

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

In the Matter of)	
)	
PETER BIRK)	File No. 0003475191
Amateur Radio Station K4ZL)	
)	
ELMER B. JACKSON, JR.)	
Amateur Radio Station AJ4JT)	

ORDER PROPOSING MODIFICATION

Adopted: March 17, 2009

Released: March 23, 2009

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* On October 6, 2006, the Wireless Telecommunications Bureau granted the captioned application to assign the call sign K4ZL as a vanity call sign to the Amateur Radio Station of Peter Birk (Birk). Based on information subsequently received by the Commission, it appears that the call sign K4ZL was made available under the vanity call sign system as a result of a defective cancellation of the license originally held by Elmer B. Jackson, Jr. (Jackson). To correct this error, we propose to modify Birk's amateur radio license to show the call sign WB2DCG, which was the call sign assigned to Birk's amateur station prior to the grant of the above-captioned application.

2. *Background.* Prior to 1978, Jackson received an amateur station license with the call sign K4ZL. This license was due to expire on June 11, 2008. On October 3, 2006, the Commission received information indicating that Jackson had died on February 14, 2004. Based on this information, the license was canceled as of February 14, 2004. Birk then filed the above-captioned application requesting that his license for Amateur Radio Station WB2DCG be modified to show the call sign K4ZL. This application was granted on October 21, 2006.

3. In June 2008, Jackson contacted the Commission to report that he was not deceased, and that he wished to renew his license. Further review determined that the information submitted to the Commission in 2006 pertained to a different person with the same name.

4. *Discussion.* We conclude that the cancellation of the license for amateur station K4ZL was defective and that the call sign K4ZL should not have been available for assignment under the vanity call sign system. To correct this error, we propose to exchange K4ZL with the call sign previously assigned to Birk's amateur radio station, WB2DCG; and concurrently to assign call sign K4ZL back to Jackson's license, which was reinstated under call sign AJ4JT.

5. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.¹ Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.² In this connection, we note that the proposed modification would serve the public interest by ensuring that a licensee is not harmed by having his or her license canceled based on erroneous information submitted by

¹ 47 U.S.C. § 316(a)(1).

² *Id.*

a third party.

6. In accordance with Section 97.27(b) of the Commission's Rules,³ we will not issue a modification order until Birk has received notice of our proposed action and has had an opportunity to file a protest. To protest this modification, Birk must, within thirty days of the release date of this *Order Proposing Modification*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554.⁴ If no protest is filed, Birk will have waived his right to protest the modification and will be deemed to have consented to the modification.

7. ACCORDINGLY, IT IS PROPOSED, pursuant to Sections 4(i) and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316, and Sections 1.87 and 97.27 of the Commission's Rules, 47 C.F.R. §§ 1.87, 97.27, that the Amateur Radio Station License of Peter Birk BE MODIFIED by changing the call sign from K4ZL to WB2DCG, and that the Amateur Radio Station License of Elmer B. Jackson, Jr. BE MODIFIED by changing the call sign from AJ4JT to K4ZL.

8. IT IS FURTHER ORDERED that this *Order Proposing Modification* shall be sent by certified mail, return receipt requested, to Peter Birk, 1026 Caton Drive, Virginia Beach, VA 23454; and to Elmer B. Jackson, Jr., 170 Hazelwood Lane, La Vergne, TN 37086.

9. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

³ 47 C.F.R. § 97.27(b).

⁴ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at our new location at 236 Massachusetts Ave, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than the United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).