

39. Significantly, according to Detective Shilling, a sex offender should not be a member of a club if that club includes children. (Tr. 923) Detective Shilling, who has had years of first hand experience dealing with sex offenders, expressed serious concern with allowing a sex offender to participate in a forum where people, including children, could communicate without their identities being immediately ascertainable. (Tr. 923-24) Detective Shilling is concerned about situations similar to ham radio that permit child sex offender to “groom” children. (Tr. 913-21, 923)

40. Grooming is a term used to describe the actions taken by sex offenders in order to gain the trust of potential victims. (Tr. 913-14) Grooming can include counseling children by listening to their problems. (Tr. 915) According to Detective Shilling, such behavior by a sex offender can indicate that he is grooming a child or that he is already in his offense cycle. (Tr. 918) The possibility that a sex offender using a ham radio is able to contact minors on an anonymous basis is of utmost concern to Detective Shilling. (Tr. 923-24) Based on the totality of circumstances considered by Detective Shilling in making his risk assessment (Tr. 943), he “absolutely” is concerned about Mr. Titus being around children. (Tr. 944).

C. Dr. Douglas Allmon, Ph.D.

41. Dr. Douglas Allmon, a psychologist and paid witness who treats sex offenders, testified as an expert witness for Mr. Titus. (Tr. 953-1052) Dr. Allmon is a member of a number of professional organizations including ATSA, the Association for the Treatment of Sexual Abusers. (Titus Ex. 3, p. 15) After a two hour interview and giving Mr. Titus several tests that took approximately five hours to complete (Tr. 1007-10), Dr. Allmon concluded that Mr. Titus presents a low risk to re-offend. (Tr. 1019-20)

When asked at hearing if Mr. Titus is now cured of his tendencies to have sex with young boys, Dr. Allmon said that "cured" is not an appropriate medical term for psychological problems such as pedophilia; rather, Dr. Allmon preferred to say that Mr. Titus's predisposition to pedophilia appears to be in remission. (Tr. 989) Dr. Allmon found no evidence of current pedophilia. (Tr. 959-60). Mr. Titus paid approximately \$10,000 for Dr. Allmon's services and report. (Tr. 667-69)

42. Dr. Allmon performed a psychosexual evaluation of Mr. Titus (Tr. 953-54) to determine whether Mr. Titus needed further treatment, including the need for treatment for sexual deviancy. (Titus Ex. 2, p. 2) The intake phase of Dr. Allmon's evaluation took approximately two hours and included an interview with Mr. Titus about his recollection of his offenses, the establishment of the research question, and various administrative matters. (Tr. 953-54, 1006-08). Dr. Allmon then administered Mr. Titus several psychological exams for approximately five hours over two days. (Tr. 1008-10) Dr. Allmon conducted a collateral interview with Mr. Titus's mother for about 10 minutes. (Tr. 1015-16) Sorting through the data, reviewing available documents regarding Mr. Titus's history and writing a report took an additional eight hours for Dr. Allmon. (Tr. 1014-15)

43. Dr. Allmon recommends that Mr. Titus avoid situations that could lead to re-offense. (Tr. 995-96) "Risk management" entails making choices that avoid temptation such as choosing an occupation such as driving a truck or being a mechanic rather than choosing to work in a day care. (Tr. 996-97) Dr. Allmon teaches sex offenders to control their urges. (Tr. 998) Sex offenders like Mr. Titus have to dismiss inappropriate thoughts right away to control urges that arise when, for example, they see

a nice-looking kid. (Tr. 991-93) Despite his conclusion that Mr. Titus presents a low risk to re-offend, Dr. Allmon believes it would not be prudent for Mr. Titus to work in a day care (Tr. 999-1000) just as it would not be prudent for an alcoholic to drink 7-Up in a tavern. (Tr. 996) The tests administered by Dr. Allmon show that Mr. Titus “may be expedient and prone to bend usual rules of society. He seems likely to “cut corners” and has difficulty conforming to societal norms. (Titus Ex. 2, p. 10) Dr. Allmon also found that he is probably “more irritable than the average man.” (EB Ex. 2, p. 10) Mr. Titus may appear aggressive, whether verbally or otherwise. (EB Ex. 2, p. 10) Mr. Titus may be prone to especially resent authority. (EB Ex. 2, p. 10)

44. Dr. Allmon concludes that ham radio would not be a problem for Mr. Titus (Tr. 980), but admits that he has very little familiarity with ham radio. (Tr. 976-79, 988) His conclusion is based in part on a belief that kids do not play a prominent role in the hobby. (Tr. 980).

45. Dr. Allmon testified that the national average recidivism rate shows that approximately 12 percent of sex offenders re-offend if they do not receive sex offender treatment, and that the re-offense rate is reduced to approximately five percent for those who maintain treatment. (Tr. 967-68) Dr. Allmon noted that Mr. Titus has trouble acquiescing to authority, such as that of a treatment provider, but concludes that the fact that he has stayed out of trouble for 15 years seems to indicate that he has extracted some treatment concepts. (Titus Ex. 2, p. 11)

46. Dr. Allmon testifies primarily for sex offenders and very rarely testifies for the prosecution. (Tr. 1002) Dr. Allmon admitted that he had testified at his deposition in this hearing that his findings (Titus Exhibit 2), were not intended to predict

Mr. Titus's risk of re-offense. (Tr. 1021) He stated at the hearing that he has testified "perhaps 40" times before. (Tr. 983) When reminded that he had stated "20" times at his deposition, he replied that he was just "taking a figure from the sky." (Tr. 983) Dr. Allmon was unable to fully define or even explain pedophilia when asked for a definition by the Presiding Judge. (Tr. 1040-41)

D. John Schurman

47. John Schurman testified that he is President, and the founding President, of the Lake Washington Ham Club ("LWHC"), near Seattle. (EB Ex. 6, pp. 1-2, Tr. 401) This amateur radio club is frequently referred to as the "Kids Club" because of its interest in introducing children to the hobby of amateur radio. (EB Ex. 6, pp.1-2) During his time with LWHC, the club has helped more than 1,000 children obtain the skills and knowledge needed to pass the FCC tests to become licensed amateur radio operators. (EB Ex. 6, pp. 1-2)

48. Mr. Schurman is a licensed amateur radio operator, call sign AA7UJ, who received his first amateur radio license in 1968 while in high school. (EB Ex 6, p. 1, Tr. 404-06) He currently holds an Amateur Extra Class license, the highest class radio license awarded by the FCC. (Tr. 467)

49. Members of LWHC participate in numerous amateur radio events and activities. (EB Ex 6, p. 2) For example, they attend field days and hamfests and run public service events. (EB. Ex. 6, p.2, Tr. 405-06, 411-14) The number of children attending events varies, but at any time the club has a significant number of youngsters who participate in amateur radio activities within the community. (EB Ex. 6, p. 2, Tr. 408-09) Some of these events last more than one day and involve overnight stays. (EB.

Ex 6, p.2, Tr. 405-06) LWHC takes appropriate precautions to protect children participating in overnight events that it sponsors. (Tr. 424-25)

50. A couple of years ago, the repeater operated and monitored by Mr. Titus was on a list of recommended repeaters for the children in the Kids Club to use. (EB Ex. 6, p.3) A repeater is an automated relay station, usually permanently mounted at a high location, that receives weak signals from mobile or hand held radios and, using a stronger signal, transmits the messages it receives over a much wider area. (Tr. 417)

51. At the time when LWHC recommended the repeater operated by Mr. Titus to its members, the club was unaware of Mr. Titus's criminal record. (EB Ex. 6, p. 3) When LWHC officials learned about Mr. Titus's sex offender status, they immediately notified its members that Mr. Titus is a convicted sex offender and warned them not to have contact with him or to use his repeater. (EB Ex. 6, p. 3; EB Ex. 7) Additionally, to allay the fears expressed by a number of parents of children in the club, Dave Condon, the secretary/treasurer of LWHC, in consultation with Mr. Schurman, explained the club's serious concerns about Mr. Titus in a letter to U.S. Senator Maria Cantwell. (EB Ex. 8) Although Mr. Condon signed the letter, Mr. Schurman helped draft it. (Tr. 434-38) The letter explained that amateur radio normally provides a very safe place for children to learn to communicate and improve their radio skills and that having a sex offender such as Mr. Titus licensed as an amateur operator threatens that safety. (EB Ex. 8, p. 1; Tr. 442-48)

