

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

FCC 12M-59
09495

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

MEMORANDUM OPINION AND ORDER

Issued: December 14, 2012

Released: December 14, 2012

Preliminary Statement

1. This is a ruling on three motions to compel filed by the Enforcement Bureau: (1) Motion to Compel Responses to Request for Admission of Facts filed on July 18, 2012; (2) Motion to Compel Responses to Enforcement Bureau's Second Set of Interrogatories filed on July 20, 2012; and (3) Motion to Compel Production of Documents filed on July 20, 2012. In its supporting pleadings, the Enforcement Bureau asks the Presiding Judge to order licensee Glenn Baxter to respond to Enforcement Bureau's First Request for Admission of Facts, Enforcement Bureau's Second Set of Interrogatories, and Enforcement Bureau's Second Request for Production of Documents, all filed on June 14, 2012.

**Request for Admission Fact
Standards for Responses**

2. The prescribed procedure for responding to a Request for Admission of Fact (RFA) is set forth at 47 C.F.R. § 1.246(b):

Each of the matters of which an admission is requested shall be deemed admitted unless the party to whom the request is directed serves upon the party requesting the admission (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters, or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a

part or a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

Mr. Baxter's Response to Enforcements Bureau's Second First Request for Admission of Facts [sic] does not comply with the standards set forth in the Rule. That is because Mr. Baxter neither denies matters of which an admission is requested, nor sets forth reasons why he cannot truthfully admit or deny those matters in whole or in part. Mr. Baxter also makes no written objection that any admission would be privileged or irrelevant. Nor does he contend that a request is improper.¹

3. To be sufficient for use at trial or for a decisional purpose, Mr. Baxter's responses must leave no doubt as to what he admits and what he denies. His responses must address the entirety of each RFA to which he does not reasonably object. If Mr. Baxter wishes to admit or deny an RFA in its entirety, he must do so with clarity and specificity. If Mr. Baxter wishes to admit an RFA only in part, he must be specific as to which part or parts of the RFA he respectively admits and denies. If clarity and candor require Mr. Baxter to qualify a response, he must only make qualification after clarifying which part or parts of an RFA he admits or denies. He may not qualify responses in the manner he has, which have the effect of obfuscating what he does and does not admit. If Mr. Baxter cannot either admit or deny part of an RFA, he must admit and/or deny as much of the RFA as he truthfully can, and explain why he cannot admit or deny the rest. To avoid obscuring a response, Mr. Baxter should not add gratuitous commentary that does not clarify, such as the commentary he added to his response to RFA No. 1. And finally, if Mr. Baxter fails to provide responses in the form of a sworn statement or fails to provide complete responses in accordance with Section 1.246(b), *supra*, each RFA corresponding to a noncompliant response will be deemed admitted.

4. *RFA No. 1* asks Mr. Baxter to admit that Station K1MAN has been/is automatically controlled.² Mr. Baxter initially denies automatic control, but then qualifies his response by asserting that the station has been in "full compliance with all FCC rules." This qualification clouds Mr. Baxter's response, suggesting that there may be instances of automatic control of Station K1MAN that he believes are permitted under Commission Rules, and these, he believes, are instances not included within the phrasing of RFA No. 1. This results in an incomplete and somewhat perplexing response. Regardless of what it is that Mr. Baxter intends to communicate to the Enforcement

¹ To the extent that Mr. Baxter may later in some pleading suggest that the Enforcement Bureau's requests were "improper," it is ruled here that the requests are relevant to the resolution of the matters set forth in Paragraph 14 of the *Hearing Designation Order*. DA 11-58 (*rel.* Jan. 12, 2011). The requests for admission concern the nature of Mr. Baxter's station control activities and the details of Station K1MAN's transmissions, which are evidentiary facts that can form the basis for decisional conclusions to be reached under directives in Paragraph 14(d)-(e) of the *Hearing Designation Order*, including whether Mr. Baxter is qualified to be and remain a Commission licensee and whether his application for renewal should be granted.

² Automatic control describes the circumstance in which the control operator is not at the control point during transmission. 47 C.F.R. § 97.109(d).

Bureau, current wording creates unacceptable ambiguity. Accordingly, Mr. Baxter must directly and completely respond to RFA No. 1 in an amended pleading.

5. *RFA No. 2* requests Mr. Baxter to admit that Station K1MAN has transmitted recordings. Mr. Baxter initially admits transmitting recordings, but qualifies this statement by asserting that Station K1MAN has been in “full compliance with all FCC rules.” This “full compliance” qualification is unacceptable because it adds ambiguity as to what Mr. Baxter admits and denies. Mr. Baxter must directly and completely respond to RFA No. 2 in an amended pleading.

6. *RFA No. 3* requests Mr. Baxter to admit that, on July 16, 2009, he transmitted a pre-recorded program about amplifiers over Station K1MAN on frequency 14.275 MHz. Mr. Baxter’s response stating that “K1MAN is not required to keep a log” is unresponsive. Even if Mr. Baxter’s understanding of the Commission’s recordkeeping requirements is correct, his response fails to admit or deny that the transmission in question occurred. It also fails to set forth any reason why he is unable to admit or deny RFA No. 3. If Mr. Baxter has the requisite knowledge to admit or deny that the transmission occurred, he must do one or the other without qualification. If he cannot truthfully admit or deny that the transmission occurred, he must state why he cannot do so. *E.g.*, if true and accurate, he would properly state that he does not have any memory of the transmission and does not have any records that are related to the transmission.³ Accordingly, Mr. Baxter must respond directly and completely to RFA No. 3 by admitting or denying the request in part or in full, or by setting forth the reasons that he cannot truthfully admit or deny the Request.

7. *RFA No. 4* requests Mr. Baxter to admit that on July 16, 2009, he transmitted a pre-recorded and unintelligible program about amplifiers over Station K1MAN on frequency 14.275 MHz. Mr. Baxter’s statement that “K1MAN is not required to keep a log or to monitor transmissions” is unresponsive to RFA No. 4 for the reasons stated in Paragraph 6 above. Accordingly, Mr. Baxter must respond directly and completely to RFA No. 4 by admitting or denying the request in part or in full, or by setting forth the reasons that he cannot truthfully admit or deny the Request.

8. *RFA No. 5* requests Mr. Baxter to admit that, on July 16, 2009, he transmitted a pre-recorded and unintelligible program about amplifiers over Station

³ The Motion to Compel Responses to Enforcement Bureau’s Second Set of Interrogatories highlights Mr. Baxter’s response to Interrogatory 10, in which he denies maintaining any records for Station K1MAN. Motion to Compel Responses to Enforcement Bureau’s Second Set of Interrogatories, WT Docket No. 11-7, FCC File No. 0002250244 at ¶ 11. The Enforcement Bureau argues that this answer is evasive, as Mr. Baxter’s website in fact stores recordings of transmissions, programming schedules, and other documents regarding Station K1MAN’s operations. *Id.* It is agreed that this response is evasive. If Mr. Baxter has information available to him that is responsive to a discovery request, he must disclose that information or otherwise properly respond in accordance with Section 1.246(b) of the Commission’s rules. This applies regardless of the form the information takes; Mr. Baxter is responsible for any information that the Commission may require him to officially record as a licensee, as well as any information that can be found in unofficial sources, including (but not limited to) schedules and recordings to which he has access. Mr. Baxter cannot respond to an RFA by stating that he has insufficient knowledge of the issue it raises when he has access to sources that contain information from which one could acquire that knowledge.

K1MAN for approximately eighty (80) minutes on frequency 14.275 MHz. Mr. Baxter's response that "K1MAN is not required to keep a log or to monitor transmissions" is unresponsive for the reasons stated in Paragraph 6 above. Mr. Baxter must respond directly and completely to RFA No. 5 by admitting or denying the request in part or in full, or by setting forth in detail the reasons that he cannot truthfully admit or deny the Request.

