
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CFRA-AM re *The Lowell Green Show* ("New World Order")

(CBSC Decision 95/96-0012)

Decided April 30, 1996

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*),
P. Fockler, M. Hogarth, M. Ziniak

THE FACTS

This complaint concerns statements made about Mr. Glen Kealey, a well-known political activist in the Ottawa area, on *The Lowell Green Show* on CFRA-AM (Ottawa). According to the complaint, on September 12, 1995, Mr. Green spoke of Kealey's belief in the existence of an international conspiracy to create a "New World Order" and his potential connection to the stand-off by a group of natives at Gustafsen Lake, B.C. This led Kealey to send a fax to Green demanding to be allowed on air to rebut Green's statements. Mr. Green reported on this fax in the following way:

I'm in trouble. Glen Kealey is after me. Got a fax this morning. Here is what it says: Urgent Memorandum from Glen E.P. Kealey, President and Co-Chair, Canadian Institute for Political Integrity, yeah, "Dear Lowell, when you are ready to have me on as a guest, rather than propagandizing for the elitist side on your own, I will be happy to oblige. Arrange it. P.S. Contrary to your on air statements, I am in Ottawa, awaiting your invitation."

Well, for those of you who are not aware, Kealey is the man who stood outside the Peace Tower for a couple of years protesting against Brian Mullooney [*sic*], um, I got it right the first time, you know who I mean. Because he was protesting against Mulroney, he elicited a fair amount of support, but Kealey's gone on to some other things since then obviously.

Yesterday the Toronto Globe & Mail in a front page story said that those now holed up in Gustafsen Lake in B.C. espoused Kealey's belief that there is a giant international conspiracy

to take over the world. Apparently this group got its inspiration after Kealey spoke to them a few months ago.

Now, I am going to tell you something else. That is that, yesterday, we were subjected, on this program, to a very concerted attempt to interrupt the phone lines. Many, many people phoned, or perhaps it was just a smaller number who were phoning repeatedly to block the phone lines. And they did so with some success. And there were at least two threats made against me. And I am not saying, because I can't, I'm not saying that any particular group was responsible. But it is worth noting that it was obviously a concerted attempt and the Canadian Institute for Political Integrity, headed by Mr. Kealey, is just across the river here in Hull. So I'm going to try and get ahold of Mr. Kealey this morning. I'm going to see if he will admit that his group was responsible in any way for that and find out just exactly what his role is in this situation on the West Coast.

Mr. Green did succeed in reaching Mr. Kealey by phone later in the show. The following are excerpts from the ensuing discussion.

Lowell Green: Well we have Glen Kealey with us. Glen is President & Co-Chair of the Canadian Institute for Political Integrity. Good morning, Mr. Kealey.

Glen Kealey: Good morning, Lowell.

Lowell Green: Did you have anything to do with the attempt yesterday to blockade our phone lines, Glen, or did any of your people?

Glen Kealey: Will you believe me if I deny it?

Lowell Green: I will believe you.

Glen Kealey: I deny it.

Lowell Green: Many others wouldn't, but I will believe you. So you don't have a Tim or a Lucy with you?

Glen Kealey: I beg your pardon.

Lowell Green: Do you have a Tim or a Lucy that belong to your association?

Glen Kealey: Not that I know of, but we have 3,000 people from coast to coast, so there might be a Tim and a Lucy in there...

Lowell Green: You are saying publicly that you are not aware of the attempt yesterday to sabotage this radio program.

Glen Kealey: Sounds to me that you have accepted the fact that conspiracies exist, Lowell.

Lowell Green: Oh, conspiracies exist, but they are not large and they are not international.

Glen Kealey: To be fair, however, because you have explained to your audience who I am, we should tell your audience that you are a former Liberal candidate.

Lowell Green: Oh I think that's quite well known...

...

Lowell Green: Glen, let's get onto this issue. I am very concerned as I'm sure many Canadians are, over the role that the *Globe & Mail* says you have played and may still be playing in this standoff at Gustafsen Lake. Let's go back. When did you speak to these people?

Glen Kealey: Well, first of all, let's be clear here. Every day that I spent talking to these people is on videotape. So that's available. Anyone who wants to look at the truth, the evidence is available.

Lowell Green: Yeah but when? When did this happen, Glen?

Glen Kealey: I began my conversations with natives not in B.C. but in Quebec in 1993 when they approached me. I met the natives who are known as the Defenders of the Shuswap Nation for the first time in 1994 in Alberta.

