



Federal Communications Commission
Washington, D.C. 20554

January 23, 2020

In Reply Refer to:
1800B3-KV

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In Re: W284BW, New York, NY
Rahul Walia
Facility ID No. 143664
File Nos. BLFT-20180723AAH, and BPFT-
20180912AAZ

Interference Complaint

Dear Counsel:

This letter refers to WRNJ Radio, Inc.'s (WRNJ or Complaining Station)¹ allegations of harmful interference caused by Translator Station W284BW, New York, New York (W284BW or Translator Station).² As detailed below, we are dismissing WRNJ's "Interference Complaint, Request for Immediate Suspension of Operations and Informal Objection" (Complaint) on October 9, 2018, which it supplemented in a series of filings.

Background. Previous Complaints. On July 23, 2018, Walia filed the referenced license application (License) to cover the permitted³ facilities for W284BW which the Media Bureau (Bureau) granted on July 27, 2018. On August 9, 2018, Walia filed the referenced minor modification application

¹ WRNJ is the licensee of Translator Station W284AQ, Hackettstown, New Jersey (W284AQ).

² W284BW is licensed to Rahul Walia (Walia).

³ See File No BPFT-20180702AAF.

(Permit Application) to “slightly” modify the Translator Station’s antenna pattern which remains pending.⁴

On October 9, 2018,⁵ WRNJ filed the Complaint, arguing that after W284BW commenced operations, under the License, it began receiving listener interference complaints regarding its FM translator W284AQ and attached 35 listener complaints.⁶ WRNJ further states that the Permit Application will exacerbate the interference caused to WRNJ.

WRNJ’s Complaint led to a volley of pleadings between the parties:

- a “Supplement to Interference Complaint, Request for Immediate Suspension of Operations and Informal Objection” (First Supplement) filed on October 19, 2018, by WRNJ;
- a “Preliminary Opposition” (First Opposition) filed on November 13, 2018, by Walia;
- an “Opposition” (Second Opposition) filed on December 12, 2018, by Walia;
- a “Reply to Opposition” (WRNJ Reply) filed on February 1, 2019, by WRNJ;
- a “Reply” (Walia Reply) filed on March 1, 2019, by Walia; and
- a “Motion to Strike and Request for Joint Testing” filed on March 29, 2019, by WRNJ (Second Supplement).⁷

Revised FM Translator Interference Rules. Recently, the Commission adopted certain changes to the FCC’s rules (Rules) relating to the translator interference complaint resolution process.⁸ In the *Translator Interference Order*, the Commission stated that all then remaining unadjudicated complaints would be decided under the revised Rules once they became effective.⁹

On August 13, 2019, the effective date of the revised Rules, Walia filed a “Motion to Dismiss” (Dismissal Motion) contending that the listener complaints do not comply with the revised Rules.

On September 12, 2019,¹⁰ WRNJ filed an “Opposition to Motion to Dismiss” (Third Supplement) responding that per Table 1 of Section 74.1203 of the Rules,¹¹ it is required to submit a minimum of six listener complaints.¹² In the Third Supplement WRNJ attached ten listener interference complaints which purportedly comply with the current Rules: Wayne Cabot (Cabot); Jill Zinckgraf (Zinckgraf); Candy Miller (Miller); Andrew Agens (Agens); Paulette Vacula (Vacula); Bernie Hollan (Hollan); Steven Parker

⁴ In the Permit Application, Walia states “the purpose of this application is only to slightly modify the antenna pattern . . . between azimuths of 270DEG and 80DEG true.” Permit Application, Exhibit 13.

⁵ On September 19, 2018, WRNJ filed a “Request to Delay Processing” (Request) stating that it intended to file an objection to the Permit Application.

⁶ Complaint, Appendix 1.

⁷ On August 26, 2019, Commission staff granted WRNJ’s unopposed “Request for Extension of Time” until September 12, 2019, to respond to the Dismissal Motion.

⁸ See *Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference*, Report and Order, 34 FCC Rcd 3457 (2019) (*Translator Interference Order*).

⁹ *Id.* at 3482 para 49.

