

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

ORIGINAL
FILE

RECEIVED

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MM Docket No. 92-6

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)
)
NORMANDY)
BROADCASTING CORP.)
)
For Renewal of License of)
Station WYLR(FM) (95.9 Mhz))
Glens Falls, New York)
)
and)
)
LAWRENCE N. BRANDT)
)
For a Construction Permit for)
a new FM Station on 95.9 Mhz)
at Glens Falls, New York)
)

File No. BRH-910129UR

File No. BPH-910430MB

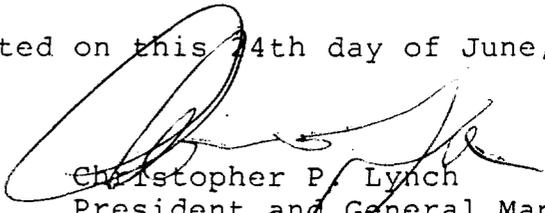
To: Administrative Law Judge
Richard L. Sippel

Reply to ORDER issued June 15, 1992

Normandy in the above captioned case:

1. Pursuant to Paragraph A, under separate cover, Normandy is happy to send by first-class mail, copies of all logs to the Mass Media Bureau and counsel for Brandt as ordered, less Monday, July 9, 1984, and Tuesday, September 17, 1985. These logs were disposed of in accordance with F.C.C. Rules 73.1840.
2. Pursuant to Paragraph B, Normandy has sent copies of additional paperwork from our Issues/Program lists to the Mass Media Bureau and counsel for Brandt, not contained in Brandt's Request for Admission of facts. This corrects his Exhibits C, G, I, J, K. We, also, included copies of additional material, (Crystal Awards et al), that were offered to Bradmark's (not Brandt's) agents and were refused. While, Brandt or his agents have yet to examine our files they are wide open and available if he thinks it would help to get to the truth of this matter.
3. Pursuant to Paragraph C, as Exhibit 1, Normandy attaches the sworn affidavit of its President Christopher P. Lynch.

Respectfully submitted on this 24th day of June, 1992,


Christopher P. Lynch
President and General Manager
Normandy Broadcasting Corporation
217 Dix Avenue
Glens Falls, NY 12801
(518) 793-4444

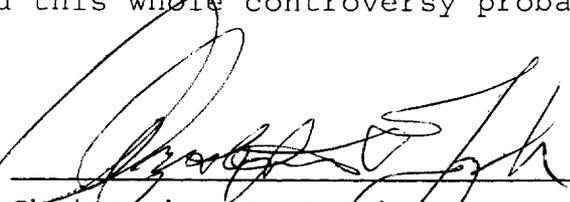
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EXHIBIT 1

AFFIDAVIT OF CHRISTOPHER P. LYNCH

Under Penalty of Perjury, I state:

1. I am Christopher P. Lynch, President and General Manager of Normandy Broadcasting Corporation and have worked in that capacity since approximately 1971.
2. I certify the lists as attached to Brandt's Request for Admission are incorrect less the additions proffered as per Paragraph 2 of my response to ORDER issued June 15, 1992.
3. With these additions, I certify that to the very best of my knowledge these are true and accurate copies of our Issues/Program lists that are on file currently, and, which, were on file as of the date Bradmark Broadcasting's agent inspected them.
4. I freely admit that these files do not comprehensively document all of WYLR's public service programming. To better learn the truth in this matter, as WYLR's programming is of fundamental importance to our anticipated renewal, I call attention to Brandt's Supplement to Petition dated March 30, where his Exhibit B offers in evidence not only a straight answer as to our Issues/Program deficiency but, also, offers no less than 30 community based efforts of WYLR (Annex 1). Further evidence can be found in our Proffer of Programming and Integration Statement as already filed in this case, as to the actual programming of WYLR in the community interest over the license period.
5. To the best of my knowledge, our discrepancies may well be explained by simple clerical errors. The major change is caused by Ms. Frasier's refusal to take the additional information offered, an integral part of our program list, already argued in our Petition to Add Abuse of Process and Related Issues Against Bradmark Broadcasting (MM Docket) Number 90-181, pages 1 through 6, Exhibit C and D), as attached (Annex 2). Had Ms. Frasier not misstated her purposes, obviously, we would have insisted she take the entire file and this whole controversy probably would not exist.



