

Marsha Vander Heyden
151 West 25th Street 8th Floor
New York, New York 10001-7204
212-242-0525
marshatapestries@earthlink.net

September 24, 2015

Sent Certified

David L. Hunt J.D.
Inspector General
Office of Inspector General
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Received & Inspected

OCT 02 2015

FCC Mail Room

Re: DOJ ADA Complaint and Harassment by WBAI Personnel

Dear Mr. David L. Hunt J.D:

I am writing to inform you of recent communications I have sent to Mr. Berthold Reimers, General Manager of WBAI Radio in NYC and to Mr. John Proffitt Executive Director of Pacifica Radio in California which owns WBAI, Helen Mollick, Esq. Counsel to the Inspector General of the CPB, California AG Office and the US Department of Justice.

I am enclosing these documents as documentation of my complaint against WBAI Radio in NYC 99.5 FM a broadcasting entity owned by nfp Pacifica Radio Foundation of California.

Abuses have occurred for years and it is impossible and unknowable as to how to file a complaint with the Foundation for any offense or violation regardless of the type or extremity of the complaint.

Management are unreachable and unresponsive.

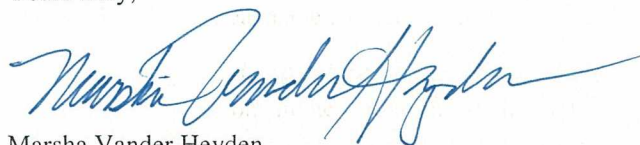
I believe they are in violation of their license obligations of developing programming reflecting the interests and needs of the populations in their broadcast radius and have intentionally excluded even large populations in their programming decisions.

I am especially concerned about the treatment of Indigenous peoples; but other communities including the disabilities community, the Muslim Communities and the multiple Asian communities are also of concern.

At issue also are tactics that have been used to keep these communities off the air such as using vast amounts of air time for music programming and then claiming that there is no air time available for information programming that would be the choice of these peoples.

I am unfamiliar with your methods of enforcement on these issues; however please accept these documents as explanations of the issues involved in the complaint which are of concern to myself and others.

Yours truly,



Marsha Vander Heyden

PS: I have included a September 22, 2014 DOJ document which has been honored in the breach. It states "The respondent (meaning Pacifica/WBAI and the landlady) may not use this information to retaliate against you for filing this complaint."

encl: Letter to Mr. Berthold Reimers dated 9/24/15, Letter to Mr. John Proffitt dated 9/24/15, Letter to Helen Mollick, Esq. Counsel to the Inspector General of the CPB, Letter to California AG Office 9/24/2015, Letter to US Department of Justice 9/24/2015, 9/22/2014 letter from DOJ

Cc Helen Mollick, Esq
Corporation for Public Broadcasting
401 Ninth Street, NW
Washington, DC 20004-2129

Re: PACIFICA RADIO
California AG Office
Registry of Charitable Trusts
P.O. Box 903447
Sacramento, CA 94203-4470
(916) 445-2021

Ms. Carmen Romero
Complaint Adjudication Section
Civil Rights Division / Disability Rights Section
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530



U.S. Department of Justice

Civil Rights Division

*Disability Rights Section-NYA
950 Pennsylvania Avenue NW
Washington, DC 20530*

15DRS-10 3NY311

SEP 22 2014

Ms. Marsha Vander Heyden
151 West 25th Street, 8-R
New York, NY 10001-7204

Dear Ms. Vander Heyden:

The Disability Rights Section of the Civil Rights Division of the Department of Justice has received your correspondence alleging violation of title III of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12181-12189, and the Department of Justice's implementing regulation, 28 C.F.R. Pt. 36, which prohibit owners and operators of public accommodations and commercial facilities from discriminating on the basis of disability.

We are offering you an opportunity to resolve your complaint through informal means. The Department of Justice sponsors a mediation program designed to allow parties to resolve their ADA disputes quickly and satisfactorily. We have determined that your complaint is an appropriate candidate for referral to this service. We are enclosing information about the ADA Mediation Program for your review. Additional information about the ADA, including the regulations and other technical assistance materials, is available at www.ADA.gov.

Through this informal mediation process, an impartial third party assists disputing parties to develop mutually satisfactory solutions to their differences. Mediation typically involves one or more meetings between the disputing parties and the mediator. It may also involve one or more confidential sessions between one party and the mediator. A successful mediation results in a binding agreement between the parties. Mediation proceedings are confidential.

The role of a mediator is not to act as an advocate or judge, but, rather, to help the parties reach a mutual agreement. Mediation is informal, and representation by an attorney, while permitted, is not required. The mediators participating in this program have been trained in the legal requirements of the ADA. In addition, the mediators have access to neutral experts from the local disability rights community.

Mediation through this program is free and is available in your community through the Key Bridge Foundation. If you have questions about this service, you may call Lewis Dabney toll free at (888) 528-1609 (V) or (800) 630-1051 (TDD).

Participation in the service is voluntary, both for you (the complainant) and for the entity accused of violating the ADA (the respondent). If you would like us to refer your complaint to this mediation service, please carefully review and sign the enclosed Release for Referral to Mediation form and return it to us in the enclosed envelope within thirty (30) days of the date of this letter. Your return of the signed form will allow us to release your name, address, and telephone number, and other information provided to us in your complaint to the mediation service and will allow the mediation service to release that information to the respondent. Such disclosure is necessary to facilitate open communication between you and the respondent during the mediation meetings. ~~The respondent may not use this information to retaliate against you for filing this complaint.~~ After we receive your signed release form, we will notify the mediation service and they will contact you.

In addition, upon receipt of the signed Release, we will notify the respondent of your complaint and recommend that the respondent enter into mediation. We will explain to the respondent that the Department of Justice will suspend any action pending resolution of the mediation and that participation in mediation will allow the respondent to complete this matter without the involvement of the Federal government.

If we do not receive the signed Release within thirty (30) days of the date of this letter, we will assume you do not wish to participate in the mediation project. If you decline to participate in mediation, our file on your complaint may be closed and no further action taken. If the respondent declines to participate in the mediation service, or if mediation is unsuccessful, your complaint will be retained by us to determine whether to pursue further investigation and/or litigation of the complaint.

We hope you will take advantage of this opportunity to resolve your ADA complaint.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Levine".

Lisa Levine
ADA Mediation Program Officer
Disability Rights Section

Enclosures

Marsha Vander Heyden
151 West 25th Street 8R
New York, New York 10001-7204
212-242-0525

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September 24, 2015

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Berthold Reimers
General Manager
WBAI Radio
388 Atlantic Ave. 3rd Floor
Brooklyn, New York 112

FCC Mail Room

Re: DOJ ADA Complaint and Harassment by WBAI Personnel

Dear Mr. Reimers:

I am writing to inform you of ongoing harassment of myself by persons associated with WBAI Radio. Some of this activity predates the ADA complaint - of which you are certainly aware as I have personally mentioned it to you in the past. The illegal activity has substantially increased since the ADA filing.

The persons who have been most egregious are Mitchel Cohen, Jim Dingeman from the CAB (Community Advisory Board), Alex Steinberg and James Sagurton who by his own and public admission has a long criminal record in New Jersey including sex crimes, public urination and public drunkenness, arson and assault. These persons have on a continuing basis harassed me and exhibited abusive behavior. These abuses include slander and libel.

I have spoken to you before about the fact that Mitchel Cohen stalks me when I am at the station and has specifically harassed me in my attempts to use the elevator to get to the third floor. He has on a continuing basis exhibited behavior for the purpose of menacing by sitting next to me in meetings when there have been as many as one hundred other seats available. For years and on an ongoing basis he has slandered and libeled me publically and on various listservs.

Jim Dingeman the self-appointed Chair of the CAB makes a point of screaming at and libeling and attacking me at almost every meeting. He has also attacked me for my indigenous heritage and my friendship with Tiokasan Ghosthorse; who as you know is the host of "First Voices". Attacks against Indigenous peoples are common at WBAI as well as being long standing. Dingeman also is guilty of libel on line.

Alex Steinberg has also stalked me and bullied me in trying to take pictures of me; a behavior I have asked him to stop. Alex Steinberg also on a continuing basis libels and slanders me on line and in public meetings.

Jim Sagurton, who functions as Mitchel Cohen's stand in has also slandered and libeled me publically and on multiple occasions menaced me. You are also aware of his long criminal history in New Jersey including a pedophilia offense and exposing his genitals publically. I guess you think he represents the best that WBAI has to offer.

WBAI in general has a disturbing and shocking display of tolerance and acceptance for the abuse of women and especially children. This institution has for decades been involved in the protection of supporters of pedophilia.

