

BEFORE THE
Federal Communications Commission JUL 12 1994

WASHINGTON, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of)	
)	MM Docket NO. 94-10
THE LUTHERAN CHURCH/ MISSOURI SYNOD)	
)	File Nos. BR-890929VC
)	BRH-890929VB
For Renewal of Licenses of)	
Stations KFUD/KFUD-FM)	
Clayton, Missouri)	

To: The Honorable Arthur I. Steinberg
Administrative Law Judge

CHURCH EXHIBIT 3

Testimony of Paula Zika

Respectfully submitted,

THE LUTHERAN CHURCH -
MISSOURI SYNOD

By: Richard R. Zaragoza
Kathryn R. Schmeltzer
Barry H. Gottfried
Scott R. Flick

Its Attorneys

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Dated: June 1, 1994

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Docket No. 94-10 Exhibit No. 3

Presented by CHURCH

Disposition { Identified 6/21
Received 6/21
Rejected _____

Reporter BARBARA COLE

Date 6/21/94

TABLE OF CONTENTS

CHURCH EXHIBIT 3:

Testimony of Paula Zika

Attachment 1: Zika Note to Dennis Stortz

TESTIMONY OF PAULA ZIKA

1. I am the Director of Business Affairs at Stations KFUO (AM) and KFUO-FM, Clayton, Missouri (the "Stations"). I have been employed at the Stations since January 1971 working in a variety of positions relating to station operations. Since the early to mid 1980's, I have served in the capacity of Director of Business Services, although the title of that position has changed several times over the years. From 1987-1991 my title was Director of Station Operations. With the exception of the Stations' Chief Engineer and the Assistant Engineer, I have worked at the Stations longer than any other employee.

2. Over the years, my responsibilities have included handling administrative and business matters for the Stations including personnel matters. I have also prepared FCC forms for the Stations. When the 1989 license renewal packet arrived, I was given the responsibility of gathering the necessary information and typing the applications. During my time at the Stations, I had prepared FCC filings for a number of different General Managers and acting General Managers.

3. In preparing the FCC Form 396 Broadcast EEO Program Report to be included with the license renewal applications, I reviewed the 1982 EEO Program Report and typed up the 1989 Form 396 using the 1982 Report. In responding to the Form 396 questions, I went through the Stations' employment records (which

I maintained as part of my duties at the Stations) to provide the employment figures requested by the FCC in the Form 396.

4. I compiled the data regarding the question in the Form 396 asking about "Job Hires". The question asked for the total hires during the twelve month period prior to filing the renewal application. I answered that question the way I thought it was being asked. Specifically, I thought that the question was asking only for full-time hires during the past 12 months, and I believed that the question was not asking for hires during the past 12 months who were no longer working at the Stations. Although I had worked on the 1982 FCC Form 396 which had a similar question, I had not made the calculations to answer the "Job Hires" question in the 1982 application.

5. Based on my understanding of the question in the Form 396, I wrote in: "During the twelve month period beginning October 1, 1988 and ending September 30, 1989, we hired a total of six persons, two white males and four white females." I reached this figure by adding the full-time hires in the last twelve months who were still working at the Stations in September 1989.

6. Sometime later, I was asked to provide data for each full-time and part-time hire during the three year period from October 1, 1986 to October 1, 1989. I, along with Dennis Stortz, reviewed the Stations' records and collected the names, dates of hires and the full-time or part-time status of hires over the last three years.

7. Subsequently, I learned that the FCC had raised a question concerning the response about "Job Hires" in the 1989 license renewal applications, as compared to the job information later filed with the FCC concerning the three years from October 1, 1986 to October 1, 1989. I discussed this matter with Dennis Stortz and told him that I believed the difference in the answers was probably the result of the two different questions asked by the FCC. In the license renewal applications, the FCC had requested the number of "total hires" which I interpreted to mean the "net gain" of full-time hires. I had not counted employees who were hired in 1989 but who had already left by mid-September 1989 when the renewal applications were completed since such employees had no impact on the Stations' minority or female employment profile as of the time the renewal applications were filed. Therefore, I told Dennis Stortz that KFUO (AM/FM) had a "net gain" of six persons during this period and the Stations had referred to this "net gain" as the number of persons hired in the license renewal applications. See my note to Dennis Stortz attached as Attachment 1.

8. After the Commission's Hearing Designation Order, released February 1, 1994, again questioned the number of hires KFUO (AM/FM) had previously reported in the license renewal applications and related filings, I reexamined station records in detail, along with Dennis Stortz, to pin down how the discrepancy referred to by the FCC had occurred. The Hearing Designation Order noted that the number of hires reported in the 1989 license

renewal application was six while the number of hires reflected in Table 3 of KFUE's February 23, 1990 "Opposition to Petition to Deny and Response to Inquiry" was fourteen. However, of the fourteen hires reported, four were part-time. I had not included part-time hires in the 1989 renewals. Most of the part-time employees were from Concordia Seminary. They typically worked only 6-12 hours per week and received no employee benefits. In effect, they were paid interns. Therefore, the discrepancy referred to by the FCC appeared to be six versus ten rather than six versus fourteen.

9. As I earlier indicated, in the renewal application I did not count employees who were hired in 1989 but who had left the Stations before mid-September 1989 when I prepared the renewal applications. There were two such employees. I also did not count a third employee, Reverend Schultz, who was hired to be the new AM General Manager on September 25, 1989 but who did not actually start work until after October 1, 1989. At the time I completed the renewal applications, I had not been told that Reverend Schultz had been hired and therefore I did not count him among the hires for that time period. Based on my review, I discovered that the only full-time employee who was hired between October 1, 1988 and September 30, 1989, that I inadvertently failed to list was Robert Thomson, a white male, who was hired as a salesworker on October 24, 1988. Since we did not have our employee records on computer during the license renewal period, and I had not remembered any hires in the last quarter of 1988

when I was preparing the license renewal applications, I did not check Mr. Thomson's hire date in his personnel record and inadvertently failed to count Mr. Thomson. Thus, the net gain of full-time hires between October 1, 1988 and September 30, 1989 was actually seven rather than the six stated in the license renewal applications. Three of the hires were white males and four were white females.

10. I never intended to deceive the Commission in any way concerning the matter of job hires at the Stations. The discrepancy was simply the result of my confusion regarding the question posed in the Form 396, my failure to recall that Mr. Thomson had been hired during the relevant twelve month period and my lack of knowledge that Reverend Schultz was being hired during the relevant period.

DECLARATION

I, Paula Zika, have read the foregoing Lutheran Church - Missouri Synod Exhibit entitled "Testimony of Paula Zika," and I declare under penalty of perjury that it is true and correct to the best of my knowledge and belief.

Executed this 31 day of May 1994.



Paula Zika

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Item VII

EEO Program Report

003843

In researching the job hires item between Oct 1, 1988 and Sep. 30, 1989 we used our employment reports as a starting base. During that period we lost employees and hired employees.

The paragraph in the EEO program report should have stated we had a "net gain of six persons" instead of the word "hired".

Our rationale at the time for doing it this way is not remembered - perhaps we did not understand the information ~~wanted~~, or the detail wanted.