

FCC Received April 11, 1995 @ 1:30 p.m.  
Donna A. Bradshaw

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TRANSCRIPT OF PROCEEDINGS

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

In re Application of:

MM DOCKET NO. 93-265  
FCC 95M-41 50797

PINE TREE MEDIA, INCORPORATED  
For Renewal of License of Station KARW  
Longview, Texas

DOCKET FILE COPY ORIGINAL

DATE OF HEARING: March 21, 1995 VOLUME: 5

PLACE OF HEARING: Washington, D.C. PAGES: 30 - 154

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

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In the matter of: :  
: MM Docket No. 93-265  
Pine Tree Media, Incorporated :  
Longview, Texas :  
:  
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The above-entitled matter came on for hearing pursuant to notice before Judge John M. Frysiak, Administrative Law Judge, at 2000 L Street, N.W., Suite 201, Washington, D.C. in Courtroom Number 4, on Tuesday, March 21, 1995 at 9:30 a.m.

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APPEARANCES:

On behalf of the Mass Media Bureau:

ROBERT A. ZAUNER, ESQUIRE  
GARY P. SCHONMAN, ESQUIRE  
Federal Communications Commission  
2025 M Street, N.W., Suite 7212  
Washington, D.C. 20554

On behalf of Praise Media, Incorporated:

DENNIS J. KELLY, ESQUIRE  
P.O. Box 6648  
Annapolis, Maryland

1 I N D E X

2

3 Witness:                    Direct    Cross    Redirect    Recross

4 M.J. Washington  
By Mr. Kelly

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6 M.J. Washington  
By Mr. Zauner

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10 E X H I B I T S

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Identified            Received            Rejected

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14 PRAISE MEDIA, INC.:

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Number 1

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Number 2

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Number 3

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Number 5

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Number 7

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20 MASS MEDIA BUREAU:

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Number 1

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Number 2

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Number 3

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Number 4

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P R O C E E D I N G S

9:30 a.m.

1  
2 JUDGE FRYSIAK: Good morning, all. This is a  
3 hearing in the matter of the application of Pine Tree Media,  
4 Inc., Longview, Texas. May we note your appearances for the  
5 record?

6 MR. KELLY: Your Honor, for party and interest,  
7 Praise Media, Inc., Dennis J. Kelly, and I would note for the  
8 record that I have served on Your Honor and on Bureau counsel  
9 a Notice of Appearance. That item has not been filed with the  
10 secretary's office because of time this morning. I was  
11 retained last evening at six p.m. I have the document and  
12 proper copies. It will be filed with the secretary, I  
13 anticipate, at the noon hour.

14 JUDGE FRYSIAK: All right. Thank you.

15 MR. SCHONMAN: Good morning, Your Honor. Gary  
16 Schonman and Robert Zauner on behalf of the Chief, Mass Media  
17 Bureau.

18 JUDGE FRYSIAK: All right. Any preliminary matters?

19 MR. KELLY: Yes, Your Honor. I am aware that a  
20 number of continuances have been granted in this case and that  
21 the patience of the Commission has been tried to some extent  
22 in this case. As I noted a few moments ago, I was retained  
23 last evening at 6:00. I am new to this case. I do not yet  
24 have the file for this case. It is with a punitive former  
25 attorney of Praise Media, Michael Wilhelm, who, you know, has

1 required my supplication to go to his office to pick up the  
2 file. I was not aware of this until about five minutes ago.

3 I have a set of exhibits, but I don't have the  
4 proper copies for Your Honor -- for the court reporter and for  
5 the witness and for myself, and I have not had a chance to  
6 fully discuss all the aspects of this case. I understand that  
7 were the Commission to deny the license -- renewal of the  
8 license and an assignment of the license to Praise Media, my  
9 client would suffer a financial loss in excess of \$160,000.

10 Given these circumstances, and I am aware of some of  
11 the history of this case and of the patience of the Commission  
12 in trying it, but I would ask Your Honor if he could see his  
13 way clear to permit us, at least, to have a continuance until  
14 1:00 this afternoon.

