

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

FCC 14M-28
10094

In the Matter of)
)
GLENN A. BAXTER) WT Docket No. 11-7
) FCC File No.0002250244
Application to Renew License for)
Amateur Radio Service Station K1MAN)

ORDER

Issued: August 21, 2014

Released: August 21, 2014

On June 20, 2014, the Presiding Judge issued *Order*, FCC 14M-20, deferring the Enforcement Bureau’s (“Bureau”) request to dismiss the pending application of Mr. Glenn A. Baxter to the appropriate Bureau or Office. On August 12, 2014, the Bureau moved for the Presiding Judge to terminate this hearing proceeding as moot pursuant to the Wireless Telecommunications Bureau’s (“WTB”) dismissal of Mr. Baxter’s pending application. For the reasons provided below, the Presiding Judge grants the Bureau’s motion to terminate this proceeding.

Background

In June 2005, the Bureau issued a Notice of Apparent Liability and Forfeiture (“NAL”) to Mr. Baxter finding that he had willfully violated several Commission Rules.¹ The following month, Mr. Baxter filed the above-captioned application to renew the license for Station K1MAN.² In March 2006, the Bureau issued a monetary forfeiture of \$21,000 to Mr. Baxter, as proposed in the NAL.³ Mr. Baxter did not pay the monetary forfeiture.

¹ The Bureau determined that Mr. Baxter “willfully and repeatedly interfered with radio communications . . . in apparent willful and repeated violation of Section 97.101(d) of the Rules, . . . apparently willfully and repeatedly violated Section 97.113(a)(3) of the Rules . . . by transmitting communications regarding matters in which he has a pecuniary interest, . . . , apparently willfully and repeatedly failed to comply with a Bureau directive to file information regarding control of Station K1MAN as required by Section 308(b) of the Communications Act of 1934, as amended . . . apparently willfully violated Section 97.113(b) of the Rules by transmitting the pre-recorded seventy-minute interview about Baxter Associates, during which there was no station identification, . . . [and] did not exercise control of his station, thereby apparently willfully violating Section 97.105(a) of the Rules.” *Glenn A. Baxter, Hearing Designation Order, WT Docket No. 11-7, 26 FCC Rcd 231, 232-33 ¶ 7 (2011) (“HDO”)* (citing *Glenn A. Baxter*, Notice of Apparent Liability for Forfeiture, File No. EB-04-BS-111 (EB, Boston Office June 7, 2005)).

² *Id.* at 233 ¶ 8.

³ See *Glenn A. Baxter, Forfeiture Order*, File No. EB-04-BS-111, 21 FCC Rcd 3071 (EB, Northeast Region 2006) (“Forfeiture Order”).

In October 2010, the United States Attorney's Office for the District of Maine filed a complaint in United States District Court for the District of Maine ("District Court") in an attempt to collect \$21,000.

In January 2011, WTB released a Hearing Designation Order commencing a hearing before an Administrative Law Judge to determine whether Mr. Baxter's renewal application should be granted.⁴ In addition to the conduct described in the NAL, the Hearing Designation Order described subsequent conduct by Mr. Baxter in 2009 and 2010 that raised questions as to whether he possessed the requisite character qualifications to remain a Commission licensee.⁵ Accordingly, WTB designated for hearing the issues of whether Mr. Baxter willfully and/or repeatedly violated Section 333 of the Communications Act and Section 97.101(d) of the Commission's Rules, by willfully or maliciously interfering with radio communications; whether Mr. Baxter willfully and/or repeatedly violated Section 97.113(b) of the Commission's Rules by broadcasting one-way communications on amateur frequencies; whether Mr. Baxter willfully and/or repeatedly violated Section 97.105 of the Commission's Rules by failing to ensure the immediate proper operation of his station; whether Mr. Baxter is qualified to be and remain a Commission licensee; and whether the captioned application should be granted.⁶

In January 2012, the District Court granted partial summary judgment in favor of the United States and imposed a total monetary forfeiture of \$10,000 upon Mr. Baxter.⁷ The District Court entered judgment reflecting this determination on February 1, 2012.⁸ Mr. Baxter appealed the District Court's entry of judgment to the United States Court of Appeals for the First Circuit. The Court of Appeals affirmed the District Court's judgment on September 10, 2012.⁹ Mr. Baxter did not file any further appeals.

