

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

In re Applications of) MM Docket No. 93-265
)
PINE TREE MEDIA, INC.) File No. BR-900817UF
)
For Renewal of License of)
Station KARW)
Longview, Texas)

To: The Review Board

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

MASS MEDIA BUREAU'S
OPPOSITION TO APPEAL

1. By Memorandum Opinion and Order ("Order"), FCC 94M-90, released February 24, 1994, the Administrative Law Judge in this proceeding granted a motion by the Mass Media Bureau; dismissed the application of Pine Tree Media, Inc. (Pine Tree); and terminated this proceeding. On March 3, 1994, an entity d/b/a Praise Media, Inc. (Praise Media) filed an Appeal of the Judge's Order. The Mass Media Bureau hereby submits its opposition to Praise Media's appeal.¹

2. The Hearing Designation Order and Notice of Forfeiture, 8 FCC Rcd 7591 (1994) ("HDO"), directed that, "to avail themselves of the opportunity to be heard, Pine Tree Media, Inc. its successors and assigns...shall...within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for

¹ Permission to file this pleading one day late is requested. On Friday, March 18, 1994, the Bureau experienced a computer malfunction and undersigned counsel was unable to access the file containing this document.

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hearing and to present evidence on the issues specified in this Order." The HDO was released on October 25, 1993. By letter dated November 12, 1993, a "notice of appearance" was mailed to the Presiding Judge on behalf of Janet Washington "individually and as General Manager of Pine Tree and Praise Media." The letter identified Janet Washington as the owner of an interest in the license and real property on which KARW is located. Neither the letter nor the "notice of appearance" was filed with the Commission.

3. A prehearing conference was held in this proceeding on January 11, 1994. At that conference no one appeared on behalf of Pine Tree. The Presiding Judge, with the agreement of the Bureau, reset the conference date for January 24, 1994, after noting that he had received a call from Janet Washington who had requested the postponement so that she could retain counsel.

4. At the prehearing conference held on January 24, 1994, again no one appeared on behalf of Pine Tree. Alan Campbell, Esq., was present at the prehearing conference and stated that he represented Praise Media, but was not sure whether Praise Media qualified as an assign of Pine Tree. Consequently, he did not enter an appearance. At the end of the conference the Presiding Judge suspended the hearing date pending the filing of a motion to dismiss the Pine Tree application by the Bureau.

5. On January 26, 1994, the Bureau filed a Motion to Dismiss the application of Pine Tree for failure to file a notice of appearance and for failure to appear at the prehearing conference. On February 8, 1994, Praise Media filed an opposition to the Bureau's motion in which it claimed to be the successor or assign of Pine Tree. The basis for this claim was an assertion by Janet Washington that on February 10, 1992, Praise Media had entered into an agreement to purchase KARW. She also stated that under Praise Media's direction, KARW's tower has been painted and a new Emergency Broadcast System installed. The Presiding Judge found that Praise Media had not established its status as a successor or assign of Pine Tree. He noted that there was no claim that Praise Media had ever closed on the agreement to purchase KARW and that the Commission's records did not reflect that an application transferring control of KARW to Praise Media had ever been filed. Consequently, he dismissed Pine Tree's renewal application and terminated the proceeding. See Order.

6. Praise Media requests that the Review Board reverse the Presiding Judge's Order and grant it party status. Praise Media contends that, on February 10, 1992, it not only entered into a contract for the purchase of KARW, it also closed on that contract. Although a transfer application has never been filed with the Commission, Praise Media contends that it was the intention of the parties that Praise Media become the successor

and assign of Pine Tree.

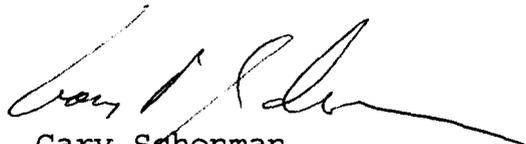
7. Praise Media's appeal should be denied. The HDO in this case was released on October 25, 1993. A notice of appearance was due within 20 days of the mailing of the HDO. The "notice of appearance" that was mailed to the Presiding Judge under cover letter dated November 12, was never filed with the Commission. Moreover, the letter was submitted on behalf of a person, Janet Washington, who not only was a stranger to this proceeding, but also to the Commission. Two prehearing conferences were held in January 1994, and neither Pine Tree Media nor Praise Media appeared at either conference. In its opposition to the Bureau's motion to dismiss, Praise Media clearly failed to establish its standing as either a successor or assign of Pine Tree. Praise Media's claim that it became a successor or assign on February 10, 1994, is without merit. Absent Commission approval of an assignment or transfer application, Praise Media has no entitlement to the KARW authorization and no right to prosecute Pine Tree's renewal application. At best all that transferred was the real and personal property of Pine Tree. This is insufficient to establish Praise Media as a successor to or assign of Pine Tree. Under these facts, it is abundantly clear that the Presiding Judge did not err in dismissing Pine Tree's application for failing to prosecute its application.

8. In sum, it is clear that neither Janet Washington nor Praise Media has any standing in this proceeding. Therefore, the Presiding Judge's Order should be affirmed.

Respectfully submitted,
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March 21, 1994

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 21st day of March 1994, sent by regular United States mail, U.S. Government frank, copies of the foregoing "**Mass Media Bureau's Opposition to Appeal**" to:

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