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December 18, 2006

Secretary
Federal Communications Commission
9300 E. Hampton Dr.
Capitol Heights, MD 20743

***Re: "Opposition to Petition for Reconsideration of LKCM
Radio Group, LP, et al..."***
MB Docket No. 06-11
RM-11304
DA 06-1901

Dear Secretary,

Transmitted herewith is an original, plus (4) copies, and a stamp-in and return copy, of the attached submission.

Please immediately date stamp upon delivery, and then direct this filing to the attention of the Audio Division.

Please return the stamp-in and return copy to the undersigned, in the envelope provided. If there are any questions, please do not hesitate to contact me.

Sincerely,

Dave Garey
Proprietor,
Texas Grace Communications

Enclosures: Signed original, (4) copies, stamp-in and return copy

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re: Amendment of Section 73.202(b))
Table of Allotments – FM Broadcast Stations)
(Crowell, Texas) and “Counterproposal” to upgrade)
station class or change channels of KFWR/Mineral Wells))
TX, KYBE/Frederick OK, KJKB/Jacksboro TX et al)
)
Renewed illegal, unethical effort by Mark Lipp, et al to)
obliterate the KRZB/Archer City construction permit so)
as to use the 97.5 spectrum to effectuate various move-in)
schemes to the lucrative Dallas-Fort Worth TX market)
)
And Request that Mark N. Lipp, Marney K. Sarver,)
and Scott Woodworth be strongly censured for)
perpetrating legal and ethical misconduct intended to)
harm KRZB/Archer City’s legally-protected construction))
permit rights, as referenced)

MB Docket No. 06-11
RM-11304

With addition of
DA 06-1901
BMPH-19990217IB
Facility ID: 79024

To: Chief, Audio Division, FCC Media Bureau
Chief Disciplinary Counsel, District of Columbia Office of Bar Counsel

OPPOSITION TO PETITION FOR RECONSIDERATION OF
“LKCM RADIO GROUP, LP”, ET AL, WITH PROTEST AND REQUEST FOR
PUNITIVE ACTION AGAINST LEGAL AND ETHICAL MISCONDUCT BY
ATTORNEYS MARK N. LIPP, MARNIE K. SARVER AND SCOTT WOODWORTH
IN CONNECTION WITH THE APPARENT COMMISSION OF PERJURY BY LIPP,
AND THE WILLFUL TRANSMISSION OF FALSE STATEMENTS WITHIN THE
FEDERAL PROCEEDING BY LIPP, SARVER AND WOODWORTH IN RENEWED
EFFORT TO HARM THE KRZB/ARCHER CITY CONSTRUCTION PERMIT
AND LIVELIHOOD OF TEXAS GRACE COMMUNICATIONS

Texas Grace Communications
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Summary

Grace's instant response is made to the vicious Mark Lipp-Marnie Sarver-Scott Woodworth Petition on behalf of LKCM Radio Group, et al, seeking not only to proffer an illegal counterproposal to facilitate a DFW-area move-in, among other channel changes and facility expansions, but to also completely obliterate the long fought-for, protected construction rights of KRZB/Archer City – a necessary ingredient for LKCM's illegal scheme.

The FCC's R&O under DA 06-1901, which appropriately dismisses the illegal counterproposal as short-spaced to the protected KRZB/Archer City facilities, and appropriately endorses 2006 reinstatement of KRZB/Archer City's construction permitting (which had previously been denied some 25 months of protected construction rights), should be upheld.

Ethical misconduct on the part of Mark Lipp that has regrettably been an impediment to prosecution of protected construction permit rights for KRZB/Archer City is raised herein. After a Tipton, OK channel drop in (under masked identity) tied to Lipp was uncovered and successfully fought off by Grace, yet another elaborate effort to interfere with KRZB/Archer City's permit was put into effect by Lipp, with the filing of a "counterproposal" in October 2000 seeking to illegally wrest the 97.5 spectrum away from Grace so that Lipp could effectuate a full Class C 100,000 watt 97.5 station serving Dallas-Fort Worth from the placebo community of Keller. Even though the FCC would dismiss Lipp's filing as illegal and ungrantable some 3 years later, Lipp succeeded then, as now, in needlessly dragging Grace into falsely-proffered litigation, resulting in the denial of any protected status for the KRZB/Archer City permit until after Lipp's counterproposal was dismissed.

The petitioners' claim that "reinstatement" of the KRZB/Archer City permit had an "adverse impact" upon them is ludicrous, because the KRZB/Archer City permitting was the only protected entity in the equation – even during the time it was awaiting reinstatement on pending petition. Moreover, it is Grace's permit that has repeatedly been subjected to the adverse impact

of opportunistic filers, all with an uncanny tie to Mark Lipp, who believe they can merely extract the 97.5 permitting from Grace for their own illegal schemes.

It is legally unethical for Mark Lipp and/or his WRF firm associates to once again be seeking to harm Grace's KRZB/Archer City permitting, given prior warrant to the FCC and Grace by Lipp that he would cease such behavior effective July 29, 2003.

Scurrilous claims that KRZB/Archer City is warehousing its own singular spectrum to the detriment of others are without merit, as KRZB has only sought protected construction rights for its own station while at all times protecting existing facilities. Petitioner claims that Grace has allegedly disregarded FCC rules while awaiting protected status to be accorded to its permit are blatantly libelous, and intended to mask the illegal Petition.

A timeline of events shows that KRZB/Archer City held protected construction rights for a very limited period of time prior to the permit's cancellation on October 26, 2004, and that the FCC's action in reinstating the permit in 2006 to accord the balance of such warranted protected construction rights was fair and appropriate.

Appendix of Evidence

Exhibit A – Outer envelope of service on the Lipp-Sarver-Woodworth Petition seeking to obliterate the KRZB/Archer City permit so that they can attempt to effectuate their own use of spectrum for Dallas-Fort Worth move-in interests ostensibly associated with LKCM Radio Group, LP and KFWR/Mineral Wells, TX. While Lipp masks his name from the Petition itself, the envelope clearly bears his name as “sender” under the WRF firm’s address.

Exhibit B – Mark Lipp’s letter to John Trent dated September 10, 1996 – one month before Grace ever received FCC permitting on the subject 97.5 frequency (at the initial community of Olney) – whereupon Lipp transmits an apparently illegal offer of consideration and attempted bribe if Grace is willing to relinquish its pending frequency and facilities site, and drop power class prior to grant of a permit to which it did not even hold proprietary ownership at the time.

Exhibit C - May 4, 1999 letter from U.S. Postal Inspector W.G. Cunningham, verifying that the identity of “Good Government Radio” (GGR) – as depicted on the drop-in filing to block the 301 application of and construction permit receipt by KRZB/Archer City – tied directly to Mark Lipp’s longtime engineering partner on several Dallas-Fort Worth station move-in schemes, Paul Reynolds.

Exhibit D – Perjury-laden Federal proceeding document written by Mark Lipp, dated June 9, 1999, wherein Lipp states to the FCC, under oath and penalty of perjury, that he has never had any association with GGR nor knowledge of its “members”, and that he has “no ongoing working arrangement” with his longtime engineering partner.

Exhibit E - July 15, 1999 facsimile, wherein Mark Lipp expresses knowledge of the purported intentions of Good Government Radio, in blatant contradiction of his June 9, 1999 affirmation in Federal proceeding before the FCC under Exhibit D.

Exhibit F - Facsimile pleading draft on behalf of GGR, transmitted by Mark Lipp to attorney John Trent for review, on September 10, 1999, further evidencing the apparent commission of perjury by Lipp in Exhibit D.

Exhibit G – Certificate of Service page on the mammoth March 13, 2006 counterproposal by Kevin D. Prigel dba LKCM Radio Group, L.P. seeking obliteration of KRZB/Archer City’s protected facilities, but willfully and illegally failing to include KRZB as a service entity.

Exhibit H – Mark Lipp’s “Reply to Opposition” dated July 29, 2003, wherein he states he will cease further efforts to interfere with KRZB/Archer City’s construction permitting.

Exhibit I – Mark Lipp’s September 23, 1999 facsimile to John Trent, wherein Lipp clearly speaks for the Good Government Radio entity he told the FCC under oath that he has absolutely no association with.

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**BEFORE THE
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To: Chief, Audio Division, FCC Media Bureau
Chief Disciplinary Counsel, District of Columbia Office of Bar Counsel

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EFFORT TO HARM THE KRZB/ARCHER CITY CONSTRUCTION PERMIT
AND LIVELIHOOD OF TEXAS GRACE COMMUNICATIONS

Texas Grace Communications (“Grace”) respectfully files this submission in response to the venomous November 17, 2006 “Petition for Reconsideration” (“Petition”) and accompanying filing of LKCM Radio Group, et al, in the above-captioned proceeding, wherein the filers seek not only to reinstate their illegal counterproposal to utilize KRZB/Archer City’s 97.5 spectrum for

yet another Dallas-Fort Worth market move-in scheme, but, most egregiously, to obliterate Grace's permit and business altogether. Said Petition and accompanying filing must be immediately dismissed for advocating a counterproposal in clear violation of FCC rules, spacing requirements and the foundation of law, in addition to abusing government process. Simultaneously, the protected construction rights of KRZB/Archer City's reinstated permitting must be upheld in accordance with Commission adoption of the R&O under DA 06-1901.

