

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

In the Matter of)	File No. EB-09-SE-104
)	
VSAT Systems, LLC)	Acct. No. 200932100074
)	
)	FRN No. 0018756155

ORDER

Adopted: August 6, 2009

Released: August 10, 2009

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and VSAT Systems, LLC (“VSAT Systems”). The Consent Decree terminates an investigation of VSAT Systems by the Bureau for possible violation of Section 301 of the Communications Act of 1934, as amended (“Act”),¹ and Section 25.102(a) of the Commission’s Rules (“Rules”)² regarding the operation of a very small aperture terminal network.

2. The Bureau and VSAT Systems have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated 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 VSAT Systems possesses the basic qualifications, including 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,³ and sections 0.111 and 0.311 of the Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

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

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 25.102(a).

³ 47 U.S.C. § 154(i).

⁴ 47 C.F.R. §§ 0.111, 0.311.

7. **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 Michael Kister, President, VSAT Systems, LLC, 1520 S. Arlington Street, Akron, OH 44306 and Donna A. Balaguer, Esq., Fish & Richardson P.C., 1425 K Street, N.W., 11th Floor, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and VSAT Systems, LLC (“VSAT Systems”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation into whether VSAT Systems violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ and Section 25.102(a) of the Commission’s rules (“Rules”)² regarding operation of a very small aperture terminal (“VSAT”) network.

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) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph seven (7).
 - (f) “Effective Date” means the date on which the Bureau releases the Adopting Order.
 - (g) “Investigation” means the investigation initiated by the Bureau as a result of VSAT Systems’ disclosure to the Bureau on May 8, 2009, regarding a possible violation of Section 301 of the Act and Section 25.102(a) of the Rules.
 - (h) “Parties” means VSAT Systems and the Bureau.
 - (i) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 25.102(a).

- (j) “VSAT Systems” means VSAT Systems, LLC, its predecessors-in-interest, successors-in-interest, members and affiliates, including Skycasters, LLC and its members.

II. BACKGROUND

2. Section 301 of the Act prohibits a person from using or operating any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with the Act and with a license granted in accordance with the Act. Similarly, under Section 25.102(a) of the Rules, no person may use or operate any apparatus for the transmission of energy or communications or signals by space or earth stations except under, and in accordance with, an appropriate authorization granted by the Commission. On May 8, 2009, VSAT Systems filed applications with the Commission for authority to continue to operate a VSAT network that had not been previously authorized.

III. TERMS OF AGREEMENT

3. **Adopting Order.** The Parties agree that the provisions of the 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.

4. **Jurisdiction.** VSAT Systems 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.

5. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the Bureau 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.

6. **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. In consideration for the termination of said investigation, VSAT Systems 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 VSAT Systems 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 VSAT Systems with respect to VSAT Systems’ basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

7. **Compliance Plan.** For purposes of settling the matters set forth herein, VSAT Systems agrees to maintain a Compliance Plan (“Compliance Plan”) related to future compliance with the Act, the Commission’s Rules, and the Commission’s Orders. The Compliance Plan will include, at a minimum, the following components:

- (a) **Compliance Officer.** VSAT Systems shall designate a Compliance Officer (“Compliance Officer”) who will be responsible for implementing and administering the Compliance Plan.
- (b) **Training.** VSAT Systems will provide training and materials concerning Part 25 of the Rules and the requirements of the Consent Decree to all of its employees who are involved directly or indirectly in the engineering, operation or construction of its VSAT network. Such training will be completed within ninety (90) days of the Effective Date and any new employees will receive training within (60) days of their employment.
- (c) **Compliance Report.** VSAT Systems will file reports with the Commission 90 days after the Effective Date, 12 months after the Effective Date, and 24 months after the Effective Date. Each compliance report shall include a compliance certificate from an officer, as an agent of VSAT Systems, stating that the officer has personal knowledge that VSAT Systems has established operating procedures intended to ensure compliance with this Consent Decree, together with an accompanying statement explaining the basis for the officer’s compliance certification. All compliance reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W. Washington, D.C. 20554. All compliance reports shall also be submitted electronically to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov and Jacqueline Ellington at Jackie.Ellington@fcc.gov.
- (d) **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four (24) months after the Effective Date.

8. **Voluntary Contribution.** VSAT Systems agrees that it will make a voluntary contribution to the United States Treasury in the amount of thirteen thousand dollars (\$13,000). The payment will be made within 30 days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the 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. 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 Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). VSAT Systems will also send electronic notification on the date said payment is made to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov and Jacqueline Ellington at Jackie.Ellington@fcc.gov.

9. **Waivers.** VSAT Systems 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 Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification or deletion. VSAT Systems 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 VSAT Systems nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and VSAT Systems shall waive any statutory right to a trial *de novo*. VSAT Systems 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.

10. **Invalidity.** 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.

11. **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 VSAT Systems does not expressly consent) that provision will be superseded by such Commission rule or Order.

12. **Successors and Assigns.** VSAT Systems agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

13. **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.

14. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

15. **Paragraph Headings.** The headings of the Paragraphs in the Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

16. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

17. **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.

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

Date

Michael Kister
President
VSAT Systems, LLC

Date