

ACCEPTED/FILED

AUG 14 2013

Federal Communications Commission  
Office of the Secretary

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

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

To: Marlene H. Dortch, Secretary  
Federal Communications Commission

Attention: The Honorable Richard L. Sippel  
Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S REQUEST TO STAY PROCEEDING IN ORDER TO  
PROCESS RENEWAL APPLICATION UNDER 47 C.F.R. § 1.1910**

1. The Enforcement Bureau (Bureau) requests the Presiding Judge to stay this proceeding to allow the Wireless Telecommunications Bureau (WTB), the licensing bureau for amateur radio service station licenses, to process Mr. Baxter's renewal application under Section 1.1910 of the Commission's rules, the so-called *Red Light Rule*.<sup>1</sup> If the Presiding Judge grants a stay, the Bureau expects that WTB will dismiss Mr. Baxter's renewal application pursuant to the *Red Light Rule* and the issues in this hearing proceeding will become moot.

2. Section 1.1910 states in pertinent part that Commission action will be withheld on applications or requests for authorization that are subject to certain FCC Registration Number requirements and that are filed by any entity found to be delinquent in its debt to the Commission.<sup>2</sup> If a delinquent debt has not been paid or the debtor has not made other satisfactory arrangements to pay the debt within 30 days of the date of notice provided to the debtor pursuant

<sup>1</sup> 47 C.F.R. § 1.1910.

<sup>2</sup> *Id.* § 1.1910(b)(2).

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to Section 1.1910(b)(2), the application or request for authorization will be dismissed pursuant to Section 1.1910(b)(3).<sup>3</sup>

3. Mr. Baxter filed his renewal application on July 22, 2005.<sup>4</sup> On March 29, 2006, the Bureau entered a Forfeiture Order that assessed a forfeiture penalty in the amount of \$23,000 against Baxter.<sup>5</sup> Mr. Baxter did not pay the forfeiture. Consequently, pursuant to 47 U.S.C. § 504, in October 2010 the Office of the United States Attorney in Maine filed a complaint against Baxter in the United States District Court for the District of Maine (District Court) to collect the amount due under the Bureau's Forfeiture Order.<sup>6</sup> On January 10, 2012, the District Court entered an Order On Motion For Summary Judgment that imposed a \$10,000 forfeiture against Mr. Baxter.<sup>7</sup> Mr. Baxter appealed the District Court's order and on September 10, 2012, the United States Court of Appeals for the First Circuit (Court of Appeals) affirmed the District Court's decision and entered a Judgment in the amount of \$10,000 against Mr. Baxter.<sup>8</sup> That Judgment became a final order on January 10, 2013.<sup>9</sup>

4. On February 2, 2012, the Office of the Managing Director (OMD) mailed Mr. Baxter a Notice of Withholding of Action (Notice) pursuant to Section 1.1910(b)(2) of the Commission's rules.<sup>10</sup> The Notice explained the provisions of the *Red Light Rule* and stated that

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<sup>3</sup> *Id.* § 1.1910(b)(3).

<sup>4</sup> FCC File No. 0002250244 (filed July 22, 2005).

<sup>5</sup> *See Glenn A. Baxter*, Forfeiture Order, 21 FCC Rcd 3071, 3071-3074, para.1, 16 (Enf. Bur. 2006).

<sup>6</sup> *See id.*

<sup>7</sup> *See United States v. Glenn A. Baxter*, Order on Motion for Summary Judgment, 841 F. Supp. 2d 378, X (D. Me. 2012).

<sup>8</sup> *See United States v. Glenn A. Baxter*, Judgment, No. 12-1196 (1st Cir. 2012).

<sup>9</sup> Baxter did not appeal the Court of Appeals' ruling within 90 days, causing that ruling to become a final order. *See generally* 28 U.S.C.A. § 2101(c) ("Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree.").

<sup>10</sup> *See* Notice of Withholding of Actions from Cheryl A. Collins, FCC Revenue and Receivables Operations Group, to Glenn A. Baxter (Feb. 21, 2012).

if the delinquent amount was not paid or satisfactory payment arrangements were not made within 30 days of the date of the Notice, the Commission would dismiss Mr. Baxter's pending renewal application.<sup>11</sup> Mr. Baxter confirmed receipt of the Notice by responding to it in an e-mail sent on February 26, 2012.<sup>12</sup> Mr. Baxter has not paid or made arrangements to pay the amount due.<sup>13</sup>

5. The *Red Light Rule* is mandatory. Section 1.1910(a)(1) *requires* that all applications be examined to determine, *inter alia*, whether an applicant "is delinquent in its debts owed the Commission,"<sup>14</sup> and states that "[a]ction *will be withheld* on applications . . . by an entity found to be delinquent in its debt to the Commission."<sup>15</sup> Further, an applicant's failure to pay or to make satisfactory arrangements to pay the debt owed within 30 days after receiving the notice required by Section 1.1910(b)(2), *will result in dismissal of the application (emphasis added)*.<sup>16</sup>

6. Mr. Baxter's application should be processed under Section 1.1910 without further delay. Accordingly, the Bureau requests that the Presiding Judge stay this proceeding to

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<sup>11</sup> *See id.*

<sup>12</sup> *See* E-mail from Glenn A. Baxter to Judy Lancaster, Attorney, Investigations and Hearings Division, Enforcement Bureau (Feb. 26, 2012, 2:44 p.m. EST). The attachment to the e-mail states that it was e-mailed to "Cheryl A. Collins, Chief, Revenue and receivables Operations Group, ARINQUIRIES@FCC.GOV, Richard.Sippel@fcc.gov, Mary.Gosse@fcc.gov, Judy.Lancaster@fcc.gov, Gary.Schonman@fcc.gov."

