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Attorneys for Plaintiff WORD OF GOD FELLOWSHIP, INC.,  
D.B.A. DAYSTAR TELEVISION NETWORK A.K.A. COMMUNITY TELEVISION  
EDUCATORS OF ORANGE COUNTY, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WORD OF GOD FELLOWSHIP, INC, A  
GEORGIA NON-PROFIT CORPORATION  
D.B.A. DAYSTAR TELEVISION NETWORK  
A.K.A. COMMUNITY TELEVISION  
EDUCATORS OF ORANGE COUNTY, INC.;

Plaintiff,

v.

GERALD "JERRY" PATTERSON, an  
individual; COAST COMMUNITY  
COLLEGE DISTRICT, a political  
subdivision of the State of California;  
KOCE FOUNDATION, a California non-  
profit public benefit corporation; MEL  
ROGERS, an individual; GEORGE BROWN,  
an individual; WALTER HOWALD, an  
individual; and DOES 1 through 10,  
inclusive,

Defendants.

SACV05 0702 CJC (rmlg)  
CASE NO. "BY FAX"

COMPLAINT FOR:

- (1) VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION [42 U.S.C. § 1983];
- (2) VIOLATION OF THE ESTABLISHMENT CLAUSE TO THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION [42 U.S.C. § 1983];
- (3) VIOLATION OF RICO [18 U.S.C. § 1961 ET SEQ.]; AND
- (4) CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS [42 U.S.C. § 1985(3)]

IS  
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Plaintiff WORD OF GOD FELLOWSHIP, INC., D.B.A. DAYSTAR TELEVISION NETWORK  
A.K.A. COMMUNITY TELEVISION EDUCATORS OF ORANGE COUNTY, INC. (hereinafter  
referred to as "Daystar" or "Plaintiff") avers as follows:

///

### JURISDICTION AND VENUE

1  
2 1. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331 and  
3 1343 because the matters in controversy arise under the Constitution and laws of the  
4 United States.

5 2. Jurisdiction also is conferred upon this Court pursuant to 28 U.S.C. § 1332  
6 because there is complete diversity of citizenship between the Plaintiff and all Defendants  
7 and the matter in controversy, exclusive of interest and costs, exceeds the sum of Seventy-  
8 Five Thousand Dollars (\$75,000.00).

9 3. This Court has the right to grant: (a) the requested declaratory and injunctive  
10 relief under 28 U.S.C. §§ 1343(a)(3), 2201; (b) the requested damages under 28 U.S.C. §  
11 1343(a)(3); and (c) attorneys' fees and costs under 42 U.S.C. § 1988.

12 4. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the events  
13 that gave rise to Plaintiff's claims took place within Orange County, the Southern  
14 Division of the Central District of California.

### PRELIMINARY STATEMENT

15  
16 5. This action involves discriminatory acts against Daystar by Defendants  
17 because Daystar owns and operates television stations throughout the United States that  
18 offer programming designed to promote and disseminate Christian tenets, teachings, beliefs  
19 and values. Specifically, Defendants conspired to knowingly violate the provisions of  
20 California Education Code § 81450 ("**Section 81450**") in order to prevent Plaintiff from  
21 purchasing KOCE-TV ("**KOCE-TV**"), a Public Broadcasting System affiliate, because  
22 Defendants "believed" that the viewers of KOCE-TV should not be subjected to  
23 Daystar's Christian and family oriented programming.

24 6. Such blatant discrimination on the basis of religion contravenes the First,  
25 Fifth and Fourteenth Amendments to the United States Constitution (U. S. Const. Amend.  
26 I, V, XIV) and the Civil Rights Act (42 U.S.C. § 1981 et seq.). This action therefore  
27 seeks, among other things, damages against Defendants for wrongfully refusing to sell  
28 KOCE-TV to Daystar and conspiring to violate Section 81450, under the authority of the

1 above-referenced statutory and constitutional provisions as well as 18 U.S.C. § 1961 et  
2 seq. ("**RICO**").

3 **GENERAL AVERMENTS**

4 7. Plaintiff is and at all relevant times mentioned herein was a non-profit  
5 corporation organized and existing pursuant to the laws of the State of Georgia, that is  
6 and at all relevant times mentioned herein was conducting its business under the fictitious  
7 name and style of Daystar Television Network. Plaintiff's principal business office is  
8 located in the State of Texas, however Plaintiff owns and operates television stations in  
9 several states of the United States.

