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

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|------------------------------|---|---------------------|
| In re Applications of |) | MM Docket No. 93-75 |
| |) | |
| TRINITY BROADCASTING OF |) | |
| FLORIDA, INC. |) | BRCT-911001LY |
| |) | |
| For Renewal of License of |) | |
| Television Station WHFT (TV) |) | |
| Miami, Florida |) | |
| |) | |
| GLENDALE BROADCASTING |) | |
| COMPANY |) | BPCT-911227KE |
| |) | |
| For Construction Permit for |) | |
| New Television Station in |) | |
| Miami, Florida |) | |

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Federal Communications Commission
Office of Secretary

To: The Commission

OPPOSITION BY GLENDALE BROADCASTING COMPANY
TO PETITION OF COLBY MAY FOR LEAVE TO INTERVENE,
FILE COMMENTS AND PARTICIPATE IN ORAL ARGUMENT

1. Glendale Broadcasting Company ("Glendale") has no quarrel with the right of an attorney to defend his actions that are under challenge. However, Mr. May's petition for leave to intervene is without merit and wholly unnecessary for the defense of his actions in this proceeding. Those actions have been under question from the very outset of the proceeding and Mr. May has been, and continues to be, the beneficiary of at least three fine attorneys from two fine law firms, i.e., Messrs. Emmons and Topel of the firm, Mullin, Rhyne, Emmons and Topel, P.C., serving as counsel for Trinity, and Ms. Schmeltzer of the firm, Fisher, Wayland, Cooper, Leader & Zaragoza, L.L.P., serving as counsel for NMTV.

2. The petition is grossly untimely. The hearing was designated in April 1993. The 30-day deadline for seeking

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intervention, counting from the date of publication in the Federal Register, expired about three and one-half years ago. The petition is being filed long after the close of the record and the issuance of the Initial Decision of Judge Chachkin. The contrived explanation that the Mass Media Bureau only recently said unkind things about Mr. May is no justification at all. Mr. May's role in the unprecedented assault on the ex parte control laws by Trinity-NMTV has been clear from the outset in the prehearing pleadings leading to the designation order, in discovery, in hearing exhibits that feature the sworn written direct testimony by Mr. May, in his testimony under some four days of cross examination at the hearing, in proposed findings and conclusions filed with Judge Chachkin, in Judge Chachkin's Initial Decision and in appeals from that Initial Decision.

3. If Mr. May felt his role in the proceeding should have been as an intervenor, he had full notice from the outset. If his case for intervenor status were legitimate, he could and should have taken steps to intervene in a timely way following hearing designation. AT&T Co., 3 RR2d 741 (1964) (Western Union denied intervention in WATS tariff proceeding, where it knew of the relevance of the proceeding to its business and in fact offered evidence in the proceeding, then sought intervention following the close of the record after and in light of adverse developments in that record).

4. No showing of how Mr. May can contribute to the proceeding at this juncture. The petition says that Mr. May can

contribute to the proceeding because of his knowledge of his own actions under attack, but does not explain why intervention is needed for that purpose, or what he can do which he already hasn't been doing, and can continue to do throughout the balance of the proceeding as before. Mr. May participated in prehearing pleadings filed with the Commission, in discovery and in the hearing as a key witness who testified at greater length than any other witness except Mr. Crouch. He was central to the written direct presentation of Trinity-NMTV. Throughout, his personal cause as well as the cause of Trinity-NMTV was thoroughly represented by counsel. At this juncture, the only contribution by or relative to Mr. May is for counsel to continue to argue the record and the law relevant to the case. These arguments have been and are being advanced with endless repetition and great verbosity.

5. If Trinity-NMTV wants to add legal firepower to its cause and in defense of Mr. May's integral role relative to that cause, Trinity-NMTV can add as many law firms as it wants as co-counsel including Mr. Dyk's firm if the wish is for him to handle oral argument before the Commission (if held) and eventually in the Court of Appeals. But to add a third separate firm in the guise of representing Mr. May as an intervenor has no justification and will only add to the multiplicity of filings being showered on the Commission. This has already been done with Trinity's outlaw motion to vacate the record etc., shortly followed by Mr. May's would-be intervenor's comments, also an

outlaw pleading, overlapping each other, so that the latter could in effect reply to Glendale's opposition to the former even though the rules do not allow such a reply.

6. Injury to Mr. May that cannot be redressed without intervention. To be sure, Mr. May's professional reputation is a matter for which he is entitled to a defense. But that plea as a ground for intervention is a red herring here because Mr. May has, and always has had, the finest legal defense that Trinity's money can buy. The cases cited in the petition on this score are inapposite.

(a) West Jersey Broadcasting Co., 48 RR2d 970 (1980) allowed intervention by a party accused of accepting settlement money in a fraudulent manner to defend against the charge which had been made at a time when he could not be found in order to make such a defense. Mr. May, of course, has spent much of his life the past three plus years doing little else but testifying and participating in the defense of his actions and those of Trinity-NMTV.

(b) Quality Broadcasting Corp., 4 RR2d 865 (1965) allowed intervention by a broadcaster whose reputation would be damaged by license revocation when the intervenor demonstrated to the Commission that he had no ability to retain legal counsel earlier due to circumstances beyond his control. Mr. May has had and continues to have an abundance of legal counsel at his disposal.

(c) Waller v. Financial Corp. of America, 828 F.2d 579 (9th Cir. 1987) allowed intervention by an accounting firm charged

with wrongdoing in an investment scheme after other parties with which it had been allied settled the case while leaving the charges against the accounting firm outstanding for further litigation. Here, the would-be intervenor has not been left hanging out to dry in any such manner. Mr. May, Mr. Crouch and Trinity-NMTV are in lockstep regarding their roles and defense relative to the massive misconduct and law violations which Judge Chachkin adjudicated have taken place here.

7. Glendale reiterates its position that Mr. May has full rights to defend himself against charges in this matter. However, his intervention is neither necessary nor warranted. The petition should be denied, Mr. May through independent counsel should not be granted leave to file repetitive briefs and papers apart from those filed by Trinity-NMTV, and Mr. May through independent counsel should not participate in oral argument before this Commission, if held, that would duplicate the oral argument by legal counsel for Trinity-NMTV.

Respectfully submitted,



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December 17, 1996

CERTIFICATE OF SERVICE

I certify that copies of the foregoing OPPOSITION BY GLENDALE BROADCASTING COMPANY TO PETITION OF COLBY MAY FOR LEAVE TO INTERVENE, FILE COMMENTS AND PARTICIPATE IN ORAL ARGUMENT are being served this 17th day of December 1996 on the following:

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