

1           itself to be closer to Baldwin than it really was,  
2           isn't that right?

3                     MR. WINSTON:  Objection, Your Honor.

4                     MR. HONIG:  I'm trying to get to the witness'  
5           intention and state of mind.

6                     JUDGE LUTON:  Overruled.

7                     BY MR. HONIG:

8                     Q     If one of the other applicants had  
9           represented that it was farther away from Baldwin than  
10          it really was, you would have been upset, wouldn't you?

11                    A     No.  I would have been, no.

12                    Q     So then you didn't think it was particularly  
13          important to have a representation be completely  
14          accurate as to where you lived?  It wasn't that  
15          critical, is that what you're testimony is?

16                    A     My testimony is that at the time the  
17          application was filed, local residence was local  
18          residence, Jacksonville area.  If a person said they  
19          lived outside of Jacksonville area, if that's what  
20          you're asking me, then I might have claimed that they  
21          did not meet that particular preference.  But at that  
22          time, that was my knowledge of it.  At this time, I  
23          have a greater knowledge and understanding.

24                    Q     Well, let's look at the second paragraph, the  
25          second sentence of exhibit 1, Page Three.  That

1 sentence reads, if Northeast Florida is awarded the  
2 construction permit --

3 A I'm sorry, what am I looking at?

4 Q Exhibit 1, Page Three, Paragraph Seven.

5 MR. WINSTON: Exhibit 1, Page Three,  
6 Paragraph Seven?

7 MR. HONIG: Right.

8 BY MR. HONIG:

9 Q If Northeast Florida is awarded the  
10 construction permit, she has pledged to continue  
11 residing in Jacksonville, Florida. Now, think back to  
12 the time when you reviewed this exhibit number 1,  
13 before you signed it.

14 Was it your intention in making this  
15 statement to represent that you were going to stay at  
16 your then current residence, which was College Street?

17 A My intent was to move to Baldwin, Florida  
18 upon receiving a construction permit.

19 Q Baldwin is a -- isn't that an incorporated  
20 community?

21 A Baldwin is a city of its own.

22 Q Okay. Now, if it says, she has pledged to  
23 continue residing in Jacksonville, Florida but your  
24 intent was to move to --

25 A Closer to the 70 DBU. That's my intent, if

1 I'm reading that correctly.

2 Q No, I'm not asking you whether you're reading  
3 it correctly. I'm asking you what you intended.

4 A I have no intent -- I had no and have no  
5 intention of leaving Jacksonville, Florida. My  
6 intention, if I receive a construction permit, is to  
7 move closer to, what is it, the 3.6 MVM. That's my  
8 intention.

9 Q Don't throw numbers around. Let's just talk  
10 about what you intended. A second ago you said your  
11 intention is to move to Baldwin. Now Baldwin is an  
12 incorporated town, right? It's got it's own  
13 government. It's completely surrounded by  
14 Jacksonville, isn't it? But it's not a part of  
15 Jacksonville? Isn't that correct?

16 A It's not a part of Jacksonville and it's not  
17 completely surrounded by Jacksonville. My intent is,  
18 as stated, I pledge to continue residing in  
19 Jacksonville, Florida.

20 Q Okay. At Your Honor's suggestion, I'm going  
21 to move on. Give me just one minute to collect my  
22 thoughts.

23 JUDGE LUTON: Good, this is really getting  
24 quite tedious.

25

1 BY MR. HONIG:

2 Q Let's return to Peaches Exhibit 12 for one  
3 moment. Now, Mr. Mims called you on or about December  
4 8th, 1989 for the first time, isn't that right?

5 A No.

6 Q No. Well, when did he call you?

7 A According to this Peaches attachment,  
8 whatever this is, Ms. Holt, this is a brief overview of  
9 our discussion yesterday. This is dated 12/8/89.

10 Q So he called you on the 7th of December '89  
11 and for your reference, you signed the application on  
12 December 13th, six days after he called you.

