

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

FILED/ACCEPTED
AUG - 1 2007
Federal Communications Commission
Office of the Secretary

In the Matter of) EB Docket No. 07-13
)
DAVID L. TITUS) FRN No. 0002074797
) File No. EB-06-IH-5048
Amateur Radio Operator and Licensee of)
Amateur Radio Station KB7ILD)

To: Richard L. Sippel
Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S RESPONSE TO DAVID TITUS'
MOTION TO COMPEL ANSWERS TO INTERROGATORIES**

On July 24, 2007, David L. Titus ("Titus") filed "David Titus' Motion to Compel Answers in Interrogatories." The Chief, Enforcement Bureau ("Bureau"), by her attorneys, pursuant to Section 1.323 of the Commission's Rules, hereby responds to Titus' request for relief.

INTERROGATORY NO. 1: Identify each and every person with whom the Enforcement Bureau, or any of its agents or employees, has discussed David L. Titus.

Titus seeks to compel the Bureau to produce an exhaustive list identifying each and every individual with whom anyone within or on behalf of the Bureau, at whatever level of authority, for any purpose whatsoever, has, at any time ever, discussed Titus. The Bureau continues to object to this interrogatory for the reasons stated in its initial response and specifically incorporates those objections by reference herein.

Notwithstanding the foregoing objection, the Bureau, in the interest of full cooperation, answered the interrogatory to the best of its ability by identifying all persons

No. of Copies rec'd otg
List ABCDE

outside of the Commission with whom Bureau counsel engaged in discussions about Titus in preparation for the instant hearing. Titus takes particular exception to the Bureau's characterization of a conversation with an "unidentified person at the Washington State Department of Corrections." The Bureau represents that it has no record of the individual's name or the date of the fleeting conversation.

INTERROGATORY NO. 2: Identify all persons holding Amateur Radio Station and Amateur Radio Operator License whom the Enforcement Bureau has obtained an Order to Show Cause to revoke their license in light of their felony convictions or other misconduct pursuant to the Commission's 1990 Character Order (as defined in footnote 4 of the Order to Show Cause issued in this case), and, for each such person, further identify:

- A. The cause number of their proceeding;**
- B. Their attorneys;**
- C. The documents and other public records related to their proceeding; and**
- D. The ultimate disposition of their proceeding.**

By this interrogatory, Titus seeks to have the Bureau perform legal research and analysis for him, a task which is beyond the scope of permissible discovery. The Bureau continues to object to this interrogatory for the reasons stated in its initial response and specifically incorporates those objections by reference herein.

The information that Titus seeks in this interrogatory -- information about prior docketed Commission cases -- are matters of public record and routinely available on the Commission's website, in the Commission's public reference room, and through WestLaw, to name a few places. It is inappropriate for Titus to utilize the discovery processes to shift his responsibilities for engaging in legal research to the Bureau.

INTERROGATORY NO. 3 Identify the location of all documents related to the Enforcement Bureau's license revocation proceedings against Kevin Mitnick.

In the interest of full cooperation and in response to this interrogatory, the Bureau represents that publicly-available documents involving the hearing proceeding of Kevin David Mitnick (WT Docket No. 01-344) are located in the Commission's public reference room and also available at http://gulfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi. Bureau counsel is in the process of determining whether other documents were retained and will inform Titus in the event it locates any additional documents responsive to this interrogatory.

INTERROGATORY NO. 7: Identify all documents which the Enforcement Bureau contends supports its claim that David L. Titus has engaged in FCC-related misconduct.

In the interest of full cooperation and in response to this interrogatory, the Bureau represents that it has no such documents.

INTERROGATORY NO. 8: Specify in full detail each occasion on which "the Commission has consistently applied these character standards to applicants and licensees in the Amateur Radio Service" (as set forth in the Order to Show Cause in this Action).

The Bureau continues to object to this interrogatory on the basis that it requires the Bureau to perform legal research and analysis for Titus and thus is beyond the scope of permissible discovery. Titus' efforts to compel the Bureau to perform legal research on his behalf should not be countenanced. The occasions in which the Commission has applied its character standards in the Amateur Radio Service are reflected in Commission cases, copies of which are routinely available to the public through appropriate legal research.