52. Amateur radio has many facets, including technically complicated techniques for bouncing signals around the world. (Tr. 410-11) In order for young or inexperienced amateurs to learn these skills, it is common practice to match them with

more experienced mentors, called “elmers,” to teach them various facets of amateur radio. (Tr. 410-11) LWHC usually matches children with an adult Elmer who is knowledgeable in the area of interest to the child. (Tr. 409-11)

53. Mr. Schurman is very concerned about the access to children that ham radio provides to an amateur operator who is a sex offender. (Tr. 442-43) He is particularly concerned when that sex offender operates a repeater. (Tr. 442-43) The operator of a repeater is required to monitor the repeater and has “virtually unlimited access to the children” who are using his repeater. (Tr. 418-21, 442-43) Mr. Schurman pointed out that there are “literally thousands of [amateur radio] channels” available for an operator to use and there are “lots of times when nobody is listening” to many of them. (Tr. 474, 483-84) He said it is common for radio operators to meet on a repeater frequency then move to a more private frequency, or to simplex channels which are not monitored, in order to have private conversations. (Tr. 443-44) Operators also often exchange contact information with those they meet over the radio so that they can contact each other off of the airwaves. (Tr.443-44) Mr. Schurman testified that it is also possible to look up an amateur operator’s age, address and other information, sometimes including a photograph of the operator, if you know that operator’s call sign. (Tr. 447-48) Mr. Titus also knows how to obtain this information. (Tr. 1054-55)

E. Popularity of Amateur Radio Among Children

54. Christopher Imlay is the General Counsel for the American Radio Relay League (“ARRL”). (EB Ex. 9, p. 1) Mr. Imlay provided records from ARRL’s files relating to the involvement of young people in amateur radio. (EB Ex. 9, p. 1; EB Ex. 10)

55. Minors are involved in amateur radio. There is no minimum age to receive an amateur license from the FCC. (EB Ex. 10, p.10) Young amateur radio operators are active in scouting, community radio clubs, and school radio clubs. (EB Ex. 10, p.13) Amateur radio is sometimes used in school curriculums. (EB Ex. 10, p.13) There are many ham radio activities for children. The “Jamboree on the Air” (JOTA) is an annual event during which Boy and Girl Scouts around the world communicate over amateur radio. This event attracts many young people to amateur radio. (EB Ex. 10, p.16) Mr. Titus acknowledges that minors are involved in amateur radio, and both minors and adults are attracted to amateur radio. (Tr. 359-60)

56. Sarah Walker is the Records Coordinator for the Boy Scouts of America. (EB Ex. 12, p. 1) Ms. Walker provided records regarding the numbers of Boy Scout Merit Badges awarded to Boy Scouts for engaging in amateur radio activities from 1911 through 2006, as well as the requirements for receiving a Boy Scout Merit Badge for amateur radio involvement. (EB Ex. 12, p. 1) There have been many Boy Scout Merit Badges awarded through the years for Boy Scout involvement in amateur radio. (EB Ex. 13)

57. Mr. Titus obtained his first amateur radio license when he was a young teenager. (Tr. 507) John Schurman obtained his first amateur license while he was in high school. (EB Ex 6, p. 1; Tr. 404)

F. Character Witnesses

58. Mr. Titus presented written testimony from 10 character witnesses, most of whom are familiar with him through ham radio. (Titus Exs. 3-13) One of the character witnesses is Mr. Titus’ mother. (Titus Ex. 10) Another character witness is Dennis

Cresswell, the 51-year old man with whom Mr. Titus lived and had a sexual relationship when Mr. Titus was 16 years old. (Titus Ex. 9)

III. Conclusions of Law

59. The OSC designated the following issues at paragraph 6:

(a) to determine the effect of David L. Titus's felony conviction(s) on his qualifications to be and to remain a Commission licensee; and

(b) to determine, in light of the evidence adduced pursuant to the foregoing issue, whether David L. Titus is qualified to be and to remain a Commission licensee; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, whether the license of David L. Titus for Amateur Radio Station KB7ILD should be revoked.

