

# Shainis & Heltzman, Chartered

Counselors at Law

Aaron H. Shainis  
aaron@s-plaw.com

Lee J. Heltzman  
lee@s-plaw.com

Suite 240  
1850 M Street, N.W.  
Washington, D.C. 20036

(202) 293-0011  
Fax (202) 293-0810  
e-mail: shainis@heltzman.com

August 31, 2018

James D. Bradshaw, Deputy Chief  
Audio Division, Media Bureau  
c/o Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Interference Complaints  
W235CN, Providence, Rhode Island  
File No. BLFT-20171124AAA  
FCC Facility ID No. 41191**

Dear Mr. Bradshaw:

This letter is submitted by Radio Sharon Foundation (“Radio Sharon”), licensee of Station W235CN, Providence, Rhode Island.<sup>1</sup> This letter supplements Radio Sharon’s previous letters, dated March 9 (the “Radio Sharon March 9 Opposition Letter”) and April 17, 2018 (the “Radio Sharon April 17 Supplemental Opposition Letter”), filed in response to the February 7, 2018 letter from James D. Bradshaw, Deputy Chief, Audio Division (the “Bradshaw Letter”), regarding allegations of interference submitted by Red Wolf in its Objections filed against Radio Sharon’s W235CN License Application (BLFT-20171124AAA).<sup>2</sup>

---

<sup>1</sup> The Commission issued a construction permit to Radio Sharon for Station W235CN, on July 7, 2016 (BPFT-20160627ABL). The FCC granted a License Application filed by the Radio Sharon translator (BLFT-20171124AAU), but rescinded its approval when the Commission became aware of the previously filed December 24, 2017 “Informal Objection and Interference Complaint” (“Complaint”), filed by Red Wolf Broadcasting Corporation (“Red Wolf”), licensee of Stations WKKB, Middleton (Providence), Rhode Island and WJFF, Montauk, New York against the Radio Sharon License Application.

<sup>2</sup> Red Wolf has filed Supplements to its Complaint. For ease of reference, Red Wolf’s “Complaint” and its Supplements shall be referred to together herein as Red Wolf’s “Objections.” On March 9, 2018, Radio Sharon filed a Letter opposing the Red Wolf Objections, while also replying to the Bradshaw Letter. Radio Sharon stated its intent to file a Supplement to its Opposition Letter, which it did in its April 17, 2018 Supplemental Opposition Letter. The Radio Sharon translator appears in the Commission’s CDBS database under the call sign W235CN, and the station will be referred to herein by the call sign which the Commission uses for the station.

Both the Radio Sharon March 9 Opposition Letter and the Radio Sharon April 17 Supplemental Opposition Letter demonstrated that this proceeding is little more than a hoax orchestrated by Red Wolf and its owner to force Radio Sharon and its principal, Quilvio Perdomo, to sell its translator to Red Wolf.

Certainly, Red Wolf, like any business, has the right to attempt to acquire a broadcast station. However, as documented by Radio Sharon in its previous filings, here, Red Wolf has sought to manipulate the Commission's licensing process to shut down Radio Sharon's station (W235CN) and, in so doing, force the sale of that station. Radio Sharon showed in its Supplemental Opposition Letter that Red Wolf first, through counsel, threatened a lawsuit against Mr. Perdomo, which was followed by the Red Wolf Objections to W235CN operations.

Radio Sharon noted that virtually all of the complainants used the same language in their submitted complaints. Again, there is nothing inherently wrong with a broadcaster orchestrating listeners to file complaints when those complaints contain only truthful statements. However, as Radio Sharon pointed out in its Supplemental Opposition Letter, these complaints claimed that the allegedly interfering signal identified itself as "W300AC-WSTL, Providence, RI."<sup>3</sup>

If the station which has allegedly interfered with WJJF identified itself as "W300AC," then, that station could not have been W235CN. Since filing its license application for Station W235CN on November 24, 2017, Radio Sharon has always identified its translator each hour as "W235CN," coinciding with the frequency which the station broadcasts on and also coinciding with the call letters with which the Audio Division identifies the station in CDBS and in this proceeding. *See* Bradshaw Letter re: W235CN, Providence, RI.

