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

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JUN 26 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 00-148
Table of Allotments,	)	RM-9939
FM Broadcast Stations.	)	RM-10198
(Quanah, Archer City, Converse, Flatonia,	)	DA 03-1553
Georgetown, Ingram, Keller, Knox City,	)	
Lakeway, Llago Vista, Llano, McQueeney,	)	
Nolanville, San Antonio, Seymour, Waco	)	
and Wellington, TX; Ardmore, Durant,	)	
Elk City, Healdton, Lawton and Purcell, OK	)	

To: Chief Peter Doyle, Audio Division
Media Bureau

OPPOSITION TO MARK LIPP'S (A/K/A "JOINT PETITIONERS") "PETITION FOR PARTIAL RECONSIDERATION AND REQUEST FOR EXPEDITED ACTION", WITH REQUEST THAT SAID FILING BE IMMEDIATELY DISMISSED; AND PROTEST OF APPARENT UNETHICAL LEGAL CONDUCT BY LIPP INTENDED TO HARM AND OBSTRUCT KRZB/ARCHER CITY FROM PEACEFULLY BEING ABLE TO CONSTRUCT AND OPERATE ITS FCC-PERMITTED SERVICE---INCLUSIVE OF LIPP'S APPARENT FAILURE TO REPRESENT MATERIAL FACTS, AND KNOWINGLY FAILING TO ACKNOWLEDGE KRZB'S PERMITTED SERVICE BEFORE THE LEGAL TRIBUNAL

Texas Grace Communications ("Grace"), proprietor of the KRZB/Archer City, Texas Channel 248 C2 "permitted" service, respectfully files the instant opposition pleading to dismiss the "Petition for Partial Reconsideration and Request for Expedited Action" pleading dated June

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16, 2003 ("Lipp Petition" or "Petition"[1]). Grace seeks immediate dismissal of the Petition, and simultaneously protests what it believes to be unethical legal conduct by counsel Mark Lipp. Since the Petition serves to interfere with and obstruct Grace's ability to construct its permitted KRZB/Archer City C2 service---failing to even acknowledge said service---Grace respectfully requests that the other so-called "joint parties" withdraw their participation/interest from said Petition at this time so as not to further harm the operation of Grace's business, or otherwise be linked to what Grace considers unethical conduct by Lipp.

Summary

The Petition for which we seek immediate dismissal appears to intentionally misrepresent material case facts, which Grace believes to violate legal ethics for a licensed attorney and officer of the Court. Once again, Lipp, as counsel for the joint parties, has failed to protect or acknowledge the permitted KRZB/Archer service and facilities site. Grace notes that Lipp was made aware of his discrepancy in this regard prior to the recent termination of the Quanah-Keller proceeding under MM Docket No. 00-148. Yet even in the instant petition under protest, the permitted KRZB/Archer City service is again ignored, with only the C1 allocation to which Lipp attempted to force Grace to move in the terminated counterproposal noted. Petition contention that the counterproposal was "facially acceptable" is understandably refuted, given its blatant failure to acknowledge or protect the KRZB/Archer City permitted service. In issuing termination of said proceeding, the FCC correctly pointed out that the joint parties "have not shown that they could not have known" about the short-spacing technical conflict their proposal had with station KICM. Grace cites this fact, as well as the joint parties' and/or Lipp's refusal to

[1]The petition under protest herein of the so-called "joint parties" is technically signed by Lipp's legal partner J. Thomas Nolan, as best as Grace can make out the signature provided. However, Mark Lipp's name remains identified in typewritten form as a party responsible for---and with full knowledge of the content of---the pleading.

immediately turn over to the FCC documentation showing agreement with KICM whereby KICM was willing to power down its facility to cure the joint parties' conflict in return for presumed renumeration. Withholding of material fact evidence represents a breach of legal ethics on the part of an officer of the Court such as Lipp, tainting the original counterproposal, and any parts or portions thereof. While the Petition currently being floated by the joint parties may smokescreen the issue of the intended KLAK/Durant to Keller move for the moment, it nonetheless serves to set the move up, through such channel accommodation as powering down KWTX from a full C Channel 248 at Waco, Texas, to Channel 247 C1 at Lakeway, Texas. Request for *nunc pro tunc* consideration of the counterproposal components in the Petition is shot down, based on the timeline of events wherein the February 7, 2000 grant to KRZB/Archer City of a construction permit at its specified C2 facilities site preceeded the October 10, 2000 filing of the original joint parties' counterproposal. Grace rightly protests the apparent lack of full client representation listing connected to Lipp's prosecution of the Petition, noting, for example, the fact that First Broadcasting is omitted, even though Lipp has identified First Broadcasting as having potential revenue interest in any successful move-in to the Dallas metroplex of KLAK. Grace similarly protests the apparent ties to Lipp of both sides of the Quanah-Keller Federal proceeding, as the Quanah drop-in ties to Lipp's engineering associate (by the Quanah drop-in party's ready acknowledgment). On behalf of the joint parties, then, Lipp apparently counterproposed himself---or at least counterproposed a drop-in tied to his associate, prompting Grace to ask Lipp to provide his knowledge about the Quanah drop-in under oath herein. Grace respectuflly asks Clear Channel and its counsel to withdraw from this proceeding, given that its' further involvement continues to support obstruction of Grace's right

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Lipp is widely known as primary author and lead counsel of rulemaking efforts to move KLAK/Durant to the Dallas

to construct and operate its permitted service at KRZB/Archer City, and the fact that Clear Channel will be a competitor of a constructed version of KRZB/Archer City in the Wichita Falls-Burkburnett, TX market. Grace notes that it is aware of no problem or conflict with Clear Channel, and desires a friendly, competitive relationship with them upon KRZB's commencement of operation. Grace commends the FCC for terminating the defective counterproposal, and calls upon the FCC to similarly dismiss the Petition protested herein. Moreover, we call upon Lipp to---once and for all---acknowledge the KRZB/Archer City permitted service's right to exist, and protect it in any future filings before the FCC.

The Petition Appears to Intentionally Misrepresent Material Facts in the Case, Which Grace Believes to be a Violation of Legal Ethics.

The cornerstone and key desired result of the Petition is deceitfully smokescreened from the FCC tribunal, to Grace's prejudice. The massive daisy chain Lipp again endeavors to prosecute is intended to accomplish one major result to his personal and client gain, and a second key result to Grace's harm. Indeed, Lipps seeks his monumental benefit at the direct expense of injuring Grace, irrespective of ethical conduct. Lipp's cornerstone intent is the propagation of an immensely valuable move-in to the Dallas, Texas market of KLAK/Durant, OK (now operating as a Sherman-Denison, TX station some 85 miles away from Dallas, but, by today's brokerage estimates, worth approximately $70 million for the mere permit if Lipp can move the entity into "Keller", TX---thus becoming a DFW metroplex station).

But also deceitfully obscured in the Petition is the continued intended obliteration of KRZB/Archer City's permitted C2 service[2]---a permitted service Lipp fails to even acknowledge

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metroplex, inclusive of the recently terminated proceeding under MM Docket No. 00-148.

[2] Refers to that service/site stipulated on the only permit ever granted KRZB as an Archer City-permitted entity, located at coordinates 33-51-40 latitude, and 98-38-52 longitude, under BMPH-19990217IB.

in his Petition. Since the permitted C2 service constitutes Grace's sole FCC-permitted broadcast interest, and the particular service plan Grace wishes to implement and has been permitted to implement without encumbrance, Lipp's efforts to interfere with our ability to construct and operate the radio station have long passed a threshold of unacceptability, representing apparent misuse of his law license to harm a broadcaster whose facility is, by pure chance, in "the way" of Lipp's chance to reap millions on the Dallas move-in.

Grace raised this ethical breach inherent to Lipp's omission of material fact in Grace's "Motion for FCC to Accept (its') Opposition to Show Cause ("OSC") Order..." (dated by Grace October 29, 2002, incorporated by reference), since the OSC, which advocated Grace's forced channel, site and power change in the terminated Quanah-Keller proceeding[3] based on the counterproposal prosecuted by Lipp, never acknowledged KRZB/Archer City's permitted service and facilities site coordinates. At p. 5, par. 2 Grace identified the referenced OSC (since dismissed) "as a document known to contain FALSE statement of fact" by virtue of its failure to acknowledge or protect the permitted KRZB/Archer City service/site in Lipp's attempted Dallas move-in. Grace went on to explain that "any attempt to impede Grace's Opposition from being accepted by the Allocations Branch will amount to willful endorsement of a document known to contain FALSE information---in blatant violation of legal ethics." In this regard, Grace fairly and clearly communicated to Lipp that Grace would understandably no longer tolerate the unethical conduct inherent to Lipp's authoring or prosecution of Federal proceeding documents referencing the KRZB/Archer City service without acknowledging the existence of its correct FCC-permitted service/site. Moreover, at p. 6, par. 1, Grace clearly afforded Lipp the opportunity to correct his misrepresentation of material fact, stating, "Lipp had---and continues

to have---ample opportunity to cure his Counterproposal so as to protect the existing KRZB/Archer City permitted service and transmission site, which will allow a beneficial result for all parties."

