

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

In the Matter of
Cameron Thurston,
Grayling, Michigan
File No. EB-FIELDNER-17-00025806
NAL/Acct No. 201832010002
FRN: 0021906128

ORDER

Adopted: May 16, 2018

Released: May 16, 2018

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Cameron Thurston (Thurston) violated Sections 301 and 333 of the Communications Act of 1934, as amended (Act),1 and Sections 90.20, 90.403, 90.405 and 90.425 of the Commission’s rules2 by operating on spectrum that the Commission has licensed for use by the Michigan Public Safety Communications Network (MPSCS). These sections of the Act and the Commission’s rules ensure that spectrum remains available for exclusive use by public safety entities by prohibiting unauthorized operations, prohibiting willful or malicious interference, establishing eligibility requirements to obtain a license for spectrum reserved for public safety uses, delineating the scope of permitted communications, and requiring authorized stations periodically to transmit call signs or similar station or system identification when using a public safety network. Unauthorized use of public safety radio networks, such as the MPSCS, poses a unique threat to public safety because it can “create[] a scenario in which a dispatcher might not be able to hear and respond to an emergency transmission” from authorized users, thereby endangering the safety of first responders and the public they are called to protect.3

2. Earlier this year, Mr. Thurston pleaded guilty to one felony count of Computers-Unauthorized Access4 and one felony count of Using a Computer to Commit a Crime5 in connection with his misuse of the MPSCS. However, because of Mr. Thurston’s age (19 years old), the nature of the offenses, and his willingness to provide the Michigan State Police with information about how he gained access to the MPSCS, the court refrained from entering a judgment of conviction against Mr. Thurston and instead assigned him the status of a “youthful trainee” under the Holmes Youthful Trainee Act.6 The court then imposed conditions under HYTA (Diversion Program), with which Mr. Thurston must remain in compliance in order to maintain his status as a “youthful trainee.” If Mr. Thurston complies with the terms of the Diversion Program for a two-year period, the court will close the criminal proceeding

1 47 U.S.C. §§ 301 & 333.

2 47 CFR §§ 90.20, 90.403, 90.405, 90.425.

3 Jay Peralta, Corona, New York, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 3246, 3252, para. 12 (2017); forfeiture ordered, 32 FCC Rcd 7993 (2017).

4 Mich. Comp. Laws § 752.7972A.

5 Mich. Comp. Laws § 752.7973D.

6 Mich. Comp. Laws § 762.11 (HYTA).

without entering a judgment of conviction. If, however, Mr. Thurston violates the terms of the Diversion Program, the court will enter a judgment of conviction against Mr. Thurston for the two felonies for which he entered a guilty plea.

3. To settle this matter, Thurston (a) admits that, over a two-year period, he illegally operated on, and caused interference to, the MPSCS;⁷ (b) agrees not to operate on, or to cause interference to, the MPSCS in the future; (c) surrenders his amateur radio license for cancellation, with an agreement not to apply for a new amateur radio license for two years; and (d) will pay a \$3,000 civil penalty. However, Thurston will pay an additional civil penalty of \$17,000 if in the next twenty years the Commission finds that he operates on, or causes interference to, the MPSCS, or otherwise violates the terms of the Consent Decree or the Diversion Program.

4. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree regarding Thurston's unauthorized operation on, and interference to, the MPSCS, in violation of Sections 301 and 333 of the Act and in violation of Sections 90.20, 90.403, 90.405 and 90.425 of the Commission's rules.⁸

5. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Thurston's basic qualifications to hold or obtain any Commission license or authorization.⁹

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act¹⁰ and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules,¹¹ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

7. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Thurston at his address of record, and to Kristi L. McGregor, Esquire, Kristi L McGregor, PLLC, P.O. Box 396, Mio, MI 48647.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold
Chief
Enforcement Bureau

⁷ Although Mr. Thurston illegally operated on, and caused interference to, the MCPS on numerous occasions, the average duration of his transmissions was 4.8 seconds.

⁸ 47 U.S.C. §§ 301 & 333; 47 CFR §§ 90.20, 90.403, 90.405 & 90.425.

⁹ See 47 CFR § 1.93(b).

¹⁰ 47 U.S.C. § 154(i).

¹¹ 47 CFR §§ 0.111, 0.311.

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

In the Matter of
Cameron Thurston
Grayling, Michigan
File No. EB-FIELDNER-17-00025806
NAL/Acct No. 201832010002
FRN: 0021906128

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Cameron Thurston (Mr. Thurston), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether Mr. Thurston violated Sections 301 and 333 of the Communications Act of 1934, as amended, and Sections 90.20, 90.403, 90.405, and 90.425 of the Commission’s rules by operating an unauthorized radio on, and causing interference to authorized users of, the Michigan Public Safety Communications System.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(e) “Compliance Commitment” means the compliance obligations described in this Consent Decree at paragraph 12.
(f) “Effective Date” means the date by which both the Bureau and Mr. Thurston have signed the Consent Decree.
(g) “Investigation” means the investigation commenced by the Bureau in File No. EB-FIELDNER-17-00025806 regarding whether Mr. Thurston violated Sections 301 and 333 of the Act and the Part 90 Public Safety Rules by operating an unauthorized radio on, and causing interference to authorized users of, the MPSCS.
(h) “Michigan Public Safety Communications System” and “MPSCS” mean the public safety radio network maintained and operated by the State of Michigan under licenses issued by the Commission.
(i) “Part 90 Public Safety Rules” means 47 CFR §§ 90.20, 90.403, 90.405 & 90.425 and other provisions of the Act, the Rules, and Commission orders related to the operation of land mobile radios on spectrum designated for public safety uses.
(j) “Parties” means Mr. Thurston and the Bureau, each of which is a “Party.”

12 47 U.S.C. § 151 et seq.

- (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Section 301 of the Act states that “No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio [within the United States] . . . except under and in accordance with this Act and with a license in that behalf granted under the provisions of this Act.”¹³ Unlicensed radio stations operate illegally, in violation of Section 301. Unlicensed radio stations undermine the Commission’s efforts to manage radio spectrum and can interfere with licensed communications, including communications over spectrum licensed for use by first responders and other public safety entities. Section 333 of the Act states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this chapter or operated by the United States government.”¹⁴ Section 90.20 of the Rules establishes, among other things, eligibility requirements to obtain an authorization from the Commission to operate on specific frequencies that the Commission has reserved for public safety uses.¹⁵ Section 90.403 of the Rules establishes general operating requirements, including a requirement to avoid causing interference to other licensees.¹⁶ Section 90.405 of the Rules sets the scope of permissible communications using spectrum licensed by the Commission.¹⁷ Section 90.425 establishes a requirement that stations licensed under the Part 90 Public Safety Rules periodically transmit certain identifying information.¹⁸ In particular, these Sections of the Act and the Part 90 Public Safety Rules (i) require an entity to obtain a license from the FCC to operate on a public safety network; (ii) prohibit non-governmental or other public safety organizations from obtaining public safety spectrum licenses from the FCC, (iii) restrict transmissions on public safety networks, including the MPSCS, to public safety communications, (iv) require any transmissions on such networks to include the call sign or similar station or system identification, and (v) prohibit willful or malicious interference to radio communications of licensed or authorized stations.

4. Mr. Thurston is a 19-year old amateur radio licensee who operates under the call sign N8CAM. According to reports that the Michigan State Police provided to the Commission, on or about April 21, 2017, Mr. Thurston was subject to a routine traffic stop, during which, an officer of the Michigan State Police observed that Mr. Thurston was in possession of a radio capable of operating on the MPSCS. After confirming that Mr. Thurston was not an authorized user of the MPSCS, the officer seized the radio under authority provided by state law. Another Michigan State Police officer specializing in the organization’s radio equipment subsequently inspected the seized radio and determined that it was able to connect with, and operate on, the MPSCS because the device was a “clone” of an infrequently used radio belonging to Oscoda County, Michigan, that was authorized to operate on the MPSCS. As a “clone,” the device in Mr. Thurston’s possession operated using the same radio identifier code as the Oscoda County radio. Because the MPSCS recognized the code transmitted by Mr. Thurston’s radio as belonging to the authorized Oscoda County radio, the system permitted Mr. Thurston’s radio to make and receive transmissions on the state-wide network. According to records provided by the Michigan State Police, between July 15, 2015, and April 21, 2017, the cloned radio in Mr. Thurston’s possession

¹³ 47 U.S.C. § 301.

¹⁴ 47 U.S.C. § 333.

¹⁵ 47 CFR § 90.20.

