

JUL 11 2013

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

Federal Communications Commission
Office of the Secretary

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

To: Marlene Dortch
Secretary
Federal Communications Commission

Attention: Richard L. Sippel
Chief Administrative Law Judge

ENFORCEMENT BUREAU'S STATUS REPORT

1. By Order, FCC 13M-13 (ALJ , July 2, 2013),¹ the Presiding Judge directed Glenn A. Baxter (Baxter) and the Enforcement Bureau (Bureau) to submit reports by Noon on July 12, 2013, on the status of the captioned hearing proceeding. The Order specifically required each report to include: (a) an update on the status of the U.S. District Court case against Mr. Baxter and its implications, if any, in this proceeding; (b) details of the status of any prior ongoing discovery; and (c) proposed dates for completion of discovery, the filing of any motions, the next prehearing conference, the commencement of a hearing, and other final disposition of this case. The Acting Chief, Enforcement Bureau, by his attorney, hereby submits his report.

2. *Status of U.S. District Court Case.* The U.S. District Court case against Mr. Baxter has concluded. The civil litigation was initiated to collect a forfeiture imposed by the Enforcement Bureau against Mr. Baxter for willful and repeated violation of various Commission rules.² On January 10, 2012, the United States District Court for the District of Maine granted, in part, the Federal Government's

¹ See *Glenn A. Baxter*, Order, FCC 13M-13 (ALJ, July 2, 2013) (Order).

² *Glenn A. Baxter*, Forfeiture Order, 21 FCC Rcd 2071 (EB 2006).

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motion for partial summary judgment and imposed a forfeiture in the amount of \$10,000 against Mr. Baxter.³ The District Court found that Mr. Baxter had failed to respond to a Commission inquiry in violation of 47 U.S.C. § 308⁴ and that he willfully interfered with other radio transmissions, in violation of 47 C.F.R. § 97.101(d).⁵ Mr. Baxter appealed the District Court decision and, on September 10, 2012, the United States Court of Appeals for the First Circuit affirmed the District Court decision and entered a Judgment in the amount of \$10,000 against Mr. Baxter.⁶ On July 9, 2013, the Office of the U.S. Attorney in Maine informed Bureau counsel that it has no knowledge of any further appeal by Baxter, and the time for interposing any further appeal had lapsed. Accordingly, based on the information available to the Bureau, it appears that the Circuit Court's Judgment has become a final order in the Federal Government's collection action against Mr. Baxter. Additionally, based on the information available to the Bureau, it does not appear that Mr. Baxter has paid the debt specified in the Judgment against him.

3. The Bureau intends to file a pleading in this hearing proceeding on or before August 16, 2013, that will relate directly to the referenced Judgment of the Circuit Court and its effect on the Commission's ability to process Mr. Baxter's captioned application for renewal of his amateur radio license under the Commission's so-called "red light rule."⁷ Such processing of Mr. Baxter's application under the "red light rule" could impact the final disposition of the instant hearing proceeding.

4. *Status of Ongoing Discovery.* In July 2012, the Bureau filed three motions to compel, seeking admissions of facts, responses to the Bureau's second set of interrogatories, and production of

³ See *United States v. Glenn A. Baxter*, Order On Motion For Summary Judgment, 841 F. Supp. 2d 378 (D. Me. 2012). The Court, commenting on Baxter's conduct during the proceeding, stated that "Mr. Baxter has delayed the Court's work and made its job substantially more difficult by failing to comply with Local Rule 56." *Id.* at 841 F. Supp. 2d at 381, Section B.

⁴ See Order, 841 F. Supp. 2d at 390-392; 398, IV. Conclusion.

⁵ See Order, 841 F. Supp. 2d at 393-395, section c; 398, IV. Conclusion. Among the issues in the instant hearing proceeding is one inquiring into whether Mr. Baxter violated 47 C.F.R. § 97.101(d) on one or more *other* occasions.

⁶ See *United States v. Glenn A. Baxter*, Judgment, No. 12-1196 (1st Cir. 2012) (Judgment).