In the DA 06-1901 R&O, the FCC correctly points out that the protected KRZB/Archer City service was blatantly ignored by the counterproposal, necessitating its dismissal.

In the DA 06-1901 R&O, the FCC correctly states that, "Because Grace, the permittee of FM Station KRZB, Channel 248C2, Archer City, has not consented to the proposed relocation (of its facility site), the Joint Parties' counterproposal will be dismissed." The R&O goes on to correctly point out the counterproposal's failure to meet minimum spacing requirements for its planned station expansion and move-in schemes, blatantly failing to allow legal coexistence with the protected KRZB/Archer City facility, or even acknowledging the KRZB permit's existence or protection rights. The R&O also reiterates the fact that the KRZB/Archer City permitting under BMPH-1990217IB was first granted protected construction rights within internal FCC processing effective September 8, 2003, and that any subsequent filing for new spectrum allocation or existing facility expansion was required to honor the minimum distance separation requirements with respect to the protected KRZB/Archer City facilities. As the R&O concludes, this requirement was blatantly missing from the deficient counterproposal, necessitating its dismissal.

The petitioners' claim that reinstatement of the KRZB/Archer City permit had an "adverse impact" upon them is ludicrous, because the KRZB/Archer City permitting was the only protected entity in the equation -- even during the time it was awaiting reinstatement. Speculative filings, illegally or otherwise, are made purely at the filers' own risk. Moreover, it is Grace's permit that has repeatedly been subjected to the adverse impact of opportunistic, illegal filings, all with an uncanny tie to Mark Lipp, seeking to extract the 97.5 permitting from Grace without Grace's consent via varied illegal schemes.

No "adverse impact" can be claimed by an opportunistic group's illegal desire to merely mow down an already-permitted, licensed or protected radio service that happens to be in their

way, or frankly, by any speculative filing before the FCC, illegal or otherwise. In the instant scenario, the 97.5 spectrum for KRZB/Archer City was the only protected entity. By contrast, the attempted Dallas-Fort Worth move-in at Mineral Wells and related channel drop-ins and switches predicated on illegally mowing down the KRZB/Archer City protected service have absolutely no protected standing. Even if the Petitioners had filed their illegal Counterproposal before January 12, 2006, the KRZB/Archer City facilities were still protected while awaiting permit reinstatement to replenish previously-unaccorded protected construction rights. But the added belligerence here is that the illegal counterproposal was filed some two months *after* reinstatement of the KRZB/Archer City permitting. The Petitioners therefore can blame neither the FCC nor Grace for Commission rejection of an illegal application that chose to short-space already protected spectrum. (As will be demonstrated later within this pleading, this is precisely the illegal tactic Petition filer Mark Lipp used in the fatal Keller proceeding between 2000 and 2003 under MM Docket No. 00-148, to try to wrest the 97.5 spectrum away from KRZB for his previous DFW move-in scheme).

Case law and precedent has held that the FCC is not held responsible for potential incompleteness of or inconsistencies within its databases, resources KRZB/Archer City certainly has no control over. Moreover, the Petitioners hypocritically admit that they observed the permit's reinstatement notice in January 2006, but chose to ignore it and now complain about its FCC formatting.

While the Audio Division did depict the KRZB/Archer City permit as a "deleted" entity in its databases between October 26, 2004 and the reinstatement in January 2006, that was merely a matter of FCC administrative protocol which can not be cited by the Petitioners as grounds for challenging the reinstated permit. Longstanding FCC case law and precedent has held that the FCC is not responsible for an error, perceived error, or inconsistency within, or the incompleteness of, its databases. For Grace's part, it obviously has no control over such FCC resources. The Petitioners are further disingenuous by invariably claiming that they somehow

didn't know about the FCC's reinstatement of the protected permit on January 12, 2006¹, and then later claiming they did indeed notice the reinstatement of the permit on January 17, 2006, but found fault with the manner in which the FCC made publication thereof. Certainly, Grace can not be faulted or otherwise held liable for the FCC's publication handling of the permit reinstatement. In fact, if there was any deficiency in said reinstatement of the permit such that it would need to be republished in the Federal Register or otherwise re-granted, then the Petitioners appear to be advocating that the permit be tolled until such time as reinstatement is satisfactorily published. But the Petitioners can't have it both ways. Their only motive is quite illicit – to wrest the protected spectrum away from Grace for their own personal gain. The massive LKCM- Mineral Wells, et al counterproposal requiring decimation of KRZB/Archer City's protected facilities was not filed until March 13, 2006 – a highly illegal undertaking in light of the fact the Petitioners now acknowledge they *did* notice the KRZB permit reinstatement referenced in the FCC database on January 17, 2006, yet still chose to float a short-spaced proposal.

The Petitioners' citation of a prospective FCC violation of the Administrative Procedure Act is hypocritical, in light of the fact that the Mineral Wells counterproposal itself violates the APA – with further deception shown in the filers' failure to even serve said counterproposal on KRZB – the very entity whose facility they hoped to destroy.

The Petitioners make sport of trashing the FCC for allegedly being in violation of the Administrative Procedure Act with respect to reinstating the balance of protected construction rights to the KRZB/Archer City permitting in 2006. However, nothing could be more hypocritical and further from the truth. First, tolling matters, and construction permit reinstatements, are routinely handled administratively, without protracted decisions, other than the extension accorded. Moreover, no parties had ever challenged KRZB/Archer City's request for replenishment of the balance of warranted protected construction rights on its permitting, as

¹ The permit was subsequently tolled until the corresponding FAA tower authority was restored.

openly filed by Grace in 2004 with supplemental petition in 2005 – and certainly have no right to now surface and challenge the fruits of such application.

It is especially hypocritical and deceptive for Mark Lipp and his buddies at the Wiley Rein Fielding firm to complain about an alleged FCC violation of the APA, when the counterproposal under MB Docket No. 06-11, RM-11304 is a classic violation of the APA. This counterproposal, a la Lipp's Keller debacle of 2000, is seeded on an innocuous initial drop-in request (in this case, for a second local service at Crowell, TX on Channel 250A) of no apparent relation that could be gleaned by the general public or other broadcasters to what would follow in the intended massive counterproposal dated March 13, 2006. Under the protocol of purely deceitful practice, the cooperative channel-dropper at Crowell is readily willing to withdraw expression of interest in its own innocuous drop-in to support the supposed counterproposal – a massive undertaking, by the filers' own admission, that needed the Crowell drop-in as its initial component. This is a patent misuse of FCC process and a blatant violation of APA. After all, Grace could never have known that a drop-in channel on a non-conflicting frequency at Crowell would have anything to do with its permitted facilities at Archer City – let alone be the lynchpin of a gargantuan plan to obliterate Grace's facility altogether.

The APA violation by the Petitioners is blatant, because the noticed Crowell drop-in on channel 250A could in no way have alerted KRZB/Archer City to the fact that its interests and very livelihood were at stake. The "final rule" in this case, the intended counterproposal for the Mineral Wells station expansion scheme that necessitated, among other bowling pins, the decimation of KRZB/Archer City's facilities, was supposed to have been a logical outgrowth of the "proposed rule", i.e., adding or not adding a second service at Crowell. No such logic or rational notice is seen here. Unless persons are sufficiently alerted to know whether their interests are at stake, the so-called public notice is unlawful². Not only did the Petitioners

² See National Black Media Coalition v. FCC, 791 F.2d 1016, 1023 (2d Cir. 1986).

willfully violate the APA to conceal their planned March 13, 2006 counterproposal from Grace (and the general public), but they also chose to violate their legal requirement to provide service to Grace of said counterproposal, central to which was the plan to kill the KRZB/Archer City facility (livelihood “interests” by any measure under APA)³. Interestingly, the counterproposal, though clearly written by an attorney, contains only the name of the Mineral Wells station representative, Kevin Prigel. However, it appears to have been written or supervised by Mark Lipp, whose new WRF firm would surface as Prigel’s counsel in November 2006. Lipp, of course, can affirm to the Disciplinary Counsel what his role was in the ghostwritten counterproposal, and the follow-up Petition he transmitted by U.S. Mail.

Scurrilous claim that KRZB/Archer City is “warehousing spectrum” to the detriment of others is without merit, as KRZB has only sought protected construction rights for its own singular station while at all times protecting existing broadcast entities. Petitioner claim that Grace allegedly disregarded FCC rules while seeking protected construction rights on its permit are blatantly libelous, and intended to mask the illegal Counterproposal.

The Petition endeavors to mask its own illegal status inherent to the counterproposal’s failure to meet minimum spacing requirements and protect the KRZB/Archer City facilities, by launching a libelous, unfounded attack on KRZB’s independent proprietor. Willful false statement is made by Sarver, Woodworth and Lipp accusing Grace of allegedly “continuing to disregard the FCC’s rules” while legally prosecuting its construction permit and seeking to have the Commission accord protected construction rights upon the KRZB/Archer City permitting. On the contrary, Grace was clearly following all FCC rules in prudently endeavoring to obtain a permit that protected construction – with all prior conflicts and impediments to such protected status eliminated. The KRZB/Archer City facilities, with protected construction rights status

³ Certificate of Service page of the March 13, 2006 LKCM Radio Group, L.P. counterproposal is attached as Exhibit G, and shows willful exclusion of Grace as a service entity.

now applied, protects all existing licensed or permitted facilities, and is in full compliance with FCC rules.

