

ORIGINAL
FILE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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Revocation of License of)
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SANDRA V. CRANE)
Amateur Radio Station)
N6TFO)
)
and)
)
Suspension of License of)
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SANDRA V. CRANE)
Amateur Extra Class)
Radio Operator License)
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and)
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Revocation of License of)
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CHARLES P. PASCAL)
Amateur Radio Station)
WB6CIY)
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and)
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Suspension of License of)
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CHARLES P. PASCAL)
Amateur Extra Class)
Radio Operator License)

PR Docket No. 92-119

RECEIVED

SEP 14 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Administrative Law Judge Joseph Chachkin

No. of Copies rec'd 0+6
LISTABODE

SUBMISSION OF REBUTTAL CASE

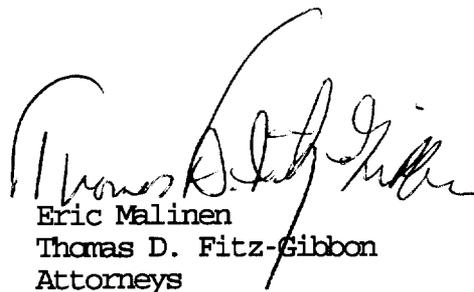
The Chief, Private Radio Bureau (Bureau), by his attorneys, submits his written rebuttal case pursuant to the procedural schedule ordered by the presiding administrative law judge. Copies of the rebuttal affidavits of Bureau witnesses Christine F. McElwain, James Georgias, Fred Maia, David Morse

and John B. Johnston are attached. The copies of David Morse's, Fred Maia's and James Georgias's affidavits are unexecuted. We will furnish executed copies as soon as they are available.

Respectfully submitted,

Ralph A. Haller
Chief, Private Radio Bureau

By:



Eric Malinen
Thomas D. Fitz-Gibbon
Attorneys

Attachments

Dated: September 14, 1992

Certificate of Service

I, Ivy Harris, certify that on September 14, 1992 a copy of the foregoing SUEMSSION OF REBUTTAL CASE , filed on behalf of the Chief, Private Radio Bureau, was sent by First Class mail to:

Martin J. Barab, Esq.
9606 Santa Monica Boulevard,
Third Floor
Beverly Hills, California 90210

George L. Lyon, Jr., Esq.
Lukas, McGowan, Nace & Gutierrez
1819 H Street, N.W.,
Seventh Floor
Washington, D.C. 20006
(Hand-carried)

Joseph Chachkin
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Room 226
Washington, D.C. 20554
(Hand Carried)

A handwritten signature in cursive script, reading "Ivy Harris", is written over a horizontal line.

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REBUTTAL AFFIDAVIT OF CHRISTINE F. McELWAIN

I, Christine F. McElwain, being first duly sworn, depose and state as follows:

1. Charles P. Pascal's statement that the Morse code test would contain one of two sentences he had taught occurred at the end of the Morse code instruction on August 4, 1991. It did not occur just before the administration of the Morse code test on that date.

2. On August 24, 1991, acting on specific instructions from David Morse, I was watching to see who would bring the tests to the examination session. I observed all three volunteer examiners enter Sandra Crane's residence. The VEs all arrived empty-handed, and did not bring in any examination package at any time following their arrival. Tom Fakehany asked Sandra Crane for the examinations. Sandra Crane then picked up a sealed package that had been on the kitchen counter and started to open it. Mr. Fakehany told Ms. Crane not to open the package herself. Ms. Crane then handed the package to one of the VEs, who opened it and took out the examinations.

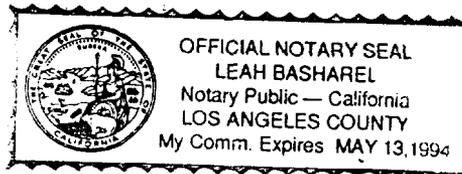
Christine F. McElwain

Christine F. McElwain

Subscribed and sworn to before me this 11th day of September, 1992.