Christopher P. Lynch
President and General Manager
Normandy Broadcasting Corporation
217 Dix Avenue
Glens Falls, NY 12801
(518) 793-4444

Dated: June 25, 1992

CPL/ra

STATE OF NEW YORK
COUNTY OF WARREN

ss.:

On this 25th day of June, 1992, before me personally came Christopher P. Lynch, to me known, who being by me duly sworn, did depose and say that he resides at:

217 Dix Avenue, Glens Falls, New York 12801
that he is the President of Normandy Broadcasting Corporation, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by like order.


Notary Public

W. PATRICK BUSHMAN
Notary Public, State of New York
Warren County, No. 5170518525
My Commission Expires Nov. 30, 1993

ANNEX 1

DECLARATION

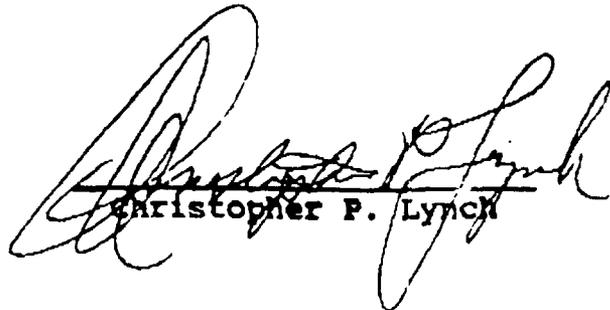
1. I am President of Normandy Broadcasting Corporation ("Normandy"), which is the licensee of Stations WWSC and WYLR(FM), Glens Falls, New York.

2. The Stations' quarterly lists of issues, some of which were attached to Bradmark Broadcasting Company's ("Bradmark's") Opposition To Threshold Showing Concerning Broadcast Record, do not purport to describe each public service activity broadcast over either Station. Rather, the lists contain representative programs, many of which are broadcast only on WWSC, which, is the dominant station with the larger listener base.

3. To assist the Presiding Judge in ruling on Bradmark's request to add an issue against Normandy, I have prepared the attached list of broadcasts which WYLR has aired. Even this list contains only a representative sample of that Station's public service programming.

4. Under penalty of perjury, I declare the foregoing to be true and correct.

Dated: July 13, 1990



Christopher P. Lynch

AUGUST: THE MOSCOW MUSIC PEACE FESTIVAL

WYLR SIMULCAST THIS CONCERT EVENT WITH HARRON CABLE ON AUGUST 13th. PROCEEDS OF PLEDGES MADE DURING THE CONCERT WENT TO "THE MAKE A DIFFERENCE FOUNDATION"...A NON-PROFIT ORGANIZATION THAT FIGHTS DRUG AND ALCOHOL ABUSE.

OCTOBER: HOMETOWN USA ADOPTS A TOWN

WYLR PROVIDED PROMOTIONAL SUPPORT FOR THIS LOCAL PROGRAM IN THE FORM OF PSA'S, AND LIVE REMOTE BROADCASTS FROM BENEFIT FUNDRAISERS IN THE AREA. IN ADDITION, WYLR WAS A DROP-OFF POINT FOR FOOD AND CLOTHING TO BE SHIPPED TO MANNING, SOUTH CAROLINA: A COMMUNITY RAVAGED BY HURRICANE HUGO.

OCTOBER-DECEMBER: THE HOLIDAY HOPE CHEST

WYLR AGAIN COORDINATED THE HOLIDAY HOPE CHEST FOR OPERATION SANTA CLAUS. WE SERVE AS THE RECRUITMENT COORDINATOR FOR LOCAL SCHOOL PARTICIPATION, AND AS A PROMOTIONAL VEHICLE FOR EACH OF THE SCHOOL'S FUNDRAISING EVENTS: WHICH BENEFIT UNDERPRIVELEGED CHILDREN IN OUR REGION DURING THE CHRISTMAS SEASON. WYLR'S COMMITMENT TO THIS PROGRAM INCLUDED: A 12 WEEK PROMOTIONAL CAMPAIGN...WYLR MANAGEMENT MAKING PRESENTATIONS OF PROGRAM TO MEMBERS OF ALL LOCAL SCHOOL DISTRICTS...AND LIVE BROADCASTS FROM FUNDRAISING EVENTS. THIS PROGRAM CULMIATED ON DECEMBER 1st, WITH \$13,437.47 RAISED FOR OPERATION SANTA CLAUS.

