

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

In the Matter of)	EB Docket No. 07-264
)	
LONNIE L. KEENEY)	File No. EB-06-IH-2945
)	
Amateur Radio Operator and Licensee of)	
Amateur Radio Station KB9RFO)	

ORDER OF REVOCATION

Adopted: February 25, 2009

Released: February 25, 2009

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Order of Revocation, pursuant to Section 0.111(a)(17) of the Commission's Rules,¹ we revoke the amateur radio license held by Lonnie L. Keeney. Based on evidence of his felony conviction for child molestation, we conclude that Mr. Keeney lacks the requisite character qualifications to be and remain a Commission licensee.

II. BACKGROUND

2. On November 20, 2007, the Chief, Enforcement Bureau, pursuant to delegated authority, released *Lonnie L. Keeney*, Order to Show Cause, 22 FCC Rcd 19975 (Enf. Bur. 2007) ("OSC"), designating this case for hearing before an Administrative Law Judge. The OSC, at ¶ 7, specified the following issues:

- (a) to determine the effect of Lonnie L. Keeney's felony conviction(s) on his qualifications to be and to remain a Commission licensee;
- (b) to determine, in light of the evidence adduced pursuant to the foregoing issue, whether Lonnie L. Keeney 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 Lonnie L. Keeney's Amateur Radio License KB9RFO should be revoked.

¹ 47 C.F.R. §0.111(a)(17) (delegating to the Enforcement Bureau authority to "[i]ssue or draft appropriate orders after a hearing has been terminated by an Administrative Law Judge on the basis of waiver.").

3. The OSC directed Mr. Keeney, in person or by his attorney, to file with the Commission within 30 days of release of the OSC a written appearance stating his intention to appear on the date fixed for hearing and present evidence on the specified issues.² The OSC informed Mr. Keeney that if he failed to file a timely written appearance, his right to a hearing would, pursuant to Section 1.92(c) of the Commission's Rules, be deemed to be waived, and the Presiding Administrative Law Judge would thereafter issue an order terminating the hearing and certifying the case to the Commission for resolution.³

4. On January 25, 2008, the Presiding Administrative Law Judge released *Lonnie L. Kenney*, Memorandum Opinion and Order, FCC 08M-03 (ALJ, rel. January 25, 2008) ("MO&O"). The MO&O initially recited that, because Mr. Keeney was required to file a written appearance within 30 days of release of the OSC, and the OSC was released on November 20, 2007, the deadline for filing a written appearance in this proceeding was December 20, 2007.⁴ The MO&O further stated that there was no record in the Commission's files of any filing by Mr. Keeney of a written or other appearance.⁵ The MO&O did observe, however, that Mr. Keeney had twice sent written communications to the Commission following release of the OCS; the first in the form of an undated letter in which he admitted to his felony conviction, and the second in the form of an e-mail to the Commission's Chief Administrative Law Judge in which he stated, among other things, that he could not afford to travel to Washington, D.C. for the trial.⁶ The MO&O determined that Mr. Keeney had failed to file a written appearance, his written communications were procedurally deficient to be construed as "pleadings," and the e-mail communication in particular clearly established an intent not to appear on the date fixed for hearing and present evidence on the issues specified in the OSC. Accordingly, the Presiding Administrative Law Judge concluded that Mr. Keeney had waived his right to a hearing, and he terminated the proceeding and certified the case to the Commission.⁷

III. DISCUSSION

5. The FCC granted Mr. Keeney a license for Amateur Radio Station KB9RFO on December 29, 1998.⁸ Commission records do not reveal any violations by Mr. Keeney of the Communications Act of 1934, as amended (the "Act"),⁹ or the Commission's rules.

6. On August 14, 2006, the Enforcement Bureau received a complaint alleging that Mr. Keeney had been convicted of child molestation.¹⁰ The Enforcement Bureau immediately commenced an investigation. The evidence adduced shows that on December 5, 2002, Mr. Keeney

² OSC at ¶ 8.

³ OSC at ¶ 9.

⁴ MO&O at ¶ 1.

⁵ MO&O at ¶ 2.

⁶ MO&O at ¶¶ 2-3.

⁷ MO&O at ¶¶ 4-5.

⁸ The license for Station KB9RFO was renewed on April 26, 2007. It expires on July 24, 2017.

⁹ See 47 U.S.C. § 151 *et seq.*

¹⁰ See E-mail to Kris Monteith, Enforcement Bureau, Federal Communications Commission from Complainant, dated August 14, 2006 ("Complaint"). The Complainant's name is not being released to protect the individual's privacy.

pled guilty in Putnam Circuit Court, State of Indiana, to one count of child molestation, a class C felony, for touching or fondling a 5-year-old child.¹¹ Mr. Keeney was sentenced to a term of “six years with one year executed with the Indiana Department of Correction with credit for 35 days.”¹² After his incarceration, Mr. Keeney remained on supervised probation until May 12, 2008.¹³ During his probation, Mr. Keeney was not allowed, among other things, to: reside “within one thousand feet of school property; . . . be alone with or have any contact with any person under the age of 18; . . . be present at parks, schools, playgrounds, day care centers without prior approval from Probation and adult supervision;” or “participate in any activity which involves children under 18 years of age, such as, but not limited to, youth groups, Boy Scouts, Girl Scouts, Cub Scouts, Brownies, 4-H, YMCA, YWCA, or youth sports teams, unless give permission by the Court.” Notwithstanding that he has apparently satisfied the terms of his probation, Mr. Keeney is required to register with local law enforcement authorities as a sex offender.¹⁴

7. Section 312(a)(2) of the Act provides that the Commission may revoke any license “because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application.”¹⁵ The character of the licensee or applicant is among the factors that the Commission considers in determining whether the applicant has the requisite qualifications to operate the station for which authority is sought.¹⁶ The Commission’s character assessments focus on misconduct that demonstrates the licensee’s or applicant’s proclivity to deal truthfully with the Commission and to comply with its rules or policies.¹⁷ The Commission consistently has applied character standards developed for broadcasters to applicants and licensees in the Amateur Radio Service.¹⁸ The Commission

¹¹ See *State of Indiana v. Lonnie Keeney*, Order On Sentencing Hearing, Cause Number: 67C01-0205-FA-67, (December 10, 2002). See also *State of Indiana v. Lonnie Keeney*, Information, Cause Number 67C01-0205-FA67 (October 15, 2002).

