

BEFORE THE

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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 KFUE/KFUE-FM)	
Clayton, Missouri)	

To: The Honorable Arthur I. Steinberg
Administrative Law Judge

CHURCH EXHIBIT 5

Testimony of Peter J. Cleary

Respectfully submitted,

THE LUTHERAN CHURCH -
MISSOURI SYNOD

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

Its Attorneys

FISHER WAYLAND COOPER
LEADER & ZARAGOZA L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1851
(202) 659-3494

Dated: June 1, 1994

Federal Communications Commission

Docket No. 94-30 Exhibit No. FIVE

Presented by THE LUTHERAN CHURCH

Disposition { Identified ✓ 6/20/94
Received ✓ 6/20/94
Rejected

Reporter MKFLEISHMAN

Date 6/20/94

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CHURCH EXHIBIT 5:

Testimony of Peter J. Cleary

TESTIMONY OF PETER J. CLEARY

A. BACKGROUND

1. I have some 28 years of advertising and broadcasting experience, starting with Young & Rubicam in 1966 in media planning and buying, and moving on to radio advertising sales at Metromedia Radio Sales, and Vice President - Sales at RKO Radio Representatives prior to creating Concert Music Broadcast Sales.

2. In 1976, I founded Concert Music Broadcast Sales as a representative firm devoted exclusively to helping radio Stations in the classical music broadcast industry sell national spot advertising. In spot sales, we represent all but three of the commercial classical music radio stations in the United States.

3. Beginning July 1, 1983, my company became the rep firm for Station KFUO-FM, Clayton, Missouri (the "Station"), the only Station offering a fulltime classical music format in the St. Louis radio market. In the early 1980's I discovered that the Station was operating on a commercial frequency. We had wanted a fulltime classical music radio outlet in the St. Louis market so I contacted the licensee, the Lutheran Church - Missouri Synod (the "Church") to urge them to change KFUO-FM from a noncommercial operation. It took me about three years of arm twisting. In July 1983, the Church began to sell time on KFUO-FM. Since then, our firm has worked very closely with the Church and the Station's staff. Accordingly, I am very familiar

with the Church's efforts to transform KFYO-FM into a respected, commercially successful, classical music radio broadcast "institution" in St. Louis.

4. To elaborate on our background, I am the founder and President of Concert Music Broadcasting, Inc. which is a New York corporation with two operating divisions: Concert Music Broadcast Sales ("CMBS") and Concert Music Network ("CMN"), both specializing in marketing the upscale audience to advertisers in the United States. CMBS was founded as the first and only representative firm devoted exclusively to sales of the classical radio format. CMBS was the first company to provide national advertisers with an effective, efficient way to reach the classical audience -- the most consistently upscale, and hardest-to-reach audience of all broadcasting media. Ours was the first radio rep firm to convince the advertising community of the strength of the classical format through the use of target marketing -- the concept that who you are selling to, rather than how many is the most important aspect of any advertising budget. In addition to its headquarters in New York City, CMBS has sales offices in Chicago, Dallas, Los Angeles, Atlanta, Detroit and San Francisco. From July, 1983 to the Fall of 1986, CMBS maintained an office in St. Louis. Despite growing consolidation among radio representative firms, CMBS remains independent. CMBS has defined a unique segment of the radio advertising industry, and has been enormously successful delivering measurable results for its clients, affiliates and advertisers.

5. The Concert Music Network ("CMN") was formed in 1978 as the first radio network organized and marketed on the basis of a radio format. Today, CMN is a national satellite network of stereo classical music radio Stations. Affiliates carry a combination of national and local classical music programs reaching over 50% of the total United States ADI households and 100% of the commercial classical music market. KFUFM-FM is a network affiliate receiving classical music programming from CMN for about three hours per week. For the balance, the Station originates its own mix of classical music.

B. INVOLVEMENT WITH KFUFM-FM

6. As mentioned, my firm has been responsible for converting KFUFM-FM into a commercially based classical music radio station. The process can only be described as a slow evolution in which the whole organization has been required to change its attitude to becoming a highly professional, product knowledgeable, market-oriented, management/operations/sales team. The slow evolution of the Station into a fully respected, commercially successful classical music Station is on-going and will likely take many more years to accomplish given the limited financial resources of the Church to promote the Station as aggressively as we would like. I should stress, however, that under the professional leadership of Dennis Stortz, and his committed and increasingly experienced staff, the Station has

made and continues to make enormous strides of which we are very proud.

7. When the Church decided that KFUE-FM would become commercial in 1983, there was no sales staff either on KFUE-FM or on commonly owned, noncommercial religious Station KFUE(AM). In fact, the Church had no previous experience in radio sales. Accordingly, my company agreed to become KFUE-FM's initial sales force, both nationally and locally. We began by opening a CMBS St. Louis office and hired Tom Jackson who was experienced in radio and television sales and had an interest in and an understanding of classical music. Thus, from July 1983 to the Fall of 1986, CMBS was KFUE-FM's sales force. The effort was challenging to say the least. If one knows about the success of classical music Station WGMS(FM) in Washington, D.C., it might be difficult to imagine how challenging it has been to market KFUE-FM as a classical music format station. However, in Washington, WGMS(FM) became a well known and respected, upscale listening and advertising outlet many, many years ago. It took years of hard programming, marketing and sales work for WGMS to educate the advertising industry and to achieve its "institution" status. While KFUE-FM has been on the air since the late 1940's, the Station did not really begin to market itself to listeners and advertisers until 1983. KFUE-FM has had to overcome a lot of inertia in the advertising community. This has necessitated a total education effort since KFUE-FM had no credibility in the

eyes of advertisers. For WGMS, this education effort took place many years ago.

8. To prepare it, KFUFM had to undergo a transformation of sorts. The selection and flow of classical music had to be optimized. The execution of announcer intros, extros and transitions had to be upgraded. The FM technical facility had to be upgraded. The entire staff had to be weened away from its historical noncommercial attitude. In sum, the Station had to establish a new identity and then market it. As a consequence, KFUFM needed people in sales who had knowledge of classical music. Why? Because unlike in WGMS-led Washington, D.C., the St. Louis advertisers had to be told what KFUFM's product was. Throughout the 1980's, the focus of KFUFM's sales effort was on marketing a new product to the St. Louis advertising market -- classical music on KFUFM. The Station needed sales people who were comfortable with classical music and could effectively project the essence of KFUFM's format to potential advertisers. We believed that sales people with knowledge of classical music would be the most credible sellers of KFUFM as a product. When KFUFM decided in 1986 to develop their own sales staff, it chose Jan Hutchinson of our staff who had already demonstrated her knowledge and ability. It is my understanding that KFUFM has through the years continued to look for sales people with a knowledge of classical music.

9. Admittedly, among sales/marketing circles, there developed in the late 1980's and into the 1990's the viewpoint

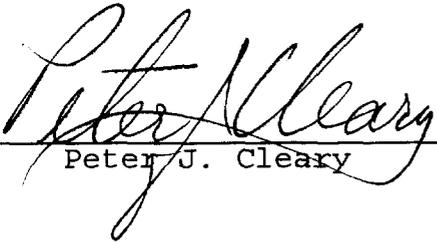
that good, experienced sales people could sell anything and that a comfortable knowledge of the product could be learned on-the-job. However, KFUCO-FM's "product focused" marketing and sales approach has always been thought by us to be the most reasonable and appropriate choice for the Station from 1983 into the 1990's for reasons unique to KFUCO-FM. As a previously noncommercial station with little audience and no advertiser brand-name recognition, KFUCO-FM's formative image had to be developed and conveyed to the universe of advertisers. Also, because of modest billing levels, KFUCO-FM was not able to attract truly experienced radio sales people. This meant that there was very little depth within KFUCO-FM's selling ranks to teach on-the-job. Hence, we supported KFUCO-FM's efforts to look for sales people who were comfortable with classical music, people who could talk credibly about the music.

10. The debate whether to emphasize selling ability over knowledge of the product continues to this day. Personally, I have changed my attitude somewhat over the years and now try to emphasize selling ability for at least mature classical music stations. However, for KFUCO-FM, given its origins, its lack of brand-name recognition in the market, and the thinness of its sales staff, the emphasis on product knowledge was the most logical business approach. I want to stress that this has been an evolving process. KFUCO-FM has handled the transition admirably. We are pleased to represent them.

DECLARATION

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

Executed this 27 day of May 1994.


Peter J. Cleary

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CHURCH EXHIBIT 6

Testimony of Thomas M. Lauher

Respectfully submitted,

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Dated: June 1, 1994

Federal Communications Commission

Docket No. 94-10 Exhibit No. SIX

Presented by THE LUTHERAN CHURCH

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Dated: June 1, 1994

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CHURCH EXHIBIT 6:

Testimony of Thomas M. Lauher

DECLARATION

I, Thomas M. Lauher, hereby declare under penalty of perjury as follows:

1. I was the General Manager of Station KFUE-FM, Clayton, Missouri, from approximately May, 1987 until July, 1989. I was hired for the position by Reverend Paul Devantier after a hiring process that took about five months. At the time I was hired, I was with an advertising agency in St. Louis. I had an extensive background in broadcasting and advertising as well as a strong interest in classical music.

2. During the period that I worked at the station, it was a struggle to find anyone to work in a sales position because the salary structure was low and the FM station was just initiating a sales effort. The station was not doing well financially and had a great deal of difficulty competing for job applicants with the more profitable St. Louis commercial stations. I was not aware of any discrimination on the part of the Church or anyone associated with the stations. No one ever told me not to hire a certain person or class of persons.

3. During my tenure at KFUE-FM, I had no involvement with hires for the AM station. My recollection is that the office/clerical personnel (who generally were shared by both stations) and full-time programming personnel used by the FM station during my tenure were stable. Although I did not have final hiring authority over sales workers for the FM station, I do recall being involved in the hiring process and initiating the process of hiring sales workers by contacting the St. Louis Broadcast Center and taking out ads in various publications including Broadcasting and the St. Louis Post-Dispatch. I recall talking to a variety of candidates. We wanted to hire a variety of people and wanted to hire ^{minorities} ~~a minority~~. Therefore, we were very pleased when Caridad Perez applied for a sales position. I also recall referrals from the Broadcast Center.

4. In approximately the late fall of 1988, I attended a meeting of the Missouri Broadcasters Association ("MBA"). The meeting was essentially a license renewal seminar to inform broadcasters of the FCC's current requirements including EEO requirements. The message that came through during that seminar was "don't be lulled into complacency because there is deregulation." After attending this seminar, I decided to review the station's compliance status which included compliance with the FCC's EEO requirements. I also had discussions with Marcia Cranberg, the station's Washington, D.C. communications counsel concerning the Commission's requirements. In December, 1988, I reviewed the station's 1982 Model EEO program with Marcia Cranberg. Based on these discussions and my review of station policies and procedures, I prepared a memorandum to Paul Devantier dated March 9, 1989, regarding "License Renewal." My concern at the time I prepared the memorandum was that a common application form was used for both the AM and FM stations and that within the form there was some language relating to theological experience that might not be appropriate for all hires. I was also concerned that some of the job descriptions for the FM station might not reflect our EEO policies because the opening paragraphs spoke about serving the Lutheran Church. The March 9, 1989 memo did not deal with recruiting efforts. My concern was not with the station's EEO policies or recruitment, but rather the application form and the job descriptions. We had increased the number of women employees at the station and had minority representation. When I said on Page 7 of that memo that "we are operating in violation of our own policy as currently on file," I did not mean that we were violating FCC policies but simply that if there was to be one EEO policy for the AM and FM stations, there appeared to be a contradiction with the requirement for religious training for a number of the positions. My reference on page 5 to "inadvertent noncompliance" referred to the same issue.

5. I also reviewed the list of defensive measures contained in an EEO handbook prepared for broadcasters. I checked those items which I believed that KFUA-

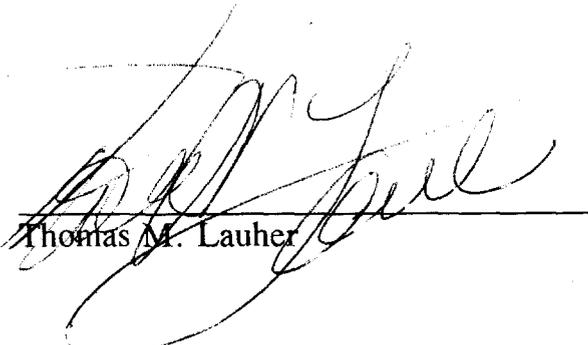
FM had implemented or completed -- approximately 70 of the items. I found that ten of the items on the list were not applicable to our situation and the remainder were under review. I forwarded my checklist to Paul Devantier on March 15, 1989. I recall a subsequent discussion between myself and Paul Devantier in which a question was raised as to whether some of the items on the checklist pertained to religious stations. Paul and I had a number of conversations at this time and he advised me to proceed and do what I needed to do.

6. On April 26, 1989, I circulated a packet of updated materials to be used in the hiring process. I was concerned that the FM station should be sure it had made it very clear to recruitment sources that we were actively seeking minority and female applicants.

7. I left KFUO-FM in July, 1989. As far as I know, my departure had nothing to do with my efforts concerning EEO but related to the station's efforts to meet - in my view unrealistic -- sales expectations.

8. While I served as General Manager of KFUO-FM, I never saw any overt or intentional discrimination on the part of anyone associated with either station. As I have mentioned, we had minority and female employees during the period that I worked at KFUO-FM and the station actively sought to obtain minority and female employees.

Executed this 21st day of May, 1994.


Thomas M. Lauher