

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 Radio Service Station W6WBJ

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MEMORANDUM OPINION AND ORDER

Issued: December 29, 2008

Released: December 30, 2008

1. Under consideration are Enforcement Bureau's Motion to Compel Answers to Its First Set of Interrogatories to William F. Crowell, filed on June 5, 2008, by the Enforcement Bureau ("Bureau"); and Applicant's Opposition to Enforcement Bureau's Motion to Compel Answers to Its First Set of Interrogatories Propounded to Applicant, filed on June 18, 2008, by William F. Crowell ("Mr. Crowell").

2. General Objections. Mr. Crowell objects to answering each interrogatory because the Bureau has objected "in bad faith" to almost all of his First Set of Interrogatories propounded to the Bureau. Through that conduct, Mr. Crowell argues, the Bureau "has violated the priority of discovery" and has "wrongfully prevented [him] from formulating his claims and defenses. *E.g.*, Applicant's Answers and Objections to Interrogatory 1. These objections are overruled. They have no legal basis and Mr. Crowell cites no authority supporting his position. There is no requirement that the Bureau first answer his interrogatories before he answers the Bureau's interrogatories.

3. Mr. Crowell also objects to each interrogatory on the basis that the Bureau "lacks the authority to compel the production of evidence because it has not made a preliminary showing that it has actual intercepts evidencing a violation of Part 97 [of the Commission's Rules]". *E.g.*, Applicant's Answers and Objections to Interrogatory 1. These objections are overruled. They, too, have no legal basis and Mr. Crowell cites no authority supporting his position. No such burden or condition precedent to conducting discovery exists.

4. Mr. Crowell further objects to several interrogatories because "the Commission has neither subject matter nor ancillary jurisdiction over the internet." *E.g.*, Applicant's Answers and Objections to Interrogatory 2. These objections are overruled. The *Hearing Designation Order* in this proceeding, 23 FCC Rcd 1865 (WTB 2008) ("HDO"), makes it clear that Mr. Crowell's character is in question. *HDO* at 1866-67 (¶¶ 6, 9). Among the elements to be considered under this factor are Mr. Crowell's "apparent contempt for the Commission's regulatory authority," and whether he can be relied upon "to comply with the Commission's rules and policies in the future." *Id.* at 1867 (¶ 9). Mr. Crowell's use of the internet and emails are clearly relevant and material under these factors.

5. In connection with interrogatories relating to his internet activities, Mr. Crowell also objects because a former Commission employee allegedly "repeatedly and specifically advised the amateur community to keep any disputation and questionable materials off the ham radio and put them on the internet instead." *E.g.*, Applicant's Answers and Objections to Interrogatory 2.

These objections are overruled. Once again, they have no legal basis and Mr. Crowell cites no authority supporting his position.

6. Contending that the actions of Commission employees are not equivalent to the actions of the Commission, and that Commission employees do not speak for the Commission, Mr. Crowell objects to several interrogatories seeking information about his communications or activities with or about those employees. *E.g.*, Applicant's Answers and Objections to Interrogatory 4. These objections are overruled. They have no legal basis and Mr. Crowell cites no authority supporting his position.

7. Mr. Crowell also objects to several interrogatories on the ground that "the Commission may not deny a license based upon an unconstitutional premise," and that Commission review of the speech of radio amateurs (such as Mr. Crowell) "violates [their] First Amendment rights to free speech and to petition the government for redress of grievances." *E.g.*, Applicant's Answers and Objections to Interrogatory 4. These objections are overruled. Mr. Crowell's arguments are, at best, premature inasmuch as his application for renewal of license has not been denied. Therefore, his contentions provide no legitimate basis on which to preclude the Bureau from conducting discovery on the issues set forth in the *HDO*.

8. Interrogatories 1-4, 9-39, 42, 47-64, 66-68. Mr. Crowell's objections are overruled for the reasons stated in the General Objections section above. The information sought "appears reasonably calculated to lead to the discovery of admissible evidence." Section 1.311(b) of the Commission's Rules. Further, the partial "answers" that Mr. Crowell did provide to several interrogatories are argumentative, conclusory, and/or unresponsive.

9. Interrogatories 5, 65. Mr. Crowell's objections are sustained. The information requested need not be disclosed until the Exhibit Exchange date.

10. Interrogatories 6, 41, 44-46. Mr. Crowell's answers are sufficiently responsive and no further response to these requests will be required.

11. Interrogatories 7-8, 69. Mr. Crowell's objections are sustained. The information sought does not "appear[] reasonably calculated to lead to the discovery of admissible evidence." Section 1.311(b) of the Commission's Rules.

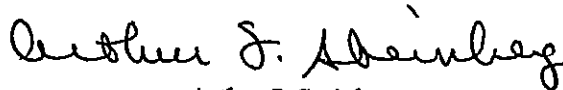
12. Interrogatories 29-30. Mr. Crowell's objections are overruled. Although the Bureau inartfully used the shorthand phrase "the 3820 frequency" in these interrogatories, the information sought "appears reasonably calculated to lead to the discovery of admissible evidence." Section 1.311(b) of the Commission's Rules. Therefore, Mr. Crowell is directed to provide answers with respect to his use of the 3.820 MHz frequency (in lieu of "the 3820 frequency").

13. Interrogatory 43. Mr. Crowell's objections are sustained to the extent that he need not answer with regard to his alleged use of "profane" language. In all other respects, his objections are overruled. The information sought "appears reasonably calculated to lead to the discovery of admissible evidence." Section 1.311(b) of the Commission's Rules.

Accordingly, IT IS ORDERED that the Enforcement Bureau's Motion to Compel Answers to Its First Set of Interrogatories to William F. Crowell, filed by the Bureau on June 5, 2008, IS GRANTED to the extent discussed above and IS DENIED in all other respects.

IT IS FURTHER ORDERED that Mr. Crowell SHALL PROVIDE ANSWERS to the Bureau's interrogatories on or before January 30, 2009, or within such other period of time as the parties may mutually agree.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Arthur I. Steinberg".

Arthur I. Steinberg
Administrative Law Judge