To be sure, KRZB/Archer City has had a protracted, difficult road in securing the protected construction rights component which is supposed to be warranted by the grant of any FCC construction permit. In fact, prior to the KRZB/Archer City permit's reinstatement in 2006, it had had less than one year of protected construction rights since its initial grant, necessitating the reinstatement (to be detailed in subsequent section timeline). Petition assertions that the FCC allegedly gave KRZB/Archer City "an additional seven years to build" as a protected service, or that KRZB/Archer City has held protected permitting for "over ten years" are thus outright lies, and constitute the willful statement of false information within the Federal proceeding by attorneys Sarver, Woodworth and Lipp. Moreover, these assertions are all the more insulting in light of the fact that the Petition architect, Mark Lipp, has engaged in illegal, unethical conduct serving to hold up the KRZB/Archer City permit's ability to obtain its protected rights, as will be fully detailed herein.

With respect to the "valuable spectrum" the Petition believes KRZB/Archer City to represent – at least if Lipp and his cohorts at WRF can obliterate such spectrum in Archer City and use it for plans to promote a station 120 miles away in the Dallas-Fort Worth arena – such "value" does not give Lipp or any party the right to resort to illegal means to steal the spectrum from a permitted entity such as KRZB, or otherwise work to hinder KRZB/Archer City's ability to obtain its protected construction rights. If Lipp, Sarver and Woodworth believe the KRZB/Archer City spectrum has more value for use in a Dallas-Fort Worth project than in Archer City, TX, then there were, and are, myriad legal ways to work with Grace to see if all parties can agree to a proposal. But agreement is the key word. Regrettably, in dealing with Lipp – now co-joined by his associates Sarver and Woodworth – Grace has been exposed to conduct more akin to that of a rapist, wherein Lipp believes that he can illegally wrest the spectrum away

from KRZB/Archer City without Grace's consent, in violation of all FCC spacing requirements, and the foundation of law.

By contrast, Grace has never harmed an existing or permitted broadcast entity. We've simply endeavored to prosecute our permit, and facilitate operation of an FM radio station far-removed from Dallas-Fort Worth or any major market, to provide an invaluable independent service. Due to the unfounded personal attack on Grace's proprietor by Lipp and WRF, wanting not only to proffer an illegal counterproposal, but also the illegal and complete decimation of Grace's sole broadcast holding because it's "in the way" of their potentially lucrative payoff, Grace must reiterate the misconduct perpetrated by Lipp for nearly a decade, and repeated in the present Petition co-joined by Sarver and Woodworth.

In 1996, Mark Lipp tried to get Grace to relinquish the 97.5 spectrum EVEN BEFORE any construction permit had been granted.

Back in the summer of 1996, Grace held absolutely no construction permit, nor even a set of call letters. Grace, at the time, was simply awaiting receipt of a construction permit based on a 301 filing. Through no fault of Grace's, that pending permit just happened to be in the way of Mark Lipp's plan to turn KLAK/Durant, OK – on the 97.5 co-channel of Grace's applied-for facility over 100 miles away – into a Dallas-Fort Worth move-in. Grace was unfamiliar at the time with Mark Lipp's influence at the FCC (as its former Allocations Chief), or his willingness to resort to illegal, unethical practices to get what he wanted. After extremely unpleasant contact by Lipp at the time, however, we understandably refused to give up our right to prosecute our permitting, setting off a barrage of nasty verbal comments and threats by Lipp, wherein Lipp plainly stated that he could take the 97.5 permitted facility rights away from us one way or another – be it voluntarily or involuntarily. Grace asked Lipp to put any "offer" he wanted to make in writing to Grace's then-attorney, John Trent, but made clear that we would not succumb to any harassment to relinquish our permitted facilities.

Attached as Exhibit B is Lipp's letter to John Trent dated September 10, 1996 – before Grace had even held any FCC permitting on the subject 97.5 frequency. The letter equates to a transmitted offer of consideration and attempted bribe by Lipp, if Grace was willing to relinquish our pending frequency and facilities site, and drop power class prior to grant of the permit – a situation we understandably wanted no part of. Quoting Lipp, “KLAK had offered \$250,000 but is now willing to offer \$500,000.” However, it is clearly Lipp who is making this attempt to trade a potential cash consideration and bribe for the pilfering of our permitted service. Lipp goes on to trash the undersigned for ostensibly being uncooperative for not wanting to surrender our permitting or otherwise participate in his daisy chain scheme – posturing Grace as somehow being an instigator of trouble for refusing to acquiesce to Lipp's pressure – a theme he continues to use in the current Petition.

At the time of Lipp's Exhibit B letter, FCC rules prohibited the sale of a granted construction permit for any more than a party had ostensibly spent on prosecuting the permit to date. In this scenario, Lipp was attempting to bribe Grace not to sell its permitting, per se, but rather, to bastardize and obliterate the facility corresponding to the permitting BEFORE THE FCC HAD EVEN ISSUED A CONSTRUCTION PERMIT! This appears to be a highly suspect and illegal premise. After all, how could Lipp legally be allowed to try and pressure a broadcaster to accept consideration – cash or otherwise – for obliterating a pending construction permit set to be granted under the auspices of the FCC, over which Grace didn't even have proprietary ownership at the time? This would seem to violate the FCC's rules wherein broadcasters who withdraw even so much as an expression of interest in a channel drop-in proposal – let alone a pending 301 application – to accommodate another party's signal upgrade or counterproposal must affirm that no consideration was given.

The FCC's requirement for adherence to such rules is even seen in the instant case. Grace notes that in the FCC's DA 06-1901 R&O dismissing the most recent counterproposal, that those entities supposedly in the way of said counterproposal (i.e., Jeraldine Anderson and Linda

Crawford) warranted “that no consideration has been paid or promised, directly or indirectly, for such withdrawal,” with clear implication that had such “consideration” been paid or promised, it would have marked the transaction illegal.

After Grace refused to accept Lipp’s 1996 permit-obliteration bribe, KRZB/Archer City’s 301 application would find itself blocked by an obstructive drop-in under an obscured identity, which turned out to emanate from the personal post office box of Lipp’s engineering associate.

After Grace had successfully prosecuted a change of community to Archer City on its 97.5 frequency – during a protracted process between July 1997 and November 1998 – Grace was instructed by the FCC to file a 301 application for a construction permit specifying the new community. As soon as Grace’s engineer attempted to prepare the technical portion of the application upon the FCC’s opening of the filing window, he immediately reported to Grace that “someone is trying to block you.” The culprit was a proposed drop-in frequency at the community of Tipton, OK, placed by an obscure, identity-hidden entity called “Good Government Radio” (“GGR”) which was tied to a blind personal post office box in Gonzalez, FL. The personal post office box status meant that the box holder had the right to hide their identity from the general public. However, since the box was being used as the FCC service address for the filer of the obstructive drop-in channel, Grace contacted Florida’s regional postal inspector to ascertain the identity of the box holder.

Exhibit C is a May 4, 1999 letter from U.S. Postal Inspector W.G. Cunningham, verifying that the identity of GGR depicted on the drop-in filing to block Grace’s 301 application and consequent receipt of the construction permit for KRZB/Archer City tied directly to Lipp’s longtime engineering partner on several Dallas-Fort Worth station move-in schemes, Paul Reynolds. Quoting Postal Inspector Cunningham, “the person making the application identified himself as Paul Reynolds and checked no to the question, “Will this box be used for soliciting or doing business with the public?” – corroborating the deceit used by Lipp’s syndicate to hide its identity in a continued effort to harm KRZB/Archer City. Inspector Cunningham continued,

“There are two blocks labeled “Other” in which he wrote “Good Government Radio” and “Small Broadcasters”, and then Mr. Reynolds signed the form in the area where it calls for the signature of the applicant...As a result of you bringing this deficiency to our attention I have directed the postmaster at Gonzalez, Florida to indicate this box is being used for business use...”.

According to the Postal Inspector’s review of the postal box records, as noted, Lipp’s engineering associate was indeed the only person shown to have proprietary control of the contents of the postal box, and sole box “applicant”. It is blatantly deceitful, abusive of government processes, and contrary to myriad legal ethics for Lipp to have not only been associated with the entity filing the obstructive drop-in channel intended to harm KRZB/Archer City in its efforts to obtain construction permitting, but also to have been associated with any scheme involving the masking of the identity of filers in a Federal proceeding. Again, while the masked identity of the obstructive filing was in the pseudonym “Good Government Radio”, and signed by the pseudonym “Elinor Nelson”, the filing tied directly to Lipp’s syndicate, with his engineering partner playing the masked role of courier and sole FCC service contact until Grace was forced to seek Postal Inspector intervention.

