

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) Case No.
)
 GLENN A. BAXTER,)
)
 Defendant.)

COMPLAINT

NOW COMES the United States of America, by Thomas E. Delahanty II, United States Attorney, and Evan J. Roth, Assistant United States Attorney for the District of Maine, and alleges as follows:

1. This is a civil action brought by plaintiff, United States of America, to reduce to judgment a forfeiture order brought under Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and Section 1.80 of the FCC Rules and Regulations, 47 C.F.R. § 1.80, for defendant's willful and repeated violations of Sections 97.101(d) and 97.113(a)(3) of the Commission's Rules, and for defendant's willful violation of Section 97.105(a) and 97.113(b) of the Rules, and for failure to file requested information pursuant to an Enforcement Bureau directive. The violations involve interference with the ongoing communications of other Amateur radio stations, failure to exercise station control, transmission of communications in which Baxter had a pecuniary interest, and transmission of communications that constituted impermissible broadcasting.

2. This Court has jurisdiction of this matter pursuant to 47 U.S.C. §§ 503

and 504.

3. Defendant, Glenn A. Baxter, is a resident of Belgrade Lakes, County of Kennebec, State of Maine.

4. Defendant has his principal place of business in Belgrade Lakes, County of Kennebec, Maine.

5. Venue is proper under 28 U.S.C. § 1391(b) in that the claims upon which this action is based arose within this District, and 47 U.S.C. § 504(a) in that defendant operated his principal place of business within this District.

6. The defendant willfully and repeatedly violated Sections 97.101(d) and 97.113(a)(3) of the Commission's Rules, and defendant willfully violated Section 97.105(a) and 97.113(b) of the Rules, and failed to file requested information pursuant to an Enforcement Bureau directive 47 U.S.C. § 301 as follows:

(a) On November 27, 2004, December 8, 2004, and March 31, 2005, FCC agents observed Baxter's Amateur Radio Station K1MAN commence transmissions on top of existing communications on 3.890 MHz. This is in violation of Section 97.101(d) of the Rules;

(b) On November 25, 2004, and March 30, 2005, the Boston office observed the transmission of information regarding Baxter's website, which offers various products for sale, including a monthly newsletter published by Baxter and offered for sale for forty-five dollars per year. In addition, on December 1, 2004, Baxter transmitted a seventy-minute interview with a person who was considering whether to retain Baxter Associates, an employment-search firm owned by Baxter. During the

transmission, Baxter discussed fees for his franchises, investments, and franchising opportunities. These transmissions were in violation of Section 97.113(a)93) of the Rules which prohibits an Amateur station from transmitting any communications in which the station licensee or control operator has a pecuniary interest.

(c) Baxter was directed in Warning Notices dated September 15 and October 29, 2004 to provide information regarding how station K1MAN was controlled and the identity of the control operator. The Boston Office found that Mr. Baxter's statements that "[n]o corrective actions are necessary" and "[n]o changes are needed with regard to station control" failed to comply with the Bureau's demand for station information. The Boston office concluded that Baxter apparently willfully and repeatedly violated Section 308(b) of the Communication Act of 1934, as amended, which provides that the Commission "during the term of any...licenses, may require from...a licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked...."

(d) Baxter was found to have willfully violated Section 97.113(b) of the Rules, which prohibits, with limited exceptions not applicable in this case, an Amateur station from engaging in any form of broadcasting or transmission of one-way communications. The Boston Office concluded that the pre-recorded seventy-minute interview with a person interested in retaining Baxter Associates, during which there was no station identification, constituted a "broadcast" and an impermissible one-way transmission.

(e) The Boston Office concluded that Baxter apparently willfully failed

to exercise control over his station, as required under Section 97.105(a) of the Rules. On December 19, 2004, station K1MAN repeated the same pre-recorded phrase, and segments thereof, for 45 minutes on 3.975 MHz after which the transmission ended abruptly in mid-sentence without the station identification required by the Rules.

7. As a result of the aforementioned violations, Warning Notices were issued to the defendant on September 15, 2004 and October 29, 2004. The defendant responded to the September 15, 2004 Warning Notice stating “[n]o corrective actions are necessary at K1MAN” and “[n]o changes are needed with regard to station control which in full compliance with all FCC rules.” The defendant further stated that “KiMAN is in full compliance with all FC Rules, state laws, and federal laws. I encourage you to take ‘enforcement actions’ and look forward to seeing you in court(s).” This response did not provide the required information requested regarding station control. The second Warning Notice explained that the defendant’s response to the September 15, 2004 Warning Notice was insufficient and explained the defendant’s obligations as a licensee to furnish the information requested by the Bureau. The defendant responded by letter dated November 2, 2004, stating that “[m]y letter to you dated 14 October 2004 in response to your letter to me dated 15 September 2005 provided all the information required by FCC rules and by federal law.” The defendant did not provide any information regarding the identity of the control operator or method of station control.

8. On June 7, 2005, the Enforcement Bureau of the Federal Communications Commission issued a Notice of Apparent Liability For Forfeiture. The defendant provided no substantive response. **See**, Notice of Apparent Liability for Forfeiture incorporated herein and attached as Exhibit A.

9. By the Notice of Apparent Liability For Forfeiture letter, the defendant was advised that he must pay the monetary forfeiture amount of \$21,000.00.

10. A Forfeiture Order in the amount of \$21,000.00 was released on March 29, 2006. **See**, Exhibit B attached hereto and incorporated herein.

11. The defendant has failed to make payment as provided for in the Forfeiture Order. **See**, Exhibit C attached hereto and incorporated herein.

WHEREFORE, the United States requests judgment in the amount of \$21,000.00; a filing fee in the amount of \$350.00 pursuant to 28 U.S.C. § 1914(a); and such other and further relief as the Court deems just and proper.

DATED: October 25, 2010

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