

Federal Communications Commission

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

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|--|---|---------------------------------|
| In the Matter of |) | |
| |) | |
| Daryl Thomas |) | File No. EB-FIELDWR-18-00025955 |
| Licensee of Amateur Radio Station KE6MWS |) | |
| |) | |
| Carmichael, CA |) | |

NOTICE OF VIOLATION

Released: March 15, 2019

By the Director, Region Three, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules,¹ to Daryl Thomas (Thomas), licensee of Amateur radio station KE6MWS in Carmichael, California. Pursuant to Section 1.89(a) of the Commission's rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On January 31, 2019, an agent of the Enforcement Bureau's San Francisco Office monitored amateur radio station KE6MWS located at 5410 Woodleigh Drive, Carmichael, California, and observed the following violation(s):

- a. 47 CFR § 97.103 Station licensee responsibilities. (a) The station licensee is responsible for the proper operation of the station in accordance with the FCC Rules." At the time of inspection, the station was operating on frequencies not authorized by the Commission.
- b. 47 CFR § 97.113(b) Prohibited transmissions....(b) An amateur station shall not engage in any form of broadcasting, nor may an amateur station transmit one-way communications except as specifically provided in these rules; nor shall an amateur station engage in any activity related to program production or news gathering for broadcasting purposes, except that communications directly related to the immediate safety of human life or the protection of property may be provided by amateur stations to broadcasters for dissemination to the public where no other means of communication is reasonably available before or at the time of the event." The license for amateur radio station KE6MWS does not authorize any form of broadcasting, including those on the broadcast frequency 95.7 MHz.
- c. 47 CFR § 97.301 - Authorized frequency bands. Section 97.301 of the Commission's rules specifies the authorized frequencies for amateur radio operations. At the time of inspection, the station was operating on 95.7 MHz, which is not an authorized frequency for amateur radio operation.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

³ 47 U.S.C. §308(b).

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1.89 of the Commission's rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Thomas must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission's rules, we direct Thomas to support his response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by Thomas, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. specified above, and mailed to the following address:

Federal Communications Commission
Los Angeles Regional Office
11331 183rd St. PMB #365
Cerritos, CA 90703
Field@FCC.gov

6. This Notice shall be sent to Daryl Thomas, at 5410 Woodleigh Drive, Carmichael, California.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Lark Hadley
Regional Director
Region Three
Enforcement Bureau

⁴ 47 CFR § 1.89(c).

⁵ Section 1.16 of the Commission's rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.⁷" 47 CFR § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 CFR § 1.17.

⁷ 5 U.S.C. § 552a(e)(3).