9. *RFA No. 6* requests Mr. Baxter to admit that Station K1MAN was under automatic control during the time when it transmitted the above-mentioned pre-recorded program regarding amplifiers on frequency 14.275 MHz. Mr. Baxter responds that Station K1MAN has never been automatically controlled, and that "[t]here is and has always been a control operator at the control point in full compliance with all FCC rules. K1MAN is not required to keep a log or to monitor transmissions." As in Mr. Baxter's responses to RFA Nos. 1 and 2, the qualification of his denial provides only unintelligible ambiguity. Here, his response strongly suggests that there may be some forms of automatic control that are in compliance with Commission rules that he believes he does not have to admit. As above, such an approach would result in an ambiguously unclear response. To avoid such ambiguities, Mr. Baxter's response must directly respond to the RFA in a way that is free from ambiguity as to its intended meaning. Mr. Baxter must directly and completely respond to RFA No. 6.

10. *RFA No. 7* requests Mr. Baxter to admit that he was the station operator of Station K1MAN on July 16, 2009, during the time when a pre-recorded program about amplifiers was transmitted over Station K1MAN on frequency 14.275 MHz. Mr. Baxter responds that "K1MAN is not required to keep a log or to monitor transmissions." This assertion is unresponsive for the reasons stated in Paragraph 9 above. It is also evasive. Mr. Baxter must respond directly and completely to RFA No. 7 by admitting or denying the request in whole or in part. Otherwise, Mr. Baxter must set forth the reasons why he cannot admit or deny the Request in whole or in part.

11. *RFA No. 8* requests Mr. Baxter to admit that on July 16, 2009 at approximately 4:00 p.m., Station K1MAN's transmission on frequency 14.275 MHz disrupted ongoing communications on that frequency. Mr. Baxter's non-responsive assertion that "K1MAN has never disrupted another radio signal except for legal incidental interference" does not respond to the RFA as asked because it does not in any way address the particular transmission in question. Mr. Baxter's response is read to mean or suggest that Mr. Baxter believes that he need not admit whether the transmission disrupted ongoing communications, so long as he believes the interference was legal, a totally non-responsive answer that is also an incomplete answer. Mr. Baxter's further contention that other stations have anticipated his information and caused intentional criminal interference is entirely speculative and beyond the scope of the request, which merely seeks a factual response regarding a specific Station K1MAN transmission. Mr. Baxter must respond directly and completely to RFA No. 8, confine his factual response to the substance of the requested admission, and avoid any ambiguity or any misleading assertion.

12. *RFA No. 9* requests Mr. Baxter to admit that on July 17, 2009, at approximately 1:28 p.m., Station K1MAN began transmitting on frequency 14.275 MHz while other radio communications were ongoing on that frequency. Mr. Baxter's response was identical to that which he submitted in response to RFA No. 8. For the reasons stated in Paragraph 11 above, Mr. Baxter's response does not directly and unambiguously address the contents of RFA No. 9. Mr. Baxter must respond directly and completely to RFA No. 9, confine his response to the substance of the requested admission, and avoid any ambiguity or misleading assertion.

13. *RFA No. 10* requests Mr. Baxter to admit that on July 25, 2009, at approximately 4:45 p.m., Station K1MAN transmitted on frequency 14.275 MHz atop ongoing communications on that same frequency. Mr. Baxter's response was identical to that which he submitted in response to RFA No. 8. For the reasons stated in Paragraph 11 above, Mr. Baxter's response fails to directly and unambiguously address the contents of the RFA. Mr. Baxter must respond directly and completely to RFA No. 10, confine his response to the substance of the requested admission, and avoid ambiguity.

14. *RFA No. 11* requests Mr. Baxter to admit that on July 25, 2009, at approximately 4:45 p.m., Station K1MAN transmitted on frequency 14.275 MHz atop ongoing communications on that same frequency, forcing amateur stations in Spain that were engaged in an ongoing contest to relocate transmission to frequency 14.279 MHz in order to be able to continue the contest. Mr. Baxter's response was identical to that which he submitted in response to RFA No. 8. For the reasons stated in Paragraph 11 above, Mr. Baxter's response does not directly and unambiguously address the contents of the RFA. Mr. Baxter must respond directly and completely to RFA No. 11, confine his response to the substance of the requested admission, and avoid ambiguity.

15. *RFA No. 13* requests Mr. Baxter to admit that Station K1MAN is programmed to automatically transmit information bulletins in accordance with a transmission schedule that is regularly posted on *www.K1MAN.com*. Just as in RFA No. 6, Mr. Baxter's response that "K1MAN has never been under automatic control where a control operator is not required" alters the substance of the RFA such that it is unclear whether Mr. Baxter has denied the request. Mr. Baxter must directly and completely respond to RFA No. 13, and avoid any ambiguity.

16. *RFA No. 14* requests Mr. Baxter to admit that the station operator for Station K1MAN always checks the frequency to be used to send a scheduled information bulletin immediately prior to transmitting the bulletin in order to determine whether that frequency is being used by other amateur radio operators. By stating that this is "[n]ot required by FCC rules," Mr. Baxter's response qualifies the RFA such that it is no longer responsive. Mr. Baxter must admit or deny the RFA based on the actual practices of Station K1MAN, not his irrelevant understanding of Commission rules. Further, Mr. Baxter's statement that "since 2009, K1MAN does always check for a clear frequency before transmitting" does not provide a response as to whether the station operator also did this checking before 2009. Finally, Mr. Baxter's assertion that other unrelated stations have failed to check the frequency before transmitting is a response that goes entirely

beyond the scope of the request, which only seeks a response regarding Station K1MAN's transmission procedures. Mr. Baxter must respond directly and completely to RFA No. 14, confine his response to the substance of the requested admission, and avoid any ambiguity.

17. Mr. Baxter must respond to *RFA Nos. 15–23* with direct and complete responses, qualified only to the extent that additional clarity is provided for a good reason, and confine his responses to the substance of the requested admission without any ambiguity.

Motion to Compel Responses to Enforcement Bureau's Second Set of Interrogatories

18. The prescribed procedures for responding to Interrogatories to Parties are set forth at 47 C.F.R. § 1.323(b)-(d), which provide:

Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. ... For purposes of this paragraph, an evasive or incomplete answer is a failure to answer....

After review, it is found that Mr. Baxter's Response to Enforcements Bureau's Second Set of Interrogatories [sic] does not comply with the above rules because Mr. Baxter's Answers [to Interrogatories Nos. 1–3, Nos. 5–11, and Nos. 13] are either evasive or incomplete.

19. Mr. Baxter's responses to *Interrogatories Nos. 1–3* regarding station control are evasive and unresponsive. To each of these Interrogatories, Mr. Baxter responds that "K1MAN is not required by FCC rules to and does not keep a record of such information." Neither Mr. Baxter's understanding of Commission rules nor his record-keeping practices address the substance of the Interrogatories. If Mr. Baxter has access to information sought by an Interrogatory, regardless of whether Commission rules require him to keep that information or not, he must provide it to the Enforcement Bureau unless he makes a valid objection to its disclosure. If Mr. Baxter cannot provide complete and clear responses to these interrogatories, he shall state with specificity his inability to do so and shall state reasons for his not being able to do so.⁴

⁴ In addition to the above-quoted response, Mr. Baxter responds to Interrogatory No. 2, which seeks details as to each method of station operation used by Station K1MAN since March 30, 2006, by stating that station control is currently manual. This statement is not fully responsive as it fails to provide station operation methods for the entire time period sought by the Enforcement Bureau. In his response to Interrogatory No. 3 asking Mr. Baxter to provide dates and times when Station transmissions were not continuously monitored by a control operator, Mr. Baxter gratuitously adds that the monitoring of transmissions is not required by FCC rules. Again, the Rule cited by Mr. Baxter is irrelevant to the Interrogatory posed to him, which makes his answer non-responsive. Regardless of whether Mr. Baxter takes the position that such monitoring is not required, he still must clearly and fully respond to Interrogatory No. 3.

20. Mr. Baxter's responses to *Interrogatories Nos. 5–6* are incomplete. Mr. Baxter does answer general questions as to Station K1MAN's transmission history in the affirmative, but Mr. Baxter omits more specific responses sought by the Interrogatories. Mr. Baxter's response that "K1MAN is not required by FCC rules to and does not keep a record of such information" is insufficient because it neither provides the requested information nor denies knowledge of or access to that information. If Mr. Baxter has access to these records, regardless of whether he is required to keep the records, he must provide unambiguous, full, and complete answers regarding them; if Mr. Baxter does not have such records, he must so state. For each subpart, Mr. Baxter shall provide clear and complete responses regarding the details of transmissions of one-way communications and transmissions of recordings; or he shall specifically deny knowledge of or access to such information;⁵ or he shall make a specific objection with reasons for not providing such information.

21. *Interrogatories Nos. 7–9* ask whether the Station has transmitted a signal "that disrupted in any manner whatsoever communications by any other amateur radio station or amateur radio operator," "that interfered or caused interference to any radio communication or signal," or "over or on top of any ongoing radio communication or signal." Mr. Baxter's response to each Interrogatory, stating that "K1MAN has never disrupted another radio signal except for legal incidental interference," is incomplete because it does not address the specific instances of interference asked by each Interrogatory. Mr. Baxter's contention that other stations have anticipated Station K1MAN's information bulletins and caused "intentional criminal" interference is totally unresponsive and beyond the scope of the Interrogatories. Therefore, he must respond separately and fully to each Interrogatory and provide detailed facts of Station K1MAN transmissions that (1) disrupted, (2) interfered with, or (3) were transmitted over or atop ongoing communications or signals. Where appropriate and truthful, Mr. Baxter shall deny knowledge of or deny having reasonable access to responsive facts or information. Also, where appropriate, Mr. Baxter must state his specific objections to providing such information, giving non-argumentative reason(s) justifying each objection made.

22. *Interrogatory No. 10* asks whether Mr. Baxter maintains station records for Station K1MAN, including (but not limited to) records of station operations. Mr. Baxter's response to Interrogatory No. 10 is inconsistent with information obtained from Mr. Baxter's website, *www.k1man.com*, which lists programming schedules and the dates, times, frequencies, and topics of programming transmitted over Station K1MAN, in addition to offering MP3 recordings for download.⁶ Mr. Baxter must provide full and complete responses that identify and describe records, "including, but not limited to" records of station operations.⁷

⁵ Mr. Baxter cannot deny knowledge of such information when he has access to sources that contain that information, such as transmission schedules kept on his website. *See supra* at n.2.

⁶ *See supra* n.2.

⁷ It is noted that records of amateur station operations are required to be made available upon Commission request. *See* 47 C.F.R. § 97.103.

23. Mr. Baxter shall provide a clear and complete response to *Interrogatory No. 11*⁸ based on Enforcement Bureau's Instructions regarding its Request for Admission of Facts.

24. *Interrogatory No. 13* requests identification of all documents to be introduced by Mr. Baxter into evidence at the hearing. Mr. Baxter curtly responds that these documents are "[m]ostly on the record already." Such a cavalier response is not an acceptable answer and in no way complies with 47 C.F.R. § 1.323(b), which states that "[e]ach interrogatory shall be answered separately and fully" Therefore, Mr. Baxter must again respond to this interrogatory, but this time he must do so separately and fully while identifying each document that is responsive to Interrogatory No. 13.

Enforcement Bureau's Motion to Compel Responses to Request for Production of Documents

25. The prescribed procedure for responding to a Request for Production of Documents is set forth at 47 C.F.R. § 1.325(a):

A party to a Commission proceeding may request any other party except the Commission to produce and permit inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things which constitute or contain evidence within the scope of the examination permitted by § 1.311(b) of this part and which are in his possession, custody, or control or to permit entry upon designated land or other property in his possession or control for purposes of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by § 1.311(b) of this part.

Mr. Baxter's responsive pleading does not comply with the above Rule. Incredibly, Mr. Baxter has not provided any requested document—*not one*—and he has not asserted the non-existence of any such documents. Mr. Baxter appears to be conducting his own form of stonewalling with respect to providing relevant documents as required.⁹

26. *Requests Nos. 1–4* seek recordings of all transmissions over Station K1MAN on frequency 14.275 MHz on three specific occasions: (1) 12:01am on July 10, 2009 through 11:59pm on July 14, 2009; (2) 12:01am on July 16, 2009 through 11:59pm on July 17, 2009; and (3) 12:01am on July 25, 2009 through 11:59pm on July 26, 2009. The Requests also seek recordings of any occasion on which Station K1MAN transmitted atop of any ongoing radio communication or signal, in addition seeking all documents related thereto. Mr. Baxter has not produced even one document

⁸ Enforcement Bureau's Second Set of Interrogatories, June 14, 2012 at ¶ 11.

⁹ It is noted that the Rules consider a broad collection of materials to be relevant for discovery in order to ensure prompt and full compliance by a party possessing or having access to relevant documents or materials. 47 C.F.R. § 1.325(a) (quoted in full above).

concerning such transmissions or recordings. Nor has he asserted that they do not exist. Mr. Baxter must produce the recordings and documents that are responsive to this request or, in the alternative, clearly state that as to each requested category, such recordings and documents do not exist.¹⁰

27. *Requests No. 5–6* seek recordings of all instances in which Station K1MAN (1) transmitted a communication or signal that caused interference maliciously, willfully, or otherwise, to any other amateur radio station or amateur radio operator; or (2) transmitted a communication or signal that disrupted in any manner whatsoever communications by any other amateur radio station or amateur radio operator. These requests also seek all documents related to these recorded instances. Mr. Baxter has not produced any of these recordings or documents, nor has he asserted that they do not exist. His admissions to the Bureau’s Request for Admission of Fact Nos. 8–11, as well as his response to Interrogatories Nos. 7–9, indicate that Baxter has indeed interfered—he contends “incidental[ly]”—with the communications and signals of other amateur stations. Therefore, Mr. Baxter must produce all recordings and documents that are responsive to this request or, in the alternative, clearly state that, as to each requested category, such recordings and documents do not exist. Mr. Baxter’s further contention that other stations have interfered with K1MAN is non-responsive to the Enforcement Bureau’s requests, which seek responses regarding specific transmissions of Station K1MAN. Mr. Baxter must produce the recordings and documents that are responsive to this request or, in the alternative, clearly state that, as to each requested category, such recordings and documents do not exist.

28. *Request No. 8* seeks recordings of all instances in which Station K1MAN engaged in transmitting one-way communications, as well as all documents related to these recorded instances. Mr. Baxter’s response that this request is not relevant is defiantly erroneous, as the question of whether Baxter has broadcasted one-way communications on amateur frequencies is precisely an issue set in this proceeding under Paragraph 14 of the *Hearing Designation Order, supra*. Mr. Baxter also objects to the Request as overly burdensome because he believes that the Request covers the period from 1987 to present day. Mr. Baxter has, whether intentionally or not, misread the request. Part (m) of Definitions and Instructions to Second Request for the Production of Documents states fully and clearly that the Requests seek documents from March 30, 2006 through the present. Mr. Baxter shall produce the recordings and documents that are responsive to this request dating from March 30, 2006; or clearly state with full explanation as to each requested category that such recordings and documents

¹⁰ Mr. Baxter objects to Requests Nos. 1–4 on the grounds that they “add nothing to this proceeding additional to the many recordings already made of K1MAN transmissions and currently in the possession of the Commission.” To the contrary, Requests Nos. 1–4 fall within the permissible scope of examination, which includes “any matter, not privileged, which is relevant to the hearing issues, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts.” 47 C.F.R. § 1.311(b). The recordings sought by the Enforcement Bureau are relevant to determining the objective incidents—the “*corpus delicti*”—needed to help determine whether Mr. Baxter violated Commission rules *per* Paragraph 14 of this proceeding’s *Hearing Designation Order*. DA 11-58 (*rel.* Jan. 12, 2011). Mr. Baxter’s objection borders on contempt for Commission rules of discovery and is thus overruled.

do not exist; or state with specificity as to each item why production would be overly burdensome.