13 A I'd have to look at the application to know  
14 what date I signed it.

15 MR. WINSTON: I'll check it and stipulate to  
16 it.

17 MR. HONIG: I think there are two signatures.

18 MR. WINSTON: Counsel is willing to stipulate  
19 that Ms. Holt signed the application on December 13th,  
20 1989.

21 BY MR. HONIG:

22 Q So, we're talking now just for reference  
23 about the period December 8th through December 13th,  
24 1989. I want to focus your attention on that period of  
25 time.

1                   After Mr. Mims sent you this fax, describe  
2 what you did to follow up on his request.

3                   MR. WINSTON: Objection. What request?

4                   BY MR. HONIG:

5                   Q     There is a request in the fax, please review  
6 and request that interested persons be present Saturday  
7 at your office. It's on the first page of the exhibit.

8                   A     Well, upon receiving this information, I  
9 spoke to, at that time, my employer, Jacksonville Urban  
10 League, Ronny Ferguson, and discussed this with him.

11                  Q     Okay. What did Mr. Ferguson say?

12                  A     The people that we talked about did not think  
13 that they would be in a position to take on this type  
14 of business.

15                  Q     And who did you talk about?

16                  A     Mrs. Paine and Angela Wright or Angela  
17 somebody, can't remember --

18                  Q     So you prepared a short list of people who  
19 you thought might be interested in applying for the  
20 Baldwin station? But you weren't on that short list  
21 initially yourself, isn't that right?

22                  A     I didn't discuss myself.

23                  Q     Now, after you and Mr. Ferguson realized on  
24 your short list no one was interested, what did you do  
25 next?

1 A I reviewed the literature.

2 Q And the literature is the next two pages, is  
3 that what you're referring to?

4 A Yes.

5 Q And then what did you do?

6 A Determined that I could do this myself.

7 Q Now, this was the first thought that you'd  
8 had that you thought you might want to own a  
9 broadcasting station, isn't that right?

10 A No.

11 Q Would you describe any previous efforts you'd  
12 ever undertaken to own a broadcasting station?

13 A Not necessarily to own a broadcasting  
14 station, but to be involved in the operations of a  
15 broadcasting station and doing programming.

16 Q Have you ever worked at a broadcasting  
17 station?

18 A No.

19 Q Okay. Then they were no such efforts that  
20 resulted in your working at a station in the past,  
21 isn't that right?

22 A I've only written children's programming for  
23 a New York radio.

24 Q You didn't claim that in your application?

25 A No, I didn't.

1 Q This is the first we're hearing of this?

2 A Yes.

3 Q Now, off the record for just one second.

4 JUDGE LUTON: Off the record.

5 (Discussion off the record.)

6 JUDGE LUTON: On the record.

7 BY MR. HONIG:

8 Q Ms. Holt, thanks to the miracle of modern  
9 technology, my associate has just handed me a December  
10 '89 electronic calendar. It shows that Saturday in  
11 question was December 9th. I don't want to introduce  
12 the calculator, but I believe it to be true.

13 JUDGE LUTON: I'd like to have it.

14 BY MR. HONIG:

15 Q So, in fact, was there a meeting at your  
16 office on Saturday, December 9th, 1989, with Mr. Mims?

17 A I don't know if it was the 9th, but it was on  
18 a Saturday.

19 Q Do you recall it as having been the next day  
20 after this fax?

21 A I don't recall the next day, no.

22 Q Okay. Now, Mr. Mims flew to Jacksonville for  
23 the meeting?

24 A I have no idea.

25 Q But was he there by himself?

1           A     When he was with me, he was by himself.

2           Q     When he was there, do you know if he visited  
3 with anyone other than yourself?

4           A     No.

5           Q     Did you ask him?

6           A     No.

7           Q     When he visited with you, did you meet him at  
8 the Urban League?

9           A     Yes.

10          Q     How long did you meet?

11          A     I'm not quite sure, maybe an hour or two or  
12 so. I don't recall exactly.

13          Q     Now, did you have any -- did you have his  
14 resume or any independent information about him?

15          A     I don't recall what I had.

16          Q     Did he tell you who he was working for?

17          A     I recall he said that he was some type of --  
18 he had some interests in that area, that's all.

19          Q     Did you think he was there out of the  
20 goodness of his heart, was he there on behalf of  
21 someone, or ?