Another party to the Quanah-Keller proceeding, Charles Crawford, made similar reference to Lipp's false representation of the same material fact in the "Opposition to Reinstatement of Interest and Request to Accept Comments as Timely Filed" pleading (dated April 3, 2003 by Crawford, incorporated by reference). Crawford states the following in the heading over his argument at #2: "Counterproposal Uses Incorrect Coordinates for KRZB Forced Move," referring to the counterproposal filed by Lipp in MM Docket No. 00-148 on October 10, 2000. Under #8, Crawford continues "At the time of the filing, the counterproposal failed to protect KRZB's permitted site."

As the FCC can see, Lipp was given clear admonishment and corrective information[4] in response to his misrepresentation of the material fact connected to the permitted KRZB/Archer City C2 service and site coordinates referenced within his pleadings seeking to obstruct the permitted KRZB service, prior to the FCC's termination of the Keller-Quanah proceeding as adopted May 7, 2003. Therefore, it seems unconscionable to Grace---and grotesquely unethical---that, on June 16, 2003, Lipp would turn right back around and continue the practice of falsely representing the same material fact in his pleading under protest herein. At p. 2, par. 2, Lipp again fails to reference or acknowledge KRZB/Archer City's correct permitted service/site,

[3] The FCC terminated the Keller-Quanah proceeding under MM Docket No. 00-148 in Order DA 03-1533, adopted May 7, 2003 and incorporated by reference.

[4] Among other references filed separately by Grace and Charles Crawford, Grace corrected Lipp's misrepresentation of material fact at p. 2, footnote 2 of Grace's "Opposition to Show Cause Order..." dated by Grace October 29, 2002 and incorporated by reference, wherein it is clearly stated: "The only KRZB/Archer City service ever permitted by the FCC is a matter of public record, under BMPH-19990217IB, Facility ID No. 79024, and bearing FCC database reference coordinates of 33-51-40 and 98-38-52. The Show Cause Order's depiction of reference coordinates 33-36-58 and 98-51-42 is clearly erroneous, and obviously does not reflect the permitted KRZB/Archer City Channel 248 C2 service...".

referring only to a "proposed substitution of Channel 230C1 at Archer City," hiding the material fact that a channel change alone would not be enough to protect the permitted KRZB/Archer City service at its permitted facilities site, and, that any such channel substitution would therefore require KRZB to relinquish its permitted site against its will.

Separate and apart from the unethical omission and misrepresentation, Lipp's failure to acknowledge or protect the KRZB/Archer City permitted service in floating all or part of his counterproposal in the incarnation of the Petition compels immediate dismissal of the Petition.

In Rejecting Lipp's Counterproposal in the Quanah-Keller Federal Proceeding, the FCC has Already Cited Misrepresentation of Material Fact, Stating that the "Joint Parties" for Whom Lipp Authored and Prosecuted Pleadings "Have Not Shown that they Could not have Known" About Vital Material Fact. Having Apparently Obscured Material Fact, Lipp Should be Prohibited from Bringing the Terminated Proceeding Back to Life in Any Form.

At p. 2, par. 3 of the MM Docket No. 00-148 proceeding termination, Audio Division Chief Peter Doyle states that "The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application" at the outset of tendering their counterproposal which would have resulted in forcing Grace off its permitted KRZB/Archer City site against its will, as referenced. The FCC is clearly saying that Lipp, as author and prosecutor of the "Joint Parties" pleadings in the proceeding, knew about an obvious material fact---in this case, a technical conflict prohibiting his desired Dallas move-in scheme with respect to station KICM---but chose to conceal the material fact within the Federal pleading. According to the FCC, Lipp was given ample opportunity to have "shown that (he) could not have known" about the conflict, yet failed to do so. The termination of the proceeding itself then, says the FCC, is based in large part on the concealment of this material fact from the Lipp pleadings, which the FCC

clearly believes is a material fact Lipp knew about---given his inability to show how he could *not* have known about it. This simply continues a pattern of seeming ethics breach, whereby Lipp, as a licensed attorney and an officer of the Court, appears to have no problem concealing and/or misrepresenting material facts of the case. This continues to be injurious to independent broadcaster Grace, whose right to build its permitted KRZB/Archer City service was clearly obstructed and encumbered as a result of such apparent misrepresentation of material fact by Lipp which was erroneously used to ignite and prosecute the Federal proceeding. In the instant case, Lipp himself admits at p. 2, par. 2 of his Petition that the Keller counterproposal he initiated (and which the FCC has corroborated to have been based on misrepresentation of fact) was not terminated by the FCC until "two and one-half years later." From the standpoint of legal ethics, Lipp's apparent willful misrepresentation of fact needlessly caused the FCC to waste 2 and a half years of time on a proceeding stemming from Lipp's prosecution of the known-to-be erroneous material fact. Furthermore, this ploy was specifically used to aggravate and obstruct independent broadcaster Grace---whose right to construct and operate its facility at a specific location hung in the balance of the proceeding. Interestingly, Lipp not only failed to acknowledge or protect the KRZB/Archer City permitted service and site (the C2 service on 97.5). but he even failed to provide Grace with a technically-viable site, channel, and service class in the move he illegally attempted to force upon Grace, against its' will, as part of Lipp's KLAK Dallas move-in scheme. The FCC corroborates this point at p. 2, par. 3 of the Quanah-Keller proceeding termination, stating, "Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment." As the FCC and any legal ethics board can readily see, Lipp willfully created a limbo situation for KRZB/Archer City, using the misrepresentation of material fact to ignite a lengthy Federal

proceeding that had to be adjudicated before Grace could confidently know where to build its radio station---or, in the alternative, stood the chance of building the permitted facility but then being kicked off the site with no guarantee of reimbursement.

Lipp's Disregard for Grace's Right to Exist as An Independent, Permitted Broadcaster at KRZB/Archer City Continues to be Promulgated in the Petition Protested Herein, Which Effectively Asks for FCC Approval of the Components Necessary to Effectuate the 97.5 Move-In to Dallas of KLAK/Durant, OK, Which is Intended to Kick Grace off its Permitted 97.5 Service/Site.

While Lipp deceptively avoids the issue of KRZB/Archer City's status as a permitted, protected, sovereign entity in his Petition, he goes right back and attempts to have "expedited action" on the very elements of his counterproposal intended to effectuate the scheme such that the 97.5 frequency is freed in the Dallas-Fort Worth metroplex for use by KLAK/Durant in the incarnation of a Keller, TX-licensed entity. For example, among the daisy chain elements Lipp's Petition attempts to promulgate (*See* footnote 1, p. 1) is the lessening of power of Channel 248C at Waco, Texas, to a new incarnation as a Channel 247C1 service licensed to Lakeway, Texas. While the Petition willfully obscures material fact inherent to the existence, protection and welfare of KRZB/Archer City's permitted status and right to exist, the channel changes sought nonetheless tie right back to the main goal of the terminated counterproposal, as noted. The notion that Lipp should be given affirmation to a portion of the same rejected counterproposal has no legal basis, and is mired in deceit because the intention is still to harm KRZB/Archer City.

Petition Allegation that the Rejected Counterproposal is "Facially Acceptable" Continues the Willful Concealment of Material Fact With Respect to KRZB/Archer City's Permitted Service, in Apparent Violation of Legal Ethics.

Lipp continues to ignore the admonishment and corrective information provided in prior pleadings, as referenced, by Grace and Charles Crawford, regarding the permitted service status of KRZB/Archer City, which is also a matter of FCC public record. Instead, the Petition pretends that KRZB/Archer City does not exist as a permitted service, stating at p. 3, par. 2, "There is no dispute that the Proposal, standing alone, was facially acceptable." This is a vile misrepresentation of fact. At least two parties disputed the acceptability of his proposal which sought to destroy KRZB/Archer City by not acknowledging its existence as a permitted C2 service. Such willful misstatement of fact by Lipp, again, continues a pattern of apparent ethics violation within the Federal proceeding.

Request for Consideration on a Nunc Pro Tunc Basis Continues to Misrepresent Material Fact With Regard to Any Acknowledgment by Lipp of the Timeline Associated with FCC Grant of the Permitted KRZB/Archer City Service.

Petition contention that the FCC must accept his new Petition---which merely recycles elements of Lipp's already-rejected counterproposal---on a *nunc pro tunc* basis is ludicrous, and based upon the false premise that KRZB/Archer City was not a permitted C2 service entity before October 10, 2000. However, as the FCC public record clearly indicates, KRZB/Archer City was indeed granted its C2 construction permit effective February 7, 2000, which was clearly in force when Lipp tendered his counterproposal. Under the Rules, Lipp therefore had the responsibility to protect said permitted service within the counterproposal, or to timely cure the counterproposal so as to protect the KRZB/Archer City permitted service. As evidenced, Lipp

did neither. In fact, as also evidenced, he refused---and still refuses---to acknowledge the material fact of the KRZB/Archer City permitted service's existence, wasting the FCC's time, and continuing to misuse his authority as an officer of the Court.

Lipp Appears to Not Provide Full Identification of Client Representation Interests Connected to the Petition. For This Reason Alone, the Petition Would Merit Dismissal.

At p. 7 of the Petition, "Rawhide Radio, LLC" is the only client seemingly identified as a specific client interest of Mark Lipp and law partner J. Thomas Nolan, while other so-called "joint parties" Capstar and Clear Channel are identified as being represented by Gregory Masters. Next Media is no longer identified as a "joint party", but instead, appears incidentally as only a service party represented by Matt Liebowitz. Grace's concern is that Lipp has apparently not identified his full vested interests and client representation in matters tied to or benefitting from successful prosecution of the Petition, or in the overall case wherein he seeks the move-in of KLAK/Durant to the Dallas metroplex on the co-channel held by the permitted KRZB/Archer City, TX service. Missing, for example, from Lipp's identified client representation on the Petition is First Broadcasting, even though Lipp has previously identified this entity as his client, and as an entity with potential revenue interest in the KLAK Dallas move-in scheme should it be successful. If First Broadcasting had potential revenue interest in this project year ago, what has happened since? If this entity has interest in the outcome of KLAK's move-in---which is a curious situation, in light of the fact that KLAK is now owned by Next Media---then Lipp needs to shine light on the matter, and on every entity he is representing in his twofold effort to kill the KRZB/Archer City business, while endeavoring to increase the value of KLAK by upwards of $70 million.

Lipp Appears to Have Played Both Sides of the Quanah-Keller Federal Proceeding in Seeming Violation of Legal Ethics, as the Quanah drop-in he Counterproposed Against is Tied to His Engineering Partner, Who Worked With Lipp in Prosecuting the Counterproposal.

A similar situation arose in 1999, when Lipp began to submit pleadings prosecuting a favorable outcome on a mysterious FM channel drop-in at Tipton, OK which created obstruction to KRZB/Archer City's facility site, without identifying his vested interest in the pleadings, or whom he was representing in that Federal proceeding. With the help of the U.S. Postal Inspector in Florida, Grace learned that the anonymous drop-in was directly tied to the personal post office box of Lipp's engineering associate, despite a postal box pseudonym of "Good Government Radio[5]." A similar situation is seen in the instant case, given that the very drop-in at Quanah, TX is also tied to Lipp's engineering partner, and therefore by extension to Lipp. Indeed, the whole Federal proceeding under MM Docket No. 00-148 wherein Lipp claims to be a counterproposal proponent, is tainted by the fact that he is apparently effectively counterproposing against himself[6]. Again, Grace considers this to be a gross breach of legal ethics, and an abuse of Federal process. Even though the Quanah drop-in party is not directly kinfolk to Lipp, Lipp must take responsibility for the fact that they are tied to his longtime associate. Grace asks Lipp, under oath herein, to admit or deny that he knew about the Quanah drop-in (necessary to float his Keller move-in scheme) against which he made counterproposal before it was filed. Given that the same Lipp engineering associate helped Lipp prosecute the technical portion of the counterproposal opposing the Quanah drop-in, Grace believes that the

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[5] *See* Grace's "Essential Supplemental Comments" pleading of May, 1999 in MM Docket No. 99-23, incorporating letter from the U.S. Postal Inspertor in Florida.

[6] A "Mrs. Drischel" (of so-called "Nation Wide Radio Stations" of Calhoun City, MS), the named party behind the Quanah drop-in against which Lipp counterproposed, readily admitted in a pleasant telephone conversation with Grace that, quote, "Paul Reynolds is with us," when asked if she was involved with Mark Lipp's engineering

Quanah drop-in and piggybacked counterproposal are mired in fraud. Grace believes that no officer of the Court can appear in a Federal proceeding in ostensible opposition to a proposal (i.e., the Quanah drop-in), while in any way tied to the very inception of that same proposal. Any and all requests on Lipp's part related to the original counterproposal opposing the Quanah channel drop-in, inclusive of those made in the Petition under protest herein which are referred to as "parts" and "portions" of the counterproposal, are thus tainted and illegal, and must immediately be voided by the FCC. All the while, this apparent process abuse served to keep KRZB/Archer City in a construction limbo---apparently Lipp's intent---as the FCC was left to sort out where Grace would be allowed to build its supposedly permitted radio station.

Apparently Illegal Activity in Violation of FCC Rules Has Marked Efforts to Prosecute the Recently-Terminated Counterproposal, With Respect to Underlying Agreements (Legally Supevised and/or Known About by Lipp as Counsel) on behalf of the "Joint Parties" and Other Parties Being Asked to Make Facility Adjustments to Accommodate said Counterproposal. Since the FCC Itself is Aware of This Infraction, Absolutely NO Tangent of the Counterproposal (Inclusive of the Petition) Should be Considered.

The FCC adopted a January 16, 2002 Request for Supplemental Information asking that the Joint Parties produce the underlying agreement between themselves and AM & PM Broadcasting, LLC concerning AM & PM's willingness to downgrade its' KICM/Krum, Texas CP from a Class C1 to C2 service to cure technical conflict with the counterproposal. Despite the requirement for release of such information under the authority of Section 1.420(j) of the Rules, the Joint Parties chose not to reveal said information in the Lipp-supervised or reviewed Reply to Request for Supplemental Information. Again, this simply continues a pattern of

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associate. Drischel further confirmed that her tie to the Quanah drop-in was through a kinship association with

concealing material fact evidence within this Federal proceeding, which must bar any efforts to now resurrect the proceeding in whole or in part. Moreover, failure to provide documents apparently known to exist by an attorney within a Federal proceeding, when asked for by a Federal agency such as the FCC, appears to constitute an extreme violation of legal ethics---with Grace the prejudiced party, as the apparently unethical conduct served to continue Lipp's efforts to obstruct the free and clear construction of KRZB/Archer City's permitted radio service.