¹⁶ 47 CFR § 90.403.

¹⁷ 47 CFR § 90.405.

¹⁸ 47 CFR § 90.425.

transmitted on the MPSCS 989 times, with the average transmission lasting 4.8 seconds.¹⁹ Based on information provided by the MPSCS, during each such push-to-talk transmission, other authorized users of the “talk group” on which the cloned radio was then transmitting would not have been able to make their own transmissions during the brief periods when Mr. Thurston was transmitting on the MPSCS. The Michigan State Police have not alleged that Mr. Thurston made any false or threatening transmissions on the MPSCS.

5. On January 23, 2018, Mr. Thurston pleaded guilty to one felony count of Computers-Unauthorized Access (Mich. Comp. Laws § 752.7972A) and one felony count of Using a Computer to Commit a Crime (Mich. Comp. Laws § 752.7973D). Because of Mr. Thurston’s age, the nature of the offenses, and his willingness to provide the Michigan State Police with information about the method he used to clone the Oscoda County radio, the court refrained from entering a judgment of conviction against Mr. Thurston and instead assigned him the status of a “youthful trainee” under the Holmes Youthful Trainee Act.²⁰ The court then imposed conditions under HYTA (Diversion Program), with which Mr. Thurston must remain in compliance in order to maintain his status as a “youthful trainee.” If Mr. Thurston complies with the terms of the Diversion Program for a two-year period, the court will close the criminal proceeding without entering a judgment of conviction. If, however, Mr. Thurston violates the terms of the Diversion Program, the court will enter a judgment of conviction against Mr. Thurston for the two felonies for which he entered a guilty plea.

6. Mr. Thurston and the Bureau engaged in settlement negotiations. To settle this matter, the Bureau and Mr. Thurston enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

7. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

8. **Jurisdiction.** Mr. Thurston agrees that the Bureau has jurisdiction over him and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

10. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Mr. Thurston agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Mr. Thurston concerning the matters that were the subject of the Investigation. In the absence of new material evidence, the Bureau also agrees that it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of Mr. Thurston’s basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.²¹

¹⁹ The 989 transmissions on the MCPS made between July 15, 2015, and April 21, 2017, amounted to 78 minutes of air time and an average transmission time of 4.8 seconds.

²⁰ Mich. Comp. Laws § 762.11 (HYTA).

²¹ See 47 CFR § 1.93(b).

11. **Admission of Liability.** Mr. Thurston admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 herein, that his actions referenced in paragraph 4 herein violated Sections 301 and 333 of the Act and the Part 90 Public Safety Rules.

12. **Compliance Commitment.** Mr. Thurston has (a) ceased using or operating and in the future will not use, operate, or provide material assistance to another in the use or operation of, any unauthorized radio station, and (b) ceased causing harmful interference to the MPSCS and in the future will not cause or provide material assistance to another causing harmful interference to the MPSCS. Any use or operation of, or provision of material assistance to another in the use or operation of, an unauthorized radio station by Mr. Thurston will, at a minimum, violate Section 301 of the Act and the terms of this Consent Decree. Any use or operation of, or provision of material assistance to another in the use or operation of, a radio station causing harmful interference to the MPSCS will, at a minimum, violate Section 333 of the Act, the Part 90 Public Safety Rules, and the terms of this Consent Decree. For the avoidance of doubt, any violations of Sections 301 or 333 of the Act or the Part 90 Public Safety Rules by Mr. Thurston after the Effective Date shall be considered “new material evidence” for purposes of the representations and covenants set forth in Paragraph 10. Within fifteen (15) calendar days of any noncompliance with Sections 301 or 333 of the Act, with the Part 90 Public Safety Rules, with the terms and conditions of this Consent Decree, or with the terms and conditions of the Diversion Program, Mr. Thurston shall report such noncompliance to the Field Director, Office of the Field Director, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, with a copy submitted electronically to matthew.gibson@fcc.gov and field@fcc.gov; any failure to report such noncompliance will violate the terms of this Consent Decree.

13. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraph 12 (compliance commitment paragraph) of this Consent Decree shall expire twenty (20) years after the Effective Date.

14. **Voluntary Surrender of Amateur License.** In consideration of the termination of the Investigation, and in express reliance on the provisions of paragraph 10 herein, Mr. Thurston hereby (a) surrenders for cancellation his license to operate in the amateur radio service using call sign N8CAM, and (b) agrees that he will not seek a new license to operate in the amateur radio service for a period of two (2) years following the Effective Date.