22          A     I don't know.

23          Q     Did you know who was paying for him for be  
24 there?

25          A     No.

1 Q Did you ever pay him for any services of any  
2 type?

3 A No.

4 Q Do you know whether your limited partner did?

5 A No.

6 Q Do you know whether Mr. Mims has ever been  
7 paid?

8 A No.

9 Q Mr. Mims, in fact, gave you your limited  
10 partner's name, isn't that right?

11 A I don't have a limited partner.

12 Q I'm sorry, you're non-voting stockholders.  
13 Forgive me, I'm not trying to confuse you. You're a  
14 two-tiered corporation. He gave you Ms. Wade's name,  
15 isn't that right?

16 A Yes.

17 Q And he gave you at least one other name,  
18 isn't that right?

19 A Yes.

20 Q You don't recall who that was though?

21 A No.

22 Q And you didn't call that person?

23 A No.

24 Q You just called Ms. Wade?

25 A Yes.

1 Q And did you call her on that Saturday, the  
2 9th, or did you call her a couple of days later?

3 A I don't recall exactly.

4 Q Do you remember where you were when you  
5 called her?

6 A At a public telephone.

7 Q Was Mr. Mims present?

8 A No.

9 Q Was he still in town?

10 A I don't know.

11 Q Other than at that meeting, have you ever  
12 seen Mr. Wade again, Mr. Mims, I'm sorry.

13 A No.

14 Q Did Mr. Mims ever tell you whether he had  
15 been involved in any other FM applications?

16 A I don't recall.

17 Q Did he mention any other cities where he  
18 might have performed services of this type?

19 A Yes.

20 Q What were those cities?

21 A Pensacola.

22 Q Does Shreveport, Louisiana ring a bell?

23 A Yeah, I believe I got an article for that.  
24 Yeah.

25 Q Does Beaumont, Texas ring a bell?

1           A     No.

2           Q     Did he tell you that he was part of an  
3 applicant in Beaumont, Texas?

4           A     I don't recall that.

5           Q     Did you ever ask him whether he had any media  
6 interests of his own?

7           A     No.

8           Q     You then spoke with Ms. Wade and before the  
9 application was signed, that is, in the period between  
10 your first phone call with her and December 13th, 1989,  
11 inclusive.

12                     How many conversations did you have with Ms.  
13 Wade?

14           A     I don't know exactly. Probably about three  
15 or four.

16           Q     Did you ask Ms. Wade whether she had any  
17 other interests in other applications during those  
18 conversations?

19           A     I don't understand. I need clarification on  
20 that.

21           Q     Was she -- she became an investor in your  
22 application. So, as you understand the meaning of  
23 investor, did she tell you that she was an investor in  
24 any other applications?

25           A     No.

1 Q Now, after the application was filed until  
2 your deposition, that is, from December '89 until June  
3 of this year, approximately how many conversations did  
4 you have with Ms. Wade?

5 A Maybe about 25 or 30 or something like that.

6 Q Okay, so that would have been every couple of  
7 weeks or so you spoke with her?

8 A We spoke frequently.

9 Q Okay. And what were the sorts of things that  
10 the two of you typically discussed?

11 A I would basically give her a report on what I  
12 had been doing with the corporation.

13 Q Did you discuss expenses that were due?

14 A Yes.

15 Q Did you discuss programming that you might  
16 put on the station?

17 A No.

18 Q Did you ever discuss any other applications  
19 in which she might have become an investor?

20 A Could you repeat that?

21 Q Did you ever discuss any other applications  
22 in which she might have become an investor?

23 A Did I, no.

24 Q Did she ever mention to you that she had  
25 become an investor in Martinez, Georgia?

1           Q     Now didn't you also testify that after you  
2 got Mr. Mims' memo, you took a while before you decided  
3 that you would become part of an applicant? You  
4 weren't originally interested. You tried to find other  
5 people?

6           A     That's correct.

7           Q     Okay. And isn't it a fact that until Mr.  
8 Mims called you, you hadn't had any specific plans to  
9 apply for a radio license anywhere?