Despite the fact that you have been informed of these long standing offenses; you have done nothing despite your position as General Manager and your duty to the Foundation and its members.

I would like to know what if anything you intend to do about all this criminal behavior which to date you have tolerated and by your inaction encouraged. I would appreciate a timely response.

Yours truly,



Marsha Vander Heyden

Cc Mr. John Proffitt
 Executive Director
 Pacifica Foundation Radio
 1925 Martin Luther King, Jr. Way
 Berkeley, California 94704-1037
 Phone 510-849-2590

Helen Mollick, Esq
Corporation for Public Broadcasting
401 Ninth Street, NW
Washington, DC 20004-2129

David L. Hunt J.D.
Inspector General
Office of Inspector General
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Re: PACIFICA RADIO
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Mr. John Proffitt
Executive Director
Pacifica Foundation Radio
1925 Martin Luther King, Jr. Way
Berkeley, California 94704-1037

Re: DOJ ADA Complaint and Harassment by WBAI Personnel

Dear Mr. Proffitt:

I am writing to inform you of ongoing harassment of myself by persons associated with WBAI Radio. Some of this activity predates the ADA complaint - both of which you are certainly aware as I have informed Pacifica management in the past. The illegal activity has substantially increased since the ADA filing in 2013.

I have attached with this mailing the letter which I personally delivered to Mr. Berthold Reimers the General Manager of WBAI. Mr. Reimers is aware of this harassment activity. Further I attempted recently on this July 30th to have a conversation with Mr. Reimers regarding this issue. When I brought up the problems pertaining to his friend Mr. Mitchel Cohen, he started shouting at me that he wasn't going to let me talk about his friend and shouting for me to "get out, get out" !! while jumping up from his desk chair and moving to open the office door while still shouting so loud that the people from the broadcast studio came to tell him to be quiet. As I was leaving he snidely yelled "why don't you file a complaint"!

Of course there is no complaint process at Pacifica other than going outside their dysfunctional system and contacting government entities with oversight responsibilities.

Pacifica has a "zero tolerance" policy; but it magically doesn't apply to perpetrators like Mitchel Cohen and others in his faction; not to mention allowing those involved in sexual assault to run for the LSB.

There are so many violations by the WBAI/Pacifica administration that the entire operation needs close examination by everybody with the authority and obligation to do so. The refusal to set up and maintain financial records according to professionally accepted standards is a massive violation of fiduciary responsibility on the part of management and the governance body (LSB). The skeleton that currently exists can only be saved by a court appointed administrator as the current incompetent and criminally mined staff, and unappointed controllers cannot and will not allow professionalism and integrity to prevail.

Mr. Proffitt, I know that you have professional credentials; but due to the enormity of the problems have chosen to resign, which of course is the best choice for you and your family.

I would also like to know what if anything you intend to do about all this criminal behavior which to date you have tolerated and also by your inaction encouraged as has Mr. Reimers. I would appreciate a timely response.

I wish you the best in your future endeavors.

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Helen Mollick, Esq
Counsel to the Investigator General
Corporation for Public Broadcasting
401 Ninth Street, NW
Washington, DC 20004-2129

Re: DOJ ADA Complaint and Harassment by WBAI Personnel

Dear Attorney Mollick:

I am writing to inform you of recent communications I have sent to Mr. Berthold Reimers, General Manager of WBAI Radio in NYC and to Mr. John Proffitt Executive Director of Pacifica Radio in California which owns WBAI.

As is clear from the attached letters there are continuing issues of harassment against me as well as others at WBAI; an issue about which we have spoken in the past. I understand as we have discussed previously that the CPB has no jurisdiction when an entity is not receiving funds; I wanted to send you this information for the record. Due to their ongoing and multiple violations it seems unlikely they will soon or ever qualify for such funding.

The announcement of station official meetings has all but disappeared and R. Paul Martin who is chair of the Finance Committee continues to refuse to make a card to be played so that the listeners can join the meeting if they so choose. Posting meetings on a website in Texas which maybe one percent of the listening audience knows about is useless for anything but internal records. It is nonsensical and pointless otherwise. Even without the legal requirement; if the station wanted to increase listenership and participation; for this alone they would announce meetings. But they refuse to do so.