NOVEMBER-DECEMBER: THE VOLLEYBALL CLASSIC FOR EASTER SEALS

WYLR SERVED AS THE RECRUITMENT COORDINATOR FOR PARTICIPANTS IN THE VOLLEYBALL CLASSIC. OUR PROGRAM INCLUDED 2 MONTHS OF PROMOTIONAL ANNOUNCEMENTS AND PSA'S TO RECRUIT TEAMS FOR THIS BENEFIT. ~~OVER \$10,000~~ WAS RAISED DURING THE VOLLEYBALL MARATHON: JANUARY 6th & 7th 1990 AT ADIRONDACK COMMUNITY COLLEGE. 42 TEAMS

NOVEMBER: THE FT EDWARD CHRISTMAS DECORATION FUND DRIVE

WYLR AIRED A SERIES OF PSA'S AND PROMOTIONAL ANNOUNCEMENTS FOR UPCOMING FUNDRAISING EVENTS FOR THE VILLAGE OF FORT EDWARD'S CHRISTMAS DECORATION DRIVE ~~OCTOBER~~ 2nd thru 26th. ON ~~OCTOBER~~ 6th ^{NOVEMBER 26} A FOUR-HOUR REMOTE BROADCAST WAS HELD FROM THE VILLAGE'S STREET DANCE FUNDRAISER.

0,843.89

=PUBLIC ISSUES AND PROGRAMS CONTINUED

1989

APRIL: JOB DISCOVERY 89

FIFTY FIRMS OFFERED SEMINARS AND JOB OPPORUNITIES TO OVER 1900 ATTENDEES, APRIL 25th, 1989 AT ADIRONDACK COMMUNITY COLLEGE. WYLR AIRED A 3 WEEK PSA CAMPAIGN AND AN 8 HOUR REMOTE DURING THE EVENT. CO-SPONSORED BY WYLR & WWSC.

APRIL: GUEST DJ'S

DURING THIS FOUR WEEK CAMPAIGN, WYLR WELCOMED OUTSTANDING LOCAL HIGH SCHOOL JUNIORS AND SENIORS INTO THE STUDIOS FOR A ONE-HOUR "GUEST DJ" SHIFT. PARTICIPANTS INCLUDED MEMBERS OF LOCAL SADD (STUDENTS AGAINST DRUNK DRIVING) CHAPTERS, WHO DISCUSSED THE SADD EVENTS TAKING PLACE AT THEIR SCHOOL. THIS EVENT WAS PART OF THE "SCHOLAR APPRECIATION WEEK" PROGRAM, SPONSORED IN PART BY THE ADIRONDACK REGIONAL CHAMBER OF COMMERCE.

MAY-JUNE: THE SOFTBALL MARATHON FOR EASTER SEALS

WYLR SERVED AS RECRUITMENT COORDINATOR FOR THIS EVENT, AND AIRED A 6 WEEK PSA CAMPAIGN TO RECRUIT TEAMS TO PLAY IN THE MARATHON. 25 TEAMS RAISED OVER \$5,000 FOR THE NEW YORK STATE EASTER SEALS SOCIETY.

JUNE: THE NON-ALCOHOLIC GRADUATION PARTY

THIS PROGRAM WAS AIRED TO GIVE GRADUATES AN ALTERNATIVE TO THE USUAL GRADUATION PARTY ATMOSPHERE, WHICH OFTEN INCLUDES ALCOHOL. WYLR AIRED A 3 WEEK SERIES OF PSA'S IN CONJUNCTION WITH NAB'S "OPERATION PROM/GRADUATION" CAMPAIGN, AND HELD "THE NON-ALCOHOLIC GRADUATION PARTY": JUNE 16th AT NITELIFE, A NON-ALCOHOLIC DANCE CLUB IN LAKE GEORGE. FREE ADMISSION, COMPLIMENTARY FOOD AND SOFT DRINKS WERE PROVIDED TO GRADUATING HIGH SCHOOL SENIORS. A 3 HOUR REMOTE BROADCAST ADDRESSING THE DANGERS OF DRINKING AND DRIVING WAS ALSO HELD DURING THE EVENT.