29. *Request No. 9* seeks recordings of each interview, advertisement, promotion, and public service announcement transmitted over Station K1MAN that is not included in the foregoing requests for production. Request No. 9 also seeks related documents. Mr. Baxter has not yet produced any of these recordings or documents, nor has he asserted that they do not exist. Mr. Baxter has only obliquely responded with respect to advertisements. Mr. Baxter's current argument that this Request is not relevant and is overly burdensome is rejected for the reasons stated above.¹¹ Mr. Baxter shall produce the recordings and documents that are responsive to this request dating from March 30, 2006; or clearly state with full explanation that as to each requested category, such recordings and documents do not exist; or state with specificity as to each item why producing them would be overly burdensome.

30. *Request No. 10* seeks all documents related to complaints received by Mr. Baxter concerning Station K1MAN's operations. Mr. Baxter's response that originals of any such complaints are in the possession of the Commission is non-responsive and confusing because it hinders the identification of each of the complaints to which Mr. Baxter generically refers. Therefore, Mr. Baxter must produce all documents related to any such complaints in his possession or under his control.

31. *Request No. 13* seeks all documents that Mr. Baxter intends to introduce into evidence at the hearing in the captioned proceeding. Mr. Baxter's response that such documents are "[a]lready in the record" is non-responsive, vague, and totally inadequate because it confuses and hinders the identification of the documents to which Mr. Baxter refers. Mr. Baxter shall produce each document that he intends to introduce into evidence at hearing.

Ordering Clauses

Based on the foregoing, IT IS ORDERED that the Enforcement Bureau's Motion to Compel Responses to Request for Admission of Facts filed on July 18, 2012, the Motion to Compel Responses to Enforcement Bureau's Second Set of Interrogatories filed on July 20, 2012, and the Motion to Compel Production of Documents filed on July 20, 2012, ARE EACH GRANTED in full.

IT IS FURTHER ORDERED that Mr. Baxter shall review and reconsider each of his Responses to Enforcements Bureau's First Request For Admission of Facts, and **by January 11, 2013**, re-file, in the form of a sworn statement or declaration referred to as Corrected or Clarified Responses to each of the Enforcement Bureau's Request For Admission Of Facts. Each failure to provide a complete Response under oath or affirmation in accordance with this Order may be deemed an admission adverse to Mr. Baxter as to each respective Request for Admission.

¹¹ See *supra* at ¶ 28.

IT IS FURTHER ORDERED that Mr. Baxter shall review and reconsider each of his Responses to Enforcements Bureau's Second Set of Interrogatories, and **by January 14, 2013**, re-file, in the form of a sworn statement or declaration referred to as Corrected or Clarified Responses to each of the Enforcement Bureau's Interrogatories. Failure to provide complete and sworn Responses in accordance with this Order may result in an appropriate finding adverse to Mr. Baxter in accordance with the Bureau's unanswered Interrogatory.

IT IS FURTHER ORDERED that Mr. Baxter shall review and reconsider each of his Responses to Enforcements Bureau's Second Request for Production of Documents, and **by January 16, 2013**, produce Documents responsive to each of the Enforcement Bureau's Requests. Failure to provide such Documents in accordance with this Order may result in an appropriate finding adverse to Mr. Baxter in accordance with the Enforcement Bureau's unmet document Request.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Richard L. Sippel". The signature is written in a cursive style with a large initial "R" and "S".

Richard L. Sippel
Chief Administrative Law Judge