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

In re Application of	)	MM DOCKET NO. 93-265
	)	
PINE TREE MEDIA, INC.	)	File No. BR-900817UF
	)	
For Renewal of License of Station	)	
KARW(AM), Longview, Texas	)	

To: Administrative Law Judge John M. Frysiak

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MASS MEDIA BUREAU'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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Summary

Neither Pine Tree Media, Inc. nor any of its principals entered an appearance in this proceeding or otherwise expressed an interest in the outcome of the case. Rather, an entity claiming to be Pine Tree Media, Inc.'s successor-in-interest, Praise Media, Inc., offered evidence at the hearing. However, it did so with respect to only some of the issues.

Based on the record evidence, the Bureau concludes that the public interest, convenience, and necessity would *not* be served by granting renewal of license of KARW(AM) to Pine Tree Media, Inc. Pine Tree Media, Inc. demonstrated no interest in prosecuting the captioned renewal application or in operating KARW(AM), which has been off the air since 1994.

The Bureau further concludes that Praise Media, Inc. lacks the basic qualifications to be a Commission licensee. Praise Media, Inc. engaged in an unauthorized acquisition of control of KARW(AM); failed to notify the Commission that the station was silent; lacks the wherewithal to expeditiously place the station back on the air; and repeatedly failed to respond to Commission letters of inquiry. Finally, and clearly fatal to Praise Media, Inc.'s desire to acquire the KARW(AM) license, the company's sole principal repeatedly made misrepresentations and lacked candor at the hearing on matters of material significance.

Accordingly, the Bureau urges the Presiding Judge to deny the captioned renewal application.

Table of Contents

Page

I. Preliminary Statement 1

II. Proposed Findings of Fact 3

A. Transfer of Control Issue 3

B. Misrepresentation Issue 5

C. Letters of Inquiry Issue 6

D. Technical Issue 8

E. Resumption of Operations Issue 8

F. Silent Station Rules Issue 9

G. Testimonial Misrepresentation/Lack of Candor 10

III. Conclusions of Law 20

A. Transfer of Control Issue 20

B. Misrepresentation Issue 21

C. Letters of Inquiry Issue 22

D. Technical Issue 23

E. Resumption of Operations Issue 23

F. Silent Station Rules Issue 24

G. Testimonial Misrepresentation/Lack of Candor 26

IV. Ultimate Conclusions 29

I. Preliminary Statement

1. By Hearing Designation Order and Notice of Forfeiture, 8 FCC Rcd 7591 (1993) ("HDO"), the Commission designated the application of Pine Tree Media, Inc. ("Pine Tree") for renewal of license of Station KARW(AM), Longview, Texas, for hearing on the following issues:

> (1) To determine whether one or more unauthorized transfers of control of Pine Tree Media, Inc. occurred in violation of Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540 and/or Section 73.3541 of the Commission's Rules.
>
> (2) To determine whether Pine Tree Media, Inc. and/or persons acting on its behalf misrepresented facts in the station's 1990 renewal application.
>
> (3) To determine whether Pine Tree Media, Inc. and/or persons acting on its behalf violated Section 73.1015 of the Commission's Rules by failing to respond fully to Commission correspondence dated September 9, 1992, September 23, 1992, December 3, 1992, and/or February 10, 1993.
>
> (4) To determine whether Station KARW is in compliance with the following Commission rules: Section 1.1307(b) (environmental assessment); Section 17.21 through 17.23 (tower painting); Section 73.932 (emergency broadcast equipment); Section 73.1745(a) (transmitter power); Sections 73.1800 and 73.1820 (station logs); and Section 73.3526 (public file).
>
> (5) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the application of Pine Tree Media, Inc. for renewal of license of Station KARW should be granted.

2. The HDO, at ¶ 16, placed the burden of proceeding with the introduction of evidence and the burden of proof on "Pine Tree Media, Inc., its successors or assigns, and/or those now in control of Pine Tree Media, Inc., as appropriate."