Now, it is true that there are no “ethical” standards for the licensure of engineers. This is not the case, however, with respect to the licensure to practice law in the District of Columbia, nor for the privilege of being an attorney who makes filings before the FCC. In the instant case, Lipp spins the yarn that the deceitful practice and abuse of government processes intended to harm Grace were all the brainchild of his engineering partner, from which, Lipp believes, he remains totally immune. Quoting from Exhibit D, a Federal proceeding document written by Lipp and dated June 9, 1999, Lipp states the following under oath: “Basically I am being charged with “guilt by association” with Paul Reynolds. Texas Grace offers some factual information alleging an involvement by Paul Reynolds in the Tipton filing. But none of that information pertains to me. I have no ongoing working arrangement with Paul Reynolds or his firm, Reynolds Technical Associates.”

In short, Lipp blames his engineering partner in myriad filings before the FCC for unilaterally hatching up the scheme to harm Grace, and contends he can thus not be held accountable for such misconduct. Lipp is dead wrong. Even if Lipp's flimsy defense could be believed, a licensed attorney is most certainly responsible for the actions of those with whom he works on a venture, project or filing before the FCC.

Mark Lipp's sworn ignorance of "Good Government Radio" and "Elinor Nelson", and contention that he had no involvement in, control over or association with the Tipton drop-in channel scheme to harm KRZB/Archer City's pending construction permit, constitutes the willful transmission of false statements to the FCC by Lipp as an officer of the court, and the apparent COMMISSION OF PERJURY by Lipp – actions which his current filing associates Sarver and Woodworth either knew about, or should have known about, and must similarly be held accountable for.

In the noted Exhibit D, Mark Lipp swears, under oath, within Federal proceeding document dated June 9, 1999 the following: "There is absolutely no truth to the allegations of Texas Grace accusing me of any involvement in wrongdoing. I do not represent Good Government Radio. I have never knowingly spoken to anyone who has an interest in Good Government Radio. I had no knowledge of the filing of the petition by Good Government Radio for a new FM channel at Tipton and certainly did not participate in the preparation of that filing. I have no knowledge of Good Government Radio or its President, Elinor Nelson nor to my knowledge have I ever spoken to or had any contact with any member of Good Government Radio. I qualify my statement as "to my knowledge" because I do not even know who the members of Good Government Radio are."

Lipp's warrant to the FCC within the Federal proceeding document is quite clear. Lipp emphatically states, under penalty of perjury, that he is fully separate and removed from, and devoid of any knowledge of, the forces behind the mysterious Good Government Radio petition seeking to block and thereby harm KRZB/Archer City's receipt of its construction permit – the petition tied directly to his engineering partner's personal postal box. Lipp affirms further that he has never had any contact with the Good Government petition-filer, and doesn't even know

who its “members” are. Beyond that, Lipp asserts he has never spoken to or had any association with “anyone who has an interest in Good Government Radio.”

While such affirmation under oath was made by Lipp on June 9, 1999, it is blatantly contradicted by his actions about a month later, on July 15, 1999, whereupon Lipp is seen expressing knowledge of the intentions of Good Government Radio – intentions he could not possibly know about or speak to, unless he was either behind the Good Government filing to harm Grace from the get-go (which he denies under oath), or had at least some contact or association with the “principals” of Good Government (which he also denies under oath).

In Exhibit E, a July 15, 1999 facsimile to attorney John Trent from Lipp, emanating from his then-firm of Shook Hardy & Bacon, Lipp states the following: “Once Good Government Radio as the petitioner at Tipton submits an amended proposal which eliminates the conflict with the KRZB application site, Texas Grace can notify the Audio Services Division (ASD) that the rule making conflict no longer exists...”

Lipp goes on to state in Exhibit E that the Allocations Branch could “act expeditiously on the Tipton rule making”, opening up the door for KRZB/Archer City to finally receive processing of its held-up 301 application and receipt of a construction permit “without a condition” conflict.

Exhibit E amounts to a clear-cut demonstration that Lipp committed apparent perjury in the Exhibit D Federal proceeding document. Because even if Lipp’s ludicrous claim that he had no knowledge of the planning of the GGR drop-in scheme to harm and obstruct processing of KRZB/Archer City’s construction permit is to be believed, he is now serving as a negotiator for the GGR entity that he stated, under oath, to have no knowledge of or association with, or to even know or have spoken with “anyone who has an interest in Good Government Radio”. Moreover, Lipp is clearly expressing patent knowledge of the *intentions* of GGR – i.e., that GGR is willing to amend its drop-in proposal blocking the KRZB/Archer City construction permit, and make submission to the FCC thereof, “if (Grace) is willing to consent to the channel change”.

By any measure, Lipp's ability to convey the intentions of GGR inherent to GGR's supposed willingness to withdraw the obstructive drop-in in return for Grace's consent to a channel change, and withdrawal of its Essential Supplemental Comments pleading of May 24, 1999 wherein Grace protested Lipp's misconduct before the FCC, evidences that Lipp brazenly lied under oath to the FCC in Exhibit D.

But it gets even worse. Lipp blatantly acted as the rough draft negotiator and apparent author, as well as transmitter thereof, of a Federal proceeding pleading from GGR – again, the entity he emphatically told the FCC, under oath, that he had absolutely no association with. Exhibit F is a facsimile draft on behalf of GGR, transmitted from Lipp to attorney John Trent for review, on September 10, 1999 – displaying the facsimile header of Lipp's then-firm Shook Hardy. Once again, it would be impossible for an attorney professing under oath to have had no association with GGR to magically be able to prepare or transmit a rough pleading draft on GGR's behalf in a Federal proceeding (stipulated on said draft as the FCC proceeding in MM Docket No. 99-23, RM-9423)⁴.

As the FCC and Chief Disciplinary Counsel of the District of Columbia Office of Bar Counsel can plainly see, blatant perjury has been perpetrated by attorney Lipp, and is now endorsed and co-joined by WRF attorneys Sarver and Woodworth. Sarver and Woodworth have chosen to cover up their knowledge of, or shirked their responsibility to have knowledge of, such apparently perjurious conduct by their associate Lipp in the WRF firm's efforts to kill the KRZB/Archer City permit for its own personal gain. All three attorneys are thus responsible for the clearly false statements that Mark Lipp made in 1999 before the Commission, and within

⁴Exhibit I – a September 23, 1999 facsimile authored and transmitted by Lipp – yet further evidences Lipp's apparent commission of perjury. In the exhibit, Lipp literally speaks for the same Good Government Radio entity that he stated under oath in the Federal proceeding to have had no association with. This is seen, for example, in Lipp's stating that "Good Government would like to inform the Commission that while it wants to withdraw Channel 249C2 from Tipton, it is still interested in Tipton...", and that "Good Government believes that the Commission is more likely to grant the withdrawal and act more quickly if some assurance is given that Good Government's original filing was legitimate...".

Federal proceeding, claiming no knowledge of, connection to or association with the GGR entity that attempted to impede Grace's grant of a protected construction permit at KRZB/Archer City – an effort which continues on the part of the trio today.

After the Tipton drop-in was uncovered and successfully fought off by Grace, yet another elaborate effort to interfere with KRZB/Archer City's permit was put into effect by Lipp, with the filing of a "counterproposal" in October 2000 seeking to illegally wrest the 97.5 spectrum away from Grace so that Lipp could effectuate a full Class C 97.5 station serving Dallas-Fort Worth from the placebo community of Keller. Even though the FCC would dismiss Lipp's filing as illegal and ungrantable some 3 years later, Lipp succeeded then, as now, in needlessly dragging Grace into falsely-proffered litigation, resulting in the denial of any protected status for the KRZB/Archer City permit until after Lipp's counterproposal was dismissed.

Despite false Petition claims that Grace has allegedly been warehousing spectrum, or otherwise holding a protected status construction permit for KRZB/Archer City for over a decade, Grace was again dragged into litigation by Lipp between 2000 and 2003 – continuing to prevent receipt of protected construction rights on the KRZB/Archer City permitting.

In October 2000, now representing a consortium dubbed "the joint parties", Lipp tendered an illegal, ungrantable "counterproposal" under MM Docket No. 00-148, wherein Lipp sought to, once again, wrest KRZB/Archer City from any proprietary right to a 97.5 facility, so that Lipp could shepherd a move-in of KLAQ/Durant, OK to the Dallas-Fort Worth area as a full Class C 100 kW radio station using Keller, TX as placebo community of license. In his mammoth filing, Lipp deceitfully failed to acknowledge the existence of KRZB/Archer City's existing construction permit, as granted on February 7, 2000. As such, Lipp failed to make any provision for protecting the permitted facilities site. Even the alternative site that Lipp proposed for KRZB was short-spaced from inception, according to the FCC's ruling in dismissing the counterproposal some three years later. But even with the Keller scheme rejected, Lipp nevertheless succeeded in harming the KRZB/Archer City permitting over a three year span, preventing Grace's ability from obtaining protected construction rights until his counterproposal using the same channel was first disposed of.

The FCC implemented its own proposed rulemaking to apply protected construction rights to the KRZB/Archer City permit after dismissal of Lipp's Keller plan in 2003 – ruling that the permit had never previously held such protected construction rights.