10 8. Plaintiff is informed and believes and thereon avers that defendant Coast  
11 Community College District ("**CCCD**") is and at all relevant times mentioned herein was  
12 a political subdivision of the State of California that was formed and operates pursuant to,  
13 among other things, California Education Code §§ 66700, 70901, et seq. The CCCD is  
14 governed by its five-member Board of Trustees (hereinafter referred to as the "**Board**"),  
15 which is responsible, among other things, for managing property held by CCCD,  
16 rendering administrative decisions, and otherwise conducting the business of CCCD. The  
17 Board, as the sole governing body of defendant CCCD, is and functions as an  
18 instrumentality of defendant CCCD, and for all purposes herein, any act or omission by or  
19 on the part of the Board constitutes an act or omission by or on the part of defendant  
20 CCCD. The CCCD's principal place of business is located in the City of Costa Mesa,  
21 County of Orange, State of California.

22 9. Plaintiff is informed and believes and thereon avers that defendant KOCE  
23 Foundation (the "**Foundation**") is and at all relevant times mentioned herein was a non-  
24 profit public benefit corporation duly organized under the laws of the State of California.  
25 The Foundation's principal place of business is located in the City of Huntington Beach,  
26 County of Orange, State of California.

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10. Plaintiff is informed and believes and thereon avers that defendant Mel Rogers ("**Rogers**") is and at all relevant times mentioned herein was the Program Director of KOCE-TV and was and is now an individual residing in the County of Orange, State of California.

11. Plaintiff is informed and believes and thereon avers that defendant George Brown ("**Brown**") is and at all relevant times mentioned herein was a member of the Board and was and is now an individual residing in the County of Orange, State of California.

12. Plaintiff is informed and believes and thereon avers that defendant Walter Howald ("**Howald**") is and at all relevant times mentioned herein was a member of the Board and was and is now an individual residing in the County of Orange, State of California.

13. Plaintiff is informed and believes and thereon avers that defendant Gerald "Jerry" Patterson ("**Patterson**") is and at all relevant times mentioned herein was a member of the Board and was and is now an individual residing in the County of Orange, State of California. (Brown, Patterson and Howald are hereinafter referred to as the "**Board Member Defendants**").

14. Plaintiff does not know the true names and capacities of the defendants sued herein as DOES 1 through 10 ("**DOE Defendants**"), inclusive, and therefore sues said DOE Defendants by fictitious names. Plaintiff is informed and believes and based on such information and belief avers that each of the DOE Defendants is responsible in some manner for the acts and omissions described herein. Plaintiff will amend this Complaint to set forth the true names and capacities of each DOE Defendant when same are ascertained.

15. Plaintiff is informed and believes and based on such information and belief avers that defendants Brown, Howald, Patterson and DOE Defendants 1 through 5, inclusive, and each of them, are and at all material times have been, the agents, servants or employees of the CCCD, purporting to act within the scope of said agency, service or

1 employment in performing the acts and omitting to act as averred herein. The CCCD,  
2 Brown, Howald, Patterson and DOE Defendants 1 through 5, inclusive, are hereinafter  
3 collectively referred to as the "*CCCD Defendants*".

4 16. Plaintiff is informed and believes and based on such information and belief  
5 avers that defendants Rogers and DOE Defendants 6 through 10, inclusive, and each of  
6 them, are and at all material times have been, the agents, servants or employees of the  
7 Foundation, purporting to act within the scope of said agency, service or employment in  
8 performing the acts and omitting to act as averred herein. The Foundation, Rogers and  
9 DOE Defendants 6 through 10, inclusive, are hereinafter collectively referred to as the  
10 "*Foundation Defendants*".

11 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

12 17. In or about July 2003, the CCCD was facing an existing and projected  
13 budgetary crisis that would have a deleterious effect upon the continuing operations of the  
14 local community colleges located in the CCCD and in order to ease that budgetary crisis,  
15 the Board resolved to sell KOCE-TV, which the CCCD then owned (including the  
16 Federal Communications Commission broadcasting license) and which the Foundation  
17 then managed and operated for the CCCD. At and before the time the Board resolved to  
18 sell KOCE-TV, Rogers represented to the Board that raising funds to operate KOCE-TV  
19 and satisfy Federal Communications Commission ("*FCC*") mandates regarding  
20 conversion of the station from analog to digital format would be facilitated by a sale of  
21 KOCE-TV to the Foundation or a similar entity committed to preserving KOCE-TV as  
22 PBS affiliate.