60. The Communications Act of 1934, as amended, contemplates that the Commission will inquire into an applicant's or licensee's character qualifications as questions arise as to whether he or she possesses the requisite character to be or to remain a Commission licensee. 47 U.S.C § 308(b). The Commission has implemented this authority in its Character Policy Statement for broadcast licensees. *See, Policy Regarding Character Qualifications in Broadcast Licensing, Amendment of Part 1, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentation to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications, Policy Statement and Order, 5 FCC Rcd 3252 (1990), recon. on other grounds, 6 FCC Rcd 3448 (1991), modified on other grounds, 7 FCC Rcd 6564 (1992).* The Commission also applies this policy to wireless radio licensees. *See, e.g., Schoenbohm v. FCC, 204 F.3d 243, 246-49 (D.C. Cir. 2000)* (affirming the Commission's denial of an amateur radio

operator's license renewal application based on the licensee's felony conviction for computer fraud, as well as its lack of candor regarding such conviction).⁴

61. This policy recognizes that felony convictions, particularly those that shock the conscience, can be the basis for revoking a license even if the convictions at issue are more than 10 years old. *See Robert D. Landis*, Order of Revocation, 22 FCC Rcd 19979 (Enf Bur 2007) (revoking amateur radio operator's license based on licensee's 1991 felony conviction for child molestation). The Commission has repeatedly recognized that molesting children is a crime that raises public interest concerns and can result in the revocation of FCC licenses. *See Robert D. Landis*, Order of Revocation, 22 FCC Rcd 19979, *supra*.; *Lonnie L. Keeney*, Order of Revocation, EB Docket No. 07-264, DA 09-456 (Enf. Bur. Released February 25, 2009) (revoking an amateur license after designation for character issues relating to conviction of child molesting); *Jack R. Sharples*, Order of Dismissal and Termination, FCC 07M-27 (Chief ALJ Sippel, released August 2, 2007) (dismissing an amateur application after designation for character issues relating to conviction of child molesting).

⁴ *See also Roger Thomas Scaggs*, Order to Show Cause, 18 FCC Rcd 24367 (Enf. Bur. 2003) (finding that an amateur radio operator licensee's murder conviction raised a material question of fact regarding his character and qualifications to remain a Commission licensee); *Thomas M. Haynie*, Order to Show Cause and Suspension Order, 7 FCC Rcd 4994 (Field Op. Bur. 1992), *affirmed and licenses revoked*, 7 FCC Rcd 7291 (PRB 1992) (revoking general radiotelephone operator, amateur advanced class radio and amateur radio station licenses on the basis of licensee's felony conviction for intentional interference with satellite communications); *Jerry E. Gastil*, Order to Show Cause, 4 FCC Rcd 3977 (Priv. Rad. Bur., Field Op. Bur. 1989) (finding that a general radio operator and amateur radio station licensee's felony conviction for interfering with governmental radio communications raised serious questions regarding his character and qualifications to remain a Commission licensee).

62. *George E. Rodgers*, Hearing Designation Order, 10 FCC Rcd 3978 (WTB 1995), is particularly relevant to the instant case. In *George E. Rodgers*, the Wireless Telecommunications Bureau, by delegated authority, designated the license renewal application of Mr. Rodgers, an amateur radio operator, for an evidentiary hearing on the basis of his conviction in Pennsylvania of corruption of minors and indecent assault. What makes this particular case significant is that Mr. Rodgers “attracted his victims through a common interest in amateur radio and that each victim was assaulted while spending a night at Mr. Rodger’s home to use his amateur radio apparatus.” 10 FCC Rcd at 3978. The hearing designation order went on to state that “[c]ertainly, [Rodger’s] conviction for corrupting and indecently assaulting minors attracted through amateur radio is relevant” to his qualifications to be a Commission licensee. *Id.* Mr. Rodgers renewal application was dismissed after he failed to enter an appearance. *George E. Rodgers*, Order, FCC 94M-121 (ALJ Gonzales 1995). The conduct in which Mr. Rodgers engaged – grooming unsuspecting children through their activities in amateur radio and then sexually assaulting them – raises the same, profoundly disturbing concerns that Detective Shilling, the officials of Lake Washington Ham Club, and Bureau have concerning Mr. Titus. The risks that a sexual predator like Mr. Titus poses cannot and should not be understated. The Commission should not be in a position of licensing an individual to engage in an activity that places him in proximity to innocent children when that individual has a history of sexual assaults on youngsters and has demonstrated a recent pattern of erratic and aggressive behavior.