INTERROGATORY NO. 9: Identify all facts which the Enforcement Bureau believes supports [sic] its contention that “amateur radio service is particularly attractive to children” (as set forth in the Order to Show Cause in this action).

The Bureau continues to object to this interrogatory for the reasons stated in its initial response and specifically incorporates those objections by reference herein. The Bureau noted in its initial response that the matter of amateur radio’s appeal to youngsters is not among the issues in this proceeding which the presiding judge has been directed to resolve, and the Bureau objects to any effort to place such matter in dispute.

INTERROGATORY NO. 10: Identify all documents which the Enforcement Bureau contends support the contention set forth in Interrogatory No. 9.

The Bureau continues to object to this interrogatory for the reasons stated in its initial response and specifically incorporates those objections by reference herein. This interrogatory is not related to any of the designated issues, either directly or indirectly. Because this interrogatory seeks information which is beyond the scope of permissible discovery, the Bureau should not be compelled to answer it.

INTERROGATORY NO. 11: Identify each and every person upon whom the Enforcement Bureau intends to rely, if any, as a reference against David L. Titus’ character in the proceeding in EB Docket 07-13.

The Bureau answered this interrogatory in good faith and to the extent it could -- that it has not developed its direct case at this time, given the fact that discovery is not yet completed. Nevertheless, in the spirit of cooperation, the Bureau answered that it may call Titus and Detective Schilling, among others, to testify regarding Titus’ character. This interrogatory seeks a definitive list of individuals whom the Bureau intends to rely at trial. Such a definitive list simply does not exist at this time. The Bureau answered as best it could, and Titus’ assertion that the Bureau’s response was less than complete is erroneous and should be rejected.

INTERROGATORY NO. 12: Identify all documents, witness statements, affidavits, and declarations which the Enforcement Bureau has obtained related to David L. Titus.

The Bureau supplements its response to this interrogatory as follows: the Bureau has obtained documents regarding Titus' criminal record, his treatment as a sex offender, and his classification as a Level 3 Sex Offender. These documents are located in the offices of the Investigations and Hearings Division, Enforcement Bureau. The Bureau has not obtained any witness statements, affidavits or declarations relating to Titus.

INTERROGATORY NO. 13: State all facts upon which the Enforcement Bureau intends to demonstrate in the hearing proceeding in EB Docket No. 07-13 that David L. Titus has not been rehabilitated and describe fully the evidence upon which the Enforcement Bureau intends to rely in making such demonstration.

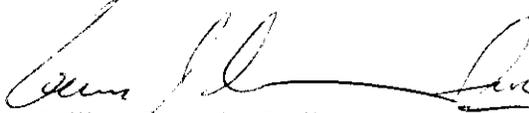
Given the nature of the offense for which he was convicted and his relatively recent "upgrade" by police authorities to the more serious status of a Level 3 Sex Offender, the Bureau has very serious concerns regarding Titus' capacity to be rehabilitated. Nevertheless, the Bureau has no further information at this time relative to whether Titus has been rehabilitated or not rehabilitated.

Based on the foregoing, the Bureau has either responded fully and completely to Titus' interrogatories or, where appropriate, interposed legitimate objections. Accordingly, Titus' Motion to Compel answers to his interrogatories should be denied.

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



Gary Schonman
Special Counsel, Investigations and Hearings Division



William Knowles-Kellett
Attorney, Investigations and Hearings Division

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420

August 1, 2007

CERTIFICATE OF SERVICE

Barbara Britt, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 1stth day of August 2007, sent by first class United States mail copies of the foregoing "Enforcement Bureau's Response to Motion to Compel Answers to Interrogatories" to:

Steven D. Brown, Esq.
Law Office of David S. Marshall
1001 4th Avenue, 44th Floor
Seattle, WA 98154
Counsel to David L. Titus

Chief Administrative Law Judge Richard L. Sippel*
Federal Communications Commission
445 12th Street, S.W., Suite 1-C768
Washington, D.C. 20054



Barbara Britt

* Hand-Delivered