23 18. In connection with a sale of KOCE-TV, prior to the Board's resolution, the  
24 CCCD Defendants and the Foundation Defendants sought and obtained legal advice from  
25 attorneys licensed to practice law in the State of California as to how to properly  
26 administer a sale of KOCE-TV under California law and Plaintiff is informed and  
27 believes and based on such information and belief avers that the CCCD Defendants and  
28 the Foundation Defendants were advised by the attorneys whose advice had been sought

1 that Section 81450 prescribed the rules and procedures for such a sale. Specifically,  
 2 Plaintiff is informed and believes and on such information and belief avers that the  
 3 CCCD Defendants and the Foundation Defendants were apprized before or at the time the  
 4 CCCD resolved to sell KOCE-TV, that the CCCD had to conduct an auction and accept  
 5 the highest cash offer for KOCE-TV that was made by a responsible bidder or reject all  
 6 offers, as clearly provided under the provisions of Section 81450.

7 19. At the time the CCCD resolved to sell KOCE-TV, the CCCD Defendants and  
 8 the Foundation Defendants knew that broadcasters of faith based programming would  
 9 likely comprise the majority of the bidders at any auction sale of KOCE-TV.

10 20. In or about July 2003, in the County of Orange, State of California, prior to  
 11 the vote of the Board to sell KOCE-TV, the CCCD Defendants and the Foundation  
 12 Defendants agreed and conspired with one another to violate and circumvent the statutory  
 13 requirements of a sale of KOCE-TV as set forth in Section 81450 in order to sell KOCE-  
 14 TV to the Foundation or a similar entity committed to preserving KOCE-TV as PBS  
 15 affiliate and prevent KOCE-TV from falling into the hands of a faith based broadcasting  
 16 company.

17 21. The CCCD failed to post notice of the intended sale of KOCE-TV and failed  
 18 to publish notice of the intended sale of KOCE-TV in a newspaper having a general  
 19 circulation as required by Section 81450(a). Nevertheless, Plaintiff did become aware  
 20 that the CCCD Defendants were soliciting the submission of offers to purchase KOCE-  
 21 TV, pursuant to the provisions of Section 81450(b), and that the Board had purportedly  
 22 imposed an October 8, 2003 deadline as the last date prospective purchasers could submit  
 23 offers. The auction was to be conducted by Media Venture Partners of San Francisco.

24 22. At all relevant times herein, the CCCD Defendants expressed a preference  
 25 to preserve KOCE-TV as a PBS affiliate, even if it meant selling the Station to a low  
 26 bidder, and to prevent KOCE-TV from being owned by a faith based broadcaster. Aside  
 27 from the Foundation, all other significant bidders in the auction, including Plaintiff, were  
 28 faith based broadcasters.

1           23. In or about July 2003, defendant Foundation, bidding jointly with KCET-  
2 TV of Los Angeles, placed an initial bid of Ten Million Dollars (\$10,000,000.00), of  
3 which One Million Dollars (\$1,000,000.00) was payable at the closing of the sale and the  
4 remainder was to be financed over a period of years ("*KCET/Foundation Offer*").<sup>1</sup>

5           24. On or prior to October 8, 2003, Plaintiff submitted to the Board and the  
6 CCCD a written bid to purchase KOCE-TV for the sum of Twenty-Five Million One  
7 Hundred Thousand Dollars (\$25,100,000.00), of which One Million Dollars  
8 (\$1,000,000.00) was payable in cash upon execution of a Purchase and Sale Agreement,  
9 and the balance of Twenty Four Million One Hundred Dollars (\$24,100,000) was payable  
10 in cash at the closing of the sale, with the closing being contingent upon, among other  
11 things, the transfer of the FCC license to Plaintiff (the "*Daystar Offer*").

12           25. By August of 2003, KCET-TV dropped out of the bidding process. As a  
13 result, the Foundation submitted a new bid on behalf of itself on or about October 8,  
14 2003. The Foundation submitted a proposal to the Board and the CCCD to purchase  
15 KOCE-TV for the sum of Thirty-Two Million Dollars (\$32,000,000.00), of which Eight  
16 Million Dollars (\$8,000,000.00) was to be paid at the closing of the sale (although  
17 borrowed from CCCD), and the remainder was to be financed over a period of ten (10)  
18 years or longer with a fixed simple interest rate of LIBOR plus two percent (LIBOR +  
19 2%) (the "*Foundation Offer*").

20           26. On or about October 9, 2003, Plaintiff submitted a written bid of Forty  
21 Million Dollars (\$40,000,000.00) cash, upon the same terms and conditions as the  
22 Daystar Offer (the "*Amended Daystar Offer*").

