

SEP 15 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. <u>93-75</u>
TRINITY BROADCASTING OF FLORIDA, INC.)	File No. BRCT-911001LY
For Renewal of License of Station WHFT(TV), Channel 45, Miami, Florida)	
GLENDALE BROADCASTING COMPANY)	File No. BPCT-911227KE
For a Construction Permit for a New TV Station on Channel 45 at Miami, Florida)	

To: Administrative Law Judge
Joseph Chachkin

**MASS MEDIA BUREAU COMMENTS IN SUPPORT OF
SECOND MOTION TO ENLARGE ISSUES**

1. On August 27, 1993, Trinity Broadcasting of Florida, Inc. ("Trinity"), filed a Second Motion to Enlarge Issues ("Second Motion") against Glendale Broadcasting Company ("Glendale"). The Mass Media Bureau supports addition of the requested issue for the following reasons.

2. Trinity seeks an issue to determine whether Raystay Company ("Raystay"), which is controlled by Glendale principal George Gardner, committed misrepresentations in an application (File No. BAPTTL-920114IB) for consent to the assignment of construction permit for unconstructed Low Power Television Station W56CJ, Red Lion, Pennsylvania, to Grosat Broadcasting, Inc. Specifically, Trinity alleges that Raystay overstated its legal and engineering expenses in order to evade Section 73.3597(c)(2) of the Commission's Rules which restricts to legitimate and prudent costs what a seller may receive in connection with

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the sale of an unbuilt station.

3. Raystay represented in the assignment application that it had incurred a total of \$10,498.00 in expenses in connection with obtaining the Red Lion construction permit. According to a certification signed by David Gardner (George Gardner's son), this amount consisted of legal fees from the law firm of Cohen & Berfield in the amount of \$7,698; engineering fees from the consulting firm of Robert Hoover in the amount of \$2,425; and FCC filing fees of \$375. The sales price specified in the Red Lion agreement was \$10,000.

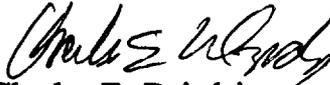
4. In support of its Second Motion, Trinity relies on two documents obtained during discovery in this proceeding. One of the documents is a letter from Cohen & Berfield to Raystay, and the other is an invoice from the Hoover engineering consulting firm to Raystay. The Cohen & Berfield letter states that the law firm billed Raystay in the amount of \$15,397.03 in connection with five LPTV authorizations, including the Red Lion authorization. There is no suggestion in the Cohen & Berfield letter as to how much, if anything beyond one-fifth, of the \$15,397.03 was attributable to work done exclusively with respect to the Red Lion authorization. The Hoover invoice, on the other hand, is more specific. Of the total \$7,275 which the Hoover company billed for work in connection with the five Raystay LPTV authorizations, no more than \$1,525 was attributable to the Red Lion construction permit.

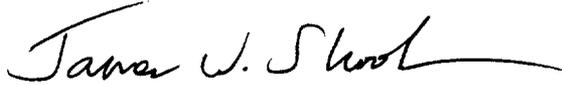
5. Based on the numbers contained in the referenced documents, Trinity argues that Raystay's actual expenses in connection with the Red Lion authorization were more in the neighborhood of \$5,000, rather than the \$10,498 which Raystay claimed in its assignment application. According to Trinity, Raystay's obvious motive in inflating the amounts attributable to the Red Lion authorization was to justify the \$10,000 sales price and skirt the

Commission's reimbursement restrictions. In so doing, Raystay reaped twice as much money from the sale of the unbuilt LPTV station than allowed by the Commission.

6. The Bureau submits that Trinity has made out a prima facie case of misrepresentation by Raystay. The documents on which Trinity relies plainly suggest that Raystay exaggerated its expenses in the Red Lion assignment application. Furthermore, Raystay appears to have had a clear motive for claiming to have spent more than it actually did to obtain the Red Lion construction permit. Accordingly, absent a satisfactory explanation by Glendale in its responsive pleading, the Bureau believes that further inquiry on this matter is warranted.

Respectfully submitted,
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September 15, 1993

CERTIFICATE OF SERVICE

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certify that I have, on this 15th day of September 1993, sent by regular United States mail, U.S. Government frank, copies of the foregoing, "Mass Media Bureau's Comments on Second Motion to Enlarge Issues" in MM Docket No. 93-75 to:

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