15 MR. SCHONMAN: Your Honor, if I might respond. The  
16 Bureau is not inclined to delay this hearing any further.  
17 Several weeks ago, Your Honor granted yet a further  
18 continuance to allow Praise Media to retain counsel. Several  
19 weeks have passed, and now you're being told, Your Honor, that  
20 counsel was retained at 6:00 p.m. last night, on the eve of  
21 the hearing. There's been no explanation whatsoever as to why  
22 Praise Media waited until the very eve of the hearing to  
23 obtain counsel.

24 Mr. Kelly is absolutely right. The Commission has  
25 indulged several delays thus far and I don't think there's any

1 warrant whatsoever for delaying it any further. We are here  
2 now. Praise Media has known since October 1994 what witnesses  
3 they were required to produce to testify this morning. We are  
4 ready to go forward with this hearing and no further delay is  
5 justified.

6 JUDGE FRYSIAK: Well, the request is not for an  
7 inordinate amount of time. It's just for the morning. As I  
8 note your exhibits, you are simply filing admissions. Is that  
9 right?

10 MR. ZAUNER: Your Honor, we're not just simply  
11 filing admissions. What we're doing is we're using the  
12 admissions vehicle as a means of introducing into the record a  
13 series of documents --

14 JUDGE FRYSIAK: But you have no other input beyond  
15 the papers that you have filed.

16 MR. ZAUNER: Right.

17 JUDGE FRYSIAK: Do you expect cross examination --

18 MR. ZAUNER: Yes, Your Honor.

19 JUDGE FRYSIAK: -- on your exhibits?

20 MR. ZAUNER: Oh, on our exhibits. Well, we expect  
21 to use our exhibits during cross examination, yes, Your Honor.

22 JUDGE FRYSIAK: I'm simply saying that your direct  
23 case consists only of the papers that you filed.

24 MR. ZAUNER: That's correct. We have no witnesses.

25 JUDGE FRYSIAK: And there will not be -- there will

1 | be no cross examination on it, because they're simply  
2 | admissions. Mr. Kelly, did you look at the exhibits?

3 |           MR. KELLY: I've just been handed them. Our case  
4 | consists of six exhibits and it's my understanding from one  
5 | thing I saw that the Bureau is going to be relying on  
6 | documents that were produced to them, although I have not seen  
7 | -- I have not seen their exhibits yet, and that's not their  
8 | fault. It's just the way things have come together this  
9 | morning.

10 |           JUDGE FRYSIAK: So that beyond that, we have the  
11 | exhibits filed by Mrs. Washington, Praise Media.

12 |           MR. KELLY: That's correct.

13 |           JUDGE FRYSIAK: And you will have cross examination  
14 | on that. Did you expect to go more than a half-day on those  
15 | cross examinations?

16 |           MR. ZAUNER: Your Honor, I'm just not sure at this  
17 | point how long it would take.

18 |           JUDGE FRYSIAK: Well, all right. I am going to  
19 | accede to your request. I am going to grant a continuance  
20 | until 1:00 this afternoon.

21 |           MR. KELLY: Thank you, Your Honor.

22 |           JUDGE FRYSIAK: Now, you're going to be here, right?

23 |           MR. KELLY: We'll be here and we're ready to go. I  
24 | feel that's the most I could ask Your Honor based on the  
25 | circumstances. But in fairness to my client, to do a halfway

1 professional job, I need a little bit of time to get ready.

2 MR. SCHONMAN: Your Honor, we haven't heard any  
3 indication as to whether at 1:00 all the witnesses that the  
4 Commission has noticed for cross examination will be here and  
5 available --

6 JUDGE FRYSIAK: Who have you noticed?

7 MR. SCHONMAN: We've noticed ten individuals. The  
8 first one is Janet Washington. She is here, I understand.  
9 The second individual, Eugene Washington, number three, Ray  
10 Lee Williams, number four, Herbert Wren, number five, Earl  
11 Jones, number six, Kenneth Tuck or a death certificate if  
12 applicable, number seven, Vincent McGonagle, number eight,  
13 Robert D. Murray, also known as Dub Murray, number nine, Judge  
14 Miller, and number ten, the initials H.E. Ferrell.

