

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

In the Matter of)	File No. EB-09-IH-1911
)	
)	Acct. No. 201132080003
Shared Data Networks, LLC)	
)	FRN No. 0003827888
)	
)	

ORDER

Adopted: November 5, 2010

Released: November 8, 2010

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau ("Bureau") of the Federal Communications Commission and Shared Data Networks, LLC ("Shared Data"). The Consent Decree terminates an investigation by the Bureau against Shared Data for possible violations of sections 301 and 310(d) of the Communications Act of 1934, as amended ("Act"),¹ and sections 25.102, 25.119, and 25.121(e) of the Commission's rules,² regarding the transfer of control of various satellite earth station licenses held by Shared Data, the renewal of a license to operate an earth station for a fixed satellite service, and the operation of an earth station for a fixed satellite service.

2. The Bureau and Shared Data have negotiated the terms of a Consent Decree that resolves 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 Shared Data 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 Commission's 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, 310(d).

² 47 C.F.R. §§ 25.102, 25.119, 25.121(e).

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 William P. Cook and Robert G. Allen, P.C., DLA Piper, LLC, 500 Eighth Street, N.W., Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Shared Data Networks, LLC, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation of compliance by Shared Data with sections 301 and 310(d) of the Communications Act of 1934, as amended,⁵ and sections 25.102, 25.119, and 25.121(e) of the Commission's rules⁶ in connection with the unauthorized transfer of control of various satellite earth station licenses held by Shared Data, the failure to renew a license to operate an earth station for a fixed satellite service, and the operation of an earth station for a fixed satellite service without Commission authorization.

I. DEFINITIONS

- 2. 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" or "Order" means an Order of the Commission 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" or "FCC" means the Federal Communications Commission and all of its bureaus and offices.
 - (e) "Compliance Plan" means the program described in this Consent Decree at paragraph 10.
 - (f) "Effective Date" means the date on which the Commission releases the Adopting Order.

⁵ 47 U.S.C. §§ 301, 310(d).

⁶ 47 C.F.R. §§ 25.102, 25.119, 25.121(e).

(g) "Investigation" means the Bureau's investigation commenced by the Bureau's Letter of Inquiry dated November 9, 2009 to Shared Data regarding whether Shared Data violated sections 301 and 310(d) of the Act and sections 25.102, 25.119 and 25.121(e) of the Commission's rules by willfully and repeatedly failing to renew a license to operate an earth station for a fixed satellite service, by operating an earth station for a Very Small Aperture Terminal fixed satellite service without Commission authorization, and by the consummation of an unauthorized transfer of control of Shared Data.

(h) "Parties" means Shared Data Networks, LLC and the Enforcement Bureau of the Federal Communications Commission, and each a "Party".

(i) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

(j) "Shared Data" or the "Company" means Shared Data Networks, LLC and its predecessors-in-interest and successors-in-interest.

II. BACKGROUND

3. Pursuant to sections 301 and 310(d) of the Act and sections 25.102, 25.119 and 25.121(e) of the Commission's rules, satellite communications providers must obtain a license from the FCC prior to providing such service, must renew such license within a period commencing no earlier than 90 days and ending no later than 30 days prior to the expiration of the existing license, and must obtain prior approval from the Commission before consummating a transaction that transfers control over a license.⁷

4. Shared Data provides satellite communications services and holds multiple Commission licenses to operate a Very Small Aperture Terminal ("VSAT") fixed satellite service. On November 11, 2008, in an application to transfer control, Shared Data reported to the International Bureau that it consummated an unauthorized transfer of control. Almost seven months later in a June 4, 2009 application for Special Temporary Authority ("STA") to continue operating its VSAT network facilities, Shared Data reported to the International Bureau that it engaged in other violations of the Commission's rules. In 2009, Shared Data discovered that one of its FCC licenses (Call Sign E881406) had expired on February 3, 2009, and not only had Shared Data neglected to seek a license renewal in accordance with the Commission's rules but it had also operated that license under an expired authorization for 180 days. The International Bureau granted the STA request effective August 4, 2009.⁸

5. The Enforcement Bureau issued a letter of inquiry ("LOI") to Shared Data directing the Company to submit a sworn written response to a series of questions relating to the Bureau's Investigation of the alleged violations. Shared Data admitted in the LOI response that it provided satellite communications services without authorization from the expiration of its license on February 3, 2009 until the grant of its STA application on August 4, 2009 and that it had transferred control of its licenses without prior approval. Shared Data requested that the Bureau consider resolving its Investigation with a Consent Decree.