10          A     Specific plans, no.

11          Q     Okay. Now, did he suggest Mr. Winston to you  
12 as counsel?

13          A     Yes.

14          Q     And did he suggest Mr. Gurley to you as an  
15 engineer?

16          A     Among others, for the attorneys and the  
17 engineers, yes.

18          Q     And did -- and who suggested the name of the  
19 site acquisition firm that you used?

20          A     Telstar.

21          Q     Telsa. Who suggested them?

22          A     I let Mr. Gurley handle all the technical  
23 components of the application.

24          Q     In fact, when you retained Mr. Gurley, Telsa  
25 had already arranged for a site to be available to it

1 and its assigns, isn't that right?

2 A Could you repeat that?

3 Q At the time you retained Mr. Gurley, Telsa  
4 site acquisition firm located here in Washington, had  
5 already found a site and it was available to the Telsa  
6 so they could assign it to others.

7 Isn't that right?

8 A I don't know.

9 Q Do you know how Mr. Boyd is?

10 A The owner of the property.

11 Q Have you ever spoken to Mr. Boyd?

12 A No.

13 Q And do you have an understanding as to how  
14 Mr. Boyd came to be -- Mr. Boyd's site came to be that  
15 proposed in your application?

16 A No, I left that to Mr. Gurley. That's part  
17 of the technical end.

18 Q Do you know who it was that spoke with Mr.  
19 Boyd to pin down the site?

20 A I left that to Mr. Gurley.

21 Q Do you know whether Mr. Gurley spoke with him  
22 or do you know whether he did?

23 A I don't recall, but I'm pretty sure he did in  
24 order to get that information.

25 Q Do you know what Telsa's role was in your

1 application?

2 A No, not exactly.

3 Q Did you pay them?

4 A No.

5 Q First, I'd like to ask your counsel to show  
6 you, or perhaps to save time if your counsel wouldn't  
7 mind, I can show you what I'll represent as a site  
8 assignment letter from Hensen Boyd at Telsa.

9 Have you seen that document before? It's  
10 dated December 6th, 1989, a one-page document.

11 A It looks familiar, yes.

12 Q When did you first see it?

13 A I'm not quite sure of the exact date. I'm  
14 not sure.

15 Q Did you see it in 1989?

16 A Yes.

17 Q Before the application was filed?

18 A Yes.

19 Q Now, was there accompanying this an  
20 assignment letter from Telsa to Northeast Florida?

21 A I don't recall.

22 Q Did you examine your files and make sure that  
23 all site related documents were produced?

24 A Yeah.

25 MR. WINSTON: If you're looking for

1 Q Eight hundred?

2 A Eight hundred fifty dollars, something like  
3 that.

4 Q The first time you made a contribution was in  
5 January 1990, isn't that right?

6 A No.

7 Q When was the first time you made a  
8 contribution to the -- cash contribution?

9 A During the application submission process.

10 Q How much did you put in at that time?

11 A Two hundred and fifty dollars I had on hand  
12 as well as the costs that it took to facsimile  
13 documents to Washington and overnight express and the  
14 execution of the whole application process.

15 Q Do you recall being deposed in this case on  
16 June 25th, 1991?

17 A Yes.

18 Q Do you recall testifying -- I can show it to  
19 you, if you'd like -- that you paid the \$250.00 for  
20 your stock in January of 1990.

21 A I opened the account for the stock, for the  
22 corporation in January 1990. I had the money on hand.  
23 And I had used other monies to take care of the  
24 business of Northeast Florida Broadcasting Corporation.

25 Q Do you recall responding to this question at

1           Q     Look at Peaches Exhibit 13. And you'll see a  
2 reference to a figure \$203,000 for --

3           A     Yes, I see that.

4           Q     Now, what is that for?

5           A     Two hundred thousand dollars is for the loan  
6 from Dorothy Wade for the execution of the application  
7 and \$3,000 was capital contribution to the corporation.  
8 Seven hundred and fifty of that paid for the stock.