15 JUDGE FRYSIAK: Well, if they're not here, you know,  
16 it's at the risk of Praise Media. Is that right?

17 MR. KELLY: Your Honor, I would note -- I would note  
18 that I was not in the case at the time obviously that the  
19 Bureau noticed these witnesses. The only witnesses sponsoring  
20 direct testimony on behalf of Praise Media is Janet  
21 Washington. I don't understand how these other -- you know,  
22 there is no showing of good cause. I just see a letter.  
23 There's no showing of good cause by the Bureau why these other  
24 individuals have to appear and have to be brought here to  
25 Washington at the expense of Praise Media. I would note that

1 for the record. Again, in the next three hours, I intend to  
2 investigate as much of this as I can to be able to be informed  
3 when we put our witness on.

4 JUDGE FRYSIAK: All right. I'll grant your  
5 continuance. I have granted it. Be back at 1:00.

6 MR. KELLY: Thank you very much, Your Honor.

7 (Off the record 9:37 a.m.)

8 (On the record 1:00 p.m.)

9 JUDGE FRYSIAK: We're back on the record. Any  
10 further preliminary developments?

11 MR. KELLY: None, Your Honor. Praise Media, Inc. is  
12 ready to proceed.

13 JUDGE FRYSIAK: Please be seated.

14 MR. KELLY: Your Honor, I would like the record to  
15 reflect I have handed two copies of the written direct case,  
16 which was exchanged last October, to the court reporter, and  
17 at this time, I would call Janet Washington to the stand and  
18 ask that she be sworn. Let the record also reflect that Ms.  
19 Washington has a copy of her direct written case in this  
20 matter in her hand and that will be what is before her.

21 (Whereupon,

22 **MARGARET JANET WASHINGTON**

23 was called as a witness and, after having been first duly  
24 sworn, was examined and testified as follows:)

25 DIRECT EXAMINATION

1 BY MR. KELLY:

2 Q Madame Witness, will you state your name and  
3 residence address for the record, please?

4 A Margaret Janet Washington, 118 Jester Court,  
5 Longview, Texas.

6 Q I would like you to open the book of exhibits which  
7 you have in front of you and turn past the table of contents  
8 to the certification.

9 JUDGE FRYSIAK: That would be the third page. BY  
10 MR. KELLY:

11 Q Do you have the certification in front of you,  
12 ma'am?

13 A Yes, sir.

14 Q And are you the Janet Washington who is referred to  
15 on that certification?

16 A Yes, sir.

17 Q And is that your signature that appears on that  
18 page?

19 A Yes, sir.

20 MR. KELLY: Your Honor, at this time, I would like  
21 to ask that the following exhibits be marked for  
22 identification. A document containing two pages entitled  
23 Biography of Janet Washington, I would move that be marked as  
24 Praise Exhibit Number One.

25 JUDGE FRYSIAK: Yes, it may be so marked.

1 (Whereupon, the document referred to as  
2 Praise Media Exhibit Number One was marked  
3 for identification.)

4 MR. KELLY: Your Honor, I would ask that the  
5 document containing a total of seven pages plus an attachment  
6 cover page, and an attachment entitled Promissory Note which  
7 consist of six pages, and then an Attachment B cover page, and  
8 a document entitled Security Agreement consisting of five  
9 pages, I would ask that be marked as Praise Exhibit Number  
10 Two.

11 JUDGE FRYSIAK: Yes, it may be marked.

12 (Whereupon, the document referred to as  
13 Praise Media Exhibit Number Two was marked  
14 for identification.)

15 MR. KELLY: Your Honor, I would request that a  
16 document consisting of two pages and entitled Ownership  
17 Structure of Praise Media, Inc. be marked for identification  
18 as Praise Exhibit Number Three.

19 JUDGE FRYSIAK: Yes, it may be marked.

20 (Whereupon, the document referred to as  
21 Praise Media Exhibit Number Three was  
22 marked for identification.)

23 MR. KELLY: Your Honor, I would request that a  
24 document consisting of three pages and entitled Response to  
25 FCC Correspondence be marked for identification as Praise

1 Exhibit Number Four.

2 JUDGE FRYSIAK: Yes, it may be marked.

3 (Whereupon, the document referred to as  
4 Praise Media Exhibit Number Four was  
5 marked for identification.)

6 MR. KELLY: Your Honor, I would request that a  
7 document containing of two pages and entitled Compliance with  
8 Commission Rules be marked for identification as Praise  
9 Exhibit Number Five.

10 (Whereupon, the document referred to as  
11 Praise Media Exhibit Number Five was  
12 marked for identification.)