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27           <sup>1</sup>The bids of other parties aside from Plaintiff and Defendant Foundation will not be  
28 addressed or discussed in this Complaint. Such other bids are irrelevant to the facts and  
circumstances of the present matter between Plaintiff and Defendants.

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27. The Amended Daystar Offer, which was and is unquestionably the highest responsible cash bid in the auction, was rejected by the Board as untimely in light of the October 8, 2003 bidding deadline imposed by the Board. Hence, the Daystar Offer was deemed by the Board to be Plaintiff's operative bid. The Daystar Offer, when taking present value of the payment schedule and debt service into account, was and is still the highest responsible cash bid in the auction.

28. In or about December 2003, two months after the bidding deadline imposed by the Board for submitting offers to purchase KOCE-TV, the Board improperly rejected the Daystar Offer which was clearly the "highest responsible bid," as defined by Section 81450, and instead accepted the Foundation Offer. Thereafter, without re-noticing the sale or providing notice to Plaintiff or the public or otherwise giving Plaintiff or any other person or entity the opportunity to submit any other proposals for KOCE-TV, the CCCD Defendants and the Foundation Defendants improperly and illegally renegotiated the Foundation Offer to reduce the purchase price by \$4,000,000.00 to Twenty Eight Million Dollars (\$28,000,000.00), and to extend the Foundation's payment schedule as follows:  
(i) One Hundred Thousand Dollars (\$100,000.00) in cash upon the execution of a Purchase and Sale Agreement; (ii) Seven Million Nine Hundred Thousand Dollars (\$7,900,000.00) in cash at the closing of the sale, with the closing contingent, among other things, upon the transfer of the FCC license; (iii) the delivery of a promissory note in the original principal sum of Seventeen Million Five Hundred Thousand Dollars (\$17,500,000.00) payable by the Foundation to the CCCD as follows: (a) no payments for a period of five (5) years after the closing (the "Grace Period"); (b) then equal annual installments of \$500,000.00 for a period of five (5) years, commencing at the expiration of the grace period; (c) then equal annual installments of \$750,000.00 for an additional period of twenty years; (iv) the provision of programming and services to the CCCD by KOCE-TV for a period of seven years following the closing of the sale at a value of

1 \$357,143.00 per year for a period of seven years, for a total value of Two Million Five  
 2 Hundred Thousand Dollars (\$2,500,000.00) (hereinafter, the "**Modified Foundation -**  
 3 **CCCD Terms of Sale**"). Pursuant to the Modified Foundation - CCCD Terms of Sale,  
 4 the Foundation would again have to borrow the cash it would pay at the closing and the  
 5 promissory note payable to defendant CCCD would contain a cross default provision that  
 6 would declare a default by defendant Foundation on the down payment financing as a  
 7 default under the indebtedness to defendant CCCD. Plaintiff is informed and believes  
 8 and based on such information and belief avers that this significant modification of terms  
 9 constituted an entirely new offer separate and distinct from the original Foundation Offer,  
 10 yet submitted more than two months after the bidding deadline set by the Board.

11 29. Plaintiff is informed and believes and based on such information and belief  
 12 avers that the Board of CCCD attempted to justify the Foundation's reduced purchase  
 13 price and extended payment schedule per the Modified Foundation - CCCD Terms of  
 14 Sale on the grounds that Four Million Dollars (\$4,000,000.00) was supposedly the  
 15 amount CCCD would have been required to repay to the Corporation for Public  
 16 Broadcasting ("**CPB**") and the Public Broadcasting System ("**PBS**") for grants and  
 17 equipment had another bidder (e.g., a religious broadcaster) purchased KOCE-TV and  
 18 ceased being a PBS affiliate. This should not have been a concern to the CCCD,  
 19 however, as Plaintiff would have assumed any such obligation in the event that Plaintiff  
 20 purchased the Station. Furthermore, Plaintiff has never incurred any liabilities to the  
 21 CPB, PBS or any other person or entity for returning conditional grants made to any of  
 22 Plaintiff's many television stations where such grant was made prior to Plaintiff's  
 23 ownership of such station. The true facts are that the Defendants conspired and planned  
 24 to reduce the amount payable by the Foundation at the commencement of the bidding  
 25 process. Thus, Foundation made a bid that CCCD could arguably deem the highest bid  
 26 knowing that the amount would be lowered after Foundation's bid was accepted.

