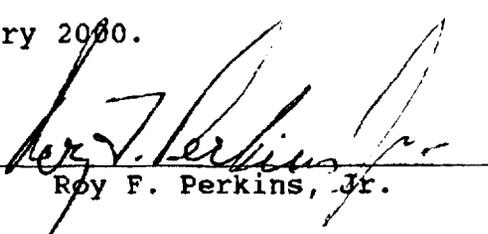
My name is Roy F. Perkins, Jr. I am an attorney at law with office at 1724 Whitewood Lane, Herndon, Virginia 20170.

I represented Roberto Passalacqua in the prosecution of his application for a new FM broadcast station at Rio Grande, Puerto Rico, FCC File No. BPH-880816NN, in the comparative hearing proceeding, MM Docket No. 90-380, since its inception in September 1990 and respecting related matters. My services have included conduct of pre-hearing proceedings (including depositions in Puerto Rico), preparation of various pleadings, conduct of evidentiary hearing, preparation of proposed findings and conclusions, preparation of exceptions (before the Review Board), preparation of an application for review (before the Commission), preparation of comments in the auction rule making proceeding, preparation of an opposition to a partial settlement submitted to the Commission, preparation of a motion to intervene in the U. S. Court of Appeals, and services in settlement negotiations.

My charges to Mr. Passalacqua for my services rendered in representing him respecting his aforesaid application (September 1990 to the present) total \$83,885.90. Those charges were my usual charges for the work performed.

I declare the foregoing is true and correct under penalty of perjury.

Executed this 16<sup>th</sup> day of February 2000.

  
\_\_\_\_\_  
Roy F. Perkins, Jr.

DECLARATION

My name is Roberto Passalacqua. I am the applicant for a new FM broadcast station at Rio Grande, Puerto Rico, FCC File No. BPH-880816NN and MM Docket No. 90-380.

My expenses, reasonably and prudently incurred in the preparation, filing and prosecution of my application through hearing proceedings and in related matters, include the following:

Application filing fee	\$ 1,800.00
Hearing fee	6,760.00
Consulting engineer (original application, application for site #2 and amendment to specify site #3)	5,000.00
Payment to site owner	200.00
Legal expense	83,885.90
* Deposition expense (att'y travel to San Juan, PR, & accomodation for depositions)	800.00
* Hearing expense (Passalacqua travel to Washington, DC, and accomodation for hearing)	1,300.00
* Miscellaneous (postage, L. D. telephone, vehicle expense, etc., 1988 to present)	300.00
	<hr/>
	<u>\$100,045.90</u>

\* Estimated; records for these expenses, which were incurred almost entirely in the period 1988-1992, no longer are available.

I declare the foregoing is true and correct under penalty of perjury.

02-17-00

01:52

7259379

02-17-00 02:53 FROM: LOPEZPONS

7259379

TO: 12026595711

PAGE: 01

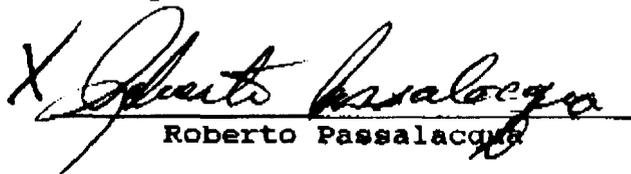
FEB-16-00 WED 16:29 ROY F PERKINS, JR

P. 21

Declaration of Roberto Passalacqua, continued

- 2 -

Executed this 17 day of February 2000.

  
Roberto Passalacqua

## Merger Agreement

This Merger Agreement is entered into as of this 17 day of February, 2000, by and among Rio Grande Broadcasting Company (RGB) and its principals, Irene Rodriguez de McComas (McComas) and United Broadcasters Company (United) and its principals, all of whom are also referred to individually as an "Applicant" and collectively as the "Applicants."

### Recitals:

A. Each Applicant is an applicant to the Federal Communications Commission ("FCC" or the "Commission") in Docket No. 90-380, for a construction permit for a new FM broadcast station to operate on Channel 247A at Rio Grande, Puerto Rico (the "Station"), as follows:

Rio Grande Broadcasting	File No. BPH-880815MV
Irene Rodriguez Diaz De McComas	File No. BPH-880816OR
United Broadcasters Company	File No. BPH-880816OW

These applications are mutually exclusive with a fourth application (File No. BPH-880816NN), filed by Roberto Passalacqua (Passalacqua).

B. The Applicants have agreed to settle the matter by: (1) entering into a Settlement Agreement with Passalacqua, whereby Passalacqua's application (File No. BPH-880816NN) will be dismissed with prejudice, and (2) merging the interests of the Applicants into a newly-formed entity, Rio Grande Radio, Inc., a Puerto Rico corporation ("RGR"), which will be owned in equal proportions by the Applicants or their successors and which will be the permittee of the Station.