13 MR. KELLY: Your Honor, I would, at this time,  
14 request that a document consisting of one page, a cover page,  
15 Attachment A, and a renewal application with an FCC/Mellon  
16 received stamp of August 17, 1990 consisting of four pages --  
17 or three pages and a Certificate of Service page consisting of  
18 one page -- I'm sorry. Strike the reference to the  
19 Certificate of Service page.

20 This document consists of just the one page exhibit  
21 entitled Filing of Renewal Application, a cover page for an  
22 attachment, and three pages of the renewal application I've  
23 described, and I request that would be marked for  
24 identification as Praise Exhibit Number Six.

25 JUDGE FRYSIAK: Yes, it may be so marked.

1 (Whereupon, the document referred to as  
2 Praise Media Exhibit Number Six was marked  
3 for identification.)

4 MR. KELLY: Now, Your Honor, with respect to these  
5 exhibits, I would like to have the opportunity to ask the  
6 witness to -- whether there are any amendments or changes to  
7 these items.

8 JUDGE FRYSIAK: Go ahead. Yes, you may proceed.

9 MR. KELLY: Ms. Washington, could I direct your  
10 attention to Page -- to Exhibit Number One, your biography,  
11 and I would just like to clarify something for the record.  
12 Starting with Page Number One and dealing only with the places  
13 of employment listed on Page Number One, in what city were  
14 those places of employment located?

15 WITNESS: Houston, Texas.

16 JUDGE FRYSIAK: I didn't hear you.

17 WITNESS: Houston, Texas.

18 BY MR. KELLY:

19 Q And is that -- over on to Page Two, is that also  
20 true with respect to St. Luke Hospital Pharmacy and Veteran  
21 Hospital Pharmacy?

22 A That was in Houston, Texas.

23 Q With respect to Goodwill Industries, where was that  
24 located?

25 A Center, Texas.

1 Q And Center is spelled C-E-N-T-E-R?

2 A That's correct.

3 Q And where is the County Judges' Office located  
4 that's listed there?

5 A Center, Texas.

6 Q And where is Good Shepherd Hospital Owen Pharmacy  
7 located?

8 A Longview, Texas.

9 Q And where is Rader Funeral Home Rose Wood Park  
10 located?

11 A Longview, Texas.

12 Q Are there any other changes or additions or  
13 corrections you'd like to make to Exhibit Number One?

14 A No.

15 MR. KELLY: Your Honor, at this time, I'd move that  
16 what we have marked for identification as Praise Exhibit  
17 Number One be admitted into evidence.

18 MR. ZAUNER: No objection.

19 JUDGE FRYSIAK: Without objection, it's received as  
20 Exhibit One.

21 (Whereupon, the document referred to as  
22 Praise Media Exhibit Number One was  
23 received into evidence.)

24 MR. KELLY: Thank you, Your Honor. I'd like to turn  
25 your attention, Ms. Washington, to what we've marked for

1 identification as Praise Exhibit Number Two. Are there any  
2 additions or corrections you'd like to make to this exhibit?

3 WITNESS: No.

4 MR. KELLY: Your Honor, at this time, I'd move the  
5 admission of Praise Exhibit Number Two.

6 MR. ZAUNER: Your Honor, the Bureau has a number of  
7 objections to Praise Exhibit Number Two. First of all, on  
8 Page One, the first paragraph, down --

9 JUDGE FRYSIAK: Mr. Zauner, would you speak up a  
10 little bit?

11 MR. ZAUNER: Sure. The first paragraph, down  
12 through where it says Exhibit One, which is about five lines  
13 from the bottom of the paragraph, that portion of that  
14 paragraph summarizes the hearing designation order in this  
15 proceeding. To that extent, it is superfluous and duplicative  
16 and all the information therein is contained in the hearing  
17 designation order and can be referred to without it being  
18 included in this exhibit, and I would move to strike that  
19 information.

20 JUDGE FRYSIAK: Beginning with what language?

21 MR. KELLY: Beginning with the words "On November  
22 10" down through the indicated footnote.

23 JUDGE FRYSIAK: Exhibit One, footnote? All right.  
24 I'll grant the motion. Strike the language.

25 MR. KELLY: Your Honor, then I would like just to

1 request -- because this exhibit was prepared, as far as I  
2 know, by very experienced counsel, Mr. Campbell. What you're  
3 saying then is that the facts -- the resuscitation of facts  
4 that are contained in both the hearing designation order and  
5 in the Review Board's Memorandum Opinion and Order are -- can  
6 be referred to in findings?