JULY-AUGUST: THE ADIRONDACK 100

AN EIGHT WEEK PROMOTIONAL CAMPAIGN COORDINATED THE RECURITMENT OF RIDERS TO PARTICPATE IN THIS EVENT, WHICH RAISED MONEY FOR MULTIPLE SCLEROSIS. 165 CYCLISTS RAISED OVER \$12,000 FOR M.S.

=PUBLIC ISSUES AND PROGRAMS

1988:

OCTOBER-DECEMBER: THE HOLIDAY HOPE CHEST

PROMOTIONAL CAMPAIGN TO RAISE FUNDS FOR THE UNDERPRIVLEDGED CHILDREN IN THE COMMUNITY DURING THE CHRISTMAS SEASON, WITH "OPERATION SANTA CLAUS", AND LOCAL HIGH SCHOOLS. Y96FM WAS THE SOLE SPONSOR OF THIS EVENT, AND COORDINATED THE FUND RAISING DRIVE. PROMOS AND PSA'S RAN 10/1-11/30/88. TOTAL RAISED: \$9347.90

OCTOBER 88-JANUARY 89: THE VOLLEYBALL MARATHON FOR EASTER SEALS

A 3 MONTH PROMOTIONAL CAMPAIGN TO RECRUIT PARTICIPANTS FOR THE VOLLEYBALL MARATHON, JANUARY 7 & 8 1989 AT ADIRONDACK COMMUNITY COLLEGE. TOTAL RAISED: \$9,648.07

NOVEMBER 88: THE THANKSGIVING TURKEY GIVEAWAY

AS PART OF AN ON-AIR PROMOTION WYLR DONATED 13 TURKEYS TO THE SALVATION ARMY OF GLENS FALLS, WHO DISTRIBUTED THE TURKEYS TO LOCAL FOOD BASKET PROGRAMS FOR THE THANKSGIVING HOLIDAY.

DECEMBER 88: THE ANGELA WILLIAMS BENEFIT

A 2 WEEK PROMOTIONAL CAMPAIGN, AND 3 HOUR REMOTE BROADCAST WAS AIRED FOR A BENEFIT CONCERT AT THE GROUND ROUND IN THE AVIATION MALL. MONEY RAISED AT THIS BENEFIT THRU SPECIAL WINE AND BEER CONCESSIONS WENT TO ANGELA WILLIAMS: A 10 YEAR OLD GLENS FALLS NATIVE WHO WAS UNDERGOING TREATMENTS FOR CURVITURE OF THE SPINE.

DECEMBER 88: THE MILLER CHRISTMAS WREATHE PROGRAM FOR CP

A THREE WEEK PROMOTIONAL AND PSA CAMPAIGN ALERTED LISTENERS TO THE PROGRAM. MILLER BEER, AND IT'S LOCAL DISTRIBUTOR MADE WREATHES AVAILABLE FOR PURCHASE. MONEY RAISED FROM THE SALE OF THESE WREATHES WAS DIVIDED BETWEEN THE NATIONAL CEBREBRAL PALSY FUND, AND OUR LOCAL CENTER FOR THE DEVELOPMENTALLY DISABLED IN GLENS FALLS.

AUGUST 1986...THE SOFTBALL MARATHON FOR EASTER SEALS.

WYLR HAS BEEN THE SOLE MEDIA OUTLET AND CO=SPONSOR FOR THIS ANNUAL EVENT SINCE 1982. OVER \$4,700 WAS RAISED IN THIS YEAR'S EVENT. AS WELL AS FOUR WEEKS OF PSAs, WYLR FIELDDED A TEAM IN THE EVENT.

MARCH 1987...THE VOLLEYBALL MARATHON FOR EASTER SEALS.

WYLR HAS BEEN THE SOLE MEDIA OUTLET AND CO=SPONSOR OF THIS ANNUAL EVENT SINCE 1985. OVER \$6000 WAS RAISED IN THIS YEAR'S EVENT. AS WELL AS FOUR WEEKS OF PSAs AND PROMOS, WYLR FIELDDED A TEAM IN THE EVENT.