In consideration of the foregoing and of the mutual covenants hereinafter set forth, the Applicants agree as follows:

1. Merger. Within fifteen (15) days following the execution of this Agreement the Applicants will form RGR under the laws of Puerto Rico. The organizational documents of RGR shall provide for each Applicant to hold a one-third equity interest and a one-third voting interest in RGR, provided that: (a) RGB's partners may exchange their partnership interests in RGB for a one-third interest in RGR, such one-third interest to be divided between RGB's partners in proportion to each such partner's relative interest in RGB;

(b) United's partners may exchange their partnership interests in United for a one-third interest in RGR, such one-third interest to be divided between United's partners in proportion to each such partner's relative interest in United. The organizational documents of RGR shall further provide:

that the corporation is authorized to issue only voting shares and that all of the authorized shares shall be issued proportionally to the Applicants, as described above; that the corporation shall be governed by a three member Board of Directors; that each Applicant (or its principals, collectively) shall be entitled to elect one member of the Board of Directors; that each Applicant shall within 15 days of the execution of this agreement contribute the sum of Forty Five Thousand (\$ 45,000.00) to the capital of the corporation; that unanimous consent of the shareholders will be required to approve: (a) any modification of the organizational documents of the corporation or (b) the expenditure of funds or the assumption or incurrence of any indebtedness in an amount greater than One Hundred Thirty-Five Thousand Dollars (\$ 135,000.00) including any payments to Passalacqua; that in the event that all the shareholders and/or directors are unable (a) for a period of ninety (90) days within the first six (6) months of the corporation's existence, or (b) for a period of fifteen (15) days during the balance of such corporate existence, to agree as to any action necessary to carrying out the business of the corporation, then any shareholder upon five (5) business days notice to the corporation and the other shareholders, may cause the assets or the shares of the corporation to be sold; and that the officers of the corporation will be elected by majority vote of the Board, except that for the first three years of the corporation's existence, the office of President shall be held by McComas during the first six (6) months, by Jorge Figueroa, during months 7 through 18, and by Josantonio Mellado, during months 19 through 36.

2. Joint Request and Amendments. No later than February 17, 2000, the Applicants will file a joint request with the FCC, asking the FCC to (a) approve this Agreement, (b) dismiss the applications of RGB, McComas and Passalacqua, (c) substitute RGR as the applicant for United in File No. BPH-880816OW, and (d) grant the United application as so amended. Each Applicant will do all things reasonably necessary and/or appropriate to obtain a final order of the FCC approving this Agreement and granting the surviving application. Upon finality of the last of an order or orders of the FCC taking the foregoing actions, RGB and United shall immediately request dismissal of their pending appeal before the U.S. Court of Appeals for the D. C. Circuit in Case Nos. 99-1432 and 99-1499.

3. Each party hereto currently has immediately available funds in cash or cash equivalents to meet the party's cash obligations under this Agreement in order to carry out the transactions contemplated hereunder and under the Settlement Agreement with Passalacqua. Each applicant is legally, financially and otherwise qualified under the Communications Act of 1934, as amended, to become a permittee and licensee of the FCC.

4. Expenses. Each of the Applicants will bear its own expenses in connection with the preparation and performance of this Agreement.

5. Termination. This Agreement shall be terminated, the joint request and amendments described in Section 2 shall be withdrawn, and each Applicant and its

respective application shall be restored to the status quo ante in the event the FCC denies the joint request by a final order.

6. Authority, No Conflict. Each Applicant represents and warrants that it has the full power and authority to execute this Agreement and perform its obligations hereunder, and that the performance of such obligations will not conflict with any other obligations of such party. Each Applicant further represents and warrants that this Agreement constitutes the legal, valid and binding obligation of such Applicant.

7. Specific Performance. Each Applicant acknowledges that the construction permit for the Station is a unique asset not readily available on the open market. Accordingly, the parties hereto will not have an adequate remedy at law in the event that any party breaches its obligations hereunder. Therefore, in the event of a breach by any party of its obligations under this Agreement, each party shall be entitled to specific performance of this Agreement, in addition to any other rights which any party may have at law or in equity. In the event that litigation is required to enforce the respective rights of the parties hereunder, the prevailing party shall be entitled to be reimbursed for its reasonable expenses incurred in such litigation, including reasonable attorneys' fees and expenses. Reasonableness for purposes of this Section shall be determined in accordance with the normal and customary hourly rate charged by the attorney with respect to whose services such fees were incurred.

8. Indemnity. Each of the Applicants and each principal of such Applicant, jointly and severally, agrees to indemnify and hold harmless each of the other Applicants and their respective principals from and against any and all claims, losses, costs, liabilities, damages, fines, forfeitures and expenses (including reasonable legal fees and other expenses incidental thereto) of every kind, nature and description, that may be asserted against RGR or any of its principals, which arise out of any acts or omissions of such indemnifying Applicant or its principals that violate this Agreement or violate applicable law, whether such acts or omissions took place prior or subsequent to the date of this Agreement.

9. Certification. Each of the Applicants hereby certifies under penalty of perjury that: (a) this Agreement will serve the public interest by expediting the inauguration of a first radio service in Rio Grande, Puerto Rico; (b) its application was not filed for the purpose of reaching or carrying out this Agreement or any other settlement; and (c) except as set forth herein, there is no consideration to be paid or provided to the Applicant in connection with this Agreement and no other consideration, direct or indirect, has been paid or promised to the Applicant or its principals for the mutual promises made herein.

