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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

MAR - 7 2008

Federal Communications Commission
Office of the Secretary

In the Matter of) WT Docket No. 08-20
)
WILLIAM F. CROWELL) FCC File No. 0002928684
)
Application to Renew License for Amateur) File No. EB-08-IH-0434
Radio Service Station W6WBJ)

To: Administrative Law Judge
Arthur I. Steinberg

ENFORCEMENT BUREAU'S MOTION FOR PREHEARING CONFERENCE

1. The Chief, Enforcement Bureau, by her attorneys and pursuant to Section 1.248(a) of the Commission's Rules, hereby moves for a prehearing conference to discuss the appropriate nature and scope of discovery in this proceeding. The Bureau further requests an order staying all discovery until such time as the requested prehearing conference is held and the issues raised in this motion have been resolved. In support, the Bureau states as follows:

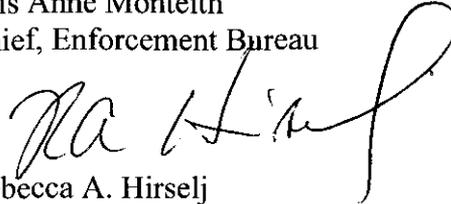
2. On February 26, 2008, William F. Crowell directed to the Bureau his First Set of Interrogatories ("Interrogatories"), a copy of which is attached hereto. A review of the Interrogatories reveals that Mr. Crowell is seeking answers to no fewer than 133 individually numbered items, most of which include multiple subparts. When the subparts are taken into consideration, the actual number of interrogatories served on the Bureau exceeds 300.

3. The Bureau believes that the sheer number of interrogatories that Mr. Crowell has propounded is, under any reasonable interpretation, excessive. The scope of the interrogatories also is outrageous. In this regard, the Bureau estimates that upwards of 80% of the interrogatories that Mr. Crowell has advanced are objectionable because they are irrelevant to the designated issues, call for legal conclusions, and/or are in the nature of requests for admissions.

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4. The Bureau respectfully requests the Presiding Judge to schedule a prehearing conference in this proceeding so that he may, among other things, appropriately exercise his authority pursuant to Section 1.243 of the Commission's Rules and limit the nature and scope of discovery this proceeding. The Bureau notes that a prehearing conference already has been scheduled in this case for April 2, 2008. Regardless of whether the Presiding Judge schedules an intervening conference or relies on the one already scheduled, the Bureau also respectfully requests that the Presiding Judge issue an order staying all discovery until such time as the parties may heard on the matters raised herein.

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau

A handwritten signature in black ink, appearing to read 'Ra Hirselj', written over the typed name of Rebecca A. Hirselj.

Rebecca A. Hirselj
Assistant Chief
Investigations and Hearings Division

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March 7, 2008

ATTACHMENT

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

FCC 08M-08

In re Application of)	WT Docket No. 08-20
)	
WILLIAM F. CROWELL)	FCC File No. 0002928684
)	
Licensee of Station W6WBJ in the Amateur Radio)	
Service for Renewal of Station License)	
)	
WILLIAM F. CROWELL)	
)	
For Renewal of Amateur Radio Advanced Class)	
Operator License)	

**APPLICANT'S FIRST SET OF INTERROGATORIES
TO F.C.C. ENFORCEMENT BUREAU
[47 C.F.R., Part I, Subpart A, §§ 1.311 & 1.323(a)]**

Pursuant to Title 47 of the Code of Federal Regulations, §§1.311 and 1.323, Applicant-licensee WILLIAM F. CROWELL hereby propounds the following interrogatories to the Enforcement Bureau, Federal Communications Commission. These interrogatories are to be considered continuing in character. Thus, the Enforcement Bureau has an obligation to provide to Applicant any additional responsive information that may come to the Bureau's attention subsequent to the filing of its initial answers hereto.

Definitions

The following definitions apply to these interrogatories:

1. As used herein, the term “Enforcement Bureau” means the Bureau itself or any person acting on its behalf, or under its direction and control, including legal counsel.

2. The term “Application” means the documents related to Applicant’s renewal requests for Amateur Radio Service Station License W6WBJ and for Applicant’s Amateur Radio Service Advanced Class Operator License.

3. The term “document” means handwritten, printed, typed, computerized or visually or aurally reproduced material of any kind, and means the original (or duplicate original) and any non-identical copies thereof (whether different from the original because of notes made on or attached to such copy or otherwise), drafts or amendments thereof, including, but not limited to, all writings, correspondence, memoranda, (including memoranda of oral conversations), minutes, diaries, notes (including notes of meetings), papers, calendars, lists, records of telephone conversations, instructions, guidelines, affidavits, receipts, bills, cancelled checks, agreements, contracts, court orders or any other documentary materials of any nature whatsoever, including computer files in the possession, custody or control of the Enforcement Bureau or any of its employees.

4. The terms “relate to” and “relating to” mean constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to the specified subject, including documents concerning the preparation of the documents.

5. The term “identify”, when used in reference to a person or persons, means to state his or her full name, last known business address and residence address, and last known business and residence telephone numbers.

6. The term “identify”, when used in reference to a document, means to state the date, author, address, type of document (e.g., the types of documents referred to in “Definition 3”, above), a brief description of the subject matter, its present or last known location and its custodian. If any such document was, but no longer is, in the Enforcement Bureau’s possession or control, state the disposition that was made of it, the reason for such disposition, and the date thereof. In lieu of identifying any such document, it may be made available to the Bureau for inspection and copying by so stating in the answer.

Interrogatories

1. Identify all persons whom the Enforcement Bureau (hereinafter “the Bureau”) intends to call as witnesses in support of its Hearing Designation Order (hereinafter “H.D.O.”), including their names, amateur radio call signs (if any), occupations, employers, business and residence addresses and business and residence telephone numbers, as well as a complete explanation of the substance of their anticipated and/or proposed testimony, including the date(s), time(s) and frequency(ies) and substance of any events which will be testified to by said witnesses.

2. Identify all documents that the Bureau intends to submit into evidence in support of its Hearing Designation Order and provide copies of same to Applicant.

3. When did Riley Hollingsworth first become employed by the Commission?

4. State the job positions held by Riley Hollingsworth at all times since becoming employed by the Commission, including the period of time in which he remained in each position; a general description of the duties of each position; the name, title, address and business and residence telephone numbers of Mr. Hollings-

worth's immediate supervisor in each such position; and the reason why he left each such position.

5. On what date was Riley Hollingsworth appointed "Special Counsel For Amateur Radio Enforcement"?

6. Why was Riley Hollingsworth appointed "Special Counsel For Amateur Radio Enforcement"?

a. Was Mr. Hollingsworth threatened with termination or layoff at the time if he didn't create a new position for himself within the Commission?

b. How does the Bureau explain Mr. Hollingsworth's apparent demotion in or about 1998 from the position of Deputy Chief of Licensing and Assistant Bureau Chief of the Wireless Telecommunications Bureau to "S.C.A.R.E."?

7. In adopting the acronym "S.C.A.R.E." for his position, was Mr. Hollingsworth trying to scare someone?

a. Whom was he trying to scare?

b. Why was he trying to scare them?

8. Did Riley Hollingsworth ever read Title 47 of the U.S. Code of Federal Regulations, Chapter I, Subchapter D, Part 97 (the Commission's rules governing the amateur radio service; hereinafter "Part 97") before assuming his position as "S.C.A.R.E."?

9. If the answer to Interrogatory No. 8 is in the affirmative, then why did Mr. Hollingsworth issue an opinion in or about May, 2000 in which he stated that amateur radio operators cannot use phonetics to identify their stations?

- a. Did Mr. Hollingsworth have any on-the-air experience within the amateur radio service before becoming “S.C.A.R.E.”?
- b. If Mr. Hollingsworth claims to have such on-the-air experience, then why didn’t he know that amateur radio operators have *always* been encouraged by Part 97 to use phonetics?
- c. If Mr. Hollingsworth had no substantial on-the-air experience, then why does the Bureau contend that he is qualified to determine the propriety of on-the-air activities of other amateurs, such as Applicant, who apparently have much greater on-the-air experience and knowledge than Mr. Hollingsworth has?
- d. If Mr. Hollingsworth had no substantial on-the-air experience, then how could he determine whether or not the actions of Applicant, of which the Bureau complains, were for years also commonly engaged in by the great majority of amateur radio operators?
- e. If Mr. Hollingsworth had no substantial on-the-air experience, then how could he determine whether or not the alleged transmissions of Applicant were instead recordings being played on the air by another person?

10. In or about May, 2000, why was Mr. Hollingsworth unaware that Part 97, §97.119(b)(2), specifically encourages the use of a standard phonetic alphabet as an aid for correct station identification?

- a. Why did he claim that, in trying to explain having made such a grave and telling mistake concerning regulation of the amateur service, he “suffered temporary insanity from excessive RF exposure”?
- b. Did he *really* suffer temporary insanity as the result of excessive RF exposure, or was that just an excuse to avoid discussing the *real* reason he made such a grievous mistake; i.e., that he had insufficient knowledge of Part 97’s requirements to permit him to know better?

- c. What *was* the *real* reason that Hollingsworth thought radio amateurs were not supposed to use phonetics in identifying? (No lame jokes this time!)
- d. If he *did* suffer temporary insanity as the result of excessive RF exposure, how does he know that the condition is not permanent?
- e. If he *did* suffer temporary insanity as the result of excessive RF exposure, during what period of time did he suffer from it?
- f. If he *did* suffer temporary insanity as the result of excessive RF exposure, what caused the condition to enter remission?
- f. If he *did* suffer temporary insanity as the result of excessive RF exposure, what was the medical diagnosis of the condition?
- g. If he *did* suffer temporary insanity as the result of excessive RF exposure, state all physicians and hospitals by whom he was treated for said condition, the dates of such treatment, the nature thereof, and whether it was on an in-patient or an out-patient basis.

11. In or about late September through early October, 2002, did Mr. Hollingsworth issue an advisory notice to several amateur radio operators, telling them that the frequency of 146.52 Mhz. was not a simplex frequency?

12. On or about October 23, 2002, did Mr. Hollingsworth rescind his advisory notice referred to in Interrogatory No. 11?

13. Why was it necessary for Hollingsworth to rescind his advisory notice referred to in the preceding two (2) Interrogatories?

a. Was he still suffering from temporary insanity due to excessive RF exposure at the time?

- b. Or was it, again, that he was insufficiently familiar with the provisions of Part 97 to know better?
- c. Does Mr. Hollingsworth now realize that 146.52 Mhz. has been a simplex frequency ever since amateurs began using the 2-meter amateur band in the 1940s? If not, state all reasons why Hollingsworth refuses to so admit.

14. Did Riley Hollingsworth ever attempt to promulgate or publicize a so-called “code of conduct” for radio amateurs?

- a. If so, provide the details of said “code of conduct” or provide a copy thereof.
- b. How was said “code of conduct” promulgated or publicized?
- c. Was not said “code of conduct” a purely subjective creation of Riley Hollingsworth?
- d. Did the Commission commence any rulemaking proceedings in an effort to add Hollingsworth’s subjective “code of conduct” to Part 97?
- d. What, if any, statutory or regulatory authority existed for Mr. Hollingsworth to promulgate or publicize his subjective “code of conduct”?
- e. Does Hollingsworth admit that he tried to suggest to amateur radio operators that his “code of conduct” had the force and effect of law? If Hollingsworth denies same, state all reasons for his denial, in detail.
- e. Does Hollingsworth deny that, at hamfests and elsewhere, he tried to create the impression that he would take official enforcement action against any ham radio operator who refused to comply with his “code of conduct”?
- f. In so suggesting that his “code of conduct” had the force and effect of law, was Hollingsworth trying to “S.C.A.R.E.” amateur radio operators into complying with it, even though said “code of conduct” had absolutely no legal effect?

15. Does Mr. Hollingsworth intend to take personal responsibility for all of the mistakes he has made in enforcing Part 97 (such as the one resulting in Mr. Delich's death), other than by trying to make lame jokes about them?

a. If he intends to do nothing to take personal responsibility for his many mistakes, does this not show bad faith and bad character on Mr. Hollingsworth's part?

16. Does the Bureau contend that, in making all of his mistakes concerning amateur service enforcement, Hollingsworth was acting within the scope of his authority and employment by the Bureau, or not?

a. How can it be argued that he was acting within the scope of his authority and employment when he was telling amateurs they were required to do the exact opposite of what Part 97 *really* requires?

b. Does the Bureau contend that its employees are acting within the scope of their authority and employment if, due to ignorance or malice, they concoct phony laws and try to make Commission licensees follow such false and non-existent laws?

17. In view of all of the mistakes that Mr. Hollingsworth has made in enforcing Part 97, why does he claim he is better qualified to determine the propriety and legality of other amateurs' conduct than Applicant is to determine the propriety and legality of his own conduct?

18. Does the Bureau admit that Hollingsworth actively solicited complaints against Applicant and is now using them against Applicant's in this license renewal proceeding?

a. What gave Hollingsworth the legal right to solicit complaints against Applicant and to use them against Applicant's in this license renewal proceeding?

- b. Why does Hollingsworth's active solicitation of complaints against Applicant not run afoul of the Commission's ruling in the renewal case for the Washington Post's television stations in Washington Post, Inc. v. F.C.C. and Nixon?
- c. What makes Hollingsworth think that he can inject himself into the renewal process to the extent of urging amateur radio operators to file complaints against any other amateur operator whose license they don't want renewed, without fatally compromising the Commission's impartiality, and therefore its legal position, in said renewal?
- d. Are the persons who filed complaints against Applicant parties in interest to this renewal proceeding?

19. Does the Bureau admit that amateur radio operators were largely "self-policing" before Riley Hollingsworth became "S.C.A.R.E."?

- a. Why was it necessary to end the policy of hams being "self-policing" in about 1998, when Hollingsworth became "S.C.A.R.E."?
- b. Does the Bureau believe that, in or about 1998, the Commission was under any duty, pursuant to the Administrative Procedures Act (A.P.A.), 5 U.S.C. §§706, et sequitur, to examine the relevant data concerning so-called amateur radio rules violations and to articulate a satisfactory explanation for changing from a "self-policing" enforcement regime to a "S.C.A.R.E" enforcement regime in the amateur service? See Motor Vehicles Manufacturers' Association of the U.S., Inc. v. State Farm Mutual Auto Insurance Co. 463 U.S. 29, at p. 43; 103 S.Ct. 2856; 77 L.Ed.2d 443 (1983) and Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, at p. 196; 67 S.Ct. 1575; 91 L.Ed.2d 1995 (1947).
- c. If the Commission contends that it was not required to take such action in 1998 pursuant to the A.P.A., state all factual and legal bases for such a contention, in detail.

d. Does the Bureau claim that amateur radio operators were given any notice in or about 1998 that the Bureau was going to change from a “self-policing” enforcement regime to a “S.C.A.R.E” enforcement regime?

e. If the Bureau contends that, in or about 1998, amateur operators were placed on notice of the change in enforcement regimes, state in detail the means and methods by which amateur radio operators were so placed on notice.

20. Does the Bureau claim that the “jamming” or intentional interference problem in the amateur radio service has worsened, remained approximately the same, or improved since Riley Hollingsworth became “S.C.A.R.E.” in or about 1998?

a. If the Bureau claims the jamming problem has worsened or remained the same during Hollingsworth’s tenure as “S.C.A.R.E.”, is this not evidence of Riley Hollingsworth’s incompetence? If not, why not?

b. If the Bureau claims the jamming problem has improved, state all evidence in support thereof.

c. If the Bureau claims the jamming problem has improved, does it admit that a “war zone” involving almost constant jamming in the 20-meter amateur band has developed and grown under Mr. Hollingsworth’s tenure as “S.C.A.R.E.”, and that Hollingsworth has done nothing to prevent it?

d. If the Bureau claims the jamming problem has improved, does it admit that a “war zone” involving almost constant jamming has developed and grown in the 40-meter amateur band under Mr. Hollingsworth’s tenure as “S.C.A.R.E.”, and that Hollingsworth has done nothing to prevent it?

e. If the Bureau claims the jamming problem has improved, does it admit that a “war zone” involving almost constant jamming has developed and grown in the 75-meter amateur band under Mr. Hollingsworth’s tenure as “S.C.A.R.E.”, and that Hollingsworth has done nothing to prevent it?

f. If the Bureau claims the jamming problem has improved, does it admit that unlicensed “freebanders” have invaded the 10-meter amateur band and that Hollingsworth has done virtually nothing about it?

g. If the Bureau claims the jamming problem has improved during Hollingsworth’s tenure as “S.C.A.R.E.”, does it admit that, virtually every afternoon when Applicant and his friends try to have a roundtable QSO on 3.810 Mhz. in the 75-meter amateur band, they are prevented by jammers, stations playing recordings and bootleggers from communicating with each other, and that Hollingsworth has done absolutely nothing about it?

h. Is it not true that, at the Dayton, Ohio Hamvention in 2007, Riley Hollingsworth made a speech to the participants in which he said, essentially, that the Bureau was going to return to the “self-policing” policy it had formerly followed before Hollingsworth became “S.C.A.R.E.”?

i. Doesn’t the fact that Hollingsworth found it necessary to return to the “self-policing” policy mean that his entire attempt to create a strict enforcement regime between 1998 and 2007 was a complete and utter failure? If the Bureau denies same, state all reasons for such denial, in detail.

21. List the names, dates, and other pertinent identifying data of all frequency lotteries ever conducted by the Commission in which Riley Hollingsworth had any role.

a. As to each such frequency lottery, specify what Mr. Hollingsworth’s position and exact duties were with respect to same.

b. Does the Commission claim that the lotteries, in which Hollingsworth played a role, resulted in as much remuneration to the Commission as it had anticipated prior to the lottery in question?

- c. Did not one or more of the lotteries, in which Mr. Hollingsworth played a role, result in less remuneration than anticipated by the Commission, due to Mr. Hollingsworth's incompetence in conducting same?
- d. Was Mr. Hollingsworth ever punished or disciplined by the Commission for incompetently performing his duties in connection with said lotteries?
- e. If Mr. Hollingsworth was ever so punished or disciplined, provide full particulars of the reason therefore and the punishment or discipline imposed on him.
- f. Was not Hollingsworth's incompetence in conducting frequency lotteries the reason why he was demoted to "S.C.A.R.E." in or about 1998?

22. Does the Bureau contend that Part 97, §97.1 allows the Commission to regulate the substantive nature of on-the-air statements made by amateur radio operators?

23. Does the Bureau contend that Part 97, §97.1 allows the Commission to regulate alleged "intentional interference" by amateur radio operators?

24. If the answer to Interrogatory No. 22 is in the affirmative, state any and all legal bases for the Bureau's said claim including, but not limited to, the language of §97.1 that supposedly allows the Bureau to regulate intentional interference and the legislative history of §97.1 which the Bureau contends supports its said claim, as well as any reported Commission or Court decisions so construing §97.1.

25. If the answer to Interrogatory No. 22 is in the negative, then under what authority did Riley Hollingsworth send Applicant his August 21, 2000 letter claiming that the substantive nature of his transmissions violated §97.1?

26. If the answer to Interrogatory No. 23 is in the affirmative, state any and all legal bases for the Bureau's said claim including, but not limited to, the legislative history of §97.1 which the Bureau contends supports its said claim, and any reported Commission or Court decisions so construing §97.1.

27. If the answer to Interrogatory No. 23 is in the negative, then under what authority did Riley Hollingsworth send Applicant his August 21, 2000 so-called "warning letter" claiming that his alleged "interference" violated §97.1?

a. Is it not true that Applicant was, in fact, *not* in violation of any specific section of Part 97, and that, in order to try to "S.C.A.R.E." Applicant, Hollingsworth was reduced to attempting to claim a violation under §97.1 because he couldn't find any *other* section of Part 97 that conceivably applied to Applicant's on-the-air conduct?

b. If the Bureau claims that subsection (a) of this Interrogatory is untrue, then why didn't Hollingsworth claim in said August 21, 2000 warning letter to Applicant that he had violated any *other* Section of Part 97?

c. It was merely a sloppy form letter of press release, wasn't it, which failed to state a Part 97 violation?

d. Since the August 21, 2000 letter failed to state a Part 97 violation, why was Applicant not therefore entitled to deny any such non-existent violation without being considered to have "bad character"?

28. Does the Bureau contend that Applicant evinced "bad character" by pointing out in his August 31, 2000 letter to Mr. Hollingsworth that the Bureau has no authority to regulate "intentional interference", or to control the substantive content of amateurs' on-the-air speech, under §97.1?

a. If the Bureau does so contend, state all reasons why it believes that it shows Applicant's "bad character" for him to have pointed out said fact to Mr. Hollingsworth.

29. Does the Bureau admit that, in order for an "intentional interference" violation to exist against an amateur station, there must have been a *substantial* interference or interruption; (i.e more than de minimus) of ongoing communications?

a. If the Bureau refuses to so admit, why does it so refuse, in detail?

30. As to all incidents of alleged "intentional interference", state the name, call sign, business and residence addresses and telephone numbers of all amateurs with whom the Bureau claims Applicant interfered and the exact date, time and frequency of all such alleged "intentional interference".

a. As to each such alleged incident, state exactly how long (in minutes and seconds) the Bureau claims ongoing communications were interrupted by each separate alleged "interfering" transmission by Applicant.

b. As to each such alleged incident, state the exact nature of the communications which were allegedly interrupted; i.e., what words, exactly, were prevented from being communicated by and between the complaining stations?

c. Is it not true that, in fact, at all pertinent times Applicant kept his transmissions short (on the order of ten seconds), and that the other participants in the QSO could say anything they wanted to say after that 10-second period when Applicant was transmitting?

d. Was not the claim that Applicant intentionally interfered concocted by Riley Hollingsworth out of whole cloth, merely to retaliate against Applicant for pointing out his incompetence in enforcing the amateur service Rules?