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30. On or about February 4, 2004, Plaintiff made a written demand on the CCCD Defendants to (i) cease and desist from selling KOCE-TV to defendant Foundation and (ii) agree to the sale of KOCE-TV to Plaintiff pursuant to the terms and conditions of the Daystar Offer.

31. Accordingly, on February 24, 2004, Daystar filed a Petition for Writ of Mandate/Prohibition ("*Petition*") with the Orange County Superior Court ("*Superior Court*"). The Petition requested that the court set aside the sale of KOCE-TV to the Foundation and instead award the sale to Daystar on the grounds that the CCCD: (a) failed to abide by California law; and (b) abused its discretion by not performing its ministerial duty to accept Daystar's highest responsible cash bid for the purchase of KOCE-TV, an asset of the CCCD, which was being sold pursuant to the provisions of Section 81450.

32. On April 19, 2004, the Superior Court denied Plaintiff's Petition on the grounds that: (1) the phrase "may sell for cash" in Section 81450 meant that the CCCD was not required to sell its property for cash, but could instead carry paper to finance a third party's purchase of KOCE-TV; (2) the word "responsible," as it is used in the phrase "highest responsible bidder" that is contained in Section 81450, to include factors other than financial ability to perform in accordance with the offer made; (3) Daystar's bid for KOCE-TV was not the highest price offered for the station because of the potential \$22,559,886.00 liability to the CPB and for reimbursement of grants from the United States Department of Commerce, Office of Telecommunications to KOCE-TV; and (4) it was proper for the CCCD to take the potential liability into account when determining the highest bid, even though the evidence that these liabilities could actually occur was extremely weak and evidence that such liabilities have never occurred in similar transactions across the country was presented by Daystar.

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33. Plaintiff appealed the Superior Court's decision to the California Court of Appeals, Fourth District, Division Three ("*Court of Appeals*"). After full briefing and oral argument, on June 23, 2005, the Court of Appeals reversed the Superior Court's decision with instructions to the Superior Court that it: (a) void the sale between CCCD and the Foundation; (b) return KOCE-TV to the CCCD; and (c) allow the CCCD to either conduct a new sale pursuant to the requirements of Section 81450 or not sell the station at all. However, prior to the decision by the Court of Appeals, the sale of KOCE-TV to the Foundation was completed and the FCC license was transferred from CCCD to the Foundation.

34. On July 8, 2005, Plaintiff filed a Petition for Rehearing with the Court of Appeal to request that the court reconsider its decision to allow a new sale instead of awarding the sale of KOCE-TV to Plaintiff. The court has until July 25, 2005, to rule upon Plaintiff's Petition for Rehearing.

**FIRST CLAIM FOR RELIEF**

**[VIOLATION OF THE ESTABLISHMENT CLAUSE TO THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983) AGAINST ALL DEFENDANTS]**

35. Plaintiff re-avers and incorporates herein by this reference each and every averment contained in paragraphs 1 through 34, inclusive, of this Complaint.

36. The Establishment Clause of the First Amendment of the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The Establishment Clause is applicable to the States through the Fourteenth Amendment of the United States Constitution.

37. The CCCD is a state agency and Rogers, the Foundation and the Board Member Defendants were, at all relevant times, acting on behalf of and/or conspiring with the CCCD. Thus, all of the Defendants were state actors. The CCCD, the Foundation, Rogers and the Board Member Defendants violated the Establishment Clause by failing to award the sale of KOCE-TV to Plaintiff and conspiring with each other to ensure that KOCE-TV would not be awarded to Plaintiff, even though Plaintiff was the "highest

1 responsible bidder," because of Plaintiff's religious affiliation.

2 38. In providing significant government funds to finance the Foundation,  
 3 CCCD's religious discrimination, including, but not limited to, taking adverse actions  
 4 against Plaintiff based upon religion, altering the terms and conditions of the sale of  
 5 KOCE-TV based upon religion, and disadvantaging bidders because of their religious  
 6 beliefs or practices, Defendants are in violation of the Establishment Clause of the First  
 7 Amendment to the United States Constitution and made actionable by 42 U.S.C. § 1983.

8 39. Plaintiff is informed and believes and based on such information and belief  
 9 avers that as a direct and proximate result of Defendants' discriminatory practices,  
 10 Plaintiff has suffered economic loss and damages from wrongfully being prevented from  
 11 acquiring the unique television station KOCE-TV, which Plaintiff properly and rightfully  
 12 won via public auction, and was thereby prevented from expanding its broadcast audience  
 13 and business operations to the lucrative Southern California market.