⁷ See 47 C. F. R. Part 1, Subpart O. The inability of delinquent debtors to obtain FCC benefits is known as the "red light rule." The red light rule requires the Commission to withhold action on applications and other requests for benefits when the entity applying for or seeking benefits is delinquent in non-tax debts owed to the Commission, and to dismiss such applications or other request if the delinquency is not resolved.

documents from Baxter.⁸ On December 14, 2012, the Presiding Judge granted each of the Bureau's motions and directed Mr. Baxter to produce the requested information.⁹ To date, Mr. Baxter has not provided any of the information that he was ordered by the Presiding Judge to produce. Thus, discovery has essentially come to a standstill because of Mr. Baxter's intransigence.¹⁰

5. *Proposed Dates – Completion of Discovery.* The Bureau is unable to propose a date for completion of discovery at this time because Mr. Baxter has not responded to the Bureau's discovery requests or to the directives of the Presiding Judge. In order to properly prepare its case for hearing, the Bureau must review the requested information and documentation and to depose Mr. Baxter. Without such essential information, the Bureau is unable to propose a date by which discovery will be completed.

6. *Proposed Dates – Filing of Motions.* The Bureau anticipates filing motions in response to two procedurally defective pleadings submitted via e-mail by Baxter to Bureau counsel and the Presiding Judge.¹¹ In addition, as discussed above, the Bureau anticipates filing a motion on or before August 16, 2013, relating to the Federal Government's collection action against Mr. Baxter and its effect on the ultimate disposition of this proceeding.¹²

7. *Proposed Dates – Next Prehearing Conference and Hearing.* To the extent the Presiding Judge deems it necessary in light of the referenced motion that the Bureau intends to file on or before August 16, 2013, the Bureau proposes that the Presiding Judge schedule a prehearing conference on

⁸ See Enforcement Bureau's Motion to Compel Responses to Request for Admission of Facts, filed on July 18, 2012; Enforcement Bureau's Motion to Compel Responses to Enforcement Bureau's Second Set of Interrogatories, filed on July 20, 2012; and Enforcement Bureau's Motion to Compel Production of Documents, filed on July 20, 2012.

⁹ See *Glenn A. Baxter*, Memorandum Opinion and Order, FCC 12M-59 (ALJ 2012).

¹⁰ Such refusal to comply with the Presiding Judge's directives and failure to cooperate in the discovery phase of this proceeding could be viewed by the Presiding Judge as independent bases for concluding that Mr. Baxter no longer desires to prosecute his captioned application.

¹¹ On July 2, 2013, Baxter e-mailed two pleadings to the Presiding Judge and Bureau counsel. One was entitled *Petition To The Federal Communications Commission* and the other was entitled *Motion To Dismiss Hearing Designation Order*. It is unclear whether either pleading was formally filed with the Office of the Secretary, as required by the Commission's Rules.


¹² Such time is necessary because Bureau counsel will be out of the office between July 15 and August 5, 2013.

September 10, 2013, to discuss the status of, and to set further procedural dates for, this proceeding.¹³

The Bureau is unable to propose a hearing date at this time because it has not received the discovery Mr. Baxter was ordered to produce and, as a consequence, has not had an opportunity to depose Mr. Baxter.

8. *Proposed Dates – Other Final Disposition of this Case.* As discussed above, the Bureau submits that the motion it intends to file on or before August 16, 2013, may directly impact the final disposition of this case. Therefore, the Bureau does not believe that further proposed procedural dates are warranted at this time.

Respectfully submitted,
Robert H. Ratcliffe
Acting Chief, Enforcement Bureau


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¹³ The Bureau submits that the referenced motion that it intends to file may render moot the need for a prehearing conference or hearing in this proceeding.

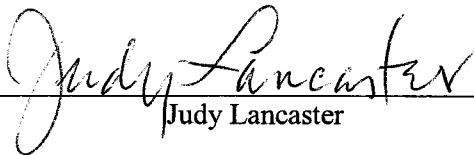
CERTIFICATE OF SERVICE

I, Judy Lancaster, an attorney in the Enforcement Bureau's Investigations and Hearings Division, hereby certify that on this 11th day of July 2013, true and correct copies of the foregoing document, ENFORCEMENT BUREAU'S STATUS REPORT was served via first-class mail, postage prepaid, and by e-mail upon:

Glenn A. Baxter
K1MAN
RR 1, Box 776
Belgrade Lakes, ME 04918
E-mail to: k1man14275@aol.com and Institute@K1MAN.com

and by hand-delivery to:

Chief Administrative Law Judge Richard L. Sippel
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Judy Lancaster