

OCT 28 2010

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

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 Radio Service Station W6WBJ)	File No. EB-08-IH-0434
)	

To: Richard L. Sippel
Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S
STATUS REPORT**

1. The Chief, Enforcement Bureau ("Bureau"), by her attorney, hereby submits its Status Report, as directed by the Presiding Judge in Order, FCC 10M-11 (ALJ, rel. Oct. 22, 2010) ("Order"). The Order requires that the Status Report recite "what has been done and what needs to be done."

- a. Status of Discovery: The parties have exchanged certain discovery information through responses to interrogatories and requests for production of documents. On October 21, 2010, the Bureau filed a Request For Extension of Time to complete discovery in this proceeding. As stated therein, on October 14, 2010, the Bureau deposed Mr. Crowell, and it has not yet received the transcripts of that deposition. Additionally, during his deposition, Mr. Crowell informed the Bureau that he had several recordings in his possession responsive to a prior Bureau discovery request that he had not provided to the

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Bureau. He agreed to provide those recordings to the Bureau within 10 days of the deposition which was October 24, 2010. Mr. Crowell did not provide any materials prior to October 24. On October 26, 2010, the Bureau received from Mr. Crowell an e-mail containing two audio files. Mr. Crowell subsequently confirmed that these two recordings do not represent all of the requested material and that he has additional recordings that he has not yet provided. The Bureau needs time to review the recordings, have them transcribed and to investigate any information that they may provide. Also, the Bureau has located additional recordings that it will provide to Mr. Crowell as soon as the transcripts are finalized.

- b. The Bureau continues to identify potential witnesses in this matter and to receive relevant information from them. The Bureau needs time to investigate their testimony and any other proffered evidence in order to determine whether the Bureau might call them as witnesses in this proceeding. Because of the holiday season is approaching, the Bureau requested in its Request For Extension of Time that the time for discovery be extended until January 31, 2011. Since filing its request, Bureau counsel has learned that she will also be out of the office on medical leave for at least one week, beginning November 30, 2010. The Bureau's request for an extension of time for discovery remains pending before the Presiding Judge.

- c. Hearing Schedule: Several potential witnesses in this proceeding have informed Bureau counsel that they are unable to commit to appearing at the hearing and providing testimony because no hearing date has been established in this case. The Bureau believes it would facilitate the hearing process to establish a tentative hearing schedule. The Bureau suggests that a pre-hearing conference be scheduled to discuss and determine a tentative hearing schedule. In lieu of such a conference, the Bureau would recommend that commencement of the hearing in this proceeding be set for April 5, 2011, or thereafter.
- d. Requests for Production of Documents: In his Order, FCC 10M-11 (ALJ, rel. Oct. 22, 2010), the Presiding Judge states that Crowell's Second and Third Requests for Production of Documents are pending. In the Enforcement Bureau's Response To Applicant's Second Request For Production of Documents, filed September 8, 2010, the Bureau provided to Mr. Crowell the tape recordings he requested in his Second Request for Production of Documents. Consequently, the Bureau submits that Mr. Crowell's Second Request for Production of Documents is moot. On October 21, 2010, the Bureau filed Enforcement Bureau's Motion To Strike Discovery Request in which it requested that Mr. Crowell's Third Request For Production of Document, submitted on October 15, 2010, be stricken or otherwise dismissed as procedurally defective because the Commission's rules do not contemplate the filing of requests for production of documents on

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the Bureau; rather, requests for Commission records must be filed, if at all, under the Freedom of Information Act (“FOIA”). *See* 47 C.F.R. § 1.325(a); 47 C.F.R. § 0.461.

- e. Request for Clarification: On October 26, 2010, the Bureau filed a Request for Clarification, in which it requested clarification of footnote 1 of Order, FCC 10M-11 (ALJ, rel. Oct. 22, 2010), regarding the filing of a Trial Brief on October 29, 2010. The Bureau observed that such a trial brief, if akin to a party’s Direct Case Exhibits, should be required to be filed approximately one month prior to the commencement of the hearing, at which time the Bureau would be able to identify all of the witnesses it intends to present at the hearing and all of the documentary exhibits it intends to introduce into the record. At this time, the Bureau is unable to provide a comprehensive list of such information, particularly in light of the fact that it has not completed discovery and no date for hearing has been set to permit confirmation of witness availability.

- f. Petition To Disqualify ALJ: On October 7, 2010, Bureau counsel received a copy of Applicant’s Petition To Disqualify ALJ. However, the Commission’s Electronic Comment Filing System does not list this document as having been formally filed in this proceeding, and the Bureau has no other indication that it has been officially received by the Office of the Commission Secretary. If, in fact, the document has

been filed in accordance with the Commission's Rules, it remains pending before the Presiding Judge.

- g. Abuse of Process: In his Order, FCC 10M-04 (ALJ, rel. July 29, 2010), the Presiding Judge required Mr. Crowell to show cause why an abuse of process issue should not be added against him in this proceeding. Mr. Crowell's first response to the order was stricken by Order, FCC 10M-07 (ALJ, rel. Sept. 15, 2010), which required Mr. Crowell to re-file his response by no later than September 23, 2010. Mr. Crowell subsequently filed Applicant's Response To Order To Show Cause on September 24, 2010. On October 4, 2010, the Bureau filed its Opposition To Response To Show Cause Order. Mr. Crowell filed his Reply on October 4, 2010. This matter remains pending.
- h. Motion For Summary Decision: On August 31, 2010, Mr. Crowell filed Applicant's Motion For Summary Decision Re: "Character" Issue [47 CFR, Chapter I, Part 1, SubpartB, §1.251]. Therein he requests dismissal of "the issue of Applicant's 'character' contained in the Hearing Designation Order." On September 15, 2010, the Bureau filed its Opposition To Motion For Summary Decision. This matter remains pending.
- i. Intercepts: On May 10, 2010, Mr. Crowell filed a Motion to Preclude Enforcement Bureau From Introducing Any Intercepts of Applicant Into Evidence For Failure To Comply With Discovery Orders. The

Bureau filed its Response on May 17, 2010. This matter remains pending.

2. Until the foregoing matters are resolved, the Bureau respectfully requests that the Presiding Judge allow discovery to continue.

Respectfully submitted,
P. Michele Ellison
Chief, Enforcement Bureau

A handwritten signature in black ink that reads "Judy Lancaster". The signature is written in a cursive, flowing style.

Judy Lancaster
Investigations and Hearings Division
Enforcement Bureau

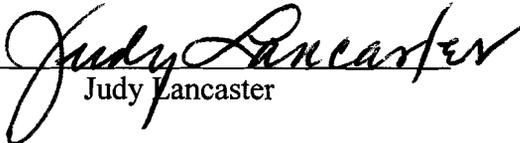
Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420
October 28, 2010

CERTIFICATE OF SERVICE

Judy Lancaster, an Attorney in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 28th day of October, 2010, served copies of the foregoing "Enforcement Bureau's Status Report" by first class United States mail or hand delivery, and by electronic mail upon:

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1110 Pleasant Valley Road
Diamond Springs, CA 95619-9221
Email to: retroguybilly@gmail.com

Chief Administrative Law Judge Richard L. Sippel
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Judy Lancaster