---

<sup>3</sup> *See eg.* Complaint of John Ruggieri. (Attachment A).

Station W235CN at one time broadcast on Channel 300 when it was operating in Chatsworth, New Jersey. However, since November 2017, when it filed its Station License Application, Radio Sharon has always identified the station by the channel on which it has operated and by the call sign which the Commission uses when referring to the station.<sup>4</sup>

**Anyone claiming that they heard Station W235CN identify itself as W300AC is guilty of fabrication because such an event never occurred.**

Red Wolf offers no explanation for this false statement contained on its listener complaints, and if complainants were willing to make such a false claim regarding the call sign of the station which they allege was interfering with their listening to a station, why should the remainder of their claims be taken as true. If Red Wolf did write these complaints up, it is guilty, not because it attempted to guide listeners in filing complaints, something which the FCC does not disapprove of, but, instead, for knowingly providing materially false information to those listeners and requesting, successfully as it turned out, that they make that false statement repeatedly to a Federal Agency of the U.S. Government.

**The facts, here, show a high probability that Red Wolf engaged in an abuse of process before the Commission.<sup>5</sup>**

Radio Sharon also demonstrated in its Supplemental Opposition Letter the reason why Red Wolf would not want to identify W235CN by its actual channel. Two other nearby translators operate on Channel 235 and produce signals that possibly interfere with or completely mask WJFF's extremely weak signal in those areas where purported listeners reside or drive. Stations 235AV, Tatnuck, Massachusetts and 235CS, Dedham, Massachusetts, apparently both may prevent regular reception of WJFF. Moreover, W235CS broadcasts in a Spanish language

---

<sup>4</sup> See Radio Sharon Supplemental Opposition Letter, Engineering Assessment of Barry J. Magrill, P.E., p. 17.

<sup>5</sup> Radio Sharon need not provide indubitable proof that Red Wolf engaged in an abuse of process. As the Court noted in *Citizens for Jazz on WRVR, Inc. v. FCC*, 775 F.2d 392, 397 (DC Cir. 1985), the Commission should look into the possible existence of a fire "when it is shown a good deal of smoke." Here, there is more than sufficient smoke for the Commission to look into Red Wolf's behavior.

format similar to the format aired by W235CN and W235CS identifies itself as “Mega 94.9” as does W235CN. Given that these stations identify themselves virtually identically and, with the exception of the last letter, the call signs are the same, it is hardly surprising that English-speaking listeners could not decipher which station they were listening.

Radio Sharon pointed out that virtually none of the complainants had responded to a questionnaire from Radio Sharon and even those that communicated failed to provide helpful information to Radio Sharon.

Finally, Radio Sharon also provided the Audio Division with the results of several “on-air” field tests, which sought to determine if there was merit to any claims of interference caused by W235CN to WJFF. The W235CN transmitter was repeatedly turned on and off, on video, to show if W235CN could be heard and if it had any adverse impact on the WJFF listening signal. All of the areas that were tested were places where interference was reported by individuals.

The videos provided in the Supplemental Opposition Letter established that there was no objectionable interference detected from W235CN in any of the areas tested. In each of the videos, if WJFF could not be heard when W235CN was operating, WJFF still could not be heard when W235CN went off air. Either no other station was heard when W235CN was off air or another translator, such as W235AV or W235CS, was heard. Thus, in those cases where WJFF could not be heard, it made no difference when W235CN went off air as WJFF could still not be heard. In cases where WJFF could be heard, W235CN being on the air or not being on the air made no material difference in the reception of the WJFF signal.

Radio Sharon had shown that the complaints which Red Wolf submitted contained material falsehoods seeking to identify Radio Sharon’s station as the interference culprit, shown by field tests that the WJFF signal received no interference from W235CN and demonstrated that other nearby translators operated on the same channel as W235CN, and, in one case with the

same format and promotional slogan as W235CN, and very well may have caused interference to WJFF.

Radio Sharon continued to take additional on-off tests, which confirmed that any problems with the reception of the WJFF signal were just that, problems with the WJFF signal, not interference to a very weak signal. Radio Sharon understands that it is responsible for eliminating any actual interference it causes to WJFF. However, it is not responsible for making WJFF's weak signal more powerful, and it cannot resolve or eliminate interference which does not exist. Radio Sharon should not be sanctioned for not curing nonexistent interference.<sup>6</sup>

While Red Wolf takes issue with the use of "on-off" tests, the FCC has repeatedly approved of them in all types of services as a way to determine the presence or absence of interference. *See eg. Creation of a Low Power Radio Service (Fifth Order on Reconsideration and Sixth Report and Order)*, 27 FCC Rcd 15402, 15433, para. 85 (2012) the FCC stated "an LPFM station may demonstrate that it is not the source of interference at issue by conducting and "on-off" test. On-Off tests have been used by the FM translator and other services to determine whether identified transmissions are the source of interference." In *Two-Way MDS/ITFS Operations (Reconsideration)*, 14 FCC Rcd 12764, 12772, para. 17 (1999), the Commission additionally noted that "in most cases a simple on-off test will demonstrate whether a facility is causing harmful interference and such a test can be performed very quickly..."

Red Wolf argues against Radio Sharon's field tests, but it offers no tests of its own. If Red Wolf believes Radio Sharon has conducted its tests incorrectly, Radio Sharon is agreeable to conducting joint field tests with Red Wolf to confirm whether the claimed inability to receive WJFF is due to the weak signal of the station or actual interference by W235CN. Radio Sharon is

---

<sup>6</sup> Moreover, Red Wolf has told the complainants not to cooperate with Radio Sharon. *See* Declaration of Martin McKinney, August 27, 2018, attached as Attachment B: "In late February 2018, I received a letter with over 30 questions. I was then told not to answer those questions..."

not confident Red Wolf will accept its invitation because Red Wolf has reason to be fearful of what the test results would show.

The Engineering Statement of Barry Magrill, attached hereto as Exhibit C, presents a powerful reputation of the claims that W235CN is responsible for interference to WJJF. Results of the many on-off tests indicate that no actual interference occurs to WJJF from W235CN. In fact, as Mr. Magrill notes, “WJJF has a very poor signal and is far below any reasonable standard for a ‘regularly received broadcast’ in most areas of perceived interference.”<sup>7</sup>

Mr. Magrill explains that on-off tests were conducted by Radio Sharon at all locations stated in more recent complaints. Where listeners indicated that they listened at home, the tests were performed at their addresses. Where listeners reported mobile listening, tests were made along the roads individuals claimed they drove when they received the interference. Radio Sharon has supplied links to the actual videos of each test made in real time.

In all cases, W235CN operating had no impact on the WJJF signal. Whatever problems there were to the WJJF signal when W235CN operated were present when W235CN was turned off. In cases where WJJF could be heard when W235CN was off, turning W235CN on made no difference to the WJJF audio. Tests showed that WJJF is not disturbed by the operation of W235CN.

Radio Sharon takes seriously its responsibility to resolve interference to listeners. However, Radio Sharon cannot resolve problems affecting WJJF when they are not due to interference by W235CN. The truth is that if W235CN were not operating, it would make no material difference to the ability of listeners to listen to Station WJJF. As Mr. Magrill points out, many listeners apparently hear static and assume it must be interference. Their assumption is reinforced by the station involved, WJJF, claiming that it is suffering from interference. When a station has a weak signal, the average layman cannot know whether his inability to receive the

---

<sup>7</sup> Engineering Statement at p. 1.

*Shainis & Peltzman, Chartered*

Mr. James D. Bradshaw

August 31, 2018

Page 7 of 7


station is due to interference or just a poor signal. However, the difference in the two has enormous legal consequences.

Again, Radio Sharon should not be sanctioned for not resolving interference complaints satisfactorily when there is no interference present due to the operation of Station W235CN.

Respectfully submitted,

RADIO SHARON FOUNDATION

By:

  
\_\_\_\_\_  
Lee J. Peltzman  
Its Attorney

Enclosures

cc (w/ encl): Kim Varner, Esq. <Kim.Varner@fcc.gov>  
Scott Woodworth, Esq. <swoodworth@edingerlaw.net>