63. Mr. Titus is a convicted sex offender with a history of aggressive and erratic behavior. It is undisputed that Mr. Titus violently and repeatedly sexually

assaulted two young boys, age 6- and 12-years old. It is also apparent that he was grooming another 11-year-old boy for that same fate. Those acts are heinous, indeed. Mr. Titus had 52 sex partners by the time he was 11-years old and 150 partners by the time he was 16. He testified that his sex partners during those years were within a year or two of his age. The evidence shows otherwise, however. In fact, all of Mr. Titus's victims were substantially younger than he was at the time he sexually assaulted them. None was a consenting partner.

64. Mr. Titus has a propensity for violence and intimidation. Violence was an integral part of his well documented sexual assaults of young children. In addition, Mr. Titus has also evidenced his violent temperament by spraying mace in a young schoolmate's face, getting in fights each time he was incarcerated and, more recently, by verbally and physically attacking Victoria Halligan during a minor fender-bender. His sexual offenses against children, his history of infractions during incarceration, and his problems during sex offender treatment are profoundly disturbing. Although his mild-mannered demeanor at trial superficially implies that Mr. Titus is a gentle and non-threatening individual, such an observation raises additional concerns for the very reason that nothing about his outward appearance and demeanor would cause a child to recognize the very serious threat that he poses.

65. It has also been shown that Mr. Titus has a problem with authority, does not like to follow rules, and does not want anyone to tell him what to do. This is apparent from review of his criminal record, his offender treatment reports, his own testimony, and the conclusions reached by his own psychologist. Mr. Titus constantly tests the limits of acceptable behavior and, as a result, has received, with very few exceptions, consistently

poor sex offender treatment assessments. Several of those reports also indicated that Mr. Titus has no insight into his behavior.

66. Mr. Titus's problem with authority was most recently demonstrated by his interactions with police officers investigating both the Halligan and Mercer Island incidents. The record demonstrates that, in each instance, he refused to answer their questions with full candor or otherwise cooperate completely with the investigating police officers. Like the police in those incidents, the Commission demands full candor from those whom it licenses. Mr. Titus's past conduct in those incidents is an indication of how he deals with, and will deal with, the Commission's requirements. As such he lacks the basic qualifications to be a licensee.

67. Review of Mr. Titus's testimony during the hearing also calls into question his veracity and the reliability. Mr. Titus selectively recalled events that helped his case and conveniently could not remember events that might otherwise potentially damage his case. For example he could not recall if he had promised his 6-year-old victim candy, or if he had threatened to beat him up, or whether he had had sex with the victim more than once, nor could he initially recall the sexual encounters with his 12-year-old victim or that he continued to rape the boy even though the boy told him to stop. He later recalled this incident generally, but could not recall specifics. Finally he recalled both encounters with the boy but did not recall threatening him. Mr. Titus recalled his adult conviction involving the 11-year-old victim but could not recall having multiple conversations with him or asking the victim to measure his penis, both elements of the crime. Mr. Titus clearly recalled, however, that he did not see the victim's penis.

68. Mr. Titus's offenses, though more than 15 years old, are chilling. Mr. Titus's sexual offenses against children, his history of infractions during incarceration, and his problems during sex offender treatment are profoundly disturbing. Although his mild-mannered demeanor at trial superficially suggests that Mr. Titus is a gentle and non-threatening individual, such an observation raises additional concerns for the very reason that nothing about his outward appearance would cause a child to recognize the very serious threat that he poses.

69. In addition, Mr. Titus's character witnesses provide nothing more than self-serving observations about Mr. Titus. Most know him only through amateur radio, one is from his mother, and another is from Dennis Cresswell, the 51-year old man with whom Mr. Titus lived and had a sexual relationship when he was a mere 16 years old. There is little if any probative value derived from these testimonials, and they should be afforded little or no weight.

70. John Schurman testified about the concerns regarding Mr. Titus's status as an amateur radio and repeater operator. His testimony demonstrates that there are a significant number of children involved in various facets of amateur radio in Mr. Titus's geographic area. His club alone has helped more than 1,000 children obtain their amateur radio licenses. Young members of the Kids Club travel to field days, hamfests, and hamventions. While the club takes precautions to protect its children, the structure of ham radio is such that it is worrisome to have a high risk sex offender operating within the amateur community.

71. The problems posed when sex offenders such as Mr. Titus have access through amateur radio to children are readily apparent to those, like Mr. Schurman, who

are experienced in amateur radio. For example, Mr. Schurman explained that amateur radio is like a club where young and inexperienced amateurs look to older amateurs to mentor them in various facets of the hobby. This environment may provide easy access to child victims and a fertile opportunity for a sex offender to groom his or her victims.