14 40. As the amount of damages to Plaintiff as a result of Defendants'  
 15 discriminatory business practices as averred herein is difficult to ascertain, Plaintiff is  
 16 without an adequate remedy at law and will suffer irreparable harm if Defendants, and  
 17 each of them, as well as their respective officers, agents, servants and employees, are not  
 18 enjoined from employing against Plaintiff the discriminatory practices averred in this  
 19 Complaint.

20 41. Plaintiff has retained the law firm of SHERMAN & NATHANSON to prosecute  
 21 this action and has and will incur costs and attorneys' fees in connection therewith.  
 22 Plaintiff is informed and believes and thereon avers that it is entitled to an award of  
 23 attorney's fees in this action by virtue of 42 U.S.C. § 1988 and, therefore, seeks an award  
 24 of attorneys' fees for having filed and prosecuted this action.

25 42. In performing the acts described herein and in taking the actions described  
 26 herein in furtherance of said conspiracy, Defendants, and each of them, acted with malice,  
 27 oppression and discriminatory intent entitling Plaintiff to an award of punitive and  
 28 exemplary damages in a sum to be determined at trial.

**SECOND CLAIM FOR RELIEF**

**[VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983) AGAINST ALL DEFENDANTS]**

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43. Plaintiff re-avers and incorporates herein by this reference each and every averment contained in paragraphs 1 through 42, inclusive, of this Complaint.

44. Plaintiff avers that the rejection of the Daystar Offer and the Modified Daystar Offer in favor of the Foundation Offer (which later transmogrified into the Modified Foundation - CCCD Terms of Sale) was a result of Defendants' desire to prevent KOCE-TV from being owned and operated by a religious organization.

45. Plaintiff avers that Defendants, and each of them, at relevant times described herein, have made it known both publically and privately of their intent, desire and preference to sell KOCE-TV to a "secular" bidder, thereby preserving the Station as a PBS affiliate.

46. Plaintiff, a Christian-owned entity which broadcasts educational, cultural, artistic and sometimes Christian-themed programming through its various television stations, is a victim of Defendants' discriminatory practices by reason of the facts averred herein.

47. In providing significant government funds to finance the Foundation, CCCD's religious discrimination, including, but not limited to, taking adverse actions against Plaintiff based upon religion, altering the terms and conditions of the sale of KOCE-TV based upon religion, and disadvantaging bidders because of their religious beliefs or practices, Defendants are in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and made actionable by 42 U.S.C. § 1983.

1           48. Plaintiff is informed and believes and based on such information and belief  
 2           avers that as a direct and proximate result of Defendants' discriminatory practices,  
 3           Plaintiff has suffered economic loss and damages in that Plaintiff was wrongfully and  
 4           illegally prevented from acquiring the unique television station KOCE-TV, which  
 5           Plaintiff properly and rightfully won via public auction, and was thereby prevented from  
 6           expanding its broadcast audience and business operations to the lucrative Southern  
 7           California market.

8           49. As the amount of damages to Plaintiff as a result of Defendants'  
 9           discriminatory business practices as averred herein is difficult to ascertain, Plaintiff is  
 10          without an adequate remedy at law and will suffer irreparable harm if Defendants, and  
 11          each of them, as well as their respective officers, agents, servants and employees, are not  
 12          enjoined from employing against Plaintiff the discriminatory practices averred in this  
 13          Complaint.

14          50. Plaintiff has retained the law firm of SHERMAN & NATHANSON to prosecute  
 15          this action and has and will incur costs and attorneys' fees in connection therewith.  
 16          Plaintiff is informed and believes and thereon avers that it is entitled to an award of  
 17          attorney's fees in this action by virtue of 42 U.S.C. § 1988 and, therefore, seeks an award  
 18          of attorneys' fees for having filed and prosecuted this action.

19          51. In performing the acts described herein and in taking the actions described  
 20          herein in furtherance of said conspiracy, Defendants, and each of them, acted with malice,  
 21          oppression and discriminatory intent entitling Plaintiff to an award of punitive and  
 22          exemplary damages in a sum to be determined at trial.

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**THIRD CLAIM FOR RELIEF**

**[VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT  
(18 U.S.C. § 1961 ET SEQ.) AGAINST ALL DEFENDANTS]**

52. Plaintiff re-avers and incorporates herein by this reference each and every averment contained in paragraphs 1 through 51, inclusive, of this Complaint.

