

Evelyn Yaari
35 Overhill Road
Bala Cynwyd, Pennsylvania 19004
(610) 664-2086
(610) 864-6483 (mobile)

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IN RE: WHY, Inc.:

TO: THE FEDERAL COMMUNICATIONS
COMMISSION (FCC)

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PETITION TO DENY LICENSE RENEWAL FOR WHY, INC. FOR NOT ACTING IN THE PUBLIC
INTEREST WITH RESPECT TO REPORTING ON THE BARNES FOUNDATION CONTROVERSY AND
FOR GIVING DEFERENCE TO MAJOR DONORS RATHER THAN FULL, IMPARTIAL
INFORMATION TO THE PUBLIC

Evelyn Yaari, a citizen and resident of Lower Merion Township (a community served by WHY-FM and WHY-TV), is filing this Petition to Deny the License Renewal for **WHY, Inc.** (WHY) for the following reasons:

1. The Petitioner, Evelyn Yaari, is a citizen and resident of the Commonwealth of Pennsylvania with an address of 35 Overhill Road, Bala Cynwyd, Pennsylvania 19004 in Montgomery County, Pennsylvania, where the Barnes Foundation was located prior to its relocation to Philadelphia in 2012. (Affidavit enclosed)
2. The Petitioner, Evelyn Yaari, is a member of the Friends of the Barnes Foundation and President of Barnes Watch, a registered 501 (c)(3) organization; organizations that unsuccessfully attempted to preserve the Barnes Foundation in its original, historically-significant setting in Lower Merion Township.
3. To provide some context for understanding the gravity of this issue, it is important to know that the relocation of the Barnes Foundation from Lower Merion Township to Philadelphia has been the subject of wide, international reporting for many years. It was described as "One of the most controversial moves in recent art-world memory..." (David Ng, Los Angeles Times <http://articles.latimes.com/2012/aug/25/entertainment/la-et-cm-barnes-foundation-20120522>)
4. The relocation of the Barnes Foundation from Lower Merion Township to Philadelphia rested on a very narrow legal issue of "standing" that prevented substantial challenges to the relocation to proceed through a normal adversarial court process.

5. WHYH has not informed the public about the substance of the reasonable arguments in favor of preservation over dismantling of the Barnes Foundation Merion site.

6. WHYH has not informed the public about the immense loss to our shared cultural heritage (locally, nationally, and internationally) directly caused by the dismantling of the Barnes Foundation, based on objective criteria and analysis by experts in the field of historic evaluation, including officials with the United States Department of the Interior.

(http://barnesfriends.org/download/historic_preservation_national_historical_assessment.pdf)

7. WHYH has not informed the public about financial analysis by qualified experts in the fields of accounting and economics illustrating viable and sustainable alternatives to dismantling the Barnes Foundation in Merion. (<http://www.barnesfriends.org/download/Janes-Marcus%20Sustainability%20Analysis.pdf>)

8. To the Petitioner's knowledge, WHYH has not explored the impact on accessibility of increases in cost of admission to the Philadelphia Barnes facility that have more than quadrupled since the plan for relocation won legal approval.

9. Some of the powerful organizations and people that championed the relocation are now or have formerly been donors to WHYH (e.g., **Pew Charitable Trusts**, the **Annenberg Foundation**, the **Neubauer Family Foundation**).

10. The controversy around the relocation of the Barnes Foundation to Philadelphia was the subject of a critically-acclaimed documentary, "**The Art of the Steal**," (2009, directed by Don Argott and Sheena M. Joyce; Executive Producer, Lenny Feinberg). "The Art of the Steal" made its international premier at North America's largest industry event, the Toronto Film Festival. It made its U. S. A. premier at the New York Film Festival. (DVD enclosed)

11. The documentary "The Art of the Steal" includes information highly critical of Rebecca Rimel, head of Pew Charitable Trusts.

12. Pew Charitable Trusts is a longtime, major donor to programming in the areas of Arts and Culture at WHYH.

13. "The Art of the Steal" was listed among the "Best Documentaries of 2010" by the late film critic Roger Ebert (<http://www.rogerebert.com/rogers-journal/the-best-documentaries-of-2010>)

14. Rebecca Rimel, head of Pew Charitable Trusts was quoted saying the documentary “The Art of the Steal” is “all fiction” in a radio report from National Public Radio (NPR)

(<http://www.npr.org/templates/story/story.php?storyId=124082706>)

15. The film company that created “The Art of Steal” is 9.14 Pictures, located in Philadelphia, home of WHY Y.

16. To the Petitioner’s knowledge, WHY Y has never broadcast an in-depth interview with the Director or Producer of “The Art of the Steal” or with Executive Producer Lenny Feinberg (a resident of Lower Merion Township and a former Barnes Foundation student).

17. Movie director interviews are a mainstay of the nationally-syndicated interview program “Fresh Air,” produced at WHY Y Philadelphia and broadcast to over 450 stations via National Public Radio.

18. When “The Art of the Steal” was appearing in theatres in the WHY Y listening area, the Petitioner inquired with WHY Y about when the Director of “The Art of the Steal” would be interviewed by Terry Gross on “Fresh Air.” The Petitioner was told explicitly that Mr. Argott would not be interviewed on “Fresh Air.”

19. “Fresh Air’s” refusal to interview Don Argott and Sheena M. Joyce about a riveting Philadelphia story that was widely reviewed and acclaimed in the national media and is an explicit and vigorous challenge to WHY Y donors raises a red flag about WHY Y’s motivation that deserves scrutiny by the FCC.