72. The potential for Mr. Titus to groom and then victimize children is exacerbated in the instant case because Mr. Titus also operates and monitors, for more than 6 hours a day, a repeater that has wide coverage in the Seattle area. Mr. Schurman stated that a repeater operator like Mr. Titus has “virtually unlimited access” to the children using the repeater that he operates. He also explained that it is very common for radio operators to meet on a repeater frequency and then move to a more private frequency, or to a simplex frequency that is not monitored, to conduct a private conversation.

73. Detective Shilling presented a substantial evidence highlighting the risk posed by Mr. Titus being involved with children through amateur radio. Detective Shilling has worked with sex offenders since 1990 and is now in charge of the unit that supervises registered sex offenders residing in Seattle. He participates in helping communities around the nation and around the globe to implement community notification programs in order to more successfully reintegrate sex offenders into communities and to keep children safe. He is also in charge of reviewing the risk assessments of registered sex offenders residing in Seattle as the need arises.

74. On the basis of his experience and impeccable credentials, Detective Shilling testified as an expert in this hearing in the area of community notification, community education, sex offender registration, the management of sex offenders in the

community, and in using the Washington Sex Offender Risk Level Classification tool. It is hard to overstate the breadth and depth of Detective Shilling's professional and sophisticated hands-on knowledge and "street-smart" intuition regarding the management of sex offenders and their reintegration into communities. It is therefore a matter of very serious concern that Detective Shilling, considering the totality of the circumstances, firmly concludes that Mr. Titus presents a high risk to re-offend and is a danger to youngsters engaged in amateur radio.

75. Detective Shilling reviewed Mr. Titus three times and each time found that Mr. Titus presents a significant risk to re-offend. The first time, he and a committee placed Mr. Titus subjectively in a moderate risk to re-offend category. Later considering the violent outburst by Mr. Titus following his traffic incident with Ms. Halligan and his lack of cooperation/dissembling to the police on Mercer Island, Detective Shilling raised Mr. Titus's risk assessment to a Level 3. Later Detective Shilling scored Mr. Titus using the WASOST actuarial model and confirmed to his satisfaction that the WASOST tool fully supported Mr. Titus's status as a Level 3 sex offender. Detective Shilling is well aware of the deficiencies with the WASOST tool, and he is permitted under the prevailing law in Seattle to depart from it to account for the length of time that a felon has lived in the community without further offense. Detective Shilling considered Mr. Titus's string of offenses, his poor record in treatment, the record of violent outbursts, and indications of problems with power and control. Considering all of the relevant factors, Detective Shilling confidently concluded, on behalf of the Seattle Police Department, that Mr. Titus should be characterized as a Level 3 sex offender. He did not

waver in that assessment despite rigorous cross examination, and his assessment cannot and should not be taken lightly simply because he does not have a “Ph.D” after his name.

76. Detective Shilling is a firm believer in risk management which involves sex offenders making prudent choices about what activities they should engage in and those they should avoid in order to minimize their risk of exacerbating dangerous underlying sexual tendencies. Detective Shilling carefully articulated that convicted sex offenders should avoid situations where they have close contact with children and places where contact with youngsters may be made on an anonymous basis. He agreed that ham radio presents the kind of situation that Mr. Titus should avoid.

77. Dr. Allmon is a psychologist in the Seattle area involved in the treatment of sex offenders. He is a member of several professional organizations relating to the treatment of sex offenders, including the Association for the Treatment of Sexual Abusers, of which Detective Shilling is a member of the board of directors. Dr. Allmon stated at the hearing in this case that he is almost always paid to testify as an expert witness on behalf of sex offenders. Indeed, he has testified as an expert between 20 and 40 times. The exact number is unclear because, according to Dr. Allmon, he drew the number “taking a figure from the sky.” Dr. Allmon was paid by Mr. Titus to examine Mr. Titus and render conclusions based on that examination.

78. At deposition, Dr. Allmon testified that no prediction of the likelihood of re-offense by Mr. Titus was intended by his report. However, at the hearing he concluded that Mr. Titus had a low risk to re-offend. In so doing, though, Dr. Allmon also found that Mr. Titus may be expedient and prone to bend the usual rules of society, he seems likely to cut corners, is more irritable than the average man, may be prone

especially to resent authority, and may appear aggressive, whether verbally and otherwise. These are hardly the qualities that the Commission looks for in a licensee.