Lowell Green: Did you go out there to meet them?

Glen Kealey: I was sent tickets as a matter of fact, by them, to fly out to meet them.

Lowell Green: When you say them, this is a very small group of radicals.

Glen Kealey: They may be a very small group of radicals to your mind. In their mind and in our mind, the native community is split in two just like the non-native community. There are the defenders of Mulroney and the system and the non-native community... and the rest of us who didn't vote for Meech...

Lowell Green: Wait a minute, hold it, Glen, let's stick to the issues here. ... Mulroney's got nothing to do with what is going on here.

Glen Kealey: Mulroney spent nine years appointing judges...

Lowell Green: I want to know what these people in Gustafsen Lake are protesting. I do not believe that they are protesting that this is sacred land. They seem to have a different agenda which seems to be a legacy of yours. You have convinced them, this small group of people, apparently, that there is some sort of international conspiracy headed by whom? Mulroney?

Glen Kealey: All of the information that I shared with them is on videotape.

Lowell Green: But tell us now, we have an international audience now.

Glen Kealey: I said... that there is a New World Order. If the people don't believe it they should call the Department of External Affairs and ask about the new branch on Globalism which was created in April to deal with New World Order affairs.

Lowell Green: Glen, it sounds awful kooky to me, but obviously...

Glen Kealey: A lot of things sound kooky to you, Lowell.

On the broadcast of September 21, Green did continue to discuss and take calls concerning the "New World Order". While Green was explicit in his view that this

conspiracy theory is silly, often breaking into a chant of the "Mickey Mouse" song, he did have extensive discussions with callers who stated their belief in the New World Order.

The Letter of Complaint

In a letter dated September 20, 1995, Mr. Kealey wrote:

As a result of being contacted by numerous people on September 12, 1995 and informed that Mr. Green had maligned my good reputation as a non-violent activist against political corruption on air that day I contacted Mr. Green by fax and demanded that I be allowed, on air, to rebut any of his inaccurate statements.

On the morning of September 13, 1995 I was contacted by CFRA and asked to remain on the line while Mr. Green introduced me. While waiting I could hear the feed from the station and how Mr. Green and another announcer were disparaging my person when Mr. Green stated that I may have been involved in tying up his telephone lines and making two death threats against him. I believe these accusations were repeated, on air, at least three times.

During his "formal" introduction of me and the Institute Mr. Green proceed to ridicule the word Integrity in our Institution's name, by adding the slur ...yeah. Later, when I denied any involvement in the conspiracy against him, Green stated that he accepted my denial but promptly added "many others would not". I personally doubt such a conspiracy had really existed, but rather that it was a marketing tool used by Green to increase his own importance. As most of his audience must by now agree, Green is a legend only in his own mind.

Green proceeded to speak over each of my answers so that only the message he personally intended to communicate to his audience would be heard. When he did not agree with my views he would ridicule, link them to anti-semitism or tell me to stick to the topic - his views. "I'm God on this show" Green stated, as he threatened to cut me off for having personally observed and come to a different understanding of world events than his own.

Then he proceeded to call me "sweetheart" and, when I objected, he called upon his staff, or the audience at large, with these spoken and broadcast words - "can we have a little kiss for Glen".

Without ever referring to the word "alleged" Green often accused the "Defenders of the Shuswap Nation" of being criminals. He also suggested to his "international audience" that, earlier, I had suggested the use of armed force, at the Gustafsen B.C. standoff.

During the days that followed I received phone calls from as far as Winnipeg, Manitoba, each deploring the fact that such behaviour is being tolerated on air, in Canada. Some suggested that criminal charges be laid against Mr. Green under Canada's new "hate laws", for having incited hatred against traditional aboriginal natives.

It is my hope that some kind of sanity can be returned to our airwaves, where citizens can differ and debate opinions freely, without being subjected to abuse from the like of Mr. Green.

On September 22, 1995, Mr. Kealey re-submitted his letter of complaint adding the following note:

It has been reported to me that Mr. Green continued his verbal attack on my person, by lying to his radio audience about my finances etc., between the hours of 11:00 and 12:00, on the morning of Thursday September 21, 1995.

The Broadcaster's Response

In his letter of October 23, 1995, CFRA's General Manager responded to the issues raised by the complainant

Your letter states your concerns about comments allegedly made about you on September 12th. You also have concerns about what was said about you and to you when you appeared on CFRA September 13th, 1995. You accuse Lowell Green, a host on CFRA, of inciting hatred against you.

We have reviewed the programs in question and have the following conclusions.

The broadcasts in question do not in any way, shape or form incite hatred against you or any other person. The comments made by Lowell Green reflect opinions based on published reports, statements made by you and listener comments.

Lowell Green hosts an opinion-based program. His comments on September 12th, 1995 may have bordered on strong sarcasm, not hatred. You, yourself, admit to "...demanded I be allowed on the air to rebut any of his inaccurate statements." You wanted to go on the Lowell Green program, knowing full well what type of program it was. Mr. Green rarely has guests. In your case he made a rare exception.

Mr. Green and CFRA are aware of your efforts. Many of them are very worthy and we salute you. We are also aware that you and the Canadian Institute For Political Integrity are quite savvy at getting media attention as you did September 13th, 1995.

Mr. Green was simply trying to engage you in conversation about a particular issue, an issue you demanded to be heard on. When you insisted on moving into different issues, which were not part of this day's programs, Mr. Green made attempts to stop it.

Mr. Kealey, if we inadvertently offended you or your organization, please accept our wholehearted apology. No offense was intended.

The complainant was unsatisfied with this response and requested, on October 26, 1995, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under Clause 6 of the *CAB Code of Ethics*, which reads as follows:

CAB Code of Ethics, Clause 6 (News)

It shall be the responsibility of member stations to ensure that news shall be represented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. It shall also ensure that news broadcasts are not editorial. News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be designed by the beliefs or opinions or desires of the station management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analyzing and elucidating news so long as such analysis or comment is clearly labelled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis and opinion.

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

The Regional Council members listened to a tape of the program in question and reviewed all of the correspondence. The Council considers that the program in question does not violate the *CAB Code of Ethics*.

The Nature of Open-Line Programs

Given the broadcaster's reference to the *Lowell Green Show* as an "opinion-based program", it is opportune for the CBSC to discuss the range or nature of open line programming. It is of the essence of open line, or talk, shows that they perform the role of ancient Athenian democracy. They are *potentially* as close as society can come in the late 20th century to that notion of pure political interactivity for the masses. In the CBSC's decision in *CKTB-AM re the John Michael Show* (CBSC Decision 92/93-0170, February 15, 1994), the Ontario Regional Council referred to the *Proposed Guidelines for Open Line Programs*, Public Notice CRTC 1988-121, the ultimate *Policy Regarding Open-Line Programming*, Public Notice CRTC 1988-213, and the *Canadian Association of Broadcasters' Submission to the CRTC in the Matter of Public Notice CRTC 1988-121* and had the following generalized comments regarding open line shows.

Paraphrasing the CRTC's introductory words in Public Notice CRTC 1988-121, open line programs are a vital part of Canadian broadcasting. They present an opportunity for lively public discussion. They are timely. They are, one might justifiably observe, an *essential* home of public debate in a free democracy. They are also a locus for the expression of conflicting passions, which make for exciting radio. As stated in the *Canadian Association of Broadcasters' Submission to the CRTC in the Matter of Public Notice CRTC 1988-121*,

[O]pen line programs have evolved as the most instantaneous forum for free flowing expressions of views on matters of public concern. In our view they represent an important expression and reinforcement of true democracy and as such are characteristic of only the most secure and mature democratic societies.

While the CBSC neither underestimates nor discounts the importance of all of the foregoing, it is acutely conscious of the fact that open line radio does not come to the public without certain countervailing impediments and restrictions. Freedom of expression in Canada, as guaranteed in Section 2(b) of the *Canadian Charter of Rights and Freedoms* is not without limitations (see Section 1 of the *Charter*). Freedom of expression in "the use of radio frequencies, which are public property and limited in number by the radio spectrum [is] subject to the requirement for programming of high standard." (See Decision CRTC 90-772, at p.6.) It is that delicate role of weighing freedom and restriction, lively debate and imperturbable responsibility, which the host must play and which, when offence is declared by a listener, the CBSC must judge.

Talk shows do not, however, come in a single flavour. They may indeed not be easily pigeon-holed into a small number of categories, although they may be said to range from the type in which the audience plays the largest role (and the host the smallest) to that in which the host plays the largest role (and the audience the smallest). Generally speaking, the goal of the host of the former type will be to define the subject and encourage *callers* to address that theme as articulately and effectively as possible. The host will in a sense be more of a moderator and, while undoubtedly provocative from time to time, is not likely to be argumentative. It is a "public forum" in the best sense of the term.

In programs of the latter type, the host is less of a moderator and more of a participant. He or she is likelier to be argumentative. The views and opinions of the host become or are the focal point of the program; the callers merely provide a launch pad for more theatrical or aggressive antics on the part of the host. It is less "public forum" than "public theatre".

In the Council's view, *wherever* the open line program falls on the spectrum, it remains the broadcaster's responsibility to guarantee the "full, fair and proper presentation of news, opinion, editorial and comment" as provided in paragraph 3 of Clause 6 of the *CAB Code of Ethics*. No one style of host has more licence than another to abuse guests or callers. No one type of host is entitled to ignore the broadcaster's duty to ensure "full, fair and proper presentation". Examples of previous CBSC decisions on these points follow. In *CFRA-AM re the Lowell Green Show* (CBSC Decision 93/94-0276, June 4, 1994), the Council found that the host's aggressive manner constituted discrimination against one of the callers to his show, contrary to Clause 2 of the *CAB's Code of Ethics*.

The members of the CBSC's Ontario Regional Council noted that the female caller was not even allowed to engage in a dialogue with the host. Once she had identified herself as a Christian, she was immediately cut off, as though her religion made her unqualified to speak on the subject at hand. The Regional Council unanimously decided that the host's treatment of the caller, as well as his comments after cutting her off did, indeed, constitute a breach of clause 2 of the *CAB Code of Ethics*, regarding "...abusive or discriminatory material or comment... based on matters of religion."

The Council further stated that

the Regional Council recognize[s] the requirement of broadcasters to balance freedom of expression against abuses of that freedom. In Canada, the freedom of expression as guaranteed in Section 2(b) of the *Canadian Charter of Rights and Freedoms* is not without

limitations (see Section 1 of the *Charter*). As the CBSC affirmed in its April 15, 1994 decision concerning CKTB-AM, "it is that delicate weighing of freedom and restriction which the host must accomplish and which, in the event of a listener complaint, the CBSC must judge."

With respect to the program under consideration, the Regional Council members agreed that the host had been rude and aggressive with the caller. This was a function not only of the rapidity with which he had cut her off, but also his derisive tone: "Get lost. Get lost. A preacher again... She doesn't count." After she had identified herself as "a practising Christian", she had only been able to utter *ten* words before being unceremoniously cut off. Her prefatory words "We in this country have turned our backs on God" were quietly stated and were not, in the view of the Council, a statement of an irresponsible nature which would have entitled a responsible, even if somewhat theatrical, host to cut her off.

The Regional Council considered that, by cutting her off on such flimsy and discriminatory grounds, the host had not only infringed her freedom of expression, but had also precluded the "free flowing expression of views of public concern" deemed essential to this type of programming. The host of the program had clearly insulted the female caller and silenced her because he believed that she had a point of view different from his. The Regional Council unanimously agreed that, by limiting debate in this manner and for this reason, the station breached clause 6 of the *CAB Code of Ethics*.

In *CFTM-TV re Mongrain* (CBSC Decision 93/94-0100, 93/94-0101, and 93/94-0102, December 6, 1995), the Quebec Regional Council dealt with the related question of the treatment of in-studio guests on a talk-type show.

There were, however, some important differences between the CFRA host and the Mongrain's conduct during his interviews with Raël and Chabot. It is, for example, clear to the Regional Council members that Mongrain made a number of contentious statements ("travellers from afar can lie with impunity", "the bigger the lie, the more likely people are to believe it") and posed several provocative questions to Raël and Chabot ("In any case, you at supper with Jesus Christ, Mohammed, Allah and so on. That's pretty heavy, isn't it?", "Conferences 25 bucks a head, to go and hear about the wonders of cosmic ejaculation").

At the same time, however, and in stark contrast to the *Lowell Green* complaint, Mongrain afforded his guests ample opportunity to respond to his contentions and present their points of view during the 24-minute segment. Indeed, the Regional Council members note that the guests were in a position to refute certain of the host's statements and did provide some clarification, as for example regarding the discussion of the costs of membership in the movement, or the complaint filed by Chabot with the Human Rights Commission. Thus, unlike the *Lowell Green* complaint, where debate was limited, indeed curtailed, Mongrain's provocative statements encouraged debate and enabled clarification of the position of the Raéliens. As a result, the Regional Council concludes that there was no breach of clause 6(3) of the *CAB Code of Ethics*.

Furthermore, Council recognizes that the program (with its host's often provocative public statements) is well-known in the Quebec market and airs on the most-watched television station in Montreal. Both guests and viewers of the program would therefore be familiar with the host's approach, his challenges of his interviewees and his aggressive interviewing style. Raël as much as admitted this at one point during the interview. Council affirms that, in this context, Raël and Chabot were "informed" guests and, as such, should have been prepared for both the tone and the nature of the assertions presented by Mongrain.

More recently, in *CKAC-AM re the Gilles Proulx Show* (CBSC Decision 94/95-0136, December 6, 1995), the Council commented on the public nature of the airwaves.

While the Regional Council recognizes that the Gilles Proulx Show is essentially one of provocative discussion and debate regarding issues of public importance, it equally recognizes that this does not accord the host unlimited freedom of speech. If such an untrammelled right exists in the host's own living room or, to a lesser extent, in the middle of Parc Lafontaine, it does *not* exist on the Canadian airwaves. Indeed, radio and television stations in Canada are granted the *privilege* of using broadcasting frequencies with a view to providing, as stated in section 3(1)(b) of the *Broadcasting Act*, "a *public service* essential to the maintenance and enhancement of national identity and cultural sovereignty [emphasis added]". In this instance, however, the host's extensive, excessive and abusive commentary on the complainant's letters to the station in no way furthered public debate or discussion on issues of public importance. Rather, the host used the airwaves to exact a form of private vengeance on an individual listener. This behaviour in no way constituted "informed analysis, comment and opinion on public events and issues" as provided in Article 7 of the *RTNDA Code of Ethics*.

The Content of the Program

In this case, the Council finds that Lowell Green provided ample opportunity to the complainant and other listeners to express their points of view and did not arbitrarily cut them off or otherwise treat them with disrespect. The Council notes that the host heeded the complainant's faxed request to be given an opportunity to rebut Green's on-air statements by calling him (an unusual step for Green, according to the broadcaster) that same day. While the complainant may not have been able to say all that he wanted to say, the Council finds that he was given fair opportunity to rebut Green's statements. In this regard, the Council finds that this situation is similar to the situation faced by the Ontario Regional Council regarding a complaint by a guest on the Shirley Show. In that decision, *CTV re an episode of The Shirley Show* (CBSC Decision 93/94-0261, August 18, 1995), the Council stated that it

... does not believe that it is generally practical or even possible to give every guest ... the opportunity to express *fully* his or her point of view on the subject treated. If any such show's producers are doing their job, they will be gathering in their studio individuals who have an expertise and perspective on a subject which would, in an ideal (but unrealistic) world (from a broadcasting point of view), entitle *each* of them to occupy a considerable quantity of time in exposition of their knowledge. That goal can *rarely* be met in a non-print media environment and even print publishers have their own spatial constraints. And so, it must almost be a given that persons choosing to be guests on such shows must be satisfied that they will not have the opportunity to say everything they wish to say. Their failure to meet their personal goals in this respect will not, in the absence of some *other* evidence of breach, constitute a breach of the Controversial Issues provision of the *CAB Code of Ethics*.

The Council listened carefully to the tape in order to determine whether the host did "speak over each of my answers so that only the message he personally intended to communicate to his audience would be heard", as contended by the complainant. The Council's conclusion is that this did *not* occur. In any talk show context, there is host-caller

interaction which may occasionally leave such a sense but nothing of this nature occurred here. While the Council notes that Green did threaten to cut off Kealey if he didn't stick to the topic, it does not find that this was intended to limit the expression of views to only those in accordance with his own. Rather, the Council considers that Mr. Kealey was attempting to digress from the topic which Green sought to discuss and Green, as host of the program, was entitled to redirect the discussion or end the call. The complainant alleged that Mr. Green has referred to his power as host of his show as being "God on this program". While the Council considers that this may be more than a slight overstatement, there is no denying a host's entitlement and responsibility to control the discussion on his or her show.

The complainant also took issue with being called "sweetheart" by Green. The Council finds that this was not meant as a particular sign of disrespect towards Mr. Kealey, nor would a frequent listener to the *Lowell Green Show* interpret it in such a way. The Council notes that throughout the three-hour shows of September 13 and 21, Mr. Green called many callers, both male and female, "sweetheart". The "kiss" sound effect is also well-known to the frequent listener.

In light of the above, the Regional Council is of the view that the station has not contravened clause 6 of the *CAB Code of Ethics*.

Broadcaster Responsiveness

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the response from the broadcaster dealt fairly with the issues raised by the complainant. Nothing more is required.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.