

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

In the Matter of)	EB Docket No. 07-13
)	
DAVID L. TITUS)	FRN No. 0002074797
)	File No. EB-06-IH-5048
Amateur Radio Operator and Licensee of Amateur)	
Radio Station KB7ILD)	

ORDER TO SHOW CAUSE

Adopted: January 30, 2007

Released: January 30, 2007

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this *Order to Show Cause*, and pursuant to Sections 312(a) and (c) of the Communications Act of 1934, as amended (the "Act"),¹ the Federal Communications Commission's Enforcement Bureau commences a hearing proceeding before an administrative law judge. The purpose of this hearing is to determine whether David L. Titus, licensee of the above-captioned Amateur Radio Station and Amateur Radio Operator license, is qualified to remain a Commission licensee in light of his felony conviction and whether his authorization should be revoked.

II. BACKGROUND

2. David L. Titus is the licensee of Amateur Radio Station KB7ILD, the term for which expires on June 8, 2009. Information has come to the Commission's attention that Titus was convicted of a Class C felony in the State of Washington in 1993. Specifically, the information before us indicates that Mr. Titus was convicted in Benton County, Washington, on April 16, 1993, of having violated Section 9.68A.090 of the Revised Code of Washington, communicating with a minor for immoral purposes. Titus was sentenced to serve 25 months in prison. In addition, Mr. Titus is identified by the Seattle Police Department as a registered sex offender.²

III. DISCUSSION

3. Section 312(a)(2) of the Act provides that the Commission may revoke any license if "conditions com[e] to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application."³ The character of an applicant is among those factors that

¹ See 47 U.S.C. §§ 312(a) and (c).

² See Bulletin 04-202, Sex or Kidnapping Offender Information Bulletin Level 3 Notification of Release, July 8, 2004, available at <http://web1.seattle.gov/Police/SexOffender/DataFiles/TitusDavidL.pdf> (visited Jan. 29, 2007).

³ 47 U.S.C. § 312(a)(2).

the Commission considers in determining whether the applicant has the requisite qualifications to be a Commission licensee.⁴

4. In assessing character qualifications in broadcast licensing matters, the Commission considers, as relevant, “evidence of any conviction for misconduct constituting a felony.”⁵ The Commission has found that “[b]ecause all felonies are serious crimes, any conviction provides an indication of an applicant’s or licensee’s propensity to obey the law” and to conform to provisions of both the Act and the agency’s rules and policies.⁶ In addition, certain felonies involving egregious misconduct “might, of its own nature, constitute prima facie evidence that the applicant lacks the traits of reliability and/or truthfulness necessary to be a licensee.”⁷ As noted above, the Commission has consistently applied these character standards to applicants and licensees in the Amateur Radio Service.⁸ Thus, felony convictions, especially those involving sexual offenses involving children, raise questions regarding an amateur licensee’s qualifications.⁹

5. Mr. Titus’ felony conviction for at least one sexual-related offense involving children¹⁰ raises material and substantial questions as to whether he possesses the requisite character qualifications to be and remain a Commission licensee. Although Mr. Titus’ felony conviction occurred more than 10 years ago, the nature of his criminal misconduct and the fact the amateur radio service is particularly attractive to children call into serious question whether he should be permitted to retain his amateur radio authorization. Consequently, we will commence a hearing proceeding before an administrative law judge

⁴ See 47 U.S.C. § 308(b); see also *Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part 1, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentation to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications*, Policy Statement and Order, 5 FCC Rcd 3252 (1990) (“1990 Character Order”), *recon. on other grounds*, 6 FCC Rcd 3448 (1991), *modified on other grounds*, 7 FCC Rcd 6564 (1992). The Commission has consistently applied these broadcast character standards to applicants and licensees in the Amateur Radio Service. See, e.g., *Schoenbohm v. FCC*, 204 F.3d 243, 246-49 (D.C. Cir. 2000) (affirming the Commission’s denial of an amateur radio operator’s license renewal application based on the licensee’s felony conviction for computer fraud, as well as its lack of candor regarding such conviction) (“*Schoenbohm*”). See also *Roger Thomas Scaggs*, Order to Show Cause, 18 FCC Rcd 24367 (Enf. Bur. 2003) (finding that an amateur radio operator licensee’s murder conviction raised a material question of fact regarding his character and qualifications to remain a Commission licensee); *Thomas M. Haynie*, Order to Show Cause and Suspension Order, 7 FCC Rcd 4994 (Field Op. Bur. 1992), *affirmed and licenses revoked*, 7 FCC Rcd 7291 (PRB 1992) (revoking general radiotelephone operator, amateur advanced class radio and amateur radio station licenses on the basis of licensee’s felony conviction for intentional interference with satellite communications); *Jerry E. Gastil*, Order to Show Cause, 4 FCC Rcd 3977 (Priv. Rad. Bur., Field Op. Bur. 1989) (finding that a general radio operator and amateur radio station licensee’s felony conviction for interfering with governmental radio communications raised serious questions regarding his character and qualifications to remain a Commission licensee).

