

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

In the Matter of	)	
	)	
RW Shop, Inc. and Donald Mayer	)	File No. EB-04-SE-190
Pepperell, Massachusetts	)	NAL/Acct. No. 200532100005
	)	FRN No. 0008867731
	)	

ORDER

Adopted: November 5, 2004

Released: November 9, 2004

By the Chief, Enforcement Bureau:

1. In this Order, we adopt a Consent Decree terminating an investigation into possible violations by RW Shop, Inc. (“RW Shop”) and Donald Mayer of Section 301 of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup> and Section 87.18 (a) of the Commission’s Rules (“Rules”) concerning the operation of an aeronautical advisory (“unicom”) station on frequency 123.05 MHz at Pepperell Airport in Pepperell, Massachusetts.<sup>2</sup>

2. The Enforcement Bureau, RW Shop and Donald Mayer. have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the investigation.

4. Based on the record before us, we conclude that no substantial or material questions of fact exist as to whether RW Shop and/or Donald Mayer possess the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended,<sup>3</sup> and Sections 0.111 and 0.311 of the Rules,<sup>4</sup> the Consent Decree attached to this Order **IS ADOPTED**.

<sup>1</sup> 47 U.S.C. § 301.

<sup>2</sup> 47 C.F.R. § 87.18(a).

<sup>3</sup> 47 U.S.C. § 4(i).

<sup>4</sup> 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau's investigation into the matter described herein **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that RW Shop, Inc. and/or Donald Mayer shall make a voluntary contribution to the United States Treasury, as specified in the Consent Decree. Payment shall be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200532100005 and FRN No. 0008867731. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, Illinois 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank "Bank One," account number 1165259.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Mr. Donald Mayer, 165 Nashua Road, Route 111, Pepperell, Massachusetts 01463, and to his attorney, William Crispin, Esquire, Crispin & Associates, P.L.L.C., 1156 Fifteenth Street, N.W., Suite 1105, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

**CONSENT DECREE**

The Enforcement Bureau of the Federal Communications Commission, RW Shop Inc. and Donald V. Mayer, II (“Donald Mayer” or “Mr. Mayer”) hereby enter into this Consent Decree for the purpose of terminating an investigation regarding the possible unauthorized operation of an aeronautical advisory station (“unicom”) on frequency 123.05 MHz in violation of Section 301 of the Communications Act of 1934, as amended, (“Act”)<sup>5</sup> and Section 87.18(a) of the Commission’s Rules (“Rules”).<sup>6</sup>

**Background**

1. Since 1997, Pepperell Airport, which is located in Pepperell, Massachusetts, has been served by a unicom on the frequency of 123.05 MHz. The station was originally licensed to RW Shop, Inc. (or “RW Shop”) under call sign KJN8. That license expired on January 18, 2002, after RW Shop failed to file a timely application for renewal. On April 30, 2003, Pepperell Airport filed an application for a new unicom station on frequency 123.05 MHz. On June 10, 2004, the Wireless Telecommunications Bureau granted Pepperell Airport a license for a new unicom station, call sign WQA1961, on frequency 123.05 MHz.<sup>7</sup> However, the Wireless Telecommunications Bureau referred to the Enforcement Bureau for investigation the issue of whether the unicom station at Pepperell Airport continued to operate on frequency 123.05 MHz after the license for station KJN8 expired, in violation of Section 301 of the Act and Section 87.18 of the Rules. The Enforcement Bureau subsequently initiated an investigation.

**Definitions**

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Commission” or “FCC” means the Federal Communications Commission;
  - (b) “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
  - (c) “RW Shop” means the former licensee of KJN8. Donald Mayer held an ownership interest in RW Shop;
  - (d) “Mayer” means Donald Mayer, a partner in a partnership that holds the license for WQA1961 under the name Pepperell Airport. Mayer’s partnership also leases the land and airport facilities and operates a parachute jumping business at Pepperell Airport;

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<sup>5</sup> 47 U.S.C. § 301.

<sup>6</sup> 47 C.F.R. § 87.18(a).

<sup>7</sup> *Pepperell Airport*, 19 FCC Rcd 9939 (WTB, Public Safety & Critical Infrastructure Div., 2004). Donald Mayer is the manager of Pepperell Airport. He is also a partner in a partnership that leases the land and airport facilities and operates a parachute jumping business at Pepperell Airport. Mr. Mayer’s partnership is the current licensee of WQA1961 under the name Pepperell Airport.