JULY 1987...THE SOFTBALL MARATHON FOR EASTER SEALS.

WYLR HAS BEEN THE SOLE MEDIA OUTLET AND CO=SPONSOR OF THIS ANNUAL EVENT SINCE 1982. OVER \$5,000 WAS RAISED IN THIS YEAR'S EVENT. AS WELL AS FOUR WEEKS OF PSAs AND PROMOS, WYLR FIELDDED A TEAM IN THE EVENT.

M A R C H 1988...THE VOLLYBALL MARATHON FOR EASTER SEALS.

WYLR HAS BEEN THE SOLE MEDIA OUTLET AND CO=SPONSOR OF THIS ANNUAL EVENT SINCE 1985. OVER \$6000 WAS RAISED IN THIS YEAR'S EVENT. AS WELL AS FOUR WEEKS OF PSAs AND PROMOS, WYLR FIELDDED A TEAM IN THE EVENT.

JUNE 1988...THE EASTER SEALS "WING DING"!

WYLR WAS THE SOLE MEDIA OUTLET AND CO=SPONSOR OF THIS EVENT. AREA RESTURANTS WERE RECRUITED TO CHALLENGE OTHER RESTURANTS TO SEE WHO HAD THE BEST CHICKEN WINGS. OVER \$1000 WAS RAISED. WYLR BROADCAST FROM THE EVENT.

JULY - AUGUST 1987...THE ADIRONDACK CENTURY BIKE RUN FOR MULTIPLE SCLEROSIS.

1987 WAS THE INITIAL YEAR OF THE "ADIRONDACK CENTURY". WYLR SPENT SEVEN WEEK PROMOTING THE EVENT WITH PSAs AND GUEST APPEARANCES BY MEMBERS OF THE LOCAL MS CHAPTER (ALBANY) AND THE "ADIRONDACK SPOKES" BICYCLE CLUB. A FREE REMOTE BROADCAST WAS DONE ON THE DAY OF THE EVENT. OVER \$15,845 WAS RAISED. A LETTER FROM PAUL BARTOSZEWICZ IS AVAILABLE FOR INSPECTION.

JULY = AUGUST 1988...THE ADIRONDACK CENTURY BIKE RUN FOR MULTIPLE SCLEROSIS.

IN 1988, WE DUPLICATED THE SUCCESS OF THE 1987 BIKE RUN WITH THE SAME CAMPAIGN.

OCTOBER = NOVEMBER 1987...THE Y=96 FM/OPERATION SANTA CLAUS HOP CHEST CHALLENGE.

1987 WAS THE FIRST YEAR OF THIS CO=OPERATIVE EFFORT BETWEEN WYLR AND AREA SCHOOLS TO RAISE FUNDS FOR LOCAL NEEDY FAMILIES. THIS "KIDS HELPING KIDS" PROJECT RAISED \$6136.67 FOR OPERATION SANTA CLAUS. THE OVERALL EVENT WAS PROMOTED HEAVILY FOR SIX WEEKS, AS WELL AS INDIVIDUAL SCHOOL FUNDRAISING EVENTS DURING THE PERIOD. A REMOTE WAS HELD ON THE FINAL COLLECTION DAY.

JANUARY 1983, 1984, 1985, 1986, 1987...WINTER FUN DAY.

WYLR WAS THE SOLE MEDIA OUTLET AND CO=SPONSOR OF THE GLENS FALLS PTA WINTER FUN DAYS DURING THE MID 1980s. THE EVENTS WERE HELD IN CRANDALL PARK IN GLENS FALLS, AND CONSISTED OF SUCH EVENTS AS CROSS COUNTRY SKIING, ICE SKATING, BROOM BALL, YOUTH HOCKEY, HORSEBACK RIDES, HOT AIR BALLOON RIDES, ECT. WYLR WAS INVOLVED IN THE PRE=EVENT PLANNING OF THESE ANNUAL DAYS, AND BROADCAST FROM THE EVENTS.

FEBRUARY 1986...LAKE GEORGE WINTER CARNIVAL.