The required CAB (Community Advisory Board) meetings still in the grip of self appointed chair Jim Dingeman are now being held secretly since February 2015; for the most part. He claims he chose some unknown amount of unnamed persons to be officially called "members"; however to date this is a secret and posted nowhere. Mr. Dingeman made a point of shouting at me during one meeting "You are not on the list" when he announced that he had picked the official members. I asked the chair of the governance body, Mr. John Brinkley if Mr. Dingeman ever submitted to him any lists of members; I was told no - despite that this information was due in August.

Dingeman has formed a core group of what he considers people who agree with him and support him and he secretly communicates with them and sets up secret meetings even while they were keeping me and others out saying that they couldn't have meetings at the WBAI office as it wasn't ADA accessible. All the while producers and others were using the elevator.

Because of the issues with access to an elevator and my ADA complaint; WBAI dumped the long running disabilities rights program.

I had communicated with you some time ago and sent you documents with regard to the abuses by Mr. Mitchell Cohen of the Yahoo listserv for the CAB which he set up years ago when he was Chair of the LSB. I and others have not been allowed on the listserv which Cohen still controls. He and Mr. Dingeman have used this listserv to maneuver privately and shred the open meetings requirements. Neither of these people represent the broader community and have used their official and unofficial positions to use the CAB for their own purposes. Each of them uses the WBAI offices for their personal endeavors; using all the office resources including the copy machine running off thousands of pages of personal documents. Mr. Dingeman started a "Shakespeare reading group saying

it is an entity of the CAB; but this is a complete lie. It is his and his alone and he appears to be using the station and the CAB to set up some entity for himself.

I have given many suggestions over years for programs that I thought might increase membership and be more inclusive of our listening radius; but Mr. Dingeman has no interest in any of my ideas as he wants to model WBAI after our local NPR, which is laughable on its face. WBAI would have to give up its longstanding unique character and further an ant can't compete with an elephant - a reality that escapes him. I have not seen any meeting notes that he prepares; as he does not share them with anybody; but I doubt that they are truthful. Further he refuses to give the CAB records of fundraising income totals per program; which obviously the group should have for the evaluations of programming.

I have for example regarding more inclusive programming; suggested having a Muslim man I know who does human rights work around the country and would appeal to the taxi drivers who still listen to the radio while they work. Instead they got rid of all middle eastern programming. They had had a plan in fact to get rid of all non-euro programs and an interim program director Mr. Andrew Phillips (now gone) had announced at a LSB meeting that he was getting rid of Tiokasin Ghosthorse's Indigenous program as it wasn't good enough for drive time (despite the fact that Indigenous programming then and now has brought in substantial funds).

I had also suggested Ms. Winona LaDuke a brilliant and much awarded Indigenous woman who had also run as Ralph Nader's Vice Presidential candidate and has her own radio program in Minnesota. I and she were endlessly abused and disrespected in my endeavor to get her a program slot on WBAI. Mr. Reimers at one point told me that they would consider letting her have a program at 3AM; saying that that is where all new programs start- a bald faced lie.

However; Mitchel Cohen had a quid pro quo exchange with his friend and WBAI producer Professor Richard Wolf who wrote an introduction to Cohen's edited publication and Mr. Wolf's wife, a psychiatrist got a prime time show of her own on WBAI.

Despite the fact that WBAI appears to some to be a very mixed and integrated work environment; that is questionable. So did plantations. You always need somebody to dance for you, right?? To a more careful observer WBAI is a farce and in substantial violation of their FCC requirements to service their broadcast radius. The point isn't how many faces of color there are at the station; the issue is who wields power. There are program changes that could be made by management to abide by their legal obligations and increase membership; but they will not do this.

Mr. Dingeman who has a long history of verbal and other violence; at best can be described as a bully and makes a point of finding something to libel me with at almost every meeting that I have attended. Some months ago he started screaming something about an indigenous programmer Mr. Tiokasin Ghosthorse who he was abusing publicly in the meeting and started screaming at me "and I believe that you put him up to this". I have Indigenous heritage myself and Mr. Ghosthorse is one of numbers of non-euro producers who have suffered abuses for decades from entrenched power grabbers like Mr. Dingeman who has set himself up to preserve and maintain the power of the sacred white male. I asked Mr. Dingeman to email me the information he was blaming me for; but he has refused.

Mr. Dingeman has made claims that he has the legal right to hold secret meetings; however even executive meetings are required to be announced and posted - none of which he abides by.