⁵ See *1990 Character Order*, *supra* note 3, 5 FCC Rcd 3252 ¶ 4.

⁶ *Id.*

⁷ See *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000).

⁸ See *supra* note 3.

⁹ See *Robert D. Landis*, Order To Show Cause, DA 06-1570, 2006 WESTLAW 2192724 (Enf. Bur. rel. Aug. 1, 2006) (designating amateur radio operator’s license for revocation based on licensee’s felony conviction for child molestation); *George E. Rodgers*, Hearing Designation Order, 10 FCC Rcd 3978 (WTB 1995) (finding that an amateur radio operator licensee’s felony conviction for indecent assault upon and corruption of minors raised a material question of fact regarding his character and qualifications to remain a Commission licensee).

¹⁰ The facts of Mr. Titus’ 1993 felony conviction, as well as any other felonies of which he may have been convicted, are *res judicata* and shall not be retried in this hearing.

to provide Mr. Titus with an opportunity to demonstrate why his above-captioned license should not be revoked.

IV. ORDERING CLAUSES

6. ACCORDINGLY, pursuant to Sections 312(a) and (c) of the Communications Act of 1934, as amended,¹¹ and authority delegated pursuant to Sections 0.111, 0.311, and 1.91(a), of the Commission's rules,¹² David L. Titus is hereby ORDERED TO SHOW CAUSE why his authorization for Amateur Radio Station KB7ILD SHOULD NOT BE REVOKED in a proceeding before an administrative law judge, at a time and place to be specified in a subsequent order, upon the following issues:

- (a) to determine the effect of David L. Titus' felony conviction(s) on his qualifications to be and to remain a Commission licensee; and
- (b) to determine, in light of the evidence adduced pursuant to the foregoing issue, whether David L. Titus is qualified to be and to remain a Commission licensee; and
- (c) to determine, in light of the evidence adduced pursuant to the foregoing issues, whether the license of David L. Titus for Amateur Radio Station KB7ILD should be revoked.

7. IT IS FURTHER ORDERED that, pursuant to Section 312(c) of the Communications Act of 1934, as amended, and Section 1.91(c) of the Commission's rules,¹³ to avail himself of the opportunity to be heard, David L. Titus, in person or by his attorney, SHALL FILE with the Commission, within 30 calendar days of the release of this *Order to Show Cause*, a written appearance stating that he will appear on the date fixed for hearing and present evidence on the issues specified herein.

8. IT IS FURTHER ORDERED that, pursuant to Section 1.92(c) of the Commission's rules, if David L. Titus fails to timely file a written appearance within the 30-day period, or has not filed a petition to accept, for good cause shown, a written appearance beyond the expiration of the 30-day period, his right to a hearing shall be deemed by the Presiding Administrative Law Judge to be waived,¹⁴ and the Presiding Administrative Law Judge shall, at the earliest practicable date, issue an order terminating the hearing proceeding and certifying the case to the Commission.¹⁵

9. IT IS FURTHER ORDERED that, pursuant to Section 312(d) of the Communications Act of 1934, as amended,¹⁶ and Section 1.91(d) of the Commission's rules,¹⁷ the burden of proceeding with the introduction of evidence and the burden of proof with respect to all of the issues specified above SHALL BE on the Enforcement Bureau.

¹¹ 47 U.S.C. §§ 312(a) and (c).

¹² 47 C.F.R. §§ 0.111, 0.311 and 1.91(a).

¹³ 47 C.F.R. § 1.91(c).

¹⁴ 47 C.F.R. § 1.92(a).

¹⁵ 47 C.F.R. § 1.92(c).

¹⁶ 47 U.S.C. § 312(d).

¹⁷ 47 C.F.R. § 1.91(d).

10. IT IS FURTHER ORDERED that, the a copy of this ORDER TO SHOW CAUSE shall be sent, by Certified Mail, Return Receipt Requested, and by regular United States mail to: David L. Titus, 1529 Boylston Avenue, No. 203, Seattle, Washington 98122.

11. IT IS FURTHER ORDERED that, the a copy of this ORDER TO SHOW CAUSE, or a summary thereof, shall be published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau