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William F. Crowell

APR 28 2008

Attorney at Law

FCC Mail Room

April 24, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
445 - 12th Street S.W.
Washington, D.C. 20554

Re: Application of William F. Crowell to renew Amateur Service license W6WBJ
WT Docket No. 08-20; FCC file no. 0002928684

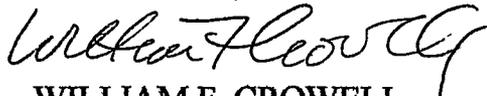
Dear Secretary Dortch:

I am the applicant-licensee in the above-entitled case.

Enclosed you will please find the original and six (6) copies of my Reply to the Enforcement Bureau's Opposition to my Second Motion to Compel the Bureau to Answer my First Set of Interrogatories therein. Please file this document and direct it to assigned ALJ Steinberg in the manner that you deem appropriate. I would also appreciate it if you would kindly make sure that this document is entered in the Commission's case docket.

Thank you for your cooperation.

Yours very truly,


WILLIAM F. CROWELL

WFC:wfc
encls.

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List ABCDE

cc: Rebecca A. Hirselj, Ass't. Chief, Investigations & Hearings Div., Enforcement
Bureau, Federal Communications Commisison, 445 12th Street, S.W., Room 4-A236
Washington, D.C. 20554

Kris A. Monteith, Chief, Enforcement Bureau, Federal Communications
Commission, 445 12th Street, S.W., Room 7-C723, Washington, D.C. 20554

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

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

To: Marlene H. Dortch, Secretary
Federal Communications Commission

Attn: Arthur I. Steinberg
Administrative Law Judge

**APPLICANT'S REPLY TO ENFORCEMENT BUREAU'S
MOTION TO STRIKE AND OPPOSITION TO SECOND MOTION
TO COMPEL ANSWERS TO INTERROGATORIES
[47 C.F.R., Part I, Subpart A, § 1.45(c)]**

Applicant-licensee WILLIAM F. CROWELL hereby replies to the Enforcement Bureau's Opposition to his Second Motion for an Order requiring the Bureau to answer his First Set of Interrogatories.

1. As pertinent to this case, Rule 1.45(c) permits the filing of replies to opposition to motions. The reply is limited to the scope of the opposition.

2. Applicant's said Second Motion (etc.) *was* timely filed. Even if it is true, as the Bureau argues, that it was not filed with the Secretary of the Commission in a *strictly* timely fashion under Rule 1.323(c), it would still be timely under Rule 1.4(h) because the time period to respond is fewer than 10 days and the proof of service attached to the Bureau's answers reflects service by mail. Therefore, three additional days are afforded to Applicant.

In addition, Applicant was unable to file said Motion any sooner because, at the April 2, 2008 pre-hearing conference herein, ALJ Steinberg ordered the parties to try to resolve their discovery disputes informally before seeking orders from the ALJ. After I made such an informal attempt, I waited what I considered to be a reasonable time (a few days) before concluding that Bureau Counsel would not respond. If my motion was *really* filed two days late, as the Bureau contends, then Commission Rule 1.205 provides, in pertinent part, that "[E]xtensions of time for making any filing [...] within a specified time may be granted by the [...] presiding officer upon motion for good cause shown." I respectfully request that the ALJ consider my reasonable attempts to comply in good faith with his said April 2, 2008 Order as constituting good cause for this purpose.

Moreover, if indeed Applicant's said Second Motion was not filed with the Secretary of the Commission in a *strictly* timely fashion under Rule 1.323(c), Applicant believes in good faith that it was due to problems with the Commission's mail system, and that in the absence thereof it would have been filed in a timely fashion under said Rule.

2. The Bureau incorrectly argues that, under Rule 1.323(c), I must separately specify, for each Interrogatory to which the Bureau objected, what an acceptable answer would be. Rule 1.323(c) only requires that when the moving party complains that the answers were evasive or incomplete. I

made no such claim because the Bureau *objected entirely* to answering the Interrogatories in question. This is nothing but an attempt to set up a straw man.

3. The Bureau's Opposition to my said Second Motion represents nothing but a continuation of its attempt to avoid disclosing that it has no admissible evidence herein, so it can wrongfully force me to travel to Washington, D.C. for a hearing because that is all the Bureau has going for it.

None of the complaints listed in "Attachment A" to the Bureau's Answers are admissible under 13 U.S.C. §1342 because the U.S. Government is generally prohibited from accepting volunteer labor. The only exception in this case would be if the complainants were members of the amateur auxiliary, but the Bureau has refused to state if they are, and Applicant believes that none of them are. Instead, the Premus and Boston cases, cited in Applicant's Motion, are clear in requiring that, in order to satisfy its burden of proof in an amateur renewal case, the Bureau must have actual intercepts, not just written complaints, showing a violation of Part 97. Applicant believes the Bureau does not have any such intercepts, and is trying to find out if it does have any. Applicant believes the Bureau doesn't want the ALJ to find that it doesn't have any intercepts because then the case might be dismissed on Applicant's motion. Applicant respectfully suggests that the ALJ is not going to be able to find out prior to hearing herein whether or not the Bureau really has any admissible evidence unless the ALJ orders the Bureau to answer all of Applicant's First Set of Interrogatories.

4. Now the Bureau wants the ALJ to make some kind of "gag order" that Applicant is not supposed to "disparage" or make "ad hominem" attacks on Commission personnel in his pleadings. Rather obviously, the purpose of such a motion would be to prevent Applicant from presenting his most im-

portant defense; i.e., that he has been the victim of incompetent and bad-faith enforcement by the Bureau.