3. By Order, FCC 95M-64 (released March 2, 1995), the Presiding Judge added the following issues against Pine Tree:

> (1) To determine whether Pine Tree has the capability and intent to expeditiously resume broadcast operations of KARW(AM) consistent with the Commission's Rules.
>
> (2) To determine whether Pine Tree has violated § 73.1740 and/or § 73.1750 of the Commission's Rules.
>
> (3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Pine Tree is qualified to be and remain the licensee of Station KARW(AM).

4. Hearings on all of the issues were held in Washington, D.C., on March 21-22, 1995. The record in this proceeding was closed on May 24, 1995. See Order, FCC 95M-132 (released May 26, 1995).

II. Proposed Findings of Fact

A. Transfer of Control Issue

5. On November 10, 1988, the Commission granted an application for consent to the transfer of control of Pine Tree Media, Inc. ("Pine Tree") from Herbert Wren ("Wren") and Earl Jones ("Jones") to Kenneth Tuck ("Tuck"). Wren, Jones, and Tuck consummated the transfer of control on December 12, 1988. No ownership report was filed. Tuck apparently died sometime in May 1990. MMB Ex. 1, Pp. 1 and 2.

6. Thereafter, on May 17, 1990, the promissory note made by Tuck in payment for the stock of Pine Tree and assets of KARW(AM) was transferred by Wren and Jones to American Plastics Products, Inc. ("American Plastics"). As consideration for the transfer of the Tuck note to American Plastics, Wren and Jones received a promissory note from American Plastics. American Plastics subsequently foreclosed on the Tuck note, acquired the stock of Pine Tree and the assets of KARW(AM), and commenced operating the station. No application for consent to the transfer of control of Pine Tree was filed with the Commission. MMB Ex. 1, p. 2.

7. On August 6, 1991, Wren and Jones foreclosed on the American Plastics note, *re*acquired the stock of Pine Tree and the assets of KARW(AM), and took over the operation of the station. No application for consent to the transfer of control of Pine Tree was filed

with the Commission. MMB Ex. 1, Pp. 2 and 3.

8. On February 10, 1992, Eugene Washington and Ray Lee Williams, acting on behalf of Praise Media Inc. ("Praise Media"), executed several documents evidencing the purchase from Wren and Jones of certain real and personal property comprising KARW(AM). Praise Ex. 2, p. 5; MMB Ex. 1, Attachment 5. After the transaction was consummated, Praise Media began operating KARW(AM). Praise Ex. 2, Pp. 6-7. No application for consent to the assignment of license of KARW(AM) to Praise Media was filed with the Commission. Praise Ex. 2, p. 6. It was then the belief of Janet Washington, Praise Media's third principal,[1] that the license could be transferred to Praise Media at some unspecified time after Praise Media had paid off its note in full to Wren and Jones. Praise Ex. 2, p. 6.

9. Janet Washington, the only individual to testify at the hearing, has no personal

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[1] Praise Media has never filed an Ownership Report with the Commission. However, the evidence reveals that Praise Media was incorporated on March 19, 1992, after the sale of KARW(AM) was consummated. Praise Media initially had three principals: Eugene Washington was President; Ray Lee Williams was Vice President; and Janet Washington (Eugene Washington's spouse) was Treasurer. Praise Media has never issued stock certificates to anyone, and it is unclear where or even whether Praise Media maintains corporate documents. At present, Janet Washington claims to be Praise Media's only principal. She no longer considers Ray Lee Williams to hold any position in the company because of alleged improprieties committed by Ray Lee Williams, and Eugene Washington is incarcerated in a federal prison in Chicago after having been convicted on felony drug charges. Praise Ex. 3, p. 1. On July 22, 1994, Eugene Washington granted Janet Washington a power of attorney to operate and conduct the business of Praise Media. He has also executed a quit claim deed relinquishing any interest he might have in the business. Tr. 71.

knowledge about events which preceded Praise Media's involvement in KARW(AM). Furthermore, Praise Media did not call as witnesses either Wren or Jones or any principal of Pine Tree or American Plastics in order to meet its burdens under this issue.