53. Plaintiff is informed and believes and based on such information and belief avers that at all relevant times mentioned herein, Defendants have conducted an enterprise through a pattern of racketeering activity in the following respects:

(A) Conduct of Enterprise: The relationship between and among the Defendants was and is co-dependent and symbiotic. Thus, Defendants, and each of them, represent an "enterprise," which was created for the purpose of unlawfully transferring public property, KOCE-TV, from the CCCD to the Foundation. The "enterprise" precluded the possibility for a fair and lawful auction process or an arm's length transaction and was thereby a breeding ground for fraud, impropriety and self-dealing, examples of which are enumerated in the following subparagraph and its subsections. Defendants conducted the enterprise by using the United States mail and wire to fraudulently transfer the assets of KOCE-TV from CCCD to the Foundation

(B) Pattern of Racketeering Activity: The Defendants, pursuant to Section 81450, were required to conduct a lawful auction and sell KOCE-TV, a public asset, to the highest responsible bidder. Instead, Defendants knowingly conducted the auction in an illegal fashion for the sole purpose of transferring KOCE-TV to other parties in the "enterprise" and discriminating against Plaintiff on the basis of its religious affiliation. In this connection, Defendants used the United States mail and wire involving and effecting interstate commerce to fraudulently solicit bids and conduct the auction in a fraudulent and illegal manner. Defendants, and each

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of them, have engaged in unlawful, unfair, fraudulent and discriminatory business practices, and have conspired with each other in the exercise of said unlawful, unfair, fraudulent and discriminatory practices. The practices, without limitation, consist substantially of the following abuses of the public auction for KOCE-TV:

1. Failing to post notice of the intended sale of KOCE-TV and failing to publish notice of the intended sale of same in a newspaper having a general circulation, as required by Section 81450;
2. Repeatedly expressing discriminatory intent by way of a desire to sell KOCE-TV to a "secular" bidder, whether or not the highest bidder, in order to preserve KOCE-TV as a PBS affiliate;
3. Selectively and arbitrarily enforcing the October 8, 2003, bidding deadline against Plaintiff with respect to the Amended Daystar Offer on the grounds that said Offer was submitted one day late, yet two months after the bidding deadline in December 2003, disregarding said deadline with respect to defendant Foundation by materially renegotiating the terms of the Foundation Offer, which, in the form of the Modified Foundation - CCCD Terms of Sale, constitutes an entirely new offer and acceptance;
4. Failing to provide notice to Plaintiff, the other bidders or the public of the Modified Foundation - CCCD Terms of Sale occurring two months after the bidding deadline;
5. Rejecting the Daystar Offer and Amended Daystar Offer in favor of the lower and less responsible non-cash bids of defendant Foundation in flagrant and willful disregard and violation of Section 81450 because Plaintiff is a religious broadcaster;

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6. By resolving to sell KOCE-TV to defendant Foundation, which is not a responsible bidder at all, thereby disregarding the best interests and basic needs of a significant and immediate cash infusion to the local community colleges located within the District, as well as the needs of the California taxpayers and the public at large; and

7. By reducing defendant Foundation's purchase price and extending the Foundation's payment schedule per the Modified Foundation - CCCD Terms of Sale; such action constituted an illegal gift of public funds.

54. Plaintiff is informed and believes and based on such information and belief avers that as a direct and proximate result of the racketeering activity of the above-described enterprise, Plaintiff has suffered economic loss and damages in that Plaintiff was wrongfully and illegally prevented from acquiring the unique television station KOCE-TV because of its religious affiliation, even though Plaintiff properly and rightfully won via public auction. Accordingly, Plaintiff was prevented from expanding its broadcast audience and business operations to the lucrative Southern California market.

55. As the amount of damages to Plaintiff as a result of Defendants' acts and omissions as averred herein is difficult to ascertain, Plaintiff is without an adequate remedy at law and will suffer irreparable harm if Defendants, and each of them, as well as their respective officers, agents, servants and employees, are not enjoined from employing against Plaintiff the unlawful, unfair, fraudulent and discriminatory business practices averred in this Complaint.

56. Plaintiff has retained the law firm of SHERMAN & NATHANSON to prosecute this action and has and will incur costs and attorneys' fees in connection therewith. Plaintiff is informed and believes and thereon avers that it is entitled to an award of attorney's fees in this action by virtue of statute, contract, policy or other law and, therefore, seeks an award of attorneys' fees for having filed and prosecuted this action.