Grace States for the Record that it has no Known Problems With Clear Channel, and Looks Forward to a Professional, Competitive Working Relationship With Them in the Wichita Falls-Burkburnett, TX Market. However, in Light of the Fact that the Petition's Precursor Counterproposal (as Authored and Prosecuted by Lipp) Served to Obstruct Construction and Operation of KRZB/Archer City's Permitted Service, Grace Respectfully Requests That Clear Channel Counsel Gregory Masters Withdraw Clear Channel From any Association in the Ongoing Proceeding Until and Unless Amendment by Lipp (on behalf of the "Joint Parties") is Made to the Petition Affriming Recognition of KRZB/Archer City's Current Permitted Service Status---And Warranting Not to Engage in Any Obstructive Pleadings or Other Activity That Might Harm Said Service's Construction and/or Operation.

Grace reiterates that it has no problem that it knows of with Clear Channel Broadcasting Licenses, Inc., or any other Clear Channel affiliated company. On the contrary, we look forward to working with Clear Channel in a professional, competitive atmosphere in the Wichita Falls-Burkburnett trade market. However, it must be pointed out that Wichita Falls-Burkburnett is served by only (8) in-market city-grade signals, evenly split between Cumulus and Clear Channel ownership. KRZB/Archer City will thus be the 9th market signal---and only 3rd voice in

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Lipp's associate.

the market. As such, KRZB/Archer City provides exactly the diversity and independent voice the FCC wishes to preserve, and chains such as Clear Channel contend they welcome in the competitive mix. Perhaps unbeknownst to Clear Channel, their continued association in the Lipp-prosecuted pleadings connected to MM Docket No. 00-148 and its progeny---inclusive of the Petition under protest herein---serves to obstruct construction and operation of a vital Clear Channel competitor in the Wichita Falls-Burkburnett market. Clear Channel has not identified itself as having any revenue interest in the future of KLAK/Durant moving into the Dallas market, but, to date, is solely identified on the basis of owned properties such as KWTX/Waco that are willing to make channel changes to accommodate a KLAK Dallas move-in. Given that KLAK is presently owned by Next Media[7], Grace respectfully asks that legal counsel Masters fully identify any Clear Channel interests in KLAK itself. If no other Clear Channel interests exist, Grace understandably and respectfully asks that Masters and Clear Channel please withdraw from the instant proceeding---or from any subsidiary proceeding that would serve to hinder construction or operation of an important Clear Channel competitor in the Wichita Falls-Burkburnett market, the permitted KRZB/Archer City service.

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[7] The sale of KLAK to Next Media was, to Grace's knowledge, an approved, completed FCC assignment. However, the tenets of the Petition Lipp now endeavors to prosecute suggest otherwise, with the appearance that conditions or agreements connected to the KLAK assignment might be in existence that are not known to the public or FCC. Grace wants to be a "good neighbor" with Next Media on the 97.5 co-channel if they are indeed intending to remain the owner of the radio station. However, Lipp stated on September 11, 2002 that First Broadcasting "holds the option to purchase KLAK from Next Media", as evidenced in Exhibit A. If unknown would-be owners currently have agreements or place-holder agreements to purchase KLAK conditional to its desired upgrade---an upgrade intended to kill KRZB/Archer City's right to exist---then Grace and the public trust are immediately prejudiced by the existence of such clandestine contracts. Lipp, as an officer of the Court, has the responsibility to immediately reveal to the FCC exactly which clients or non-clients have pending agreements involving potential assignment/purchase of the KLAK enterprise contingent upon the facility's endeavored Dallas-area move-in, change of community and/or power class upgrade. Lipp's failure to provide sunshine to the tribunal on this information appears to be a breach of legal ethics, and prevents the FCC from knowing the full intentions of certain parties who are unexplainably championing a KLAK Dallas-area move-in. The lack of such revelation serves to prejudice Grace, who also has the right to be made aware of why parties who do not own KLAK are on the bandwagon to harm the permitted KRZB/Archer City facility so as to assist the KLAK enterprise serve the Dallas metroplex---where it will be valued at an estimated $70 million as a permitted entity.

Grace Commends the FCC for Throwing Out the Lipp Counterproposal Which Would Have Destroyed its Permitted Service at KRZB/Archer City. Grace Asks That Lipp Cease Any and All Further Effort to Kill Our Permitted Service, and Allow This Independent Broadcaster to Construct and Operate its Permitted Radio Station in Peace.