B. Misrepresentation Issue

10. On August 17, 1990, the captioned application for renewal of license of KARW(AM) was filed with the Commission. The applicant in the renewal application is identified as "KLGV - Ken Tuck - Pine Tree Media, Inc."[2] The application appears to have been signed by "Robert D. Murray" who is identified on the form as "General Manager" of the station. Praise Ex. 6, Attachment A.

11. Although the renewal application references "Ken Tuck" and "Pine Tree," Tuck apparently had died several months *before* the renewal application was filed, and *American Plastics*, not Pine Tree, was operating KARW(AM) at the time the renewal application was submitted to the Commission. Murray was never a principal of Pine Tree, and the record is silent as to the nature of his role in American Plastics beyond that of General Manager of KARW(AM). Praise Media disavows any knowledge about events surrounding the filing of the renewal application, and it did not call as a witness Murray or anyone else associated with American Plastics in order to meet its burdens under this issue. Praise Ex. 6.

[2] The station's call sign was formerly KLGV.

C. Letters of Inquiry Issue

12. On September 9, 1992, the Commission directed a letter of inquiry to Mr. H. E. Ferrell, c/o Pine Tree Media, Inc., regarding KARW(AM). The letter sought, among other things, to ascertain whether an unauthorized transfer of control of KARW(AM) had occurred. Praise Media was operating KARW(AM) at the time, and Janet Washington received the letter of inquiry. Because the letter was addressed to Pine Tree rather than Praise Media, and it pertained to activities at KARW(AM) which preceded Praise Media's involvement at the station, Janet Washington decided it was unnecessary to respond to the letter. Praise Ex. 4, p. 1; MMB Ex. 1, pp. 45-47.

13. On September 23, 1992, the Commission directed a second letter of inquiry to Pine Tree. The second letter notified Pine Tree of a deficiency in the pending renewal application for KARW, and it requested the station to submit "appropriate corrective amendments." It also noted that prior attempts to communicate with the licensee had been unsuccessful and requested information as to whether the station was still operating. Janet Washington received the second letter of inquiry and forwarded it to Eugene Washington in Chicago. Praise Media did not respond to this letter. Praise Ex. 4, p. 2, MMB Ex. 1, pp 49-50.

14. On December 3, 1992, the Commission directed a third letter to Pine Tree regarding KARW(AM). In its third letter, the Commission requested a response to the first

(September 9, 1992) letter, and advised that failure to respond to that letter within 15 days could result in the imposition of sanctions. The Commission also noted that it views a failure to respond to official correspondence as a serious matter. Janet Washington received the third letter of inquiry and forwarded it to Eugene Washington in Chicago. Nearly two months later the Mass Media Bureau received a letter, dated January 26, 1993, from Praise Media. In addition to being unsigned, Praise Media's letter failed to respond to several of the questions that the licensee had been directed by the Commission to answer in the three letters of inquiry. Praise Ex. 4, Pp. 2 and 3; MMB Ex 1, pp. 52-53 and 55-78.

15. On February 10, 1993, the Commission sent a fourth letter of inquiry to Pine Tree regarding KARW(AM). The fourth letter included copies of the previous three, and it identified the specific deficiencies in Praise Media's January 26, 1993, correspondence. It noted, for example, that in response to a request to identify the principals of Pine Tree, Praise Media had responded "See enclosed letter." But no letter was enclosed. Pine Tree was warned that failure to respond within 15 days to the Commission's fourth letter could result in the imposition of administrative sanctions, including designation for hearing. Praise Media did not respond to this fourth letter. According to Janet Washington, she did not respond because she had no additional information to provide. Praise Ex. 4, p. 3 and MMB Ex. 1, pp. 80-82.