WYLR, USED IT'S MOBILE BROADCAST FACILITIES TO BROADCAST EVENTS, SCHEDULE CHANGES, AND TRAFFIC INFORMATION FROM THE LAKE GEORGE WINTER CARNIVAL, AND ANNUAL EVENT OF THE LAKE GEORGE CHAMBER OF COMMERCE. ON THE FINAL WEEKEND, WYLR SPONSORED A MASS "POLAR BEAR SWIM" WITH OUR STAFF ACTING AS GUIDES.

FEBRUARY 1987...LAKE GEORGE WINTER CARNIVAL.

WYLR USED IT'S MOBILE BROADCAST FACILITIES TO ASSIST LOCAL AUTHORITIES WITH TRAFFIC AND SCHEDULE UPDATES.

AUGUST 1989...THE SOFTBALL MARATHON FOR EASTER SEALS.

ANNEX 2

Bradmark

EP

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

In re Applications of)	MM DOCKET NO. 90-181
)	
FAYE M. BRENNAN, <u>et al.</u>)	
)	
For Construction Permit for a)	
New FM Station on Channel 289B1)	
in Queensbury, New York)	

To: Hon. Edward J. Kuhlmann
Administrative Law Judge

PETITION TO ADD ABUSE OF PROCESS AND RELATED ISSUES
AGAINST
BRADMARK BROADCASTING COMPANY

Normandy Broadcasting Corporation ("Normandy"), by its attorneys, pursuant to Section 1.229 (b) and (c) of the Commission's Rules, petitions the Presiding Judge to enlarge the issues in this proceeding by adding fraud and deceit and abuse of process issues against Bradmark Broadcasting Company ("Bradmark") in the form set out below. In support hereof, Normandy shows as follows:

I.

Preliminary Statement

A.

Timeliness

1. This Petition post-dates June 14, 1990, the due date for the filing of petitions to modify the issues under

09-1-104

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Section 1.229(a) of the Commission's Rules. However, this Petition is based on a pattern of knowing deception by Bradmark most recently evidenced by a pleading it filed on July 27, 1990. That is, even though Normandy put Bradmark on notice, in its Opposition To Petition To Enlarge Issues, dated July 13, 1990, that Bradmark's attacks against Normandy were unfounded, Bradmark nevertheless filed its Reply, which carries forward Bradmark's pattern of misbehavior. The instant pleading is filed within 15 days of Bradmark's filing of its Reply, and therefore should be deemed timely under Section 1.229(b) of the Commission's Rules. 47 C.F.R. §1.229(b). Moreover, the allegations contained herein are likely to be of decisional import in that

- (a) Bradmark lied to gain access to Normandy's quarterly programming lists;
- (b) Bradmark refused to take the complete copies of those lists offered by Normandy; and
- (c) on the basis of the incomplete lists, Bradmark knowingly distorted Normandy's programming record to the Commission.

The Petition therefore should be considered on its merits. 47 C.F.R. §1.229(c); Edgefield-Saluda Broadcasting Co., 5 FCC2d 148, 8 RR2d 611 (1966). See also Shirley Marchant, 66 RR2d 1537 (Rev. Bd. 1989).

B.

Requested Issues

2. The following disqualifying issues should be added:

- (a) To determine whether Bradmark Broadcasting Company has engaged in fraud and deceit and/or has lacked candor in making representations to the Commission in this proceeding;
- (b) To determine whether Bradmark Broadcasting Company has abused the Commission's processes by engaging in conduct intended to impede, frustrate, or obstruct the prosecution of competing applications in this proceeding;
- (c) To determine in the light of the evidence adduced under the foregoing issues whether Bradmark Broadcasting Company is qualified to receive a grant herein.

II.

Statement Of The Case

A.

Overview

3. Bradmark used deceit to gain access to the quarterly lists of issues upon which it based its Opposition To Threshold Showing Concerning Broadcast Record, dated June 28, 1990, and its Petition To Enlarge, also dated June 18, 1990 ("Programming Issue Petition"). Bradmark's agent then refused Normandy's offer to supply her with a complete set of materials which would have set the facts straight but

which also would have undermined Bradmark's case against Normandy. Bradmark knew or should have known that the information upon which it was relying was incomplete yet it proceeded to make baseless allegations against Normandy's programming record. In Subsection II (B) and Section III, below, Normandy will show not only that Bradmark carried forward with "tainted" evidence but also that its deliberate decision to do so casts doubt on its qualifications to be a Commission licensee.