Regrettably, we have been thrust into an uncomfortable relationship with former FCC Allocations Chief (and now private practice attorney) Mark Lipp since before even receiving grant of the KRZB construction permit, and indeed, before KRZB was even appropriated as a frequency at Archer City, TX. Beginning in the Fall of 1996---again, before Grace had even received award of its permit---Lipp engaged in a campaign to wrest the CP away from us, pressured us to sign away our desired service plan and right to operate on the 97.5 frequency to accommodate the intended KLAK move-in to Dallas, and, when we refused to succumb to such efforts, created a stream of obstruction to our ability to construct and operate our radio station at our desired and eventually permitted site. We were asked initially (in 1996) to sign away the integrity of our service area by switching to a channel with no expansion capability for our service plan---with a possible payoff contingent on Lipp's success in a rulemaking effort. We said an emphatic "NO". Lipp then prosecuted the attempt to block our service plan for KRZB/Archer City, stemming from the deceitful plant of the Tipton drop-in which, regrettably, was tied by Federal U.S. Postal authorities to Lipp's engineering partner under a post office box pseudonym[8]. We then unwittingly found ourselves thrust into the Quanah-Keller proceeding, with Lipp, as referenced, failing to protect---let alone even acknowledge the existence of---our permitted service. Since the FCC encourages private parties to work together so as to avoid

[8] *See* MM Docket No. 99-23, Tipton, OK et. al case, and May 1999 "Essential Supplemental Comments" pleading of Grace therein.

[9]needless, burdensome proceedings such as the two and a half year proceeding under MM Docket 00-148---which Lipp again attempts to resurrect by virtue of the Petition---Grace endeavored to avoid any involvement in the proceeding by bringing the counterproposal's deficiency with respect to not protecting the permitted KRZB/Archer City service directly to Lipp's attention. This is clearly evidenced within Exhibit A, an e-mail transmission showing Lipp's September 11, 2002 response to Grace proprietor Dave Garey's message (also shown) of September 8, 2002. As a matter of record, Lipp ignored said request, necessitating Grace's involvement within the Federal proceeding in order to protect its facility. Ironically, even the channel/site upon which Lipp illegally attempted to force KRZB/Archer City to move turned out to be mired in illegal technical conflict---conflict about which the FCC itself now says Lipp and the joint parties knew about and "could not have not known about" at the time of the counterproposal's filing[10]. This seems to constitute a gross violation of legal ethics, because it evidences the FCC itself saying that Lipp, as lead counsel/prosecutor for the joint parties, and, as an officer of the Court within the Federal proceeding, knowingly made a false assertion to the tribunal at the time of the counterproposal's filing. While the FCC commendably terminated the tainted counterproposal, the two and a half years it remained alive continued to create obstruction to the ease of free and clear construction of the permitted KRZB/Archer City facility, as our very site location was under debate as key tenet of the proceeding. The best analogy Grace can make to Lipp's treatment of our business enterprise would be to the manner in which a rapist operates. We have said "NO" to the deals offered by Lipp and/or his associates asking us

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[9] On September 8, 2002, Garey told Lipp, "My continued concern is the contradiction inherent to the Counterproposal's failure to accommodate our permitted site-service...Could you please address this particular issue with me asap---otherwise, I've been advised to get involved in the proceeding to ask for such correction by "the parties", meaning.....you."

[10] References the counterproposal's short-spacing conflict to the KICM/Krum, TX facility at the time of its filing on October 10, 2000.

to relinquish our service plan, in return for contingency payment if aspects of potential rulemakings could be realized at a future date[11]. Although not our primary desire, we offered Lipp an opportunity for his client or clients to buy us out cleanly, in a manner not tied to rulemakings or their outcomes. He had no interest in such an up-front deal[12]. So, we made clear to Lipp that we simply wanted a peaceful co-existence with the KLAK entity, which, through varying ownership since 1996, he has endeavored to move down to the Dallas area to our repeated prejudice and injury. To date, Lipp has not allowed us to have such a peaceful co-existence. With the introduction of the Petition under protest herein, Lipp merely resurrects a counterproposal which was already deemed flawed and illegal by the FCC, with a net intention of further obstructing the free and clear construction and operation of the permitted KRZB/Archer City facility. Understandably, Grace has had enough. We plead to the FCC that Lipp's apparent unethical conduct directed towards obstructing our radio station must cease. Grace is an independent family broadcaster with merely one permitted broadcast interest. We will not succumb to forcible rape of our valuable asset by a former FCC official who feels he can treat us---and frankly, the Commision---like garbage in endeavoring to get any move-in he wants, without regard to the broadcasters whose pre-existing entities might be in his way, or, as the FCC itself determined in killing his counterproposal, for Federal law or responsibilities which must be adhered to by an officer of the Court.