The Bureau *is* guilty of bad faith. This entire case is nothing but one big bootstrap argument, starting with HOLLINGSWORTH's misconception, in his 2000 Warning Letter to Applicant, that Part 97, §97.1 contains any substantive prohibitions against amateur conduct, and continuing with his appearances at hamfests and ham conventions, and via multiple press releases and emails, in which HOLLINGSWORTH gratuitously tried to ruin Applicant's reputation within the amateur radio community, and told other hams not to talk to him, merely because Applicant refused to keep quiet about his incompetence. HOLLINGSWORTH's purpose in telling other hams not to talk to Applicant was to "set him up" for an intentional interference or one-way transmission violation.

Pursuant to his vendetta against me, HOLLINGSWORTH *solicited* all the complaints listed in "Attachment A" to the Bureau's proposed answers.

This is the same thing that President Nixon tried to do to the Washington Post television stations when their licenses came up for renewal in 1970 and 1972. CBS, the Washington Post, and other Nixon "media enemies" felt pressure because the executive branch was able to manipulate the Commission's broadcast licensing system, "punishing" those whose coverage was deemed unfavorable through Fairness Doctrine challenges and competitive applications at the time of license renewal.

As Nixon remarked to Haldeman in 1972, "The main thing is the Post is going to have damnable, damnable problems out of this one [Watergate coverage]. They have a television station . . . and they're going to have to get it renewed." The Washington Post's Florida stations survived three costly challenges that were mounted by Nixon administration allies between 1970

and 1972. The Post's Jacksonville station survived a license challenge in 1970 by the man who would become the finance chairman of Nixon's 1972 campaign in Florida, and its Miami station survived challenges in 1970 and 1972 by Nixon allies.

As former FCC Chairman Reed Hundt said in a speech on December 4, 1995 (full text available at <http://www.fcc.gov/Speeches/Hundt/spreh547.txt>):

“Whether these applications were part of an effort to carry out President Nixon's threats is unclear. Even so, they demonstrate the potential for abuse that is inherent in vague, ominous, and empty standards that can be manipulated in a pernicious manner by an ill-motivated Commission.

As the Supreme Court stated in 1988 in City of Lakewood v. Plain Dealer Publishing Co., [486 U.S. 750 (1988), at p. 752], ‘[t]he absence of express standards makes it difficult to distinguish . . . between a licensor's legitimate denial of a permit and its illegitimate abuse of censorial power. Standards provide the guideposts that check the licensor and allow courts quickly and easily to determine whether the licensor is discriminating against disfavored speech.’ ”

It was generally considered by the public and the press at the time that Nixon's interference in the Commission's renewal process ruined the U.S. Government's impartiality in the case, and irredeemably tainted the complaints that Nixon had solicited against the Washington Post's stations.

HOLLINGSWORTH's pollution of the Bureau's evidence in this case, by actively soliciting complaints against Applicant, renders the matter highly-analogous to the Washington Post television stations renewal case. Indeed, the Washington Post argument applies a fortiori to this case because here the complaints were solicited by the Commission itself rather than by the Executive. Therefore the ALJ should find that the statements contained

in "Exhibit A" are inadmissible because they make a mockery of the Bureau's claimed impartiality herein.

5. It has become clear now that the Bureau wants to control the evidence herein in a highly-unfair fashion, under which the Bureau is free to repeatedly defame me, and accuse me in its public pronouncements of having so-called "bad character" (not to mention seeking a substantial and unwarranted expansion of the Commission's "character rule" in the process), even though I have always been candid with the Commission, have never been convicted of any crimes or fraudulent conduct, and have committed no Part 97 violations. The Bureau is trying to prevent me from proving that HOLLINGSWORTH has a vendetta against me because I pointed out his incompetence. It wants to be able to claim that I have "bad character" and then prevent me from defending myself against that charge. The Bureau should be ashamed to present a case like this to an ALJ attached to the Commission.

Applicant therefore respectfully requests that the ALJ not permit the Bureau to perpetrate such a miscarriage of justice. The Bureau has already amply demonstrated that, under an Order that it "answer or object" to my First Set of Interrogatories, it will object and never answer. In order to prevent the Bureau from doing so, it is apparently going to be necessary for the ALJ to specifically order the Bureau to answer *all* of my First Set of Interrogatories.

Dated: April 24, 2008

Respectfully submitted,



William F. Crowell, Licensee/Applicant

PROOF OF SERVICE BY MAIL
[47 C.F.R. Part I, Subpart A, §1.47]

I am a citizen of the United States and a resident of El Dorado County, California. I am the Applicant-licensee herein. I am over the age of 18 years. My address is: 1110 Pleasant Valley Road, Diamond Springs, California 95619-9221.

On April 24, 2008 I served the foregoing Applicant's Reply to the Enforcement Bureau's Opposition To and Motion to Strike Applicant's Second Motion to Compel the Enforcement Bureau to Answer His First Set of Interrogatories on all interested parties herein by placing true copies thereof, each enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box at Diamond Springs, California, addressed as follows:

Marlene S. Dortch, Secretary, Federal Communications Commission
445 - 12th Street S.W., Washington, D.C. 20554
(original and 6 copies)

Kris Monteith, Chief, Enforcement Bureau, Federal Communications Commission
445 - 12th Street, S.W., Room 7-C723, Washington, D.C. 20554

Rebecca A. Hirselj, Ass't. Chief, Investigations & Hearings Division,
Enforcement Bureau, F.C.C.
445 - 12th Street, S.W., Room 4-C330, Washington, D.C. 20554 (Bureau Counsel)

I further declare that, on this same date, pursuant to footnote 1 of the February 14, 2008 Order of Chief Administrative Law Judge Sippel, I faxed a copy of the foregoing document to the Office of Administrative Law Judges at (202) 418-0195.

I declare under penalty of perjury that the foregoing is true and correct, and that this proof of service was executed on April 24, 2008 at Diamond Springs, California.


William F. Crowell