B.

Facts

(i)

Bradmark Gained Access to Normandy's
Quarterly Programming Lists By Fraud

4. By Bradmark's own admission, it enlisted the aid of one Sherrae Frasier to obtain copies of Normandy's quarterly lists of issues. (See Declaration of Sherrae Frasier originally attached to Bradmark's Opposition and attached hereto as Exhibit A). When Ms. Frasier visited Normandy's offices, on the morning of June 22, 1990, she told Normandy's receptionist, Jessica Bennett, that she was doing research for her sister's school report and, to this end, she needed to see the quarterly lists of issues for WWSW and WYLR(FM). (See Declaration of Jessica Bennett, attached as Exhibit B.) In fact, Ms. Frasier was an agent for Bradmark.

(ii)

Bradmark's Agent Refused
Normandy's Offer To Provide
Complete Quarterly Lists

5. According to Ms. Bennett (Exhibit B, pars. 3-5):

"At Ms. Frasier's request, I photocopied the 1987, 1988 and 1989 lists of issues for her. I then asked her if it would be possible for her to return to the Stations that afternoon, at which time I would have for her the remainder of the lists. Those lists had been in non-typed form when Ms. Frasier visited the Stations and I was in the process of transcribing them into typed form when she arrived.

When Ms. Frasier returned, I gave her a copy of the typed version of the 1990 list. I then explained that Normandy had in its public file, as part of its lists of issues, certain additional material which I offered to make available to Ms. Frasier or to her sister... .

I explained to Ms. Frasier that these additional materials presented our programming in much more detail than did our issues lists. Ms. Frasier refused my offer, ..."

Ms. Frasier's recollection is corroborated by the declarations (Exhibits C and D, respectively) of Betty Trombley, Normandy's Chief Bookkeeper and Frank Shoupe, Normandy's Chief Engineer. In short, Ms. Frasier knew there was additional material available to her which was reflective of Normandy's programming and she refused to take it to her principal, Donald Heckman. This additional materials (attached hereto as Exhibit E) consisted of Normandy's applications for the National Association of

Broadcasters' Crystal Award, for which Normandy has been chosen as a finalist in each of the past three years including 1989, the year which Bradmark claims Normandy broadcast no public affairs programming on WYLR(FM). (The honor of being chosen as a finalist is bestowed on only 50 radio stations in the country.)¹

(iii)

Based On Incomplete Quarterly Lists
Bradmark Has Made Disparaging
And Inaccurate Remarks About
Normandy's Programming Record

6. Based on what it knew (or should have known) to be partial lists of programming, Bradmark claimed that Normandy's FM station had broadcast virtually no programming concerning issues of importance since at least January 1, 1987 (Programming Issue Petition, pp. 4-5; Reply, p.5). As Normandy demonstrated in its July 13, 1990 Opposition To Petition To Enlarge Issues, Normandy has indeed broadcast issue-responsive programming over WYLR(FM) in keeping with the Commission's directive in Deregulation of Radio, 84 FCC2d 968, 49 RR2d 1 (1981) (par. 26). In short, Bradmark intentionally distorted the facts and cited incomplete evidence to bolster its preconceived notion of what it wanted the facts to prove.

¹ WWSC and WYLR(FM) were both nominated in 1989, while WWSC was nominated in 1988 and 1990.

DECLARATION

I, BETTY E. TROMBLEY, declare:

1. I am the Chief Bookkeeper for Normandy Broadcasting Corporation, licensee of Stations WWSC/WYLR (FM), Glens Falls, New York.

2. On June 22, 1990, I entered the reception area of the Stations and found that there was a female going through the public file. I waited for Jessica Bennett, receptionist, to return and she told me the woman was a Sherrae Frasier and she was getting materials for her sister's school paper. It was very busy that day and Jessica was trying to answer the phones and make copies of the public file for Ms. Frasier. I suggested to Ms. Frasier and Jessica that perhaps, if it wouldn't be a great