Upon dismissing Lipp's illegal counterproposal on May 8, 2003, the FCC simultaneously ruled that Lipp's filing immediately prevented the protected status of the KRZB/Archer City permitting from being implemented, and furthermore, that such protected status could not be attained until a processing error was corrected such that the Table of Allotments would first be changed to reflect the permit class. In tandem with dismissing Lipp's illegal Keller filing, the FCC thus simultaneously initiated its own proposed rulemaking which would later be released as an R&O under MB Docket No. 03-116, stating not only that KRZB/Archer City *never* held a protected status construction permit, but also that protected permitting – which is the essence and meaning of a legal construction permit – could not first be implemented, per FCC processing, until September 8, 2003. (This clearly evidences that Lipp and Petition co-filers Sarver and Woodworth willfully transmit false information when they egregiously allege that KRZB/Archer City has held protected construction permit rights for “over a decade”).

The essential point related to Keller is that, even though Lipp's illegal filing didn't succeed in gaining the class C move-in for KLAK on KRZB/Archer City's frequency, it was successful in a matter of equal importance to Lipp: It again dragged KRZB's proprietor into needless litigation to fight for the protected status of its construction permitting (as Lipp and WRF endeavor to do in the instant case), and further delayed ultimate grant of KRZB/Archer City's protected construction rights as had previously been warranted for a full, unencumbered 3-year period. Keller was simply one more way that Lipp made good on his prior threat that he would extract the 97.5 spectrum from Grace, or otherwise make it impossible for Grace to use the spectrum, if Grace would not relinquish the spectrum to Lipp voluntarily.

Mark Lipp's misconduct on behalf of the “joint parties” in the fraudulent Keller scheme – inclusive of floating a proposal known to be illegal from inception – constitutes illegal, unethical behavior for which Lipp as supervisory attorney must bear full responsibility.

Upon its May 8, 2003 dismissal of Mark Lipp's MM Docket No. 00-148 "counterproposal" to facilitate the Dallas-Fort Worth move-in station at Keller by illegally extracting, without Grace's consent, the 97.5 spectrum from KRZB/Archer City's pending grant of a protected construction permit, the FCC made a rather curious subsidiary ruling. In the R&O under DA 03-1533, the FCC went beyond just dismissing Lipp's Keller scheme because it proposed a facility that was short-spaced, and thus failed to protect existing or pending facilities. The FCC plainly added that the filing syndicate headed by Lipp *knew* they were floating a technically unsound, ungrantable proposal from inception, and did it anyway. While worded diplomatically, the FCC states "The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application. Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment." In simpler, more direct English, the FCC is saying that the Keller "counterproposal" crafted by Mark Lipp was known to be a falsely-premised, illegal, ungrantable submission by its filer from the moment it was brought before the FCC in October 2000. Of course, this begs the question as to why – since the FCC believes that Lipp knew he was floating an illegal application from its inception – the FCC did not take punitive action against him for such fraudulent filing in a Federal proceeding. By reliance on such fraud and deceit, Lipp was able to use said illegal filing to inflict damages and hardship against KRZB/Archer City in its effort to achieve protected permit status over the protracted 3-year period.

The obscure rulemaking proposal Lipp ostensibly "counterproposed" against in Keller represented a further deceitful abuse of government process and an outright fraudulent act, since the original petitioner admitted to Grace that they were, once again, aligned with Lipp's longtime engineering associate. Lipp was thus effectively opposing himself in the Federal proceeding, to the harm and prejudice of Grace's livelihood with respect to further obstructing protected status of the KRZB/Archer City permit.

When Grace was first served with the mammoth, phone directory-sized Keller "counterproposal" in October 2000 seeking to prevent KRZB/Archer City from receiving the protected construction permitting it had applied for in 1999, Grace smelled a rat as big as Texas.

As part of the counterproposal deceit, Lipp first needed a lynchpin – a request for rulemaking at an unassuming, distant location, that would not call attention to the mammoth pleading to follow at Keller. Carefully selected was the community of Quanah – over 140 miles from Dallas-Fort Worth – for the request for rulemaking Lipp would ultimately counterpropose against to float the Keller application. How does one locate a willing petitioner to lend their name to a radio service at Quanah, and then immediately consent to the counterproposal opposing that same Quanah service? Easy. Remember Lipp’s kindhearted engineering partner who was decent enough to open a “personal” postal box at Gonzalez, FL about two years earlier, from which emanated the obstructive drop-in at Tipton designed to block KRZB/Archer City’s construction permitting? Might as well tap into the resources of your engineering partner again. When Grace called the party named on the Quanah drop-in proposal, Grace spoke with a member of the “Drischel” family in rural Calhoun County, Mississippi. Assuming that Keller followed the *modus operandi* of Tipton, Grace’s proprietor asked Mrs. Drischel if she was using her address for FCC filings on behalf of Paul Reynolds, and she innocently replied that she was indeed. “Paul Reynolds is with us,” she said. Any legal U.S. citizen of adult age is certainly allowed to seek a rulemaking to drop in a new radio channel, wanted or unwanted, and they can most certainly be a friend or relative of a radio engineer. The fraudulent, deceptive abuse of process comes in the guise of Lipp making a counterproposal against himself in the Federal proceeding – which is the effective result of counterproposing a petitioner set up by or otherwise aligned with one’s own associates. The FCC must have zero tolerance for such misconduct, which is clearly prohibited by FCC precedent⁵ and the foundation of law.

It is legally unethical for Mark Lipp and his WRF firm associates to once again be seeking to harm Grace’s KRZB/Archer City permitting, given prior warrant to the FCC and Grace by Lipp that he would cease such activity effective July 29, 2003.

⁵See Toccoa, Sugar Hill, and Lawrenceville, Georgia, MM Docket No. 98-162, DA 01-2784 (Mass Media Bureau 2001).

In response to ethical complaints raised by Grace before the FCC with respect to Lipp's repeated efforts to block, harm and interfere with the processing of KRZB/Archer City's long-awaited protected permitting – as seen in the concluded Tipton and Keller proceedings, and now in the instant proceeding – Lipp warranted, under oath in Federal proceeding, that he would cease such further activity. Lipp made that warrant after dismissal of the Keller counterproposal, when he was then advocating an alternative plan to move KLAK to Whitewright, TX. In Lipp's "Reply to Opposition" dated July 29, 2003 (Exhibit H), he states, "if Texas Grace believes that a future KLAK relocation filing could somehow have an impact on KRZB, that belief can be put to rest." Lipp goes on to assure Grace, and the FCC, that his alternative proposal for KLAK "involves no other stations and has no intended impact on Station KRZB's Class C2 permit...".

Although Lipp has represented several clients in efforts to extract the 97.5 spectrum away from KRZB/Archer City in a number of Dallas-Fort Worth area station schemes through the present day, Grace believes that a warrant from Lipp to no longer interfere with the KRZB/Archer City permitting under one client alias and law firm – i.e., as mouthpiece on July 29, 2003 for KLAK and the Vinson and Elkins, LLP firm – must be honored by Lipp under all subsequent aliases and associations. If, indeed, Lipp is telling the FCC in Federal proceeding on July 29, 2003 that his lengthy efforts to harm the KRZB/Archer City permitting are a thing of the past, and that any such future fears of interference to the permit's prosecution "can be put to rest", then Lipp is obliged to hold true to that promise even when he resurfaces the following year at another law firm. In the instant case, Lipp is shown to have reneged on his word, and is once again seeking to expunge the KRZB/Archer City protected permit's right to exist, as seen in the Petition under protest herein.

A timeline of events shows that KRZB/Archer City had held protected construction rights for only a very limited period of time, and that the FCC's action in reinstating the permit in 2006 to accord the balance of such protected construction time was fair and appropriate.

Although the issue of KRZB/Archer City's construction permit reinstatement so as to provide some (25) months of protected construction rights never accorded the permit before it automatically canceled on October 26, 2004 has already been litigated and ruled upon, with FCC approval on petition granted KRZB/Archer City on January 12, 2006, the following timeline of events is provided for the Commission's convenience.

February 17, 1999 – A 301 application under BMPH-19990217IB is filed seeking a C2 construction permit for KRZB/Archer City, after a change of community proceeding was successfully prosecuted. However, the 301 is immediately blocked due to a mysterious, identity-masked drop-in at Tipton, OK (under MM Docket No. 99-23) found later to be associated with attorney Mark Lipp.

February 7, 2000 – Contingent on the FCC's dismissal of the Tipton proceeding, a one-year construction permit is issued at KRZB/Archer City specifying that the right to construct is supposedly unconditional. However, Grace chooses to seek protected construction rights for an unencumbered 3-year lifespan via legal appeal, in accordance with the FCC's new 1999 rules.

October 2000 – Mark Lipp, on behalf of the "joint parties", introduces a mammoth counterproposal under MM Docket 00-148 that seeks to obliterate the permitted KRZB/Archer City service so that he can use the same frequency to facilitate a Dallas-Fort Worth move-in (at Keller, TX) for KLAK/Durant, OK. Lipp's filing fails to protect the KRZB permitting, and is even short-spaced to the alternative service site to which Lipp intends to move KRZB. Although illegal from the get-go, the FCC accepts the counterproposal, keeps it active for three years, and gives it preference over KRZB's permit – preventing protected construction rights for KRZB/Archer City until the Keller plan can be disposed of.