¹⁰ On August 26, 2019, Commission staff granted WRNJ’s unopposed “Request for Extension of Time” until September 12, 2019, to respond to Walia’s Dismissal Motion.

¹¹ 47 CFR § 74.1203.

¹² WRNJ states that the population within W284AQ’s “60 dbu contour is 86,933 persons.” Third Supplement, Engineering Statement at 1.

(Parker); Bernard J. Bonner (Bonner); Warren J. Strohmeyer (Strohmeyer); and Jamie DeSantis (DeSantis).¹³

On November 26, 2019, Walia filed a “Reply” (Third Supplement Reply) arguing that the Complaint should be dismissed. Regarding the listener complaints filed before the Third Supplement, Walia reiterates that they do not comply with the revised Rules. Concerning the Third Supplement Listeners, Walia declares that “seven of them were from new individuals and most . . . alleged [interference] in areas not specified [by the earlier listener complaints] . . . But no matter what, the technical tests that Walia and his team performed . . . confirm W284BW was not causing interference to W284AQ.”¹⁴ Walia further claims that all “in some way have a close connection with Lawrence Tighe and Norman Worth [WRNJ’s co-owners] or were recruited by their friends to file declarations or had declarations filed without the knowledge of the purported declarants.”¹⁵

With respect to the individual Third Supplement Listeners, Walia states:

- Vacula: During a November 16, 2019, visit Vacula denied signing the complaint and stated that the phone number listed on the complaint was not hers.¹⁶ Additionally, Walia alleged, that Vacula is the mother-in-law of listener Wayne Cabot; the employer of Cabot’s son; and that the complaint phone number belongs to her daughter (Jill Vacula Cabot);
- Cabot: He is a disc jockey for WCBS(AM), New York and “has guest hosted on certain shows on WRNJ and has hosted radiothons and other fundraisers for WRNJ and has been a friend of the station, and its owners, for many years. . . . [and] appears to have recruited at least two other individuals to file complaints Bernie Hollan and Steven Parker”;¹⁷
- Hollan: During a November 16, 2019, visit Hollan reported “that he was asked to fill out an interference complaint by someone who works for WCBS radio . . . [and Hollan] signed a statement withdrawing his complaint;”¹⁸
- Parker: He “appears to be a close friend of Wayne Cabot. [They] went to high school together and, earlier this year, Mr. Cabot ‘roasted’ Mr. Parker as he was departing as the outgoing Mayor of Bedminster, New Jersey;”¹⁹
- Zinckgraf: She “has extensive connections with WRNJ. She is the president of the Domestic Abuse and Sexual Assault Crisis Center of Warren County (DSACC) and she has hosted and appeared on WRNJ on numerous occasions . . . She also does charity work with Dierdre Bryant-Worth (wife of one of WRNJ’s owners, Norman Worth) and WRNJ frequently

¹³ Collectively, these listeners will be referred to as the “Third Supplement Listeners.”

¹⁴ Third Supplement Reply at 3.

¹⁵ *Id.* at 1.

¹⁶ Walia attached Vacula’s complaint (Exhibit 1); a link to the conversation recording and written transcript (Exhibit 2); declarations from Walia representatives, Tava Everson (Everson) and Shawn Newman (Newman) (Exhibit 3); information concerning Vacula’s family business (Exhibit 5); and a private investigator’s report (Exhibit 6). In the conversation transcript Vacula indicates that she does not remember signing the August 16, 2019, complaint. She also states that “this is not my phone number even on here.” *Id.* at minute 07:22. However, she refused Walia’s request to withdraw her complaint stating “Yeah, I’m sorry, I’m not comfortable rescinding something that I didn’t really sign in the first place. . . .” Third Supplement Reply, Exhibit 3, minute 13:38.

¹⁷ Walia attached written documentation concerning Cabot (Exhibit 4).

¹⁸ *Id.* at 5-6. Walia attached a link the conversation recording and written transcript (Exhibit 7); declarations from Walia representatives, Everson and Newman (Exhibit 3); and a signed withdrawal statement (Exhibit 8).