<sup>13</sup> *See* Letter from Evan J. Roth, Assistant U.S. Attorney, U.S. Attorney's Office for the District of Maine, to Judy Lancaster, Attorney, Investigations and Hearings Division, FCC Enforcement Bureau (Aug. 14, 2013) (Attachment 2). *See also* E-mail from Cheryl A. Collins, Chief, Revenue and Receivables Operations Group, Financial Operations, Federal Communications Commission, to Judy Lancaster, Attorney, Investigations and Hearings Division, FCC Enforcement Bureau (Aug. 14, 2013, 3:04 p.m. EST) (Attachment 3).

<sup>14</sup> 47 C.F.R. § 1910(a)(1).

<sup>15</sup> 47 C.F.R. § 1910(b)(2) (emphasis added).

<sup>16</sup> *Id.*

permit WTB to process and dismiss Baxter's pending renewal application in the ordinary course pursuant to Section 1.1910 of the Commission's rules.<sup>17</sup>

Respectfully submitted,  
Robert Ratcliff, Acting Chief  
Enforcement Bureau

A handwritten signature in black ink that reads "Judy Lancaster". The signature is written in a cursive, flowing style.

Judy Lancaster  
Attorney, Investigations and Hearings Division

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

August 14, 2013

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<sup>17</sup> Bureau counsel will promptly inform the Presiding Judge when Mr. Baxter's pending renewal application is dismissed by WTB and whether such dismissal is appealed. The Bureau requests that this proceeding remain pending until the dismissal is final.

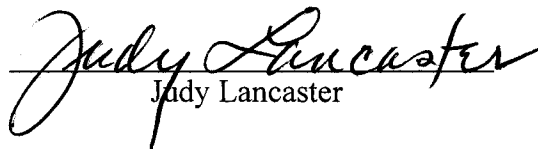
**CERTIFICATE OF SERVICE**

Judy Lancaster, an Attorney Advisor, in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 14<sup>th</sup> day of August, 2013, served copies of the foregoing Enforcement Bureau's Request To Stay Proceeding In Order To Process Renewal Application Under 47 C.F.R. § 1.1910 by forwarding a copy of the document by certified United States mail and e-mail, to

Glenn A. Baxter  
K1MAN  
RR 1, Box 776  
Belgrade Lakes, ME 04918  
Email to: [k1man14275@aol.com](mailto:k1man14275@aol.com) and [Institute@K1MAN.com](mailto:Institute@K1MAN.com)

and by hand-delivery to

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

  
Judy Lancaster

# ATTACHMENT 1

## Judy Lancaster

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**From:** k1man14275@aol.com  
**Sent:** Sunday, February 26, 2012 2:44 PM  
**To:** k1tp@arrl.net  
**Subject:** K1MAN  
**Attachments:** WithholdingOfAction.pdf

See attached file above:

# FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the matter of )  
Call sign K1MAN ULS Application # 0002250244 )  
Glenn A. Baxter, P.E. )  
Regarding NOTICE OF WITHOLDING  
OF ACTION Dated 21 February 2012

1. The Commission can legally withhold action on the renewal application of K1MAN as long as it wishes to publicly portray its incompetence.
2. By statute, the Commission cannot use the \$10,000 Federal District Court forfeiture Summary Judgment, now being appealed in the First Circuit Court of appeals, in any way to influence the renewal application of K1MAN. The proposed dismissal for non payment of the \$10,000 Summary Judgment, allegedly under 47 C.F.R # 1.1910(b), in the NOTICE referenced above, is therefore clearly illegal.

Section 504(c) of the Communications Act of 1934, as amended, 47 U.S.C., 504(c) which says that: ".....In any case where the Commission issues a notice of apparent liability looking toward the imposition of a forfeiture under this Act, that fact shall not be used, in any other proceeding before the Commission, to the prejudice of the person to whom such notice was issued, unless (i) the forfeiture has been paid, or (ii) a court of competent jurisdiction has ordered payment of such forfeiture, and such order has become final....."

3. Obviously, the forfeiture order is in appeal and is therefore not final.
4. Such illegal action by the galactly incompetent Commission will be appealed to the D.C. Court of Appeals under C.F.R. 47 # 402(b)(2):

Appeals may be taken from decisions and orders of the Commission to the United States Court of Appeals for the District of Columbia:

- (2) By any applicant for the renewal or modification of any such instrument or authorization whose application is denied by the Commission.



4. Dismissal of a renewal application for non payment of a forfeiture is the same as denial of said application and thus allowing the matter to be appealed to the D.C. Court of Appeals.

5. Also, dismissal of the renewal application would make the administrative court proceedings in this matter go away, without hearing, which would be illegal denial of due process under the United States Constitution.

(signed)

Glenn A. Baxter, P.E., K1MAN

26 February 2012

E-mailed to Cheryl A. Collins, Chief, Revenue and Receivables Operations Group,  
[ARINQUIRIES@FCC.GOV](mailto:ARINQUIRIES@FCC.GOV), [Richard.Sippel@fcc.gov](mailto:Richard.Sippel@fcc.gov), [Mary.Gosse@fcc.gov](mailto:Mary.Gosse@fcc.gov), [Judy.Lancaster@fcc.gov](mailto:Judy.Lancaster@fcc.gov),  
[Gary.Shonman@fcc.gov](mailto:Gary.Shonman@fcc.gov)

## ATTACHMENT 2



U.S. Department of Justice

United States Attorney  
District of Maine

100 Middle Street  
6<sup>th</sup> Floor, East Tower  
Portland, ME 04101

(207) 780-3257  
TTY (207) 780-3060  
Fax (207) 780-3304  
[www.usdoj.gov/usao/me](http://www.usdoj.gov/usao/me)

August 14, 2013

Judy Lancaster, Attorney  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Room 4-C330  
Washington, D.C. 20554

Re: US v. Glenn Baxter, Civil No. 1:10-CV-00435-JAW

Dear Ms. Lancaster:

On February 1, 2012, the United States District Court for the District of Maine entered Judgment in favor of the United States, and against Glenn Baxter, for \$10,000, in the above-captioned case.

As a result of that Judgment, our Financial Litigation Unit sent Mr. Baxter a demand for payment. Mr. Baxter has not responded to that demand; nor has he paid the Judgment; nor has he made any arrangements for payment.

Sincerely,

Thomas E. Delahanty II  
United States Attorney

Evan J. Roth  
Assistant U.S. Attorney

# ATTACHMENT 3

## Judy Lancaster

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**From:** Cheryl Collins  
**Sent:** Wednesday, August 14, 2013 3:04 PM  
**To:** Judy Lancaster  
**Subject:** Mr. Baxter

Ms. Lancaster,

I am the Chief, Revenue and Receivables Operations Group, Financial Operations, Office of the Managing Director, Federal Communications Commission. I am familiar with the circumstances of the debt Mr. Glenn A. Baxter, RR 1, Box 776, Belgrade Lakes, ME 04918, FCC registration Number 0013164975, owes to the United States, which is reported on the books of the Commission as Bill Number 200532260001, for \$10,000.00.

On February 21, 2012, I signed a Notice of Withholding of Action notifying Mr. Baxter that under 47 C.F.R. § 1.1910(b), the Commission will withhold action on Mr. Baxter's application, filed or pending, until he makes full payment or arranges to pay the non-tax delinquent debt(s) owed the Commission, and that the Commission may dismiss his application, filed or pending, if Mr. Baxter's debt remains delinquent. Furthermore, under 47 C.F.R. § 1.1910(b)(3), the Notice informed Mr. Baxter that if he did not pay the delinquency or make other arrangements satisfactory to the Commission within 30 days of the date of that notice, the Commission would dismiss his application. Moreover, any action taken prior to the payment of delinquent non-tax debt is contingent and subject to rescission.

Additionally, the Notice informed Mr. Baxter that if he failed to make payment on the delinquent debt, we may initiate collection action, which under applicable law includes: assessing interest, penalties, and administrative charges for collection (31 U.S.C. § 3717), reporting debt information to commercial credit reporting entities (31 U.S.C. § 3711), transferring the debt to the U.S. Department of Treasury for collection (31 U.S.C. § 3711), and applying administrative offset to collect amounts due (31 U.S.C. § 3716).

That Notice was placed in the United States mail, postage prepaid and addressed to Mr. Baxter at the above known addresses, plus 310 Woodland Camp Road, Belgrade, Maine 04917, and 310 Woodland Camp Road – Box 440, Belgrade Lakes, Maine 04918-0440.

Mr. Baxter acknowledged receipt of the Notice, but he has not made any payment and he has not arranged to pay the debt. I am familiar with the Commission's financial records that reflect payments from delinquent debtors. I have initiated a review of the Commission's payment records, and as of August 14, 2013, there is no record that the Commission received any payment from Mr. Baxter or on by any other person or entity on his behalf. Our records show that Mr. Baxter remains delinquent in paying a debt owed the United States. Thus, the Commission's procedures set forth at 47 C.F.R. § 1.1910 may be executed.

Contact me if you have questions,

*Cheryl Collins*  
*Chief, Revenue & Receivables Group*  
*Financial Operations*  
*[cheryl.collins@fcc.gov](mailto:cheryl.collins@fcc.gov)*  
*202-418-1978*