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57. In performing the acts described herein and in taking the actions described herein in furtherance of said conspiracy, Defendants, and each of them, acted with malice, oppression and discriminatory intent entitling Plaintiff to an award of punitive and exemplary damages in a sum to be determined at trial.

**FOURTH CLAIM FOR RELIEF**

**[CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS (42 U.S.C. § 1985(3))  
AGAINST ALL DEFENDANTS]**

58. Plaintiff re-avers and incorporates herein by this reference each and every averment contained in paragraphs 1 through 57, inclusive, of this Complaint.

59. Defendants, and each of them, were at all times herein mentioned aware of the interest and means of Plaintiff, which is in the business of acquiring, owning and operating local television stations, of purchasing KOCE-TV and thereby expanding its broadcast audience and business operations to the Southern California market. The Defendants actions, as described hereinabove, were intentional and knowing and designed to interfere with the Plaintiff's right to acquire KOCE-TV based solely on the fact that Plaintiff is a religious organization. Accordingly, Defendants, and each of them, conspired to interfere with Plaintiff's civil rights.

60. Plaintiff is informed and believes and based on such information and belief avers that as a direct and proximate result of the above-described action, Plaintiff has suffered economic loss and damages in that Plaintiff was wrongfully and illegally prevented from acquiring KOCE-TV, which Plaintiff properly and rightfully won via public auction, and was thereby prevented from expanding its broadcast audience and business operations to the Southern California market.

61. As the amount of damages to Plaintiff as a result of Defendants' conspiracy, Plaintiff is without an adequate remedy at law and will suffer irreparable harm if Defendants, and each of them, as well as their respective officers, agents, servants and employees, are not enjoined from interfering with Plaintiff's civil rights.

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62. Plaintiff has retained the law firm of SHERMAN & NATHANSON to prosecute this action and has and will incur costs and attorneys' fees in connection therewith. Plaintiff is informed and believes and thereon avers that it is entitled to an award of attorney's fees in this action by virtue of 42 U.S.C. § 1988 and, therefore, seeks an award of attorneys' fees for having filed and prosecuted this action.

63. In performing the acts described herein and in taking the actions described herein in furtherance of said conspiracy, Defendants, and each of them, acted with malice, oppression and discriminatory intent entitling Plaintiff to an award of punitive and exemplary damages in a sum to be determined at trial.

WHEREFORE, Plaintiff prays for Judgment against all Defendants, and each of them, as follows:

**FIRST CLAIM FOR RELIEF**

- 1. For an award of general damages according to proof;
- 2. For an award of special damages according to proof;
- 3. For an award of punitive damages in an amount sufficient to punish Defendants, and each of them;
- 4. For appropriate declaratory and injunctive relief to end Defendants' discriminatory religious practices; and
- 5. For an award of reasonable attorneys fees and costs pursuant to 42 U.S.C. § 1988.

**SECOND CLAIM FOR RELIEF**

- 6. For an award of general damages according to proof;
- 7. For an award of special damages according to proof;
- 8. For an award of punitive damages in an amount sufficient to punish Defendants, and each of them;

1 9. For appropriate declaratory and injunctive relief to end Defendants'  
2 discriminatory religious practices; and

3 10. For an award of reasonable attorneys fees and costs pursuant to 42 U.S.C. §  
4 1988.

5 **THIRD CLAIM FOR RELIEF**

6 15. For an award of general damages according to proof;

7 16. For an award of special damages according to proof;

8 17. For an award of punitive damages in an amount sufficient to punish  
9 Defendants, and each of them;

10 18. For appropriate declaratory and injunctive relief to end Defendants'  
11 discriminatory religious practices; and

12 19. For an award of reasonable attorneys fees and costs pursuant to 42 U.S.C. §  
13 1988.

14 **FOURTH CLAIM FOR RELIEF**

15 20. For an award of general damages according to proof;

16 21. For an award of special damages according to proof;

17 22. For an award of punitive damages in an amount sufficient to punish  
18 Defendants, and each of them;

19 23. For appropriate declaratory and injunctive relief to end Defendants'  
20 discriminatory religious practices; and

21 24. For an award of reasonable attorneys fees and costs pursuant to 42 U.S.C. §  
22 1988.

23 **ALL CLAIMS FOR RELIEF**

24 25. For prejudgment interest at the legal rate of ten percent (10%) per annum;

25 26. For costs of suit incurred herein;

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27. For such other and further relief as the Court may deem just and proper under the circumstances.

DATED: July 20, 2005

SHERMAN & NATHANSON

By   
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