⁷ 47 U.S.C. §§ 301, 310(d); 47 C.F.R. §§ 25.102, 25.119 and 25.121(e).

⁸ IBFS File No. SES-STA-20090604-00691.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this 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.

7. **Jurisdiction.** Shared Data 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.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. 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 Bureau order.

9. **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 on the Effective Date. In consideration for the termination of the Investigation, Shared Data 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 the 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 Shared Data concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the 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 Shared Data with respect to Shared Data's basic qualifications, including its character qualifications to be a Commission licensee or to hold Commission authorizations.

10. **Compliance Plan.** Shared Data agrees that it will implement a comprehensive Compliance Plan for purposes of ensuring its compliance with sections 301 and 310(d) of the Act, and sections 25.102, 25.119 and 25.121(e) of the Rules. The Compliance Plan shall include, at a minimum, the following components:

(a) **Compliance Officer.** Within 60 calendar days of the Effective Date, Shared Data will designate a Compliance Officer who will administer the Compliance Plan, supervise Shared Data's compliance with the Act and the Rules, and serve as the point of contact on behalf of Shared Data for all FCC-related compliance matters.

(b) **Compliance Manual.** Within 60 calendar days of the Effective Date, the Compliance Officer will develop and distribute a Compliance Manual to employees and others who perform duties at Shared Data that trigger or may trigger compliance-related responsibilities. The Compliance Manual will include (i) an overview of the Commission's requirements, including the need for prior approval for license assignments and transfers of control, and the requirements set forth in the rules at issue in the Investigation; (ii) a description of the regulatory requirements applicable to the accurate reporting of information in FCC applications; and (iii) instructions regarding due diligence for FCC applications. The Compliance Manual will be updated from time to time, as needed.

(c) **Compliance Training Program.** Within 90 calendar days of the Effective Date, Shared Data will begin administering a Compliance Training Program for employees and others who perform duties at Shared Data that trigger or may trigger compliance-related responsibilities. This Compliance Training Program will be presented to new employees who are engaged in such activities, within the first 60 calendar days of employment. This Compliance Training Program

will track the Compliance Manual, focusing on proper implementation of the Compliance Manual and tailored to specific user groups.

(d) **Compliance Reports.** Shared Data will submit a Compliance Report to the Commission 90 days after the Effective Date and annually thereafter on the anniversary of the Effective Date until the Termination Date. Each Compliance Report will include a certification by the Compliance Officer, as an agent of and on behalf of Shared Data, stating that he/she has personal knowledge that: (i) Shared Data has established operating procedures intended to ensure compliance with the terms and conditions of this Consent Decree and with section 301 and 310(d) of the Act, and sections 25.102, 25.119 and 25.121(e) of the Rules, together with an accompanying statement explaining the basis for the certification; (ii) Shared Data has been utilizing those procedures since the previous Compliance Report was submitted; and (iii) the Compliance Officer is not aware of any instances of non-compliance. The certification must comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the Compliance Officer cannot provide the requisite certification, he/she shall provide the Commission with a detailed explanation of: (i) any instances of non-compliance with this Consent Decree and the Rules, and (ii) the steps that Shared Data has taken or will take to remedy each instance of non-compliance and ensure future compliance, and the schedule on which proposed remedial actions will be taken. All Compliance Reports shall be directed to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

(f) **Termination.** The requirements relating to the Compliance Plan shall expire 36 months after the Effective Date.

11. **Voluntary Contribution.** Shared Data agrees that it will make a voluntary contribution to the United States Treasury in the amount of \$25,500.00. The payment shall be made within 30 days after the Effective Date of the Adopting Order. The payment shall 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 the 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 Federal Reserve Bank of New York, and account number 27000001. Shared Data will also send electronic notification within 48 hours of the date payment is made to Hillary.DeNigro@fcc.gov and to Robert.Krinsky@fcc.gov.

12. **Waivers.** Shared Data agrees to waive 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 Consent Decree is adopted without change, addition, modification, or deletion. Shared Data 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 Shared Data nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Shared Data shall waive any statutory right to a trial *de novo*. Shared Data 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.

13. **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 Shared Data does not expressly consent) that provision shall be superseded by such Commission rule or Order.

14. **Successors and Assigns.** Shared Data agrees that the terms and conditions of this Consent Decree shall be binding on its successors, assigns, and transferees.
15. **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.
16. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.
17. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.
18. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.
19. **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.

By: _____
P. Michele Ellison
Chief, Enforcement Bureau
Federal Communications Commission

By: _____
Dennis Ewald
Operations Manager
Shared Data Networks, LLC

Date: _____

Date: _____