15. **Civil Penalty.** In light of Mr. Thurston’s status as a “youthful trainee” under HYTA, as described in paragraph 5, above, and subject to the provisions of paragraph 16 below, Mr. Thurston will pay a civil penalty to the United States Treasury in the amount of three thousand Dollars (\$3,000) (Civil Penalty), with an initial payment of two hundred fifty Dollars (\$250.00) (Initial Payment) and eleven (11) quarterly installment payments, each in the amount of two hundred fifty Dollars (\$250.00), paid over the course of a thirty six month period (each, an Installment Payment). The Initial Payment shall be made within thirty (30) calendar days of the Effective Date. Thereafter, the Installment Payments are due and payable quarterly on the 20th of the month starting on August 20, 2018, with a final Installment Payment due on April 20, 2021, 36 months after the Effective Date. Mr. Thurston acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty (including, for the avoidance of doubt, the Initial Payment and each Installment Payment) shall become a “Claim” or “Debt” as defined in Section 3701(b)(1) of the Debt Collection Improvement Act of 1996 (DCIA).²² Mr. Thurston shall send electronic notification of payment to matthew.gibson@fcc.gov and field@fcc.gov on the date payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a

²² Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996) (DCIA).

completed FCC Form 159 (Remittance Advice) must be submitted.²³ When completing the FCC Form 159, enter the NAL/Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

16. **Suspended Penalty.** Mr. Thurston further agrees that, upon an Event of Default (as described below in paragraph 17), he will pay a further civil penalty to the United States Treasury in the amount of seventeen thousand dollars (\$17,000) (Additional Civil Penalty). Mr. Thurston acknowledges and agrees that upon an Event of Default, the Additional Civil Penalty shall also become a “Claim” or “Debt” as defined in Section 3701(b)(1) of the DCIA,²⁴ and all procedures for collection of the Additional Civil Penalty may, at the Commission’s discretion, be initiated against Mr. Thurston.

17. **Event of Default.** Mr. Thurston agrees that an Event of Default shall occur upon (a) the failure to pay the Civil Penalty to the U.S. Treasury on or before the date specified in Paragraph 15; (b) within twenty years of the Effective Date, the release of an order by the Commission, such as a Notice of Apparent Liability for Forfeiture that is uncontested or a Forfeiture Order, finding that Mr. Thurston violated Sections 301 or 333 of the Act or the Part 90 Public Safety Rules; (c) an admission of non-compliance required by Paragraph 12; or (d) the failure to comply with the terms of the Diversion Program (as determined by a court of competent jurisdiction).

18. **Interest, Charges for Collection, and Acceleration of Maturity Date.** Upon an Event of Default, all procedures for collection permitted by the DCIA and other provisions of law²⁵ may, at the Commission’s discretion, be initiated and the following shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Mr. Thurston: (a) any unpaid Civil Penalty referenced in Paragraph 12, which shall accrue interest at a rate of the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent per annum from the date of the Event of Default until payment in full; (b) the Additional Civil Penalty referenced in Paragraph 13, which shall accrue interest at a rate of the U.S. Prime Rate in effect on the date of the Event

²³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁴ *Id.*

²⁵ See 31 CFR Part 900, *et seq.*

of Default plus 4.75 percent per annum from the date of the Event of Default until payment in full; (c) any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717; and (d) any administrative charge(s), including the costs of collection, litigation, and attorneys' fees.

19. **Waivers.** As of the Effective Date, Mr. Thurston waives any and all rights he may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Mr. Thurston shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Mr. Thurston nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Mr. Thurston shall waive any statutory right to a trial *de novo*. Mr. Thurston hereby agrees to waive any claims he may otherwise have under the Equal Access to Justice Act²⁶ relating to the matters addressed in this Consent Decree.

20. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

21. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

22. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Mr. Thurston does not expressly consent) that provision will be superseded by such Rule or Order.

23. **Successors and Assigns.** Mr. Thurston agrees that the provisions of this Consent Decree shall be binding on his successors and assigns.

24. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

25. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

²⁶ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

28. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Rosemary C. Harold
Chief
Enforcement Bureau

Date

Cameron Thurston

Date