10. Choice of Laws. Except with respect to matters within the jurisdiction of the FCC and the federal courts having appellate review over FCC decisions, this Agreement shall be governed and construed in accordance with the laws of Puerto Rico without giving effect to the provisions governing conflicts of laws in such state

11. **Counterparts.** This Agreement may be executed in counterparts, each of which, when all are executed, shall have the same effect as if the parties had executed a single instrument.

12. **Notice.** Any notice or communication hereunder shall be sent in writing by certified, express or registered mail, return receipt requested, postage prepaid, or overnight prepaid delivery service, to be the address specified below (or at such other address which party shall specify to the other parties in accordance herewith) and shall be deemed effective when received:

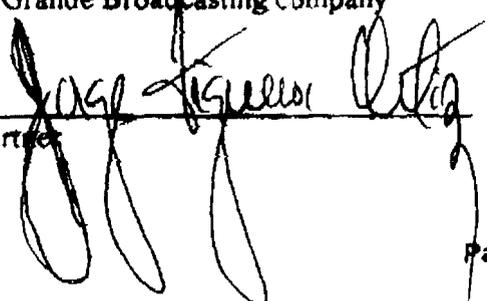
Rio Grande Broadcasting Company  
c/o Jorge Figueroa Ortiz  
Munoz Rivera 23 Altos  
Box 5746  
Caguas, Puerto Rico 00626

United Broadcasters Company  
c/o Josantonio Mellado Romero  
760 Ave Ponce de Leon  
Caribbean Towers, Ground Floor  
Santurce, Puerto Rico 00907

Irene Rodriguez Diaz de McComas  
H-5 Blue Hill Street  
Guaynabo  
Garden Hill, Puerto Rico 00657

IN WITNESS WHEREOF, the parties hereto have caused this Merger Agreement to be executed as of the date set forth above.

Rio Grande Broadcasting Company

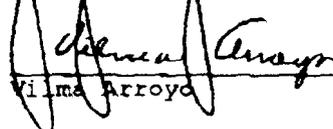
By: 

Party

United Broadcasters Company

By: \_\_\_\_\_  
Partner

  
\_\_\_\_\_  
Jorge Figueroa Ortiz

  
\_\_\_\_\_  
Wilma Arroyo

  
\_\_\_\_\_  
Noe Marin

\_\_\_\_\_  
Joseantonio Mellado Romero

\_\_\_\_\_  
Carmen Gonzalez Vega

\_\_\_\_\_  
Luis Guzman Lluberes

\_\_\_\_\_  
Anna Velez Borrás

02/16/00

00:07

7877362599

from 7877362599→202 659 5711

Page 2 / 2

Feb-16-00 01:12PM

Sent by: MCO INDUSTRIES INC

received Feb-15-00 02:21pm

from 2125414630 → MCO INDUSTRIES INC

Page 11

SENT BY: 1290 6th. AVE.

; 2-15-0 ; 1:13PM ;

RSPA&B-7877362599

#11/11

Keddy Begley McCormick

202 659 5711

P.09

\_\_\_\_\_  
Jorge Figueroa Ortiz

\_\_\_\_\_  
Vilma Arroyo

\_\_\_\_\_  
Noe Marin

Irene Rodriguez Diaz de Comas



United Broadcasters Company

By: \_\_\_\_\_  
Partner

\_\_\_\_\_  
Joseantonio Mellado Romero

\_\_\_\_\_  
Carmen Gonzalez Vega

\_\_\_\_\_  
Luis Guzman Lluberás

\_\_\_\_\_  
Anna Velez Borrás

\_\_\_\_\_  
Jorge Figueroa Ortiz

\_\_\_\_\_  
Vilma Arroyo

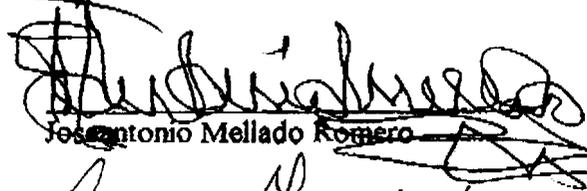
\_\_\_\_\_  
Noe Marin

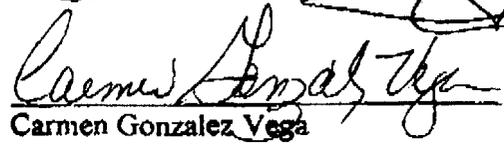
Irene Rodriguez Diaz de Comas

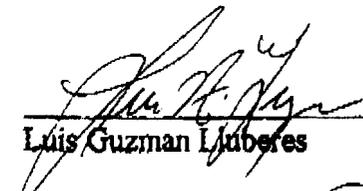
\_\_\_\_\_

United Broadcasters Company

By:   
Partner

  
Jose Antonio Mellado Romero

  
Carmen Gonzalez Vega

  
Luis Guzman Lluberes

  
Anna Velez Borrás