October 26, 2001 – The FCC Commissioners grant KRZB/Archer City the right to a full, 3-year unencumbered term of protected construction rights under FCC 01-317. These protected construction rights were contemplated to begin running effective October 26, 2001; however,

since the Audio Division had preferred Lipp's illegal Keller counterproposal in October 2000, KRZB/Archer City's protected construction rights are still kept at bay.

December 7, 2001 – The FCC issues an Order to Show Cause why KRZB/Archer City should not be removed from its channel and facilities site to facilitate Lipp's Keller plan – a highly unusual proposition given the fact that the Keller application was short-spaced and thereby ungrantable. However, the OSC clearly evidences that KRZB/Archer City held no protected construction rights at the time, despite its entitlement to 3 years of such unencumbered permitting.

May 8, 2003 – The FCC finally rules to dismiss Lipp's illegal Keller counterproposal on the grounds that it is short-spaced. Simultaneously, the FCC rules that KRZB/Archer City continues to lack protected construction rights, but, that the FCC will now initiate a notice of proposed rulemaking to implement such protected rights under MB Docket No. 03-116.

June 5, 2003 – The FAA's Fort Worth regional office informs Grace that the FAA's tower construction authority associated with KRZB/Archer City's permit was inadvertently terminated due to an FAA computer malfunction, and that the FAA will unilaterally initiate its own process to restore the tower authority with no application necessary to be filed by KRZB. Grace immediately notifies the FCC of the FAA's correspondence.

September 8, 2003 – For the first time since making its 301 application under BMPH-199902171B in February 1999 for the KRZB/Archer City permitting, Grace is finally accorded "protected permit" status internally within the Audio Division; however, the FAA has not yet completed its restoration of corresponding tower authority for the permit, precluding the permit, for the moment, from having protected construction rights.

November 25, 2003 – The FAA tower authority is restored on the permit, with re-implementation of the original tower authority granted by the FAA in 1999. This thus marks the first time that KRZB/Archer City finally holds protected construction rights permitting.

October 26, 2004 – Since the original FCC 01-317 Order granting the 3-year period of protected construction rights contemplated such protection to begin effective October 26, 2001, the permit grant had an automatic expiration of October 26, 2004. Grace, in accordance with FCC rules, sought replenishment for the clearly-documented time that the KRZB/Archer City permit lacked protected construction rights, between October 26, 2001 and November 25, 2003.

January 12, 2006 – The FCC informs Grace that it has reinstated the KRZB/Archer City permitting to accord the balance of the warranted time for protected construction rights. However, the FAA has not yet been notified of the reinstatement, so the permit must be tolled until the FAA can restore requisite tower construction authority.

June 14, 2006 – Grace is informed by the FAA that it has restored tower authority for KRZB/Archer City's construction permitting. Grace provides FAA documentation to the FCC, and the permitting is accordingly adjusted to reflect a new expiration date of July 5, 2008.

As the FCC is well aware, Grace has passionately endeavored to prosecute and thereby obtain the long-awaited "protected construction rights" on its KRZB/Archer City permit in full accordance with FCC rules, as any prudent broadcaster would do. At the same time, Grace has been put through a literal hell by having to repeatedly fight off illegal, unethical attempts by opportunistic filings seeking to usurp its spectrum for lucrative schemes in the populous Dallas-Fort Worth market over 100 miles away. Grace has obviously not realized any profit for enduring such battles to hold on to its dream of owning and operating the KRZB facility that is far-removed from any major market. With Commission reinstatement of KRZB/Archer City's permit this year to accord the balance of protected construction rights, judicious construction can now be facilitated – absent, of course, the dragging of KRZB into yet more of the kind of needless, harmful litigation proffered by Lipp, Sarver and Woodworth in their Petition.

Conclusion

For the premises set forth, Grace respectfully asks that the FCC's R&O under DA 06-1901 be fully upheld and that the finally-protected KRZB/Archer City construction permitting, as reinstated in 2006, continue its warranted lifespan so that construction of this vital independent radio service can be accomplished. Accordingly, it is asked that the LKCM Radio Group-Lipp-Sarver-Woodworth, et al Petition seeking reinstatement of the illegal counterproposal and obliteration of the KRZB permit be dismissed. In addition, due to the repeated misconduct by Mark Lipp in an effort to harm Grace's prosecution and FCC processing of KRZB/Archer City's protected construction rights permitting, it is asked that Lipp, and his attorney associates Marnie Sarver and Scott Woodworth, be strongly censured for perpetrating or being party to the perpetrated misconduct referenced herein.

The FCC's timely assistance in this matter is gratefully appreciated. As KRZB proprietor, I hereby certify that the statements contained within the instant document are true and correct to the best of my knowledge and belief.

Respectfully Submitted,



Dave Garey
Proprietor, Texas Grace Communications
c/o 20 Samlaw Dr.
Monsey, NY 10952

December 18, 2006



Wiley Rein & Fielding LLP

1776 K STREET NW
WASHINGTON, DC 20006

Mark N. Lipp



FIRST CLASS MAIL

Texas Grace Communications
20 Samlaw Drive
Monsey, NY 10952

EXHIBIT A

LAW OFFICES

MULLIN, RHYNE, EMMONS AND TOPEL

PROFESSIONAL CORPORATION

1225 CONNECTICUT AVENUE, N.W. - SUITE 300
WASHINGTON, D. C. 20036-2804

(202) 658-4700 TELECOPIER (202) 672-0004

EXHIBIT B

September 10, 1996

VIA FAX: 703-437-8483

John Trent, Esq.
Putbress & Hunsaker
100 Carpenter Drive
Suite 100
Sterling, VA 20164

Dear John:

I am writing following our telephone conversation and at Dave Garey's suggestion to provide my client's proposal as it affects Mr. Garey's pending application for Olney, Texas. As we discussed, my client, KLAJ(FM), is attempting to upgrade its facility and will need to make changes to several other stations to accomplish this goal. KLAJ's deadline for filing its proposal is rapidly approaching. KLAJ recognizes that your client is anxious to have its application granted and does not want its facility "obliterated." Our proposal is designed to maintain the coverage area proposed in the application as much as possible while offering compensation which my client considers substantial for a facility which is to cost \$85,000 to construct according to the application and which is to serve 23,713 persons. KLAJ proposes to change the channel from 248C2 to 222C3 at a new site to the southwest as indicated on the enclosed map. The coverage area has some gain areas and loss areas, but the new area will serve 20,812 persons which is close to the proposed coverage. To compensate your client for the amended site and small change in coverage area, KLAJ had offered \$250,000 but is now willing to offer \$500,000.

KLAJ did not know your client's plans for the Olney station and therefore did not intend to diminish its potential or insult your client in any way. KLAJ simply wanted to make this offer, and if there is some way to accommodate your client's plans for the station either by relocating the site in a different direction or choosing a channel which under contour protection Section 73.215 could be used at a particular location, KLAJ would attempt to do so. But, despite KLAJ's willingness to be completely open with its own plans for its station, your client was unwilling to discuss its own goals for the Olney proposal.

John Trent, Esq.
September 10, 1996
Page 2

After reviewing the enclosed map, if there is any possibility of further negotiations with respect to the proposed coverage area or amount of compensation, KLAJ is certainly willing to discuss it. Again, KLAJ has no desire to "obliterate" your client's proposed station, but cannot work to maximize the Olney facility while still realizing its own goal without knowing what your client is trying to preserve.

I hope your client is willing to work with us to accomplish both parties goals.

Sincerely,



Mark N. Lipp

MNL:va
Enclosures



TAMPA DIVISION

EXHIBIT C

May 4, 1999

Dave Garey
Proprietor, Texas Grace Communications
20 Samlaw Drive
Monsey, NY 10952

Dear Mr. Garey:

Thank you for bringing your concerns regarding Post Office Box 478, Gonzalzes, FL 32560 to our attention.

This box was originally rented on August 10, 1998, in the name of the South Communications Group. The person making the application identified himself as Paul Reynolds and checked no to the question "Will this box be used for soliciting or doing business with the public?" Mr. Reynolds provided his address as 415 North College Street, Greenville, AL 36037 and gave a phone number of (334) 382-3239. He signed the application and provided an Alabama Drivers License Number 1834233 and service began on August 10, 1998. A portion of the PS Form 1093, Application for Post Office Box or Caller Service provides information for special orders. In this portion of the application form he again printed his name "Paul Reynolds" as the applicant and completed the block labeled "name of box customer" with South Communications Group. Additionally, there are two blocks labeled "Other" in which he wrote "Good Government Radio" and "Small Broadcasters", and then Mr. Reynolds signed the form in the area where it calls for the signature of the applicant. The purpose of the other blocks is to identify other names, which may receive mail through the Post Office Box.