7 JUDGE FRYSIAK: Yes.

8 MR. KELLY: Thank you, Your Honor. So what  
9 -- what have we had excised now?

10 MR. ZAUNER: From the word "On" to the footnote --  
11 through the footnote, I guess, Exhibit One footnote on the  
12 right-hand side. If you just run your hand down, you'll see  
13 it about five lines from the bottom of the first paragraph,  
14 Footnote One.

15 MR. KELLY: Well, then my question would be are the  
16 security agreement and the promissory note also out because  
17 those are referred to in that recitation? In other words,  
18 there would be no place in the exhibit to attach these items.

19 MR. ZAUNER: Well, I haven't, you know, moved to  
20 strike anything beyond Footnote One at this point.

21 JUDGE FRYSIAK: Are we still clear on that?

22 MR. KELLY: I'm really not. In other words  
23 -- for example, Your Honor --

24 JUDGE FRYSIAK: What language are you referring to?

25 MR. KELLY: At the end of the first paragraph on

1 | Page One, there is a reference to "See promissory note of  
2 | December 10, 1988 attached hereto as Praise Exhibit Two,  
3 | Attachment A," and my observation is if that language is  
4 | stricken, then there's nothing that incorporates --

5 |           JUDGE FRYSIAK: No, it isn't stricken. The language  
6 | that is stricken includes the words beginning "On November 10,  
7 | 1988" and it ends with the one, two, three, four, fifth line  
8 | from the end of the paragraph, ending with the words "Media  
9 | Bureau Exhibit One."

10 |           MR. KELLY: I'm sorry. I was thinking it went all  
11 | the way, the entire page.

12 |           JUDGE FRYSIAK: No.

13 |           MR. ZAUNER: Your Honor, on Page Two, the first  
14 | sentence of that first full paragraph, in that sentence, Janet  
15 | Washington indicates she met Ray Lee Williams who was looking  
16 | for a partner to help finance the acquisition of the station  
17 | from Wren and Jones. I would move to strike that on the  
18 | grounds of hearsay.                   The Bureau has requested that  
19 | Ray Lee Williams be made available for cross examination in  
20 | this proceeding and he is not, and I believe implicit in this  
21 | sentence is information that Janet Washington had to have  
22 | received from Mr. Williams as to what he was looking for.

23 |           JUDGE FRYSIAK: Well, certainly meeting Mr. Williams  
24 | is within her knowledge and --

25 |           MR. ZAUNER: Yes. But the only way she could know,

1 | however, what -- that he was looking for a partner to help  
2 | finance the acquisition of the station from Wren and Jones was  
3 | --

4 |           JUDGE FRYSIAK: This is no more than referring to a  
5 | classified ad in a paper. You wouldn't expect a witness to  
6 | produce the classified ad.

7 |           MR. ZAUNER: Well, that also would be hearsay, the  
8 | classified ad. It would be an out-of-court statement offered  
9 | to prove the truth of the matter asserted.

10 |           JUDGE FRYSIAK: You may have a voir dire and you may  
11 | have a cross examination of that statement, but I'll overrule  
12 | your objection otherwise.

13 |           MR. ZAUNER: May I have voir dire on that then, Your  
14 | Honor?

15 |           JUDGE FRYSIAK: Sure.

16 |                           DIRECT EXAMINATION

17 |           BY MR. ZAUNER:

18 |           Q   Mrs. Washington, what is the basis for your  
19 | statement in that first sentence that Ray Lee Williams was  
20 | looking for a partner to help finance the acquisition of the  
21 | station from Wren and Jones?

22 |           A   He was looking for an investor. That's what he told  
23 | me.

24 |           Q   He told you that?

25 |           A   Yes. He said he had already -- he and another

1 reverend was partners in purchasing this station.

2 MR. ZAUNER: Your Honor, I renew my objection.  
3 That's obviously hearsay. She was told and it's a declaration  
4 made by a party that we can't cross examine as to what she was  
5 told.

6 JUDGE FRYSIAK: I've learned from reading the  
7 documents that she responded to Mr. Williams by way of  
8 solicitating -- solicitation for a funeral home. Is that  
9 right?