9           Q     Who was responsible for repaying that  
10 \$203,000 loan?

11          A     I'd have to refer to the agreement.

12          Q     Do you remember whose responsible for --

13          A     I'd have to refer to the document that's in  
14 the application package.

15          Q     Okay. Now do you recall, at your deposition,  
16 testifying that in fact if the applicant did not  
17 prevail in this case that money was lost?

18          A     I don't recall, but I do recall having an  
19 application in front of me when I gave an answer.

20          Q     Well, the application is here. I don't know  
21 what document you're speaking of. I'm asking if you  
22 have a present understanding of whether you have to pay  
23 the money back?

24          A     If I could just look at my application and I  
25 could read to you exactly what the agreement says.

1 JUDGE LUTON: Well, he's not asking you to  
2 read something. He's asking you for what your present  
3 understanding about a matter is, if you have one.

4 THE WITNESS: It's a non-secured loan. I  
5 don't have to pay anything back. That's the best of my  
6 knowledge, but I'd have to look at the document to know  
7 for sure.

8 BY MR. HONIG:

9 Q Now, there's also a reference in Peaches  
10 Exhibit 13 to \$500,000 to come from First Georgia State  
11 Bank.

12 A Correct.

13 Q Now, what is that for?

14 A Construction of the radio station.

15 Q Does it include anything else besides  
16 construction of the station?

17 A The first three months start-up.

18 Q Did you have any role in obtaining that  
19 commitment from the bank?

20 A I submitted my -- yes.

21 Q And what was your role?

22 A I submitted my personal financial statement.

23 Q Who did you submit it to?

24 A To Dorothy Wade and she then submitted the  
25 information to the bank.

1 that they've either been offered or received.

2 MR. HONIG: That's right. It's just being  
3 offered for identification at this time.

4 BY MR. HONIG:

5 Q So your testimony is that Ms. Wade basically  
6 obtained this letter, isn't that correct?

7 A The letter was basically at -- this is  
8 Dorothy Wade's bank and the loan would be based on her  
9 assets.

10 Q You've never spoken with Mr. Bennett, isn't  
11 that right?

12 A That's correct.

13 Q There is also an estimate at the top of  
14 Peaches number 13, a \$414,600. And that estimate was  
15 based on a budget, wasn't it?

16 A Yes.

17 Q And that budget was prepared by Mr. Winston's  
18 office, was it not?

19 A I had some input in that, yeah.

20 Q Didn't Mr. Winston's office send you the  
21 budget in completed form?

22 A I don't recall it was in completed form.

23 Q Would you describe any particular input you  
24 had other than reviewing the budget and approving it?

25 A The type of staff.

1 Q The type of staff?

2 A Yes.

3 Q And specific instructions did you give Mr.  
4 Winston's office on that question?

5 A I don't recall exactly what specific  
6 instructions I gave him.

7 Q We've been provided with that budget. Again,  
8 counsel, this -- anyone who's a general manager of a  
9 radio station?

10 MR. WINSTON: Objection, Your Honor.  
11 Irrelevance.

12 JUDGE LUTON: Assuming that it's introductory  
13 to something.

14 MR. HONIG: It is. I'm not going to ask  
15 questions about the budget.

16 THE WITNESS: Yes.

17 BY MR. HONIG:

18 Q Before the application was filed, first let  
19 me ask you who is that person?

20 A I don't remember his name, I know he was from  
21 New York.

22 Q Do you -- when was the last time you visited  
23 a radio station?

24 A In 1989.

25 Q Before --

- 1           A     I'm sorry, 1988.
- 2           Q     Okay. And your testimony was that you never  
3 worked in a radio station?
- 4           A     Correct.
- 5           Q     Have you ever owned a commercial  
6 establishment or business of any type?
- 7           A     Rental property.
- 8           Q     Other than rental property, you've not owned  
9 a commercial business?
- 10          A     I operated a small business in New York,  
11 yeah.
- 12          Q     And when was that?
- 13          A     In 1981 through 1984.
- 14          Q     What business was that?
- 15          A     Retail merchandising, wholesale distribution.
- 16          Q     What was the name of it?
- 17          A     H & L Hosiery.
- 18          Q     Okay. You were the sole owner?
- 19                JUDGE LUTON: This is all foundation?
- 20                MR. HONIG: This is all foundation, that's  
21 right.
- 22                JUDGE LUTON: Get to the matter.
- 23                BY MR. HONIG:
- 24          Q     Were you the sole owner?
- 25          A     Yeah.