- (e) "Parties" means RW Shop, Mayer and the Bureau;
- (f) "Adopting Order" means an order of the Bureau adopting the terms and conditions of this Consent Decree;
- (g) "Effective Date" means the date the Adopting Order is released by the Bureau;
- (h) "Rules" means the Commission's Rules found in Title 47 of the Code of Federal Regulations; and
- (i) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§151 et seq.

### Terms of Settlement

3. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between RW Shop, Mayer and the Bureau regarding possible violations of the Act and the Rules with respect to the operation of a unicom station on frequency 123.05 MHz at Pepperell Airport after January 18, 2002. In consideration for the termination of the investigation into whether RW Shop and/or Mayer operated a unicom station on frequency 123.05 MHz at Pepperell Airport after January 18, 2002 without Commission authorization and in accordance with the terms of this Consent Decree, RW Shop and Mayer agree to the terms, conditions, and procedures contained herein.

4. RW Shop and Mayer agree to implement a Regulatory Compliance Plan ("RCP") governing any FCC license held by RW Shop and any FCC license in which Donald Mayer holds any interest, including the license for unicom station WQA1961. The RCP will include the appointment of an employee, the Regulatory Manager, who will be responsible for overseeing compliance with the rules and regulations, including specifically those rules and regulations concerning license renewal. The Regulatory Manager will be responsible for maintaining a file in its office at the Pepperell Airport containing a list of compliance dates of all impending FCC deadlines, including the expiration dates and license renewal dates of any FCC licenses held by RW Shop and any FCC license in which Donald Mayer holds any interest. The Regulatory Manager will be the person responsible for completing all documentation for license renewals, responding to any Commission inquires and submitting these to the Commission. Finally, the Regulatory Manager will consult with Commission staff and/or other professionals including where necessary lawyers specializing in practice before the Commission to ensure compliance with the rules and regulations particularly including the Rules and regulations regarding the renewal of FCC licenses.

5. In express reliance on the covenants and representations contained herein, and to avoid the further expenditure of scarce public resources, the Bureau agrees to terminate its investigation.

6. RW Shop and/or Mayer shall make a voluntary contribution to the United States Treasury in the amount of \$500.00 within 10 calendar days after the Order adopting this Consent Decree becomes final. RW Shop or Mayer must make this payment, without further protest or recourse, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200532100005 and FRN No.

0008867731. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, Illinois 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank "Bank One," account number 1165259.

7. The Bureau agrees that it will not institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against RW Shop or Mayer for any alleged unauthorized operation of a unicom station on frequency 123.05 MHz at Pepperell Airport prior to the Effective Date of this Consent Decree except as consistent with this Consent Decree. The Bureau also agrees, that, in the absence of material new evidence related to this matter, it will not use the facts developed in this proceeding 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 against RW Shop or Mayer with respect to its basic qualifications, including its character qualifications to be a Commission licensee. Nothing in this Consent Decree shall prevent the Bureau from instituting new investigations or enforcement proceedings against RW Shop or Mayer in the event of any alleged future misconduct that violates this Consent Decree or that violates any provision of the Act and the Rules.

8. RW Shop and Mayer waive any and all rights they 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 that the Bureau issues an Order adopting the Consent Decree without change, addition, or modification.

9. RW Shop and Mayer agree to waive any claims it may otherwise have under the Equal Access to Justice Act, Title 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 et seq., relating to the matters discussed in this Consent Decree.

10. The Parties agree that in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, the Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

11. 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 RW Shop, Mayer nor the Bureau shall contest the validity of the Consent Decree or Adopting Order and RW Shop and Mayer will waive any statutory right to a trial de novo.

12. The Parties agree that this Consent Decree does not constitute an adjudication on the merits or a factual or legal determination regarding any compliance or noncompliance with the Act or the Rules. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, RW Shop and Mayer do not admit or deny any liability for violating the Act or the Rules in connection with the matters that are the subject of this Consent Decree.

13. RW Shop and Mayer agree that any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any right and remedies attendant to the enforcement of a Commission order.

14. The Parties agree that the terms and conditions of this Consent Decree shall remain in effect through the timely renewal of the present license for unicom station WQA1961 at the Pepperell Airport or, if earlier, the date on which RW Shop and/or Donald Mayer no longer hold any interest in an FCC license for a unicom station at the Pepperell Airport in Pepperell, Massachusetts.

15. This Consent Decree may be signed in counterparts.

For the Enforcement Bureau:

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David H. Solomon  
Chief, Enforcement Bureau

For RW Shop and Donald Mayer:

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William H. Crispin  
Their Attorney