10 WITNESS: That's correct, sir.

11 JUDGE FRYSIAK: Would you relate that story?

12 WITNESS: I called -- I was doing telemarketing for  
13 Rader Funeral Home and I called for Mr. Ken Tuck. Mr.  
14 Williams answered the phone and he said that Mr. Tuck was dead  
15 and I proceeded with the pitch that I had for the  
16 solicitation.

17 JUDGE FRYSIAK: Who were you working for at that  
18 time?

19 WITNESS: Rader Funeral Home. And he said -- asked  
20 me would I be interested in working for the station and as --  
21 in sales and I said sure, you know, and he came over and  
22 talked to me. Then eventually he said to me, "Well, I'm in  
23 the process of buying the station and I'm looking for  
24 investors. Would you be interested?" and we talked a little  
25 bit further and I said yes, I would be interested. And I

1 never met the other gentleman who he said was his partner in  
2 it. So that's how that conversation came up.

3 JUDGE FRYSIAK: I'm going to overrule the objection.

4 MR. ZAUNER: Your Honor, the last sentence in that  
5 paragraph, "Mr. Williams was impressed with Ms. Washington's  
6 sales presentation and offered her a job selling time for the  
7 station," here Janet Washington is being offered to testify as  
8 to the state of mind of Mr. Williams. Mr. Williams is not  
9 here to ask.

10 JUDGE FRYSIAK: Well, of course, he did offer her  
11 the job and she did accept. He must have been impressed. But  
12 you're right. I'll strike that first part of that sentence.

13 MR. KELLY: Can the sentence be -- can the sentence  
14 be reformed to "Based upon Ms. Washington's sales  
15 presentation, he offered her a job"?

16 JUDGE FRYSIAK: Well, we'll say, "Mr. Williams  
17 offered her a job selling time for the station." Strike the  
18 words "was impressed with Mrs. Washington's sales  
19 presentation."

20 MR. KELLY: Very well, Your Honor. Thank you.

21 MR. ZAUNER: Your Honor, in the next paragraph,  
22 about three-quarters of the way down, beginning with the words  
23 "After discovering," we  
24 would object to the portion of that sentence that, "After  
25 discovering Mr. Williams and another unnamed potential

1 investor did not have their share of the down payment ..." We  
2 object to that on the grounds of hearsay. The fact is --

3 JUDGE FRYSIAK: Well, you may have a voir dire.  
4 She's testifying to things that affected her.

5 MR. ZAUNER: Are you, in effect, ruling that this  
6 goes to state of mind then?

7 JUDGE FRYSIAK: I mean, this kind of testimony is  
8 essential to her case.

9 MR. ZAUNER: That's why, Your Honor, the Bureau  
10 requested that she produce certain witnesses who could  
11 corroborate or who we could cross examine with regard to these  
12 elements of the case.

13 JUDGE FRYSIAK: No, I mean she can testify to her  
14 actions and she can explain what does she base her action on.  
15 This is the way I view it as hearsay. I am going to overrule  
16 your objection.

17 MR. ZAUNER: Well, the same objection to the  
18 sentence beginning with the words "Mr. Washington" and ending  
19 at the top of the next page with the word "matter" and I  
20 understand your ruling and I think the same ruling would apply  
21 to this objection.

22 JUDGE FRYSIAK: Are you talking about Mr. Washington  
23 chiding Mrs. Washington?

24 MR. ZAUNER: For not having investigated the matter  
25 completely before investing, but agreed to look into the

1 matter. The Bureau would object on the grounds of hearsay.

2 JUDGE FRYSIAK: That one sentence?

3 MR. ZAUNER: Yes.

4 JUDGE FRYSIAK: All right. I'll strike that.

5 MR. KELLY: Can you give me again the precise place  
6 where --

7 JUDGE FRYSIAK: The last line on Page Two beginning  
8 with the words "Mr. Washington chided Mrs. Washington for not  
9 having investigated the matter completely before investing,  
10 but agreed to look into the matter."

11 MR. KELLY: Thank you, Your Honor.

12 JUDGE FRYSIAK: We'll have to correct that next  
13 sentence.

14 MR. KELLY: Is there some reference to Mr.  
15 Washington? Yeah, it's fine.

16 MR. ZAUNER: Your Honor, the first sentence at the  
17 top of the first full paragraph and the only full paragraph on  
18 Page Three of Exhibit Two, "In approximately September of  
19 1991, Mr. Washington visited the station" -- I'm sorry. I  
20 withdraw that. Not that sentence, the one that follows.