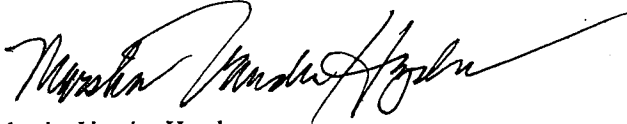
Mr. Dingeman takes good care of himself. For years he was insisting that WBAI had to have four consecutive hours of opera on WBAI despite the fact that the existing two hour show brought in close to nothing during fund drives. When he finally got a three hour opera program on Sunday morning by knocking our Shelton Waldon - but keeping his close friend Janet Coleman's show (who already has other program time and also brings in close to nothing during fund drive) Mr. Dingeman pretended that he had nothing to do with the manipulations. Like his pal Mr. Mitchel Cohen, Mr. Dingeman is a pathological liar.

I have been in meetings where Mr. Dingeman was smashing the table with his fist and screaming at the top of his voice at a female participant who was objecting to one of his tyrannical ethical lapses. Nothing is ever done to Mr. Dingeman or Mr. Cohen among others despite the fact that Pacifica has a "Zero Tolerance" policy. WBAI is a free for all and those in power get to steal, abuse volunteers and generally do anything they want to anybody they see as someone who is to be eliminated. Mr. Reimers has allowed all of this and these people are his personal friends who he goes to lunch with and I believe uses the corporate charge card to pick up the tab.

There is much that needs investigating at WBAI; but I think it is too late and these criminals will neither move over or out. They spend their time arguing about and quoting Lenin and Marx while the limousine waits outside the compound to whisk them off to one of their favorite five star restaurants where they meet with and debrief their trusted informants.

In the end it is the members who have lost a profoundly valuable resource which they have counted on for decades.

Yours truly,



Marsha Vander Heyden

PS: I have included a September 22, 2014 DOJ document which has been honored in the breach. It states "The respondent (meaning Pacifica/WBAI and the landlady) may not use this information to retaliate against you for filing this complaint."

encl: Letter to Mr. Berthold Reimers dated 9/24/15, Letter to Mr. John Proffitt dated 9/24/15, Letter to David L. Hunt J.D., Letter to California AG Office 9/24/2015, Letter to US Department of Justice 9/24/2015, 9/22/2014 letter from DOJ

Cc David L. Hunt J.D.
Inspector General
Office of Inspector General
Federal Communications Commission
445 12th Street, SW
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Re: PACIFICA RADIO
California AG Office
Registry of Charitable Trusts
P.O. Box 903447
Sacramento, CA 94203-4470
(916) 445-2021

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Att: PACIFICA RADIO Investigation
California AG Office
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P.O. Box 903447
Sacramento, CA 94203-4470

Re: DOJ ADA Complaint and Harassment by WBAI Personnel

Dear Registry of Charitable Trusts:

I am writing to inform you of recent communications I have sent to Mr. Berthold Reimers, General Manager of WBAI Radio in NYC and to Mr. John Proffitt Executive Director of Pacifica Radio in California which owns WBAI, Helen Mollick, Esq. Counsel to the Inspector General of the CPB, David L Hunt J.D. FCC, and ADA the US Department of Justice.

I am enclosing these documents as documentation of my complaint against WBAI Radio in NYC 99.5 FM a broadcasting entity owned by nfp Pacifica Radio Foundation of California.

Abuses have occurred for years and it is impossible and unknowable as to how to file a complaint with the Foundation for any offense or violation regardless of the type or extremity of the complaint.

Management are unreachable and unresponsive. None of the required postings of official documents for public access and viewing exists at the station.

There are also questions about the various income streams at the station; most especially those internet sources that seem not to have a clear path as to how the deposits are handled, where they go and whether or not members who pledge ever get their premiums from these sites as well as how complaints are handled.

I had been told that at one point in time the url: give2wbai.org went to a porno site. I have not been able to verify this myself.

The issues about which I am apprising you here are by no means to be regarded as comprehensive; it is closer to the tip of the iceberg

I assume your investigation of this nfp is ongoing and I would like you to include these documents among those you are reviewing in your analysis of the violations that exist at the New York location: WBAI.

Yours truly,



Marsha Vander Heyden

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Copy

US Department of Justice 9/24/2015 Page 1 of 2

I believe it is past time for the Department of Justice to take this complaint seriously and perhaps at this time a criminal investigation should be opened as an appropriate action.

I would appreciate a timely response and one that will terminate the criminal activities of all involved.

Yours truly,



Marsha Vander Heyden

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