1 A No.

2 Q And when he came to see you, did you ask him  
3 for any resume, maybe, who he is, why is he coming to  
4 see you?

5 A No.

6 Q So, you didn't have any knowledge or  
7 information at all about who he was?

8 A Only what he told me.

9 Q And you believe him right away, is that  
10 correct?

11 A Yes.

12 Q And you testified that you met with him on a  
13 Saturday before you filed the application in December  
14 13. There was not much time to do the application, the  
15 paper work and all that.

16 Did you, from that time, about a week time,  
17 were you able to do all these things by yourself?

18 A Yes.

19 Q And who assisted you in putting up all the  
20 paperwork?

21 A I need some clarification on that.

22 Q Who assisted you in putting all the  
23 applications, all the certifications, all the  
24 attachments and documents in the application?

25 A My attorney helped me some. Clyde Gurley

1 Q Do you remember when in 1989?

2 A Not specifically, but sometime in the last  
3 half of the year.

4 Q Okay. And, did Mr. Mims also -- did he refer  
5 Ms. Holt to you, is that your understanding?

6 A Yes. I believe Lillian told me that he had  
7 told her about me and about my interest.

8 Q Did he also refer to you the -- your partner  
9 in the Martinez application?

10 A That's my understanding.

11 Q Okay. And have you ever been involved in  
12 another application besides those two?

13 A No.

14 Q Okay. Now, who is counsel for the Martinez'  
15 application?

16 A Mr. Winston.

17 Q Okay. Did you ever pay Mr. Mims for any  
18 services in connection with this matter?

19 A No.

20 Q Do you know if anyone did?

21 A To the best of my knowledge, no one has paid  
22 him.

23 Q Do you know if someone is responsible for  
24 paying him?

25 A To the best of my knowledge, no.

1 Q Do you know why he -- did you know that he  
2 went to Jacksonville to meet with Ms. Holt?

3 A I don't recall having had that information.  
4 I knew that he had talked with her, but I don't recall  
5 that he had made a trip or had gone to that area.

6 Q Do you know whether he had been retained by  
7 anyone to help put together these type of applications?

8 A It's my understanding that he was not.

9 Q Do you know what motivated Mr. Mims to do  
10 this?

11 A Going back to the time that I met him, we had  
12 some discussions in general about my interest at that  
13 time. He told me that he was interested in helping  
14 people and he had some knowledge in this area. I  
15 assumed that he likes to help facilitate this kind of  
16 thing.

17 He's an older man and I think he just maybe  
18 does this out of interest in helping others. He might  
19 not otherwise get together as a facilitator. That's a  
20 conjecture on my part.

21 Q You don't know that?

22 A Ask me the question again?

23 Q You don't know what motivated him to do this,  
24 isn't that correct?

25 A Yes, that's correct.

1           Q     Have you ever -- is he working alone or is he  
2 working from a company that he owns? Do you know?

3           A     I have no knowledge of a company or any  
4 affiliation that he might have.

5           Q     Did he ever supply you with any descriptive  
6 material or any documents concerning his work?

7           A     Not to my memory. We did discuss, when I met  
8 him, that fact that he had some expertise and some  
9 knowledge of radio, but that was the extent of the  
10 background.

11          Q     Did he ever supply you with a resume or any  
12 references about himself?

13          A     To the best of my recollection, now this is  
14 going back a couple of years, the only thing that we  
15 shared was I told him about my interests and he told me  
16 a little bit about his expertise and his interest and  
17 his background.

18          Q     What did he tell you?

19          A     That he had an interest in helping who had  
20 not had an opportunity in this area in the past and  
21 that -- I had actually approached him, I think I  
22 overheard him talking to someone else about the fact he  
23 was involved in radio stations and I've always been  
24 involved in them. So I took the initiative to  
25 introduce myself to him.