It is interesting that Mr. Reynolds checked no to the question of soliciting or doing business with the public in view of the three business names, which he included on the application form. As information there are postal regulations that specify when information about post office box holders can and cannot be released. I am attaching a copy of a portion of the Administrative Support Manual, which deals with this topic. Please see 352.44C 1 and 2. You will note in C2 when an individual indicates a post office box is for non-business use the information on Form 1093 about the identity of the post office box holder will not be provided to the public except in certain circumstances which are described in a subsequent paragraph. When a post office box is rented for business use the information concerning the box holder can be released to anyone. I understand from our conversations that you experienced a great deal of difficulty obtaining the identity of the individual who rented this box due

specifically to the fact that he checked the box indicating that he was not soliciting or doing business with the public. As you recall you were forced to present the postal service with documentation which made it obvious the box was in fact being used as a business address. As of this writing Mr. Reynolds has not been contacted by the Postal Service nor has he contacted the Postal Service to update or change his original application form. As a result of you bringing this deficiency to our attention I have directed the postmaster at Gonzalzes, Florida to indicate this box is being used for business use, as is obviously the case by the records you furnished.

Thank you again for bringing this matter to our attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "W. G. Cunningham".

W. G. Cunningham
Postal Inspector
P. O. Box 7358
Tallahassee, FL 32314-7358

EXHIBIT D

Texas Grace states that in the scope of my representing WBAP/BBRI, Channel 276A was selected as a substitute channel at Vernon, Texas in order to preclude using Channel 275C2 at Tipton. Furthermore, it asserts the Reply Comments filed by WBAP/BBRI went beyond simply pointing out that Channel 275C2 could not be used as an alternative at Tipton and discussed the acceptability of the application site for Archer City.

MY RESPONSE

There is absolutely no truth to the allegations of Texas Grace accusing me of any involvement in wrongdoing. I do not represent Good Government Radio. I have never knowingly spoken to anyone who has an interest in Good Government Radio. I had no knowledge of the filing of the petition by Good Government Radio for a new FM channel at Tipton and certainly did not participate in the preparation of that filing. I have no knowledge of Good Government Radio or its President, Elinor Nelson nor to my knowledge have I ever spoken to or had any contact with any member of Good Government Radio. I qualify my statement as "to my knowledge" because I do not even know who the members of Good Government Radio are.

Basically I am being charged with "guilt by association" with Paul Reynolds. Texas Grace offers some factual information alleging an involvement by Paul Reynolds in the Tipton filing. But none of that information pertains to me. I have no ongoing working arrangement with Paul Reynolds or his firm, Reynolds Technical Associates. I represent numerous broadcast clients throughout the country and work with many other consulting engineers. I am sure that Mr. Reynolds has many clients who are represented by other legal counsel as well. I was hired by WBAP/BBRI to advise on a particular rule making project. Mr. Reynolds had separately been hired by WBAP/BBRI. Having said that, I have indeed worked with Mr. Reynolds in a few rule making

proceedings because we share a few mutual clients. There is nothing unusual about the same lawyer and engineer being retained to work on a few projects without establishing an ongoing relationship. I am not aware of Mr. Reynolds' activities on behalf of his clients if I do not represent them. Similarly, Mr. Reynolds is not privy to information about my firm's clients which are not represented by his firm. Accordingly, I absolutely deny having had any knowledge of, or participation in, any of the activities of which Texas Grace accuses me in connection with Good Government Radio. These charges against me are based on nothing more than guesswork, suspicion and guilt by association. I feel defamed by these unfounded charges that I had some participation in a sham filing. I demand that Texas Grace either retract its charges against me or the Commission initiate sanctions against Mr. Dave Garey, proprietor of Texas Grace Communications.

As to Texas Grace's other charges against me, I did not select Channel 276A for Vernon, Texas and did not know that this proposal would preclude the availability of an alternative channel for Tipton. I was told that Channel 276A was selected because it was the only channel that could be substituted at Vernon without a change in site. Texas Grace suggests that because the WBAP/BBRI comments went beyond pointing out that there was a conflict with Vernon, Texas by stating that the proposed Archer City site does not provide 70 dBu coverage to the entire community, that I must have had a hidden agenda. The fact is that the WBAP/BBRI proposal has not been accepted by the Commission for public comment. Therefore, my client decided that as a precaution, it should point out any defects that may exist in the Archer City proposal so that if WBAP/BBRI's proposal needed to be amended in order to become acceptable, it could do so. Such an approach is not unusual for an attorney who is doing his job. To do otherwise when a defect may exist could mean the difference between an acceptable and an unacceptable proposal.

As an entirely separate matter, I did represent Station KLAQ, Durrant, Oklahoma in an attempt to upgrade the station in 1996. During the course of that representation, I recall having had only one conversation with Mr. Garey and wrote only one letter which was attached to the Texas Grace pleading. There was nothing improper with the statements contained in the letter nor in my discussion with Mr. Garey. I was simply asking him whether he had an interest in changing the Olney channel and pointed out that although the coverage area would decrease, there would be no significant impact on the population to be served. I inquired as to Mr. Garey's plans for his station so that my client could determine whether any such changes could be accommodated within the overall plan being formulated. On behalf of my client, I offered to reimburse Texas Grace for the costs of changing channels which would include compensation for the lesser value of a lower class channel. Mr. Garey said no and to my recollection, the matter was dropped. The fact that no proposal was filed to change the Olney channel demonstrates that neither I nor my client had any desire to force or coerce Texas Grace to change its channel without its consent. Indeed, I have no means at my disposal to coerce or pressure Mr. Garey into consenting when he did not want to consent.

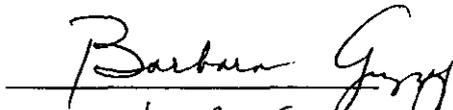
Mr. Garey was not contacted further until earlier this year after the rule making to move to Archer City was granted. During this new effort, I had no direct contact with Mr. Garey, my only involvement was to contact John Trent, as Mr. Garey states, to discuss a very unpleasant telephone call that Paul Reynolds received from Mr. Garey. I was told by Paul Reynolds that Mr. Garey made threats directed to Paul Reynolds and to myself and stated that he would "destroy us" if we did not have the Tipton proposal withdrawn. John Trent suggested that if I had a proposal for Mr. Garey to consider that we put it in writing as opposed to making any further contact by telephone.

Although I agreed that any further contact should be in writing, I was not aware that there was any time limit and I was informed that Mr. Garey did not want us to send him a further proposal. There was certainly no conscious effort on my part to delay Mr. Garey from making any filings.

I have been involved in numerous rule making proceedings during my years of private practice and engaged in many channel change negotiations. My approach is one of accommodation and conciliation. I have never engaged in anything resembling the kind of coercive tactics of which I have been accused. Nor have I ever engaged in a sham filing as Mr. Garey suggests. I am shocked and dismayed that Mr. Garey would irresponsibly make false accusations without any basis for doing so and try to damage my reputation.


Mark N. Lipp

Sworn and Subscribed Before Me on this 9th day of June, 1999.


Barbara Gray
Notary Public W.C.

My Commission Expires May 10, ²⁰⁰³

EXHIBIT E

SHOOK, HARDY & BACON LLP

July 15, 1999

Page 2

As you can see, if Mr. Garey is willing to consent to the channel change, First Broadcasting has done all that is needed to accomplish it and is prepared to file the rule making. In exchange, First Broadcasting has committed itself to find a solution which will enable the KRZB application to be granted. Here is how I believe it can work at the FCC.

Once Good Government Radio as the petitioner at Tipton submits an amended proposal which eliminates the conflict with the KRZB application site, Texas Grace can notify the Audio Services Division (ASD) that the rule making conflict no longer exists and provide a copy of the amended proposal. ASD will coordinate with the Allocations Branch to confirm and then can either grant the application immediately subject to the outcome of the Tipton docketed proceeding or have the Allocations Branch act expeditiously on the Tipton rule making which would then enable ASD to grant the application without a condition. I believe either alternative can be accomplished in a short period of time.

Please contact me if you have any questions or need any further information.

Sincerely,


Mark N. Lipp

cc: Mr. James Stansell

EXHIBIT F

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 99-23
Table of Allotments)	RM-9423
FM Broadcast Stations)	
(Tipton, Mangum, and Eldorado,)	
Oklahoma))	

DRAFT

To: Chief, Allocations Branch
Mass Media Bureau

WITHDRAWAL OF EXPRESSION OF INTEREST

Good Government Radio ("Good Government") hereby withdraws its expression of interest in applying for Channel 249C2 at Tipton, Oklahoma. Good Government's interest in an FM radio station in Tipton has always been genuine, and its filings, including the present withdrawal, have been made in good faith. However, due to the submission of filings in this proceeding which do not relate to the Tipton proposal and with which Good Government does not want to be involved, Good Government believes the best way to proceed is to withdraw its interest in Channel 249C2 in this proceeding.

Good Government has devoted considerable effort towards finding an engineering solution that would enable an amicable resolution of this proceeding. However, despite this effort, no solution has been found. Instead Good Government intends to file a new petition on a nonconflicting channel in an attempt to avoid a lengthy proceeding. Accordingly, Good Government believes it best to withdraw its expression of interest in Channel 249C2 at Tipton.

