

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

FCC 06M-37

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In the Matter of	)	EB Docket No. 06-163
	)	
TERRY KEITH HAMMOND	)	
	)	
Application For Renewal of	)	Facility ID No. 81640
License for Station KBKH(FM)	)	EB-03-IH-0130
Shamrock, Texas	)	File No. BRH-20050401AAA

MEMORANDUM OPINION AND ORDER

Issued: November 16, 2006

;

Released: November 17, 2006

1. By *Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order*, FCC 06-124, released September 15, 2006 ("OSC"), this case was designated for hearing. Issues 1 and 2 seek to determine the effect of Terry Keith Hammond's felony conviction on his qualifications to be and to remain a Commission licensee, and to determine whether Mr. Hammond's license for Station KBKH(FM), Shamrock, Texas, should be revoked. Issues 3 through 8 were specified to determine whether Mr. Hammond made false certifications, misrepresentations and/or lacked candor in certain applications he filed with the Commission (Issues 3 and 4); to determine whether Mr. Hammond violated certain provisions of the Commission's technical rules (Issues 5 and 6); to determine whether Mr. Hammond failed to provide full and complete responses and documents as directed by the staff of the Enforcement Bureau (Issue 7); and, ultimately, to determine whether Mr. Hammond's application for renewal of license for Station KBKH(FM) should be granted or denied (Issue 8). OSC at ¶¶ 27-28. In order to avail himself of the opportunity to be heard and the right to present evidence at the hearing, the OSC provided, *inter alia*, that Mr. Hammond, in person or by his attorney, shall file with the Commission a written appearance stating that he will appear at the hearing and present evidence on the specified issues. *Id.* at ¶ 35. Such notice of appearance was required to be filed within 30 days of the release of the OSC. *Id.* Since the OSC was released on September 15, 2006, the notice of appearance was due to be filed on or before October 15, 2006. However, since October 15th fell on a Sunday, the due date was October 16, 2006. See Section 1.4(j) of the Commission's Rules.

2. Although Mr. Hammond received a copy of the OSC on September 15, 2006 (EB Ex. 1), the Commission's records reflect that, to date, no written (or other) notice of appearance has been filed by, or on behalf of, Mr. Hammond. In addition, a prehearing conference in this proceeding was held on November 15, 2006. No one attended or entered an appearance on behalf of Mr. Hammond.

3. Sections 1.91(c) and 1.221(c) of the Commission's Rules, and paragraph 35 of the OSC, required Mr. Hammond to file a written appearance stating that he will appear at the hearing and present evidence on the specified issues. No written appearance has been filed. Nor was an appearance on behalf of Mr. Hammond entered at the prehearing conference. Section 1.92(a)(1) of the Commission's Rules, as well as paragraph 35 of the OSC, provide that, under the circumstances presented here, the failure to file the requisite written appearance constitutes a waiver of the right to a hearing. Consequently, pursuant to Section 1.92(c) of the Rules, and paragraph 35 of the OSC, this proceeding will be terminated and those aspects of this case pertaining to Issues 1 and 2 will be

certified to the Commission. Moreover, pursuant to Section 1.221(c) of the Rules and paragraph 35 of the OSC, Mr. Hammond's application for renewal of license for Station KBKH(FM), Shamrock, Texas, will be dismissed with prejudice for failure to prosecute.

Accordingly, IT IS ORDERED that, pursuant to Section 1.221(c) of the Commission's Rules and paragraph 35 of the OSC, the application for renewal of license for Station KBKH(FM), Shamrock, Texas (Facility ID No. 81640; EB-03-IH-0130; File No. BRH-20050401AAA) IS DISMISSED with prejudice for failure to prosecute.

IT IS FURTHER ORDERED that, pursuant to Section 1.92(c) of the Commission's Rules and paragraph 35 of the OSC, the hearing proceeding in the above-captioned matter IS TERMINATED, and that those aspects of this proceeding pertaining to Issues 1 and 2 ARE CERTIFIED to the Commission.

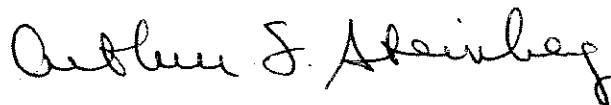
IT IS FURTHER ORDERED that a copy of this *Memorandum Opinion and Order* SHALL BE MAILED by Certified Mail, Return Receipt Requested, to:

Terry Keith Hammond  
P. O. Box 688  
Shamrock, TX 79079

Terry Keith Hammond  
6700 U. S. Highway 83  
Shamrock, TX 79079

Terry Keith Hammond  
TDCJ Number 01361320  
J. B. Wheeler Unit  
986 County Road AA  
Plainview, TX 79072

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg  
Administrative Law Judge

**Certificate of Service**

I, Patricia Ducksworth, Legal Technician, hereby certify that on this 17<sup>th</sup> day of November, 2006, I have sent certified letter, to the following:

Terry Keith Hammond  
6700 U.S. Highway 83  
Shamrock, TX 79079

Terry Keith Hammond  
P.O. Box 688  
Shamrock, TX 79079

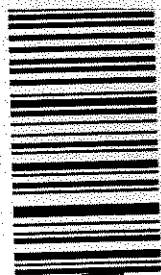
Terry Keith Hammond  
TDJC Number 01361320  
J.B. Wheeler Unit  
986 County Road AA  
Plainview, TX 79072

  
Patricia Ducksworth

Federal Communications Commission  
Washington, D.C. 20554

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Terry Keith Hammond  
TDCJ Number 01361320

*Whelle*  
P.O. Box 40

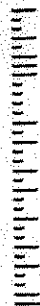
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