D. Technical Issues

16. Praise Media presented no evidence to meet its burdens under this issue insofar as the licensee's compliance with § 1.1307(b) (Environmental Assessment) is concerned. Praise Media does maintain, though, that it has properly painted its tower, in compliance with §§ 17.21 through 17.23 of the Commission's Rules; installed Emergency Broadcast System equipment, in compliance with § 73.932 of the Commission's Rules; monitored and regulated (until such time as the station went off the air) KARW(AM)'s transmitter power, in compliance with § 73.1745(a); and ensured that KARW(AM)'s transmitter logs (until such time as the station went off the air) and public inspection file comply with §§ 73.1800, 73.1820 and 73.3526 of the Commission's Rules. Praise Ex. 5, p. 1.

E. Resumption of Operations Issue

17. On September 13, 1994, KARW(AM) went off the air because of vandalism and equipment problems. Tr. 220-222. Station KARW(AM) returned to the air at the end of September or the beginning of October. After a few weeks, the station went off the air again because of mechanical problems. On November 18, 1994, before the problems could be rectified, Southwestern Electric Power Company ("SWEPCO") disconnected electric power to the station because of non-payment by Praise Media of its electric bills. MMB Ex. 3. Thus, KARW(AM) has remained silent since *at least* November 18, 1994.

18. Janet Washington claims that she wants to put the station back on the air. Tr. 92-94. However, Praise Media's financial ability to do so is dubious. Janet Washington estimates that Praise Media will require at least $30,000 to purchase a replacement transmitter and other materials necessary to make KARW(AM) operational again. Tr. 240, 242. Initially, Janet Washington testified that she had already placed money in escrow to purchase the necessary equipment. Tr. 93. However, she subsequently testified that she did not have money in escrow with which to put the station back on the air. Tr. 237. Janet Washington also testified that Praise Media had already received a loan from a lending institution. Tr. 224-225. However, documents relating to this loan establish that Praise Media has only *applied* for a loan. Praise Exs. 9-11. Janet Washington also testified that she has arranged for a loan from an undisclosed friend. Tr. 237. However, she has received nothing in writing from the friend indicating his willingness to provide Praise Media with any money. Other than Janet Washington's testimony, Praise Media offered nothing to support the availability of this loan. Tr. 239. In any event, Janet Washington concedes that neither she nor Praise Media has any present intention of spending any money for the purpose of putting KARW(AM) back on the air until the status of the station's license is resolved in Praise Media's favor. Tr. 93, 222, 241.

F. Silent Station Rules Issue

19. On September 12, 1994, Janet Washington prepared a brief letter notifying the Commission that "due to vandalism and theft of equipment," KARW(AM) was off the air

and would remain silent until the stolen equipment was replaced. Praise Ex. 7. The letter, dated September 13, 1994, was addressed to the Federal Communications Commission. On September 13, 1994, Janet Washington transmitted the letter by facsimile to Praise Media's Washington, D.C. communications counsel with the expectation that counsel would file the letter with the Commission. The September 13, 1994, correspondence was never filed with the Commission. Janet Washington also telephoned the Commission in an attempt to orally inform the agency that KARW(AM) had ceased operations. Although she spoke with Commission employees in several different offices, Janet Washington was not successful in finding the correct office to inform. Tr. 83-90; Praise Ex. 7.

G. Testimonial Misrepresentation/Lack of Candor

20. Janet Washington's testimony at the hearing contained misrepresentations and lacked candor. For example, in addition to her contradictory testimony concerning the availability of escrow funds (supra, at ¶ 18), Janet Washington lacked candor in her testimony about the availability of a loan to help restore KARW(AM) to operational status:

BY MR. ZAUNER:

Q: Where are you going to get the money to return the station to the air?

A: I have the money allocated now.

JUDGE FRYSIAK: I didn't hear that.

WITNESS: I have the money allocated now.

BY MR. ZAUNER:

Q: Well, what do you mean by that, you have the money allocated?

A: I have a loan. I received a loan.

Q: You have a loan and it's in place?

A: Um-hum.

Q: And it's just waiting upon you to get your license clear, at which point you can use that money to put the station back on the air?

A: Yes.