¹² *State of Indiana v. Lonnie Keeney*, Order On Sentencing Hearing, Cause Number: 67C01-0205-FA-67, (December 10, 2002). See also *State of Indiana v. Lonnie Keeney*, Indiana Recommended Special Probation Conditions For Adult Sex Offenders, Cause Number: 67C01-0205-FA-67 (May 9, 2003).

¹³ See *State of Indiana v. Lonnie Keeney*, Probation Order, Case No. 67C01-0205-FA67 (May 9, 2003).

¹⁴ *State of Indiana v. Lonnie Keeney*, Indiana Recommended Special Probation Conditions For Adult Sex Offenders, Cause Number: 67C01-0205-FA-67 (May 9, 2003). See also www.insor.org/insasoweb/offenderDetails.do?sid=338831.011&redPage=1 (noting lifetime sex offender registration requirement).

¹⁵ 47 U.S.C. § 312(a)(2).

¹⁶ See 47 U.S.C. § 308(b).

¹⁷ See *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1190-91 (1986), *recons. granted in part on other grounds*, 1 FCC Rcd 421 (1986) (“1986 Character Policy Statement”), *appeal dismissed sub nom.*, *National Association for Better Broadcasting v. FCC*, No. 86-1179 (D.C. Cir. June 11, 1987), *modified*, 5 FCC Rcd 3252 (1990) (“1990 Character Policy Statement”), *on reconsideration*, 6 FCC Rcd 3448 (1991), *modified in part*, 7 FCC Rcd 6564 (1992).

¹⁸ See *1990 Character Policy Statement*, 5 FCC Rcd 3252; *Schoenbohm v. FCC*, 204 F.3d 243, 246-49 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 968 (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); *Roger Thomas Scaggs*, Order of Revocation, 19 FCC Rcd 7123 (Enf. Bur. 2004) (revoking an amateur radio operator license due to the licensee’s felony murder conviction); *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);

(continued....)

considers relevant “evidence of any conviction for misconduct constituting a felony”¹⁹ and has stated “there may be circumstances in which an applicant has engaged in non-broadcast misconduct so egregious as to shock the conscience and evoke almost universal disapprobation Such 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”²⁰ In this regard, the Commission has stated 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.²¹

8. Mr. Keeney acknowledges his felony conviction for child molestation, a very serious crime which, as we have previously held, shocks the conscience.²² His continued treatment by law enforcement as a sex offender²³ demonstrates that he has not been sufficiently rehabilitated to mitigate his past misconduct. The Commission’s character policies provide that any felony conviction is a matter predictive of licensee behavior and is directly relevant to the functioning of the Commission’s regulatory mission. Mr. Keeney’s egregious conviction and required registration as a sex offender support the finding that Mr. Keeney does not possess the requisite qualifications to be and to remain a Commission licensee. Accordingly, we conclude, as a matter of law, that Mr. Keeney’s above-captioned Amateur Radio license should be revoked.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED**, pursuant to Section 312 of the Communications Act of 1934, as amended,²⁴ and Sections 1.92(d) and 0.111(a)(17) of the Commission’s rules,²⁵ that the captioned amateur license held by Lonnie L. Keeney **IS REVOKED**, effective the fortieth (40th) day after release of this Order, unless Mr. Keeney files a petition for reconsideration or application for review within thirty (30) days of the release of this Order, in which case the effective date will be suspended, pending further order of the Commission.

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Thomas M. Haynie, Order to Show Cause and Suspension Order, 7 FCC Rcd 4994 (FOB 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).

¹⁹ *1990 Character Order*, 5 FCC Rcd 3252 ¶ 4.

²⁰ *1986 Character Order*, 102 FCC 2d 1179, 1206 n. 60.

²¹ *See Jack R. Sharples*, Hearing Designation Order, 22 FCC Rcd 9381 (Mob. Div., Wireless Telecommunications Bureau 2007) (“*Jack R. Sharples*”); *See also supra*, notes 12, 19.

²² *See Robert D. Landis*, Order of Revocation, 22 FCC Rcd 19979 (Enf. Bur. 2007); *Jack R. Sharples*; *David L Titus*, Hearing Designation Order, 22 FCC Rcd 1638 (Enf. Bur. 2007); *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 920 (2001) (in affirming character policy of considering felonious misconduct, stating that policy seems particularly reasonable as applied to “such patently criminal behavior as sexual assault on children”).

²³ *See supra*, notes 14, 19.

²⁴ *See* 47 U.S.C. § 312.

²⁵ *See* 47 C.F.R. §§ 0.111(a)(17), 1.92(d).

10. **IT IS FURTHER ORDERED** that copies of this **ORDER OF REVOCATION** shall be sent by Certified Mail Return Receipt Requested to Lonnie L. Keeney, 181 South County Road 100 East, Greencastle, Indiana 46135.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau