

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
ROBERT D. LANDIS)	EB Docket No. 06-149
)	
Amateur Radio Operator and Licensee of Amateur)	
Radio Station N6FRV)	File No. EB-05-IH-0973

ORDER OF REVOCATION

Adopted: November 20, 2007

Released: November 20, 2007

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this *Order of Revocation*, pursuant to authority delegated to the Enforcement Bureau under Section 0.111(a)(17) of the Commission's Rules,¹ we revoke the captioned Amateur license held by Robert D. Landis. Based on the evidence of his convictions for child molestation, we conclude that Mr. Landis lacks the basic requisite character qualifications to be and remain a Commission licensee.

II. BACKGROUND

2. On August 1, 2006, the Commission, by the Chief, Enforcement Bureau, designated this case for hearing.² The *Order to Show Cause* ("OSC") specified the following issues for hearing:

- (a) to determine the effect of Robert D. Landis's felony convictions 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 Robert D. Landis is qualified to be and to remain a Commission licensee and whether his Amateur Radio License N6FRV should be revoked.³

3. The OSC ordered Mr. Landis, pursuant to Section 1.91(c) of the Commission's Rules,⁴ to file a written notice of appearance within 30 days of the OSC's release, August 31, 2006.⁵ The OSC further required the notice of appearance to state that Mr. Landis would appear on the hearing date and present evidence on the specified issues.⁶ In addition, the OSC informed Mr. Landis that, if he failed to

¹ See 47 C.F.R. § 0.111(a)(17) (delegating authority to the Enforcement Bureau for issuing orders after hearing proceedings terminated pursuant to waiver).

² See *Robert D. Landis*, Order to Show Cause, 21 FCC Rcd 8741 (Enf. Bur. 2006) ("OSC").

³ See *id.* at 8743 ¶ 6.

⁴ See 47 C.F.R. § 1.91(c).

⁵ See OSC at 8743 ¶ 7.

⁶ See *id.*

so file a written notice of appearance, his right to a hearing would be deemed waived,⁷ and the hearing proceeding would be resolved thereafter in accordance with Section 1.92(c) of the Commission's rules.⁸

4. The Presiding Judge determined that Mr. Landis had received a copy of the *OSC* but had failed to file a written notice of appearance seeking to avail himself of the right to a hearing.⁹ Mr. Landis sent separate letters to the Chief of the Enforcement Bureau and the Presiding Judge,¹⁰ stating that he could not appear for the hearing due to his confinement in a mental hospital, and that he would not retain an attorney.¹¹ The Presiding Judge ruled these letters insufficient to constitute a written appearance, but recommended that they be considered "written statement[s] . . . denying or seeking to mitigate or justify the circumstances or conduct complained of in the [*OSC*]." ¹² Accordingly, the Presiding Judge concluded that Mr. Landis had waived his right to a hearing, terminated the hearing proceeding, and certified the case to the Commission for disposition in accordance with Section 1.92 of the Commission's Rules.¹³ The Commission has delegated authority to the Enforcement Bureau for revocation proceedings terminated on the basis of waiver pursuant to Section 0.111(a)(17) of the Commission's Rules.¹⁴

III. DISCUSSION

A. Facts

5. Mr. Landis received the license for Amateur Radio Station N6FRV on April 1, 1999, and it expired on November 1, 2006. The Commission's records do not reveal any violations by him of the Communications Act of 1934, as amended (the "Act"),¹⁵ or the Commission's rules. On October 5, 2005, however, the Enforcement Bureau received a complaint alleging that Mr. Landis had been convicted of child molestation and was living in a mental hospital.¹⁶ The evidence shows that, on October 28, 1991, the Superior Court of California, County of Riverside, convicted Mr. Landis of two counts of a lewd act with a child under the age of fourteen years old.¹⁷ The Court sentenced Mr. Landis to a term of eleven years in state prison and fined him \$10,000.¹⁸ After Mr. Landis served his sentence, he was confined to a mental hospital pursuant to a civil commitment. The Court found Mr. Landis to be "a sexually violent

⁷ See *id.* at 8743 ¶ 8.

⁸ See 47 C.F.R. § 1.92(c) (providing that, whenever a hearing is waived, the presiding administrative law judge shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission).

⁹ See *Robert D. Landis*, Memorandum Opinion and Order, FCC 06M-34 (rel. Oct. 24, 2006) ("*MO&O*").

¹⁰ See *id.* at 1-2, ¶¶ 2, 6; Letter from Robert D. Landis to Kris Anne Monteith, Chief, Enforcement Bureau, Federal Communications Commission, dated August 12, 2006 ("*August 12 Letter*"); Letter from Robert D. Landis to Arthur I. Steinberg, Presiding Judge, Office of Administrative Law Judges, Federal Communications Commission, dated October 9, 2006 ("*October 9 Letter*").

¹¹ See *MO&O* at 2 ¶ 7.

¹² See *id.* at 2 ¶ 7 n.1.

¹³ See *id.* at 2-3 ¶ 8; 47 C.F.R. § 1.92.

¹⁴ See 47 C.F.R. § 0.111(a)(17).

¹⁵ See 47 U.S.C. § 151 *et seq.*

¹⁶ See *OSC* at 8741 ¶ 2.

¹⁷ See *id.*

¹⁸ See *State of California v. Robert D. Landis*, Case CR41119 (Riverside County, October 31, 1991) (unpublished).

predator who is a danger to others”¹⁹ As his correspondence in response to the *OSC* demonstrates, his confinement continues.

B. Discussion

6. Section 312(a)(2) of the Act provides that the Commission may revoke any license “because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application.”²⁰ The character of the licensee or applicant is among the factors that the Commission considers in determining whether the applicant has the requisite qualifications to operate the station for which authority is sought.²¹ The Commission’s character assessments focus on misconduct that demonstrates the licensee’s or applicant’s proclivity to deal truthfully with the Commission and to comply with its rules or policies.²² The Commission consistently has applied character standards developed for broadcasters to applicants and licensees in the Amateur Radio Service.²³ The Commission considers relevant “evidence of any conviction for misconduct constituting a felony.”²⁴ The Commission believes that “[b]ecause all felonies are serious crimes, any conviction provides an indication of an applicant’s or licensee’s propensity to obey the law” and to conform to provisions of both the Act and the agency’s rules and policies.²⁵

7. Mr. Landis fully acknowledges his felony child molestation convictions and confinement to a mental hospital, but asserts that his record as a war veteran and an amateur licensee demonstrate his good character.²⁶ He further contends that his conviction is old.²⁷ We disagree. Mr. Landis was

¹⁹ *The District Attorney of Riverside County v. Robert Donald Landis*, Case RIC290995, Order for Commitment (Welf. & Inst. Code § 6600) and Order for Transportation (Riverside County, Oct. 3, 2005).

²⁰ 47 U.S.C. § 312(a)(2).

²¹ See 47 U.S.C. § 308(b).

²² See *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1190-91 (1986), *recons. granted in part on other grounds*, 1 FCC Rcd 421 (1986) (“1986 Character Order”), *appeal dismissed sub nom.*, *National Association for Better Broadcasting v. FCC*, No. 86-1179 (D.C. Cir. June 11, 1987).

²³ 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) (“1990 Character Order”), *recons. on other grounds*, 6 FCC Rcd 3448 (1991), *modified on other grounds*, 7 FCC Rcd 6564 (1992); *Schoenbohm v. FCC*, 204 F.3d 243, 246-49 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 968 (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); *Roger Thomas Scaggs*, Order of Revocation, 19 FCC Rcd 7123 (Enf. Bur. 2004) (revoking an amateur radio operator license due to the licensee’s felony murder conviction); *George E. Rodgers*, Hearing Designation Order, 10 FCC Rcd 3978 (WTB 1995) (finding that an amateur radio operator licensee’s felony conviction for indecent assault upon and corruption of minors 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 (FOB 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).

²⁴ *1990 Character Order*, 5 FCC Rcd 3252 ¶ 4.

²⁵ See *id.*

²⁶ See *August 12 Letter* at 3, 5-7.

²⁷ See *id.* at 2.

convicted in 1991. Although the 1986 Character Policy Statement provides a ten-year limitation on considerations of *allegations* of misconduct, it does not limit consideration of *adjudicated* misconduct that has already been litigated.²⁸ Consistent with this precedent, the Commission previously has considered adjudicated misconduct in its cases as appropriate in evaluating a Licensee's character qualifications.²⁹ Mr. Landis' felony convictions are heinous. His correspondence does not deny or justify the misconduct complained of in the OSC. Rather, his continued confinement as a sexually violent predator demonstrates that neither his assertions regarding his character nor the passage of time have sufficiently rehabilitated him to mitigate his past misconduct.³⁰ Thus, we find that Mr. Landis does not possess the character qualifications required by this Commission to be or remain a licensee.

C. License Revocation

8. The Commission's character policies provide that any felony conviction is a matter predictive of licensee behavior and is directly relevant to the functioning of the Commission's regulatory mission. Mr. Landis's egregious convictions and continued confinement require the finding that Mr. Landis does not possess the requisite qualifications to be and to remain a Commission licensee. Accordingly, we conclude, as a matter of law, that Mr. Landis's above-captioned license should be revoked.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED**, pursuant to Section 312 of the Communications Act of 1934, as amended,³¹ and Sections 1.92(d) and 0.111(a)(17) of the Commission's rules,³² that the captioned amateur license held by Robert D. Landis **IS REVOKED**, effective the fortieth (40th) day after release of this Order, unless Mr. Landis files a petition for reconsideration or application for review within thirty (30) days of the release of this Order, in which case the effective date will be suspended, pending further Order of the Commission.

²⁸ See *1986 Character Order*, 102 FCC 2d 1179, 1228-1229 ¶ 105.

²⁹ See *Application of TRW, Inc., Transferor and Northrop Grumman Corp., Transferee, For Consent to Transfer Control of Authorization to Construct, Launch and Operate a Ka-Band Satellite System in the Fixed-Satellite Service*, Order and Authorization, 17 FCC Rcd 24625, 24629 ¶ 11 (IB 2002) (considering character qualifications issues raised by applicant's 1990 guilty plea to making false statements and mail fraud in a federal case related to sales commissions); *Richard A. Burton*, Hearing Designation Order, 19 FCC Rcd 7023 (WTB 2004) (designating for hearing character qualifications issues arising from applicant's history of repeated statutory and rule violations, including four felony convictions for unlicensed radio operation between 1982 and 1993).

³⁰ See *1986 Character Order*, 102 FCC 2d 1179, 1206 n. 60 (noting that egregious misconduct "might, of its own nature, constitute prima facie evidence that the applicant lacks the traits of reliability and/or truthfulness necessary to be a licensee"); *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 920 (2001) (in affirming character policy of considering felonious misconduct, stating that policy seems particularly reasonable as applied to "such patently criminal behavior as sexual assault on children").

³¹ See 47 U.S.C. § 312.

³² See 47 C.F.R. §§ 0.111(a)(17), 1.92(d).

10. **IT IS FURTHER ORDERED** that copies of this **ORDER OF REVOCATION** shall be sent by Certified Mail Return Receipt Requested to Robert D. Landis, c/o the Atascadero State Hospital, 10333 El Camino Real, Atascadero, California 93422.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau