

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

ORIGINAL

In re Application of )  
 )  
PINE TREE MEDIA, INC. )  
 )  
For Renewal of License of )  
Station KARW )  
Longview, Texas )

MM Docket No. 93-265

File No. BR-900817UF

RECEIVED

To: Honorable John M. Frysiak  
Administrative Law Judge

FEB - 8 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**OPPOSITION TO MOTION TO DISMISS**

Praise Media, Inc., ("Praise") by its counsel and pursuant to Section 1.45 of the Commission's Rules, 47 C.F.R. § 1.45, hereby submits its Opposition to the Motion to Dismiss ("Motion") filed by the Mass Media Bureau on January 26, 1994. As demonstrated below, dismissal of the above-referenced application and termination of this proceeding for failure to prosecute is not appropriate in the present circumstances and would not serve the public interest. For these reasons and for those set forth below, Praise respectfully requests that the Mass Media Bureau Motion be denied.

**Background**

On October 25, 1993, the Commission released its Hearing Designation Order and Notice of Forfeiture, 8 FCC Rcd 7591 (1993) ("HDO"), whereby this proceeding was initiated. The HDO, inter alia, seeks resolution of issues surrounding the control of station KARW and seeks to resolve whether grant of the above-referenced application of Pine Tree Media, Inc. ("Pine Tree") would serve the public interest. The HDO was mailed to the station and Pine

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Tree and its successors or assigns were directed therein to enter an appearance in this proceeding. Praise, a Texas corporation whose principals, as demonstrated below, presently are involved in the acquisition of station KARW and which is the successor and assign of Pine Tree, retained attorney Kenneth Kilgore to prepare and submit an appearance. As acknowledged by the Mass Media Bureau in its Motion, the "Notice of Participation and Intervention" prepared by Mr. Kilgore was submitted to counsel for the Mass Media Bureau and to the Administrative Law Judge, but was not filed with the Commission's secretary as require by the Commission's procedural rules. Undersigned counsel was retained by Praise just prior to the prehearing conference held on January 24, 1994. Undersigned counsel was present at the conference, but, as yet unsure of his client's posture vis-a-vis this proceeding, did not enter a notice of appearance at that time.

As noted above, on January 26, 1994, the Mass Media Bureau filed its Motion requesting that the application of Pine Tree for renewal of the license of KARW be dismissed and that this proceeding be terminated due to the failure of Pine Tree, its successors and assigns, to enter a proper appearance stating their intention to appear on the date fixed for hearing and to present evidence on the issues specified in the HDO, and the failure of Pine Tree to appear at the January 24 prehearing conference.

**Praise Is A Successor And Assign  
Of Pine Tree Media, Inc.**

As noted in the HDO, the promissory note made by Mr. Kenneth Tuck ("Tuck") in payment for station KARW, or for the stock in Pine Tree, was transferred to a company known as American Plastic Products, Inc. ("American Plastics"), on May 17, 1990. Public

documents available in Gregg County, Texas (where station KARW is located), indicate that American Plastics foreclosed on station KARW on or about July 3, 1990. By March of 1991, a Mr. H.E. Ferrell was serving as General Manager of station KARW as representative of American Plastics. See Affidavit of Janet Washington, attached hereto as Exhibit A. In March of 1991 Mr. Ferrell hired a Mr. Ray Lee Williams as a disc jockey at the station. Id.

Public documents indicate that on August 6, 1991, Dr. Herbert Wren and Mr. Earl Jones, Jr., the original principals of Pine Tree who sold the station to Tuck, foreclosed on a note issued to them by American Plastics and thereby reacquired control of station KARW. Subsequently, Mr. Ferrell was removed as General Manager. See Exhibit A. Mr. Williams was thereafter named General Manager of station KARW. Id. In September of 1991, Mr. Williams proposed to start a business to be known as Praise Broadcasting and began negotiations with Messrs. Wren and Jones for the purchase of the station. Id. In late September 1991, Janet Washington and Eugene Washington met with Mr. Williams to discuss the purchase of the station from Dr. Wren and Mr. Jones. Id. On February 10, 1992, Eugene Washington and Ray Lee Williams, acting as President and Vice-President, respectively, of Praise, entered into an agreement to purchase station KARW. Id.

**Denial Of The Motion To Dismiss  
Would Serve The Public Interest**

As a successor and assign of Pine Tree, Praise is properly a party to this proceeding and its Notice of Appearance should be accepted. As noted above, Praise has taken steps to participate in this proceeding, including the retention of counsel to prepare and file a timely notice of appearance. Retention of counsel was particularly important in light of the fact

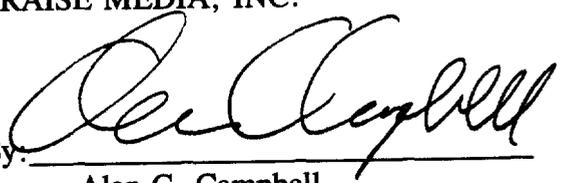
that Praise was new to the responsibilities of station owners in the broadcast industry and had never been a Commission licensee. The fact that said local counsel was apparently unfamiliar with the Commission's procedural rules should not act as a bar to a party making a good faith effort to participate in this proceeding and eventually to obtain renewal and proper transfer of station KARW.

The public interest would be served by Praise's participation in this proceeding because, as demonstrated above, Praise is the party with a legal and equitable interest in the renewal of the license to operate station KARW, and offers the best hope for continued service to Longview by KARW. Continuation of the operation of KARW also serves the Commission's vital interest in programming diversity, because Praise is 100 percent minority (African-American) owned and operated and station KARW broadcasts programming specifically targeted to its African-American minority audience. See Exhibit A.

Moreover, Praise has corrected the technical and other shortcomings of the station uncovered during an earlier Commission inspection of the station. To wit, KARW's tower was painted in April of 1992; a new Emergency Broadcast System was purchased and installed in November of 1992, and the station's transmitter power has been monitored and regulated since February 1992. In addition, the transmitter logs and public reference file are up-to-date. See Exhibit A.

WHEREFORE, the premises considered, Praise respectfully requests that the Presiding Officer deny the Mass Media Bureau Motion to Dismiss and accept the simultaneously-filed Notice of Appearance and add Praise as a party to this proceeding.

Respectfully submitted,  
PRAISE MEDIA, INC.

By: 

Alan C. Campbell  
Michael G. Jones

Its Attorneys

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February 8, 1994

**EXHIBIT A**

## **AFFIDAVIT**

I, Janet Washington, General Manager of AM radio station KARW, Longview, Texas, and Treasurer of Praise Media, Inc., hereby state under pain and penalty of perjury that the following is true to the best of my knowledge, information and belief:

In mid 1990, a corporation doing business as "American Plastic Products, Inc." acquired the property located at 2929 Signal Hill Road in Longview, Texas, which is the land upon which radio station KARW is situated. As of March, 1991, Mr. H.E. Ferrell was serving as General Manager of radio station KARW and as representative of American Plastic Products, Inc. In March of 1991 Mr. Ferrell hired a Mr. Ray Lee Williams as a disc jockey at the station.

In August or September of 1991, Dr. Herbert Wren and Mr. Earl Jones, Jr. foreclosed on the property at 2929 Signal Hill Road and Mr. Ferrell was removed as General Manager. Mr. Williams was subsequently named General Manager of station KARW. Also in September of 1991, Mr. Williams proposed to start a business to be known as Praise Broadcasting and began negotiations for the purchase of the property located at 2929 Signal Hill. In late September 1991, Janet and Eugene Washington met with Mr. Williams to discuss the terms at which the property could be purchased from Dr. Wren and Mr. Jones. On February 10, 1992, Eugene Washington and Ray Lee Williams, acting as President and Vice-President, respectively, of Praise Media, Inc., entered into an agreement to purchase AM station KARW. Praise Media, Inc. was incorporated in the state of Texas on March 19, 1992.

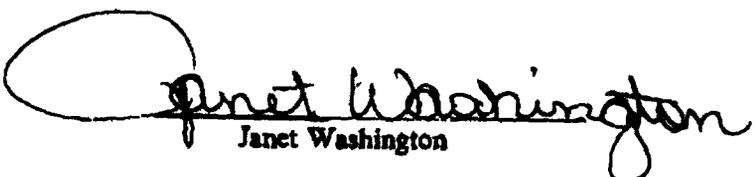
Under the direction of Praise Media, Inc., KARW's tower was painted in April of 1992. A new Emergency Broadcast System was purchased and installed in November of

1992, and the station's transmitter power has been monitored and regulated since February 1992.

The transmitter logs and public reference file are up-to-date.

Praise Media, Inc. is 100 percent minority (African-American) owned and operated and station KARW broadcasts programming specifically targeted to its African-American minority audience.

Further the affiant sayeth not.

  
Janet Washington

Date: 2-9-94

**CERTIFICATE OF SERVICE**

I, Lorena L. Ferry, hereby certify that on this 8th day of February, 1994, copies of the foregoing "Opposition To Motion To Dismiss" have been served by hand delivery upon the following:

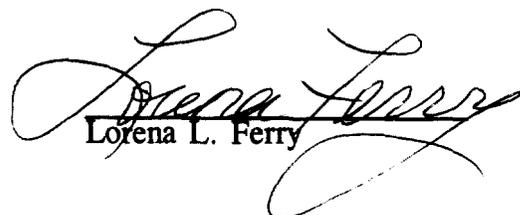
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Lorena L. Ferry