On November 7, 2013, at the request of the Bureau, the Commission's Office of the Managing Director mailed a Notice of Withholding of Action to Mr. Baxter at his address of record, as well as his other known addresses.¹⁰ The Notice informed Mr. Baxter that he was delinquent in the payment of his debt and that he must pay, or make arrangements to pay, that debt within 30 days, or the Commission would dismiss his pending application.¹¹

Current Developments

On June 24, 2014, WTB issued a Notice of Dismissal to Mr. Baxter's address of record informing him that his renewal application was dismissed without prejudice due to his failure to pay the debt he owed to the Commission.¹²

⁴ HDO at 231 ¶ 1.

⁵ *Id.* at 233-34 ¶ 9, 234-235 ¶ 13.

⁶ *Id.* at 235 ¶ 14.

⁷ *United States v. Glenn A. Baxter*, Order on Motion for Summary Judgment, 841 F.Supp.2d 378, 398 (D.Me 2012).

⁸ *United States v. Glenn A. Baxter*, Order on Plaintiff's Motion to Dismiss, 2012 WL 315509 (D.Me 2012).

⁹ *United States v. Glenn A. Baxter*, Judgment, No. 12-1196 (1st Cir. 2012).

¹⁰ See Enforcement Bureau's Motion to Terminate Proceeding, Exhibit A (filed Aug. 12, 2014) ("Motion").

¹¹ *Id.*; see also 47 C.F.R. § 1.190(b)(2).

¹² Notice of Dismissal, Reference No. 5814063, File No. 0002250244 (June 24, 2014).

The Bureau submits that with WTB's issuing of its Dismissal Notice to Mr. Baxter on June 24, 2014, this proceeding is ripe for termination.¹³ The Bureau asserts that Mr. Baxter had 30 days to file a petition for reconsideration or an application for review of WTB's action.¹⁴ Mr. Baxter did not do so.¹⁵ Therefore, the Bureau states that WTB's action dismissing Mr. Baxter's application is final and is no longer subject to appeal. Thus, there no longer exists any basis for inquiring into the issues that were designated for hearing.¹⁶

Mr. Baxter has not filed an opposition to the Bureau's Motion. However, he did respond to the Notice of Dismissal with an e-mail to the distribution list for this proceeding on August. It characterized the Notice of Dismissal as "quite unethical and totally illegal," accused the Commission of intentionally mailing the notice to the wrong address, stated his belief that the Notice of Dismissal does not constitute a final action, and disclosed his intention to disregard the dismissal and continue operating K1MAN. As this response was not properly filed in accordance with Commission Rules and did not comply with the required pleading format, it will not be considered.

Discussion

The Bureau's Motion to Terminate Proceeding will be granted. Mr. Baxter's application has been dismissed and no petitions for reconsideration or applications for review have been submitted. The ultimate issue in this proceeding—whether the above-captioned application of Mr. Baxter to renew the license for Station K1MAN should be granted—is thus moot. Accordingly, termination of this proceeding is timely and appropriate.

Rulings

Accordingly, **IT IS ORDERED** that the Enforcement Bureau's Motion to Terminate Proceeding **IS GRANTED**.

IT IS FURTHER ORDERED that this proceeding **IS TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION¹⁷



Richard L. Sippel
Chief Administrative Law Judge

¹³ *Id.*

¹⁴ Motion at 3 ¶ 6 (citing 47 C.F.R. § 1.104).

¹⁵ *Id.*

¹⁶ Motion at 3-4 ¶ 6-7.

¹⁷ Courtesy copies of *Order* e-mailed on issuance to Mr. Baxter and Enforcement Bureau counsel.