Leah Basharel

Notary Public



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REBUTTAL AFFIDAVIT OF DAVID MORSE

I, David Morse, being first duly sworn, depose and state as follows:

1. I hold the license for amateur station WW7K and an Amateur Extra Class operator license. I am a volunteer examiner accredited by the ARRL-VEC, the W5YI VEC, and the Greater Los Angeles Amateur Radio Group VEC and at the times relevant to this proceeding, I was the Official Observer Coordinator in the Los Angeles area for the American Radio Relay League's Amateur Auxiliary program.

2. I did not approach Charles P. Pascal about my becoming a partner in the California Amateur Radio School. In fact, I never discussed the subject with Mr. Pascal. I did not suggest that Mr. Pascal "dump" Sandra V. Crane. I did not tell Mr. Pascal that, since I was the Official Observer Coordinator for the Los Angeles area, he would have "no trouble" testing his students.

David Morse

Subscribed and sworn to before me this 12th day of September, 1992.

Notary Public

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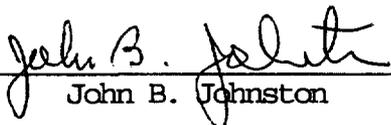
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REBUTTAL AFFIDAVIT OF JOHN B. JOHNSTON

I, John B. Johnston, being first duly sworn, depose and state as follows:

1. Only an organization can become a volunteer-examiner coordinator (VEC). Individuals are not eligible. See Section 97.521(a) of the Commission's Rules, 47 C.F.R. § 97.521(a).
2. Section 97.521(e) of the Commission's Rules, 47 C.F.R. § 97.521, prohibits

VECs from engaging in the preparation or distribution of any publication used in preparation for obtaining amateur licenses, unless a persuasive showing is made to the FCC that preventive measures have been taken to preclude any possible conflict of interest. The Personal Radio Branch, of which I am Chief, would process any request for a waiver of this requirement. The FCC has not granted a waiver of the requirements of Section 97.521(e) to any VEC. Three organizations that include both a VEC and a distribution or publication component have, however, made the showings required by Section 97.521(e) that they have taken preventive measures to preclude any possible conflict of interest. These organizations are the W5YI Group, the American Radio Relay League (ARRL), and the Devry Amateur Radio Society (now The Great Lakes Amateur Radio Club.)


John B. Johnston

Subscribed and sworn to before me this 11th day of September, 1992.


Notary Public

My Commission Expires October 31, 1996

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REBUTTAL AFFIDAVIT OF FRED MAIA

I, Fred Maia, being first duly sworn, depose and state as follows:

I did not ever suggest to Charles P. Pascal that he enter a partnership with Gordon West. I have never discussed such a matter with Mr. Pascal. I did not tell Mr. Pascal that "You won't play ball with Gordon West so, as far as I am concerned, I want you out of business" and I did not make any similar

statement to Edward McKinley, Lance Ferrante, Mr. Pascal or anyone else.

Fred Maia

Subscribed and sworn to before me this 12th day of September 1992.

Notary Public

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REBUTTAL AFFIDAVIT OF JAMES GEORGAS

I, James Georgias, being first duly sworn, depose and state as follows:

1. During my initial October, 1991, telephone conversation with Charles P. Pascal, he did not request "sample" examinations. He requested access to the tests that Devry-accredited Volunteer Examiners (VEs) would actually administer to his students. I refused to provide them and told Mr. Pascal that, in the Devry program, only the leader of a volunteer examiner team has knowledge of the contents of the examinations that the team

administers. There was absolutely no room for misunderstanding between us on these points.

2. I had never heard of Mr. Pascal before our initial telephone conversation. I was so shocked at the blatancy of his request that I immediately called Renee Santos, the Devry VE liaison in Southern California, to get information about Mr. Pascal.

3. In a subsequent October 1991 telephone conversation, I agreed to send Mr. Pascal a copy of the software that Devry VEC provides to VEs who prepare examinations. I am familiar with this software. It selects examination questions on a random basis and does not emphasize antenna design or other technical matters. Also, the reputation of this software, so far as I am aware, is not such as to suggest any bias favoring antenna design or other technical matters.

James Georgias

Subscribed and sworn to before me this 11th day of September, 1992.

Notary Public