79. Dr. Allmon declined to characterize Mr. Titus as being cured of tendencies that attract him to young boys. Rather, he preferred to say that Mr. Titus's pedophilic tendencies are in remission. Nevertheless, he recommended that Mr. Titus avoid situations that would place him in proximity to children. He concluded that ham radio does not present such a situation, but conceded he knows next to nothing about what the hobby entails.

80. It is clear that both Detective Shilling and Dr. Allmon share some common ground with respect to Mr. Titus. While both agree that Mr. Titus presents a risk to re-offend, they differ only in their conclusions as to the extent to which Mr. Titus presents such a risk. In his expert opinion, Detective Shilling believes that Mr. Titus presents a high risk to re-offend and has assessed Mr. Titus as a Level 3 sex offender rating on behalf of the Seattle Police Department. On the other hand, Dr. Allmon, in his expert opinion, believes Mr. Titus presents a low risk to re-offend.

81. Both experts are in accord that Mr. Titus should avoid situations in which he is in proximity to children. The reason for this is to prevent Mr. Titus from yielding to his tendencies toward young boys, however much such tendencies may appear to be in remission.

82. The record evidence unequivocally demonstrates that amateur radio is attractive to and popular with youths. The ARRL, a nationwide club of amateur radio operators, has many activities for young ham radio enthusiasts. The Boy Scouts, a nationwide club for boys aged 10 to 18, has awarded Merit Badges in amateur radio for

nearly a century. Mr. Titus himself obtained his amateur radio license from the FCC when he was a teen. Finally, the Kids Club near Seattle is actively involved in training youngsters in the hobby and has done so for more than a thousand children. There is evidence that older, more experienced ham radio enthusiasts frequently train or mentor younger ones. Indeed, Mr. Titus has mentored new individuals to the hobby. In addition, Mr. Titus operates a repeater by which he is able to monitor communications by youngsters. Mr. Schurman, an experienced amateur radio licensee and head of the Kids Club expressed his serious concerns about Mr. Titus's exposure to children in the amateur radio community. Detective Shilling strongly recommended that Mr. Titus avoid situations like amateur radio because it was constitute an inappropriate exercise of risk management. The only individual who takes a contrary view on the temptation that amateur radio poses to Mr. Titus is Dr. Allmon, who conceded he knew little about the hobby.

83. While Mr. Titus *appears* to have adequately managed his pedophilic tendencies to the extent that he has not been criminally convicted of any further sexual assaults on children in a number of years, his relatively recent elevation to Level 3 sex offender status and his brushes with police involving suspicious, erratic and aggressive behavior, raise serious concerns that the Commission cannot ignore. In addition, Mr. Titus appears to have been selectively forthcoming in the information he offered at the hearing, and his almost casual, detached description of the very serious crimes he committed was alarming.

84. The decision to deprive a licensee of his authorization is a difficult one in any context. In the instant case, it involves a balancing of interests: one the one hand, the

privilege -- not a right -- of Mr. Titus of hold a license to operate on the amateur radio bands; on the other hand, protecting children who also are engaged in the same hobby from a sexual predator. On balance, and in light of the many red flags identified in the evidence, the Bureau believes that the interests of children must prevail. The risks to youngsters are too real and too substantial not to be heeded.

IV. Conclusions

85. Based on the totality of the evidence, the Bureau urges the Presiding Judge to find that Mr. Titus is not qualified to be or remain a Commission licensee and that, as a consequence, his captioned amateur radio license should be revoked.

Respectfully submitted,

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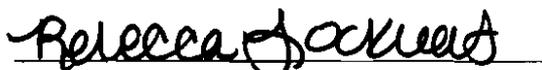
CERTIFICATE OF SERVICE

Rebecca Lockhart, a Paralegal Specialist in the Investigations and Hearings Division of the Enforcement Bureau, Federal Communications Commission, certifies that she has, on this 27th day of February 2009, sent by first class United States mail a copy of the foregoing "Enforcement Bureau's Proposed Findings of Fact and Conclusions of Law" to:

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and has hand-delivered a copy of same to:

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Rebecca Lockhart