20. Recently, when “Fresh Air” is broadcast, an announcement often heard on WHY Y states that the station is supported by the Neubauer Family Foundation. Joseph Neubauer is President of the Board of the Barnes Foundation.

21. WHY Y’s other in-depth interview program is “Radio Times” with Marty Moss-Coane, which airs locally.

22. To the Petitioner’s knowledge, neither the Director, Producer, nor the Executive Producer of “The Art of the Steal” were interviewed on “Radio Times.”

23. In 2011, Michael Gitler, Public Broadcasting System (PBS) Ombudsman wrote about the Barnes Foundation story and PBS with “On PBS, the Arts Are Important, but a Big Story Is Oddly Absent.” (http://www.pbs.org/ombudsman/2011/07/on_pbs_the_arts_are_important_but_a_big_story_1.html)

24. Mr. Gitler’s column focuses on the absence of reporting on the Barnes controversy by PBS and he wrote the following about WHY Y’s coverage: “...WHYY’s arts correspondent did cover news developments steadily because it’s a local story as well, but again, and as far as I can tell, there was no full, in-depth treatment.”

25. In August 2012, a few months after the opening of the Philadelphia Barnes facility, a film called “The Barnes Collection” was broadcast on many public broadcasting stations around the country.

26. An article Mary Thomas in the *Pittsburgh Post-Gazette* about the afore-mentioned film is “Fine PBS film on Barnes collection avoids controversy.” (<http://www.post-gazette.com/ae/tv-radio/2012/08/01/TV-Review-Fine-PBS-film-on-Barnes-collection-avoids-controversy/stories/201208010232>)

27. The PBS/WHYY-produced film was planned as WHY Y’s contribution to the celebrations of the opening of the Philadelphia Barnes facility. The Petitioner asks the FCC to consider whether the public funds and the role of WHY Y as a “booster” for the new, highly-controversial facility were consistent with WHY Y’s mission as a public broadcaster. (The Petitioner is not addressing the role of PBS.)

28. To the Petitioner’s knowledge, WHY Y never reported an important news story that came out around the time of the opening of the Philadelphia Barnes facility about Kimberly Camp, former CEO of the Barnes Foundation, stating that the relocation of the Barnes Foundation was not because of money problems, “But, saying so made the rescue so much more gallant.”

30. The afore-mentioned story was widely reported in national outlets, including *The New York Times* (“Former Head of Barnes Foundation Says Its Move Was Not Forced by Bankruptcy” by Randy Kennedy, *New York Times*, July 3, 2012). <http://artsbeat.blogs.nytimes.com/2012/07/03/former-head-of-barnes-foundation-says-its-move-was-not-forced-by-bankruptcy/> WHY Y remained silent on the story.

32. WHY Y asserts in its broadcasts that it delves into issues in depth. WHY Y also makes much of the perception that it is a “trusted” source of information.

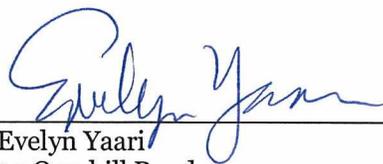
33. The behavior of WHY Y with respect to the Barnes Foundation controversy throws the perceived trustworthiness of WHY Y into question and invites scrutiny.

34. The Petitioner asks the FCC to closely examine the behavior of WHY Y with respect to the Barnes Foundation controversy to discern whether WHY Y has fulfilled its obligation to perform its role as a broadcaster in the public interest.

35. The Petitioner asks the FCC to investigate WHY Y's relationships and behavior in this matter in order to discern whether there exists a pattern of allegiance to powerful wealthy donors and political considerations at the expense of the general population in the region.

36. The issues in the Barnes Foundation matter cannot be overstated. It is a fact that the relocation of the art collection has destroyed a revered international cultural icon. It is a fact that WHY Y has not reported some significant information which would have vastly improved the public's understanding of what was at stake and possibly the outcome. It is a fact that hundreds of millions of public dollars have been expended directly and indirectly because of the relocation. It is a fact that powerful interests in the Philadelphia region are now and have been deeply involved in the relocation of the Barnes art collection *and* are major donors to WHY Y. The Petitioner depends upon the good offices of the FCC to explore connections among the players that might have adversely affected the public and could continue to corrode the system that was created to serve the entire public, not an elite segment of the public with power, money, and influence.

Respectfully submitted,



Evelyn Yaari
35 Overhill Road
Bala Cynwyd, Pennsylvania 19004
(610) 664-2086
(610) 864-6483 (cell)

VERIFICATION

I, Evelyn Yaari, hereby verify that the facts set forth in the attached Petition are true and correct to the best of my knowledge, information and belief.

Received & inspected

Date: June 30, 2014 
Evelyn Yaari

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AFFIDAVIT OF EVELYN YAARI

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Name: Evelyn Yaari

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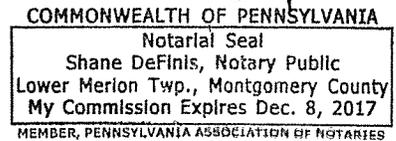
I, Evelyn Yaari, swear or affirm:

1. That I live at 35 Overhill Road in Bala Cynwyd, Montgomery County, Pennsylvania 19004.
2. That I am a regular listener of WHYY-FM.
3. That I am a former member of WHYY-FM. I have not renewed my membership because of concerns about the station's management not acting in the public's interest regarding a matter of direct concern to me.

I SWEAR OR AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

June 30, 2014
Date

Evelyn Yaari
Evelyn Yaari



I the undersigned Notary Public do hereby affirm that Evelyn Yaari personally appeared before me on June 30th, 2014

Shane DeFinis