Tr. 224-225. Janet Washington's claim that Praise Media has already received a loan was false. The only documents Praise Media proffered to support the existence of a loan, Praise Exs. 9-11, indicate only that Janet Washington *applied* for a loan. There is no evidence whatsoever that any loan to Praise Media has been approved or that the money sought by Praise Media is presently available.

21. In an apparent effort to dramatize the seriousness of her commitment to KARW(AM), Janet Washington claimed to have invested nearly $200,000 in the radio station since taking over control of the facility. Tr. 92, 95. However, she was unable to produce any reliable documentation to substantiate that claim. See MMB Exs. 7-11. For example, Janet Washington asserted that she had obtained $30,000 for the radio station from the operation of a nightclub called Club Infinity, in which she had an interest. Tr. 181. Although Club Infinity operated only from November 1993 through July 1994, Janet Washington maintains that during that time the nightclub realized a *profit* of approximately

$50,000. Tr. 181, 186-87. Janet Washington was unable to produce any documentary evidence -- including income tax returns for Club Infinity -- from which her claim about the nightclub's operations could be substantiated. Tr. 182-184. She also claimed to have reinvested the profits from the operation of KARW(AM) in Praise Media. She was unable, however, to produce any tax returns for Praise Media to support her claim that Praise Media had made a profit operating the station. Tr. 114-17.

22. When Janet Washington initially testified about having invested approximately $200,000 into the station, she was unable to recall that, of that amount, $20,000 had come from Don Grant ("Grant"), whom Janet Washington described as a wealthy individual who owns a number of companies. Although she later characterized the $20,000 as a "godsend," Janet Washington attributed her lack of recall about the money to stress associated with trying to stay on the air. Tr. 198-199. At the time she testified, however, the station had been off the air for several months.

23. Janet Washington further claimed that Grant loaned her the $20,000, but did not require her to sign any papers in connection with the loan. Tr. 192. According to Janet Washington, she received the money from Grant one day in a single lump sum:

BY MR. ZAUNER:

Q: He came to you with 20,000 in cash?

A: Yes.

Q: A bundle?

JUDGE FRYSIAK: 20,000?

WITNESS: 20,000. I don't know if it was a bundle, but it was 20,000.

BY MR. ZAUNER:

Q: Well, was it in hundred-dollar bills?

A: Yes, I guess. I don't know.

Q: Well, he handed -- he handed it to you personally?

A: We paid bills. He paid --

Q: No, I -- but --

A: Yes, it was a bundle. It was a bundle.

Q: He came in with a bundle of cash and he handed it to you?

A: Yes.

Q: Did you count it to make sure it was 20,000 or did he just tell you --

A: It was $20,000.

Q: Did you count it?

A: Yes.

Q: And you sat there and counted the $20,000

A: We -- right.

Q: Was it in hundred-dollar bills?

A: There were some twenties and there were some hundreds.

Tr. 193-194. Janet Washington confirmed her earlier testimony, as follows:

BY MR. ZAUNER:

Q: Okay. Well, once again, when you got this 20,000, he hands you this money, you count it and it's $20,000, and it's all in, in hard cash?

A: That's correct.

Tr. 196.

24. Janet Washington's testimony about having received $20,000 in *a single bundle* and *counting out the individual bills* turned out to be a total fabrication. By letter, dated May 19, 1995, submitted in response to an order of the Presiding Judge requiring Praise Media to proffer documentation in support of the loan from Grant, counsel for Praise Media stated:

> This is to clarify one matter about loans made to KARW by Mr. Don Grant of Houston, Texas. Ms. Washington reports that the loans were not made all at once, but over time. Thus, it is hard to isolate which cash payments were made with cash provided by Mr. Grant.

MMB Ex. 10, p. 1; Tr. 320-21. Praise Media offered no explanation as to how Janet Washington's earlier testimony about receiving the $20,000 cash in one lump sum and counting out the individual bills could have been so completely incompatible with her later recollection of events.

25. Janet Washington also testified that some of the $200,000 had come from station profits. Tr. 99. She claimed that Praise Media had filed an income tax return for 1993 in conjunction with a company owned by Eugene Washington and that a copy of the tax return

was readily available. Tr. 115. Praise Media was directed to provide a copy of that return to the Mass Media Bureau within seven days. Tr. 116. A copy was never provided.

26. Janet Washington further asserted that some of the $200,000 was used to pay off a $110,000 debt that Praise Media owed on its purchase of the station. According to Janet Washington, Eugene Washington made payments on this debt by cashier checks. However, Janet Washington claimed that copies of the checks were not available because they had been in Eugene Washington's possession and were confiscated by the FBI upon his arrest. Tr. 99. Janet Washington also stated that she personally made contributions toward paying down the loan. However, she claimed that no bank records of these payments were available because she was going through a divorce at the time and did not maintain money in a bank account. Tr. 101. Other documents relating to paying down the loan also turned out to be unavailable because, accorrding to Janet Washington, they had been stolen from the station during burglaries in November and December 1994. Tr. 102.

27. Yet another demonstration of Janet Washington's propensity to dissemble is evidenced by her testimony concerning KARW(AM)'s silent status. Initially, Janet Washington testified that KARW(AM) continued to receive electric power after November 18, 1994. Tr. 149-140. Indeed, she claimed to have had personal knowledge that the electricity was on when she visited KARW(AM) in December 1994:

BY MR. ZAUNER:

Q: When was that in December that you went?

A: It was before Christmas.

Q: In the middle of December or early December?

A: No, it was like December 8th.

Q: In early December.

A: Right.

Q: When you went there, did you throw on a light switch?

A: Yes.

Q: Did the light go on?

A: Uh-huh.

Q: So there was power there as of approximately the 8th of December or early part of December?

A: That's correct.

Tr. 142-143.

28. After testifying that the station had power in December, Janet Washington was shown a letter, dated January 26, 1995, from B. M Birdsong, Area Manager for SWEPCO. In his letter Mr. Birdsong stated that electric power to KARW(AM) had been off *continuously* since November 18, 1994. MMB Ex. 3. Janet Washington claimed that the letter was "totally incorrect;" she attacked Birdsong personally, asserting that "this is why Mr. Birdsong is going to court;" and she testified unequivocally that Birdsong "is currently being sued" by her for informing the Commission that the station was off the air because of lack of electricity. The next day, however, Janet Washington returned to the witness stand

and conceded that KARW(AM) was in fact without any electric power during the month of December. Tr. 132, 158. Janet Washington was unable to explain how her earlier testimony could so dramatically conflict with the facts as they actually existed:

BY MR. ZAUNER:

Q: Yesterday we went through quite a bit of cross-examination concerning those tower lights and I believe one of the questions I asked you was when you went to the station in December did you turn the lights on and was there light, and you said yes.

A: I believed that I had turned -- well, I have been under a lot of stress. And when you walk into the station, there's nothing but windows. So, it's light on. And I didn't go into work. I went into like check things out and I walked through. And I just automatically assumed well, I must have turned the lights on.

Q: But, but I asked you specifically did you turn the lights on, and you answered me without hesitation: "yes." And I said: Were there lights? Did they go on? And you said "yes."

A: Well, I guess I erred.

Tr. 162-163.

29. Furthermore, Janet Washington's claim that she is currently suing Mr. Birdsong also proved to be a fabrication. Tr. 121-122, 132. The next day, she testified that she has no lawsuit pending against the SWEPCO official. Tr. 290.

30. Janet Washington testified that her husband, Eugene Washington, regularly sent money to her from Chicago to keep KARW(AM) running. According to Janet Washington,

Eugene Washington mailed upwards of $30,000 to her during the period of time that Praise Media operated the radio station. Tr. 108.[3] Janet Washington indicated that Eugene Washington was unavailable to testify in this proceeding because he is incarcerated. However, when pressed as to why her husband is in prison, Janet Washington claimed that she did not know the reason for his incarceration.

BY MR. ZAUNER:

Q: Where is Mr. Washington?

A: He's incarcerated.

Q: And do you know on what charges?

A: I'm not really sure as to what the charges are. I do know that there is a conspiracy and the reason I don't know is because we live two separate lives. I lived in east Texas. He lived in Chicago. I didn't really get into his personal life and --

Q: Do you know whether the charges have anything to do with drug possession or drug dealing?

A: I can't answer that because I really don't know for sure. I never visited and I don't know what life he led.

Tr. 100.

31. In fact, Janet Washington knew at the time she testified why her husband was incarcerated. In direct written testimony given months earlier, Janet Washington had represented that Eugene Washington is serving time in a federal prison on drug-related

[3] She later revised the amount that Eugene Washington contributed to $50,000. Tr. 161.

charges. Praise Ex. 3, p. 1. The next day, while still claiming she did not know the "exact reason" for Eugene's incarceration, she testified that the charge was "[a] drug conspiracy, wire tapping or something like that." Tr. 290.

III. Conclusions of Law

A. Transfer of Control Issue

1. Section 310(d) of the Communications Act of 1934, as amended, states in pertinent part:

> No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit for license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.

2. Although Pine Tree is the licensee of record, it is undisputed that Praise Media has been in control of KARW(AM) since early 1992. Indeed, Janet Washington, who claims to be Praise Media's sole functioning principal, testified that she took control of KARW(AM) in 1992 and ran all facets of the station's operations until the station went silent in 1994. She concedes that at no time has Praise Media ever sought or received Commission approval to operate or control KARW(AM). Plainly, Praise Media violated Section 310(d) of the Communications Act of 1934, as amended, and the Presiding Judge should rule against Praise Media on this issue.

3. Furthermore, it must be concluded that unauthorized transfers of control also occurred when American Plastics took over KARW(AM) in 1990 and again when Wren and Jones reacquired the station in 1991. Praise Media, the only entity making an appearance in

this proceeding and claiming to be the successor in interest to Pine Tree, made no attempt to satisfy either of its burdens with respect to the 1990 and 1991 unauthorized transfers of control. Accordingly, the Presiding Judge is compelled to find against the licensee with respect to these two unauthorized transfers.

4. However, it is equally clear that Praise Media had nothing to do with, or any knowledge of, the 1990 or the 1991 unauthorized transfers of control. Consequently, insofar as the 1990 and 1991 unauthorized transfers of control are concerned, disqualification of Praise Media is not warranted.

B. Misrepresentation Issue

5. Praise Media, the only entity making an appearance in this proceeding and claiming to be the successor in interest to Pine Tree, made no attempt to satisfy either of its burdens with respect to whether the pending KARW(AM) renewal application contained misrepresentations concerning Ken Tuck's role in KARW(AM) as of the time of the filing of the station's renewal application. Accordingly, the Presiding Judge is compelled to find against the licensee on this issue.

6. However, this issue concerns events that occurred on August 17, 1990, prior to Praise Media's involvement with the radio station. Praise Media has disavowed any knowledge about events surrounding the filing of the renewal application. It is well

established that an intent to deceive is a necessary element of misrepresentation. Fox River Broadcasting, Inc., 93 FCC 2d 127, 129 (1983). Given that the renewal application which gave rise to this issue was filed prior to Praise Media's involvement in KARW(AM), there is no basis for concluding that Praise Media or any of its principals committed any misrepresentation with respect to the subject application. Although, as discussed above, the Presiding Judge should rule against Pine tree on this issue, such ruling should not impact adversely on Praise Media's basic qualifications.

C. Letters of Inquiry Issue

7. It is axiomatic that the Commission must rely on its licensees for information necessary to the proper execution of its functions. To insure that such information is provided by its licensees and others, Section 73.1015 of the Commission's Rules provides:

> The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission . . . .

Here, Praise Media received three official inquiry letters from the Commission before it offered *any* response at all. The response was late filed, unsigned, and failed to answer all of the Commission's questions. Thereafter, Praise Media ignored a fourth official letter of inquiry.

8. Although Praise Media claims to be the successor in interest to Pine Tree, Janet