31. As to all alleged incidents of “intentional interference”, state in detail all reasons why Riley Hollingsworth concluded that Applicant had violated Part 97 rather than concluding instead that the *complaining* stations had violated Part 97, §97.101(b) in refusing to permit Applicant to share the frequency.

32. Does the Bureau deny that, when initially contacted by Hollingsworth in the year 2000 about his alleged violations, Applicant informed Hollingsworth that, approximately 6 weeks before, the issues had already been resolved to the mutual satisfaction of all amateurs involved, by the use of the amateurs’ “self-policing” policy; in other words, we had resolved it ourselves; that he wasn’t up to date on the occurrences, and that we therefore didn’t require his assistance?

a. If the Bureau denies this, state all reasons, in detail, for your denial.

b. If the Bureau admits this, then why did Hollingsworth proceed to issue a Warning Notice to Applicant after all of the affected amateur operators had already resolved the matter to their satisfaction?

33. Does the Bureau admit that, in cases with facts quite similar to those of Applicant, Hollingsworth has sometimes concluded that the claimed “interfering” station violated Part 97, §97.101(d), while in other cases having the same or similar facts, he has concluded that the “complaining” station violated Part 97, §97.101(b) by refusing to share the frequency with the alleged “interfering” station?

a. What criteria does Riley Hollingsworth utilize in determining, in a case of alleged “intentional interference” like the instant case, whether the alleged “interfering” station is in violation of §97.101(d) or the “complaining” station is in violation of §97.101(b) for refusing to share the frequency?

- b. Isn't it true that there is absolutely no rhyme or reason to Mr. Hollingsworth's such determinations, thereby rendering his entire amateur radio enforcement scheme arbitrary and capricious?
- c. Isn't it true that Mr. Hollingsworth makes such determinations based on purely subjective factors, such as whether he happens to *like* the "complaining" station or the "interfering" station better?
- d. Does Hollingsworth admit writing, on or about October 9, 2002, the following "Good amateur practice is hard to define. I'd have to say it's operating with the realization that the frequencies are shared, that there's going to be occasional interference and that's no reason to become hateful and paranoid."

34. Does the Bureau admit that only amateur operators who took their examinations from a Volunteer Examiner can be called in for re-examination by the Commission?

- a. If the Bureau does not so admit, state in detail all the reasons why it refuses to so admit.

35. Does the Bureau admit that, in or about the period of 1998 through 2000, Riley Hollingsworth, in his capacity as "S.C.A.R.E.", notified certain amateur radio operators who had taken their examinations from an F.C.C. Regional Office's Engineer-In-Charge that said amateurs had to appear for re-test?

- a. Did Riley Hollingsworth ever send Michael Delich, formerly WA6PYN (now deceased), a notice that he had to appear for a re-test before the Commission, even though Mr. Delich had taken his examination before the Engineer-In-Charge of the San Francisco Regional office of the Commission? If so, provide a copy of said notice to Mr. Delich.

- b. What legal authority did Riley Hollingsworth have to send Mr. Delich, or any other amateur who took his test before the Engineer-In-Charge, such a notice for re-test?
- c. Is it not true that, by sending out such illegal notices, Riley Hollingsworth acted in bad faith and abused his authority? If the Bureau denies this, state all reasons for such a denial in detail.
- d. Is the Commission aware that, shortly after Mr. Delich received his illegal re-test notice from Mr. Hollingsworth, Delich suffered a fatal heart attack?
- e. Does Riley Hollingsworth feel in any way responsible for the death of Mr. Delich? If not, why not?

36. Did Hollingsworth ever send a warning notice to any amateur service operators, alleging that they had violated Part 97 by transmitting single sideband audio of “excessive” bandwidth?

- a. If so, provide copies of all such warning notices.
- b. What was the legal basis for such warning notices, in detail?
- c. Does Hollingsworth admit that Part 97 contains no specific regulation concerning the bandwidth of single sideband transmissions in the amateur service?
- d. If Hollingsworth denies subsection (c) of this interrogatory, state exactly what section(s) of Part 97 gives the Bureau the right to regulate the bandwidth of single sideband transmissions in the amateur service, and the Bureau’s exact legal rationale therefor, in detail.