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[11] In one such example on September 11, 2002, Lipp invited Grace to negotiate with him on a "percentage" basis, whereby Grace could potentially receive a percentage of revenue from a potential futuristic sale of KLAK contingent upon grant of the intended facility upgrade. Grace wanted no part of any such contingency arrangement, and believes that it might constitute a violation of FCC Rules and thereby Federal law.

[12] On September 11, 2002, Lipp stated, "I have discussed with First Broadcasting (who holds the option to purchase KLAK from Next Media) as to how we could structure a purchase of KRZB and we came up with the concept of a percentage participation in the project." Again, Grace believes that such an arrangement might constitute a violation of FCC Rules and thus of Federal law.

FOR THE PREMISES SET FORTH, Grace prays the Audio Division will reject the Petition for Partial Reconsideration and Request for Expedited Action as submitted June 16, 2003, as it is merely a tangent of a counterproposal already rejected as unsound and illegal. Grace also prays that the FCC will censure Lipp if he fails to acknowledge the existence of --- and fails to protect---KRZB/Archer City's permitted service in any future pleadings which may involve KRZB/Archer City. Moreover, Grace hopes that Lipp, of his own accord, will withdraw the Petition, and cease any further effort to obstruct KRZB/Archer City's permitted construction and operation.

I, Dave Garey, proprietor of KRZB/Archer City, do hereby verify that the statements contained within the instant document are true and correct to the best of my knowledge and belief. The FCC, along with any other interested parties wishing to respond to the instant document , are asked to utilize Grace's service address as noted below.

Repsectfully Submitted,

June 26, 2003

Dave Garey, Proprietor
Texas Grace Communications
P.O. Box 8481
Gulfport, MS 39506

Exhibit A

Subj: **RE: FW: Memo from Dave Garey, Texas Grace Communications**
Date: 9/11/02 11:25:01 AM Eastern Daylight Time
From: MLIPP@shb.com (Lipp, Mark N.)
To: Cruzn626@aol.com

I have discussed with First Broadcasting (who holds the option to purchase KLAK from Next Media) as to how we could structure a purchase of KRZB and we came up with the concept of a percentage patricipation in the project. In other words, should First Broadcasting's proposal to upgrade KLAK to a Class C be granted with the changes needed to your station at Archer City, we would exercise an option to purchase your station and pay for it based on a percentage of the net purchase price obtained for the upgraded KLAK which we would sell immediately after the FCC grants the rule making. Of course if the denies the KLAK proposal there will be no changes to KRZB and you are free to build as authorized. So if you feel this approach if worth considering please let me know and how much of a percentage of the KLAK purchase price would work for you. I will be flying out to the NAB radio convention in Seattle today and will be back in the office on Monday. But I will be retrieving emails. Thanks.

-----Original Message-----
From: Cruzn626@aol.com [mailto:Cruzn626@aol.com]
Sent: Sunday, September 08, 2002 2:25 PM
To: Lipp, Mark N.
Subject: Re: FW: Memo from Dave Garey, Texas Grace Communications

Dear Mark

I guess we should both get a life----it's pretty sickening to be doing computer work on a beautiful Sunday afternoon (at least it is here).

Separate and apart from any potential negotiation or asset sale, I need to protect my own asset and operation plan. My continued concern is the contradiction inherent to the Counterproposal's failure to accommodate our permitted site-service, as noted. Could you please address this particular issue with me asap----otherwise, I've been advised to get involved in the proceeding to ask for such correction by "the parties", meaning.....you.

Appreciate your help on this point.

Dave Garey

CERTIFICATE OF SERVICE

I, Dave Garey, do hereby certify that I have, on June 26, 2003, placed in the U.S. mail and sent First Class postage prepaid the foregoing pleading to the parties whose names and addresses appear below.

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Grace States for the Record that it has no Known Problems With Clear Channel, and Looks Forward to a Professional, Competitive Working Relationship With Them in the Wichita Falls-Burkburnett, TX Market. However, in Light of the Fact that the Petition's Precursor Counterproposal (as Authored and Prosecuted by Lipp) Served to Obstruct Construction and Operation of KRZB/Archer City's Permitted Service, Grace Respectfully Requests That Clear Channel Counsel Gregory Masters Withdraw Clear Channel From any Association in the Ongoing Proceeding Until and Unless Amendment by Lipp (on behalf of the "Joint Parties") is Made to the Petition Affriming Recognition of KRZB/Archer City's Current Permitted Service Status---And Warranting Not to Engage in Any Obstructive Pleadings or Other Activity That Might Harm Said Service's Construction and/or Operation....14-15

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