21 "After his visit, he said he would help buy the  
22 station, but that his interest was primarily in the real  
23 estate." This is a hearsay statement and I would object to  
24 the extent that it's offered for the purpose of the truth of  
25 the matter asserted.

1 JUDGE FRYSIAK: I agree. It's not probative of  
2 anything anyway. Strike the sentence -- the first sentence of  
3 the first full paragraph on Page Three.

4 MR. ZAUNER: It's the second sentence actually.

5 JUDGE FRYSIAK: It refers to Ms. Washington. What's  
6 objectionable about that?

7 MR. ZAUNER: No, Your Honor. The sentence --

8 JUDGE FRYSIAK: I thought you said that we were  
9 striking --

10 MR. ZAUNER: We're striking the second sentence in  
11 that paragraph, right?

12 JUDGE FRYSIAK: No, the first sentence. "In  
13 approximately September of 1991 ..."

14 MR. ZAUNER: No. That's where the confusion -- at  
15 first I said the first sentence and then I corrected myself to  
16 say that I was objecting to the second sentence.

17 JUDGE FRYSIAK: So you want the first sentence in,  
18 but you're objecting to the second sentence.

19 MR. ZAUNER: Yes, about what his statement was, but  
20 that his interest was primarily in the real estate. I'm  
21 sorry, that was my fault. I was not real clear on that.

22 JUDGE FRYSIAK: Well, actually that sentence, as I  
23 read it, is a predicate to the following sentence which says,  
24 "Mr. Washington discussed the purchase with Mr. Wren."

25 MR. ZAUNER: No, the next sentence relates to Mrs.

1 Washington. The preceding sentence relates to what Mr.  
2 Washington's interest was. So I have no problem with Mrs.  
3 Washington stating what her interest is, but I do have an  
4 objection to her stating what his interest was.

5 JUDGE FRYSIAK: I'm still confused. You're not  
6 looking at the first sentence?

7 MR. ZAUNER: The first sentence says, "In  
8 approximately September of 1991, Mr. Washington visited the  
9 station," and I don't have any problem with that. The next  
10 sentence, "After his visit, he said he would help buy the  
11 station, but that his interest was primarily in the real  
12 estate."

13 JUDGE FRYSIAK: You've got no problem with that.

14 MR. ZAUNER: That, I do have a problem. That's the  
15 one that I have the problem with because what we have is Mrs.  
16 Washington on the stand testifying as to what her husband had  
17 said at the time and what his interest was. We don't have Mr.  
18 Washington here to testify that his primary interest was in  
19 real estate.

20 The next sentence where Mrs. Washington states what  
21 her primary interest is, I have no problem with because she is  
22 here to testify and for cross examination as to what her  
23 interest is.

24 JUDGE FRYSIAK: Okay. So where are we now?

25 MR. ZAUNER: So I move to strike the second sentence

1 beginning with the word "After" and ending with the word  
2 "estate."

3 JUDGE FRYSIAK: All right. I'll grant the objection  
4 -- sustain the objection. Strike the words in the second  
5 sentence -- all the words in the second sentence of the first  
6 full paragraph on Page Three.

7 MR. ZAUNER: My next objection, Your Honor, is to  
8 the -- not to the next sentence, but the following one  
9 beginning with the words "Mr. Washington discussed the  
10 purchase with Mr. Wren." Or that's the whole sentence. This  
11 witness, I believe, would be incompetent to state what Mr.  
12 Washington discussed with Mr. Wren.

13 JUDGE FRYSIAK: I don't know. Perhaps you'll have  
14 to --

15 MR. ZAUNER: Can I have voir dire on that? That  
16 would be a way of resolving that.

17 DIRECT EXAMINATION

18 BY MR. ZAUNER:

19 Q Mrs. Washington, could you tell us the basis for  
20 that statement that Mr. Washington discussed the purchase with  
21 Mr. Wren?

22 A Mr. Washington called Dr. Wren on the phone and then  
23 we went to his office and discussed the purchasing of the  
24 station. I was with him at that time.

25 Q And you listened to the discussion in the office --