37. Did Riley Hollingsworth ever send a license modification order to amateur service station KC6PQW (“the KC6PQW order”) that he was required to rescind or modify?

- a. Is it not true that, in violation of §1.87 of the Commission's Rules, the KC6PQW order failed to specify an effective date?
- b. Is it not true that, in violation of §1.87 of the Commission's Rules, the KC6PQW order failed to specify the Commission's findings and grounds, as well as the reasons for the purported modification?
- c. Is it not true that, in violation of §1.87 of the Commission's Rules, the KC6PQW order failed to afford the licensee notice of his right to protest the order?
- d. Is it not true that, in violation of §316 of the Act, the KC6PQW order attempted to levy an illegal sanction by not providing the licensee with the right to a hearing before the modification was imposed?
- e. If the Bureau denies any of the subparagraphs of this interrogatory, state all factual and legal bases for such denial, including all decisions of the Commission and the courts on which the Bureau relies in denying same.

38. With respect to Mr. Hollingsworth's August 21, 2000 letter to Applicant, does the Bureau believe that so-called "unsolicited and unwanted comments" in a roundtable QSO constitute intentional interference?

39. If your answer to Interrogatory No. 38 is in the affirmative, then who decides if the comments of an amateur station during a roundtable QSO are "unsolicited and unwanted", and what legal basis exists for the person or entity to make such a decision? State any and all legal bases for the Bureau's said claim including, but not limited to, the legislative history of Part 97 which the Bureau contends supports its said claim, and any reported Commission or Court decisions so construing Part 97.

40. If your answer to Interrogatory No. 38 is in the affirmative, then does the Bureau believe that it is necessary for an amateur station who seeks to participate in a roundtable QSO to be “acknowledged” by other stations before he has the right to participate therein?

a. Who must “acknowledge” the station that desires to participate in the roundtable QSO before that station has the right to participate in the roundtable QSO?

b. Must *all* the other stations participating in the roundtable QSO “acknowledge” each new station that wishes to participate therein, before the station wishing to participate has the legal right to do so?

c. If the Bureau believes that some, but not all, of the other stations participating in the roundtable QSO must “acknowledge” a station wishing to enter the QSO before he has the right to do so, then how many, or what proportion, of the participants in the roundtable QSO must “acknowledge” the station before he has the right to participate therein?

d. Where is this so-called “acknowledgement” requirement found in Part 97?

e. Why is one amateur radio operator required to seek the “acknowledgment” of another amateur operator before he can enter a roundtable QSO, when both amateur operators have an identical license grant entitling them to use the frequency in question, and §97.101(b) requires them to share their frequencies?

f. Does the Bureau claim that, under §97.101(b), the station first on the frequency doesn’t have to share it with other stations? Where does such a policy appear in §97.101(b), or anywhere in Part 97, for that matter?

41. If the answer to Interrogatory No. 38 is in the affirmative, state any and all legal bases for the Bureau’s said claim including, but not limited to, the legislative

history of Part 97 which the Bureau contends supports its said claim, and any reported Commission or Court decisions so construing Part 97.

42. What was the legal basis for Mr. Hollingsworth's claim, in his August 21, 2000 letter, that another amateur radio operator participating in a roundtable QSO with Applicant has the right to order Applicant to leave the frequency, and that Applicant must therefore change frequency or be guilty of so-called "intentional interference", when both amateur operators have an identical license grant entitling them to use the frequency in question and §97.101(b) requires them to share their frequencies?

43. State, in detail, the exact factual and legal differences between the instant case and that of amateur station W2VJZ, to whom Mr. Hollingsworth sent a warning notice on or about November 20, 2004, which led Hollingsworth to conclude that station W2VJZ was refusing to share the frequency under §97.101(b), but that the complainants referred to in Hollingsworth's August 30, 2000 letter to Applicant were *not* also refusing to share the frequency with Applicant.

44. State, in detail, the exact factual and legal nature of the "compelling governmental interest", if any, that supposedly permits the Bureau to regulate so-called "indecent" in the amateur radio service.

45. What theory of indecency does the Bureau believe should apply to Applicant's renewal?

- a. Is a "fleeting expletive" actionable as indecency in the amateur radio service?
- b. Is *scienter* required in order for an alleged indecent statement to become actionable in the amateur radio service?

c. As to both subparagraphs (a) and (b) of this interrogatory, state all legal bases for the Bureau's contention, including all legal decisions of the Commission and the Courts which support the Bureau's position.

46. Does the Bureau contend that an amateur service license may be granted, withheld, modified, suspended, revoked or not renewed based upon an unconstitutional premise?

a. If the Bureau does so contend, state all legal bases for such a contention, including all decisions of the Commission and the courts upon which the Bureau relies in so contending.

47. Does the Bureau claim that the same standard of so-called "indecentcy" applies to the broadcast services as applies to the amateur service?

a. If the Bureau so claims, state all reasons why the Bureau does so, including all legal bases for such a claim, including all decisions of the Commission and the courts on which such a denial is based

48. Does the Bureau claim that, *in the absence of a broadcast*, a "compelling governmental interest" permits the Bureau to regulate so-called "indecentcy" in the amateur radio service?

a. If the Bureau so claims, state, in detail, all legal bases for such a contention, including all decisions of the Commission and of the courts which supposedly allow the Bureau to regulate so-called "indecentcy" in a non-broadcast medium.

b. Does the Bureau admit, in view of §97.113(b), that the amateur radio service is *not* a broadcast medium?

c. If the Bureau denies subparagraph (b) of this interrogatory, state all reasons why the Bureau denies same, including all legal bases for such a claim, including all decisions of the Commission and the courts on which such a denial is based.

49. Does the Bureau admit that, when Riley Hollingsworth became “S.C.A.R.E.” in or about 1998, the Bureau effectively changed from a “restrained” or “benign” policy toward so-called “indecent” transmitted by amateur radio operators to a “strict” policy toward so-called “indecent”?

a. If the Bureau does not so admit, state all reasons, both legal and factual, why it does not.

b. If the Bureau does not so admit, doesn’t this mean that Riley Hollingsworth totally failed to crack down on so-called “indecent”? If not, explain in detail why not.

50. Does the Bureau believe that, in or about 1998, the Commission was under any duty, pursuant to the Administrative Procedures Act (A.P.A.), 5. U.S.C. §§551, et sequitur, to examine the relevant data concerning so-called amateur radio “indecent” and to articulate a satisfactory explanation for changing from a “benign” enforcement regime to a “strict” enforcement regime regarding alleged “indecent” transmitted by amateur radio operators? See Motor Vehicles Manufacturers’ Association of the U.S., Inc. v. State Farm Mutual Auto Insurance Co. 463 U.S. 29, at p. 43; 103 S.Ct. 2856; 77 L.Ed.2d 443 (1983) and Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, at p. 196; 67 S.Ct. 1575; 91 L.Ed.2d 1995 (1947).

a. If the Commission contends that it was not required to take such action in or about 1998 pursuant to the A.P.A., state all factual and legal bases for such a contention, in detail.

- b. Does the Bureau claim that amateur radio operators were given any notice in or about 1998 that the Bureau was going to switch from a “benign” indecency enforcement regime to a “strict” one?
- c. If the Bureau contends that, in or about 1998, amateur operators were placed on notice of the change in enforcement regimes, state in detail the means and methods by which amateur radio operators were so placed on notice.

51. Does the Bureau believe that the Commission was under any duty, pursuant to the Administrative Procedures Act (A.P.A.), 5. U.S.C. §§551, et sequitur, to examine the relevant data concerning entry into, and participation in, amateur radio service “roundtable QSOs” by amateur service stations, and to articulate a satisfactory explanation for distinguishing between “intentional interference” under §97.101(d), or instead a refusal to share the frequency in question under §97.101(b), when an amateur station seeks to enter such a roundtable QSO? See Motor Vehicles Manufacturers’ Association of the U.S., Inc. v. State Farm Mutual Auto Insurance Co. 463 U.S. 29, at p. 43; 103 S.Ct. 2856; 77 L.Ed.2d 443 (1983) and Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, at p. 196; 67 S.Ct. 1575; 91 L.Ed.2d 1995 (1947).

- a. If the Commission contends that it was not required to take such action pursuant to the A.P.A., state all factual and legal bases for such a contention, in detail.
- b. Does the Bureau claim that amateur radio operators were ever given any notice, at any time, concerning the Bureau’s policy with respect to whether a station seeking to participate in a roundtable QSO was guilty of “intentional interference” under §97.101(d), or the other stations were instead guilty of a refusal to share the frequency in question under §97.101(b)?
- c. If the Bureau contends that amateur operators were ever placed on notice of its policy with respect to whether a station seeking to participate in a roundtable QSO