In accordance with Section 1.420(j) of the Commission's Rules, I hereby state that neither Good Government, nor anyone associated with Good Government, was paid or promised any money or other consideration in exchange for the withdrawal of its expression of interest. Neither Good Government, nor anyone associated with Good Government, has any agreement, oral or written, express or implied, with any other person concerning the withdrawal of its expression of interest.

CERTIFICATION FOR FILING WITHOUT AN ATTORNEY

I, Ellinor Nelson, partner and lead member of Good Government Radio, petitioner for Channel 249C2 at Tipton, Oklahoma, do hereby verify that the foregoing is true and correct to the best of my information, knowledge and belief.

Respectfully submitted

DRAFT

Ellinor Nelson
Partner and Lead member
Good Government Radio
P.O. Box 478
Gonzalez, Florida 32560

EXHIBIT G

CERTIFICATE OF SERVICE

I, Claudia L. Cartagena, hereby certify that on this 13th day of March, 2006, I caused copies of the foregoing "Counterproposal" to be mailed via first-class postage prepaid mail to the following:

Jeraldine Anderson
1702 Cypress Drive
Irving, TX 75061

Gene A. Bechtel, Esq.
Law Offices of Gene Bechtel
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Washington, D.C. 20036

Joseph A. Belisle, Esq.
Leibowitz & Associates, PA
One Southeast Third Avenue
Suite 1450
Miami, FL 33131-1714
Counsel to NM Licensing, LLC, Licensee of KKAJ

Hunt Broadcasting, Inc.
1032 South Union Boulevard
Suite 100
Lakewood, CO 80228
Licensee of KJKB

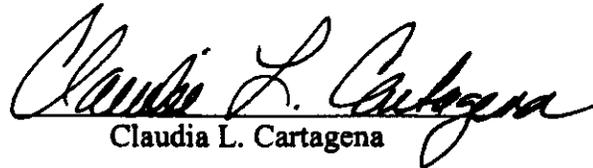

Claudia L. Cartagena

EXHIBIT H

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MM Docket No. 00-148
FM Broadcast Stations.)	RM-9939
(Quannah, Archer City, Converse, Flatonia,)	RM-10198
Georgetown, Ingram, Keller, Knox City,)	
Lakeway, Lago Vista, Llano, McQueeney,)	
Nolanville, San Antonio, Seymour, Waco and)	
Wellington, Texas, and Ardmore, Durant,)	
Elk City, Healdton, Lawton and Purcell,)	
Oklahoma.))	

To: Chief, Audio Division
Media Bureau

REPLY TO OPPOSITION

Rawhide Radio, LLC, Capstar TX Limited Partnership, and Clear Channel Broadcasting Licenses, Inc. (collectively "Joint Petitioners"), by their counsel, and pursuant to Section 1.429 of the Commission's Rules, hereby reply to the opposition filed by Texas Grace Communications ("Texas Grace") to its Petition for Partial Reconsideration in the above-captioned proceeding.¹ As will be shown, Texas Grace bases its opposition on incorrect factual assumptions.

1. First, Texas Grace assumes that the Joint Petitioners intend to move Station KLAQ(FM), Durant, Oklahoma into the Dallas market. This is not correct. The Petition for Partial Reconsideration involves only a *portion* of the original Counterproposal, and does not involve KLAQ in any way. Because the Petition for Partial Reconsideration does not involve

¹ The Petition for Partial Reconsideration was filed on June 16, 2003. Notice of the filing appeared in the Public Notice of July 7, 2003 (Report No. 2616) and was published in the Federal Register on July 14, 2003. Oppositions are currently due on July 29, 2003 and replies are due on August 8, 2003. Two other oppositions were also filed early. The Joint Petitioners intend to respond to all other oppositions by the reply date.

KLAK, it also does not involve KRZB in any way. It does not involve the KRZB Channel 248C2 construction permit (BMPH-19990217IB), nor does it involve the KRZB Channel 248C1 allotment. It has nothing whatsoever to do with any plans Texas Grace may have for Station KRZB – at least, not any plans that Texas Grace has made public.

2. Nevertheless, if Texas Grace believes that a future KLAK relocation filing could somehow have an impact on KRZB, that belief can be put to rest. On May 23, 2003, KLAK filed a separate petition to relocate the station to Whitewright, Texas. That proposal involves no other stations and has no intended impact on Station KRZB's Class C2 permit or Class C1 allotment.

3. Second, Texas Grace argues that the Joint Petitioners' Counterproposal, filed on October 10, 2000, should have protected the construction permit issued to Texas Grace for Channel 248C2 at Archer City, Texas, instead of the Channel 248C1 allotment that is currently listed in the FM Table of Allotments for KRZB.² However, contrary to Texas Grace's belief, the grant of the permit did not automatically cause the deletion of Channel 248C1 from Archer City. *See Revision of 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413, 2414-15 at para. 14 (1989) and *Winslow, Camp Verde, Mayer and Sun City West, Arizona, MO&O*, 16 FCC Rcd 9551 (2001). The Joint Parties were certainly required to protect the Class C1 allotment, and indeed, the Commission dismissed the Counterproposal specifically because it failed to protect the Class C1 allotment, not because of any problem with respect to the Class C2 permit. *Report and Order*, 18 FCC Rcd 9495 (2003). The Joint Parties did not contest that aspect of the dismissal.

² That channel was requested by Texas Grace and granted on December 31, 1999.

4. The Commission recently reconfirmed that the Archer City Class C1 allotment is still entitled to protection by issuing a rule making proposal to delete Channel 248C1 from Archer City in view of the lack of interest from Texas Grace in applying for the Class C1 channel.³ In the Commission's view, as long as Channel 248C1 remained in the Table of Allotments, Texas Grace could have applied for the Class C1 channel, even during the pendency of MM Docket No. 00-148. The allotment remains valid unless and until its deletion becomes final, and until that time it must be protected. *See Winslow, Arizona, et al., supra.*

5. As discussed above, the Petition for Partial Reconsideration has no impact whatsoever on Station KRZB. Because there is no impact on Station KRZB, there is absolutely no reason for Texas Grace to have filed its attack on the Petition for Partial Reconsideration. There is no reason for Texas Grace to be involved in this proceeding at all – Texas Grace is not affected by the outcome of the Petition for Partial Reconsideration one way or the other. Moreover, there is no reason for Texas Grace to have singled out *one* of the co-counsel to *one* of the Joint Parties for a personal attack. Those allegations are reckless and without any basis in fact, and need not be dignified with a response.

³ 18 FCC Rcd 9498 (2003). On July 25, 2003 (DA 03-2468), the Commission released its *Report and Order* deleting Channel 248C1 and allotting Channel 248C2 to Archer City, Texas.

For the foregoing reasons, the Commission should reject the arguments set forth in the opposition of Texas Grace to the Petition for Partial Reconsideration.

Respectfully submitted,

RAWHIDE RADIO, LLC

By: Mark N. Lipp
Mark N. Lipp
J. Thomas Nolan
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1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
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Its Co-Counsel

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Lawrence N. Cohn
Cohn and Marks
1920 N Street, N.W.
Suite 300
Washington, D.C. 20036-1622
(202) 452-4817

Its Co-Counsel

July 29, 2003

CAPSTAR TX LIMITED PARTNERSHIP
CLEAR CHANNEL BROADCASTING
LICENSES, INC.

By: Gregory L. Masters (by HNL)
Gregory L. Masters
Wiley Rein & Fielding LLP
1776 K Street, NW
Washington, DC 20006
(202) 719-7370

Their Counsel

LAW OFFICES

SHOOK, HARDY & BACON LLP

EXHIBIT I

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MELBOURNE
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TO: **JOHN TRENT** FAX NO: 703-437-8483
 FROM: **MARK N. LIPP** #: 1205
 DATE: **SEPTEMBER 23, 1999** TIME:
 SHB Client Matter No.: **FIBM.64138**
 Pages transmitted including cover sheet: **4**

ORIGINAL DOCUMENT WILL NOT FOLLOW.

If you experience any problems, please call extension _____.

OPERATOR:**COMMENTS/MESSAGE:**

As we discussed, could you include Lee Wheeler's discussion of the reason for the change in reference point for the Class C1 proposal into the text of the pleading.

As for the Good Government Radio pleading, Good Government would like to inform the Commission that while it wants to withdraw Channel 249C2 from Tipton, it is still interested in Tipton and intends to file for a new allotment in a separate petition sometime in the future.

Good Government believes that the Commission is more likely to grant the withdrawal and act more quickly if some assurance is given that Good Government's original filing was legitimate (which it was) and that Good Government believes it would be preferable to start again with a clean slate.

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CERTIFICATE OF SERVICE

I, Dave Garey, hereby certify that on December 18, 2006, I sent copies of the foregoing pleading via first class, postage prepaid mail, to the parties named below:

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Washington, DC 20554

Roy Stewart, Senior Deputy Chief, Media Bureau
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Peter Doyle, Audio Division Chief
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Deborah Dupont, Audio Division, Media Bureau
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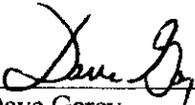
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