¹⁹ *Id.* at 6. Walia attached written documentation concerning Parker (Exhibit 9).

promotes the DSACC . . . ,”²⁰

- Strohmeier: During a November 16, 2019, visit, Strohmeier reported that he completed the complaint at the behest of his wife because “she could not listen to the station in some areas (not because W284BW was causing any interference) . . . Strohmeier has signed a statement withdrawing his complaint;”²¹
- Miller: During a November 16, 2019, visit, Miller “did not agree to cooperate, [but] she mentioned that she listens at her home on the Internet. Obviously, W284BW cannot be interfering with Ms. Miller’s at home listening because she does not listen to W284BQ at that location over the air. Ms. Miller also appears to be connected to Norman and Deirdre Bryant-Worth through, at least, charity events;”²²
- DeSantis and Agens: Walia did not contact these listeners “because they had previously filed complaints and were unwilling to cooperate with Walia at that stage;”²³ and
- Bonner: Walia does not challenge listener Bonner’s complaint.

Lastly, Walia contends that while the “preprinted wording” on the Third Supplement Complaints state that W284BW is causing interference, “none of the . . . hand-written [areas on the] complaints use the word ‘interference’ . . . or identify any other programming they hear in place of [WRNJ]”²⁴ Walia, therefore requests that the Commission dismiss the complaints with prejudice against filing any future complaints.²⁵

Discussion. Based upon our review of WRNJ’s Third Supplement, we conclude that it is not a valid and complete interference claim package. Here, WRNJ is required to submit six rule-compliant listener complaints.

In the *Translator Interference Order*, the Commission stated that an acceptable listener complaint must, *inter alia*, contain “a statement that the complaint listens to the desired station using an *over-the-air signal* at least twice a month”²⁶ Here, none of the Third Supplement Listeners complaints report listening “over-the-air” to W284AQ. Moreover, at least one listener (Miller) reports listening to WRNJ “online” and doesn’t “know if . . . [the interference is] from the internet connection or what”²⁷ In addition, three listeners withdrew and/or disavowed their complaints. Specifically, listeners Hollan and Strohmeier signed statements requesting the withdrawal of their complaints and affirming that no consideration was received for said requests; and listener Vacula reported having no recollection of her

²⁰ Walia attached written documentation on Zinckgraf and a link and transcript of an on air broadcast (Exhibit 10).

²¹ Walia attached a link the conversation recording and written transcript (Exhibit 11; declarations from Walia representatives, Everson and Newman (Exhibit 3); and a signed withdrawal statement (Exhibit 12).

²² Walia attached a link the conversation recording and written transcript (Exhibit 13); declarations from Walia representatives, Everson and Newman (Exhibit 3); and written documentation on Miller (Exhibit 14). In the conversation transcript concerning her listening habits, Miller states “I do [put the Station] online and sometimes drive. Yes.” Third Supplement Reply, Exhibit 13, minute 1:16. However, Ms. Miller indicated that she would not withdraw her complaint. Exhibit 13, minutes 2:26, 4:19.

²³ *Id.* at note 21 and Exhibit 15.

²⁴ *Id.* at 9.

²⁵ *Id.* at 2.

²⁶ *Translator Interference Order*, 34 FCC Rcd at 3466 para. 17. (emphasis added).

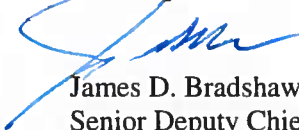
²⁷ Third Supplement Reply, Exhibit 13, Minute 1:10.

complaint and that the listed contact phone number was not hers.²⁸

We, therefore, find that WRNJ has failed to meet its burden of six rule-compliant listener complaints and will dismiss WRNJ's Complaint. We reject, however, Walia's request to "dismiss all interference complaints filed by WRNJ against W284BW with prejudice against filing any future complaints."²⁹ Walia cites no legal precedent for this request. Moreover, under the Rules, a translator's obligation to resolve interference complaints is ongoing.

Conclusion. Accordingly, IT IS ORDERED that WRNJ Radio, Inc.'s "Interference Complaint, Request for Immediate Suspension of Operations and Informal Objection" (Complaint) on October 9, 2018, and related supplements ARE DISMISSED.

Sincerely,



James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau

²⁸ See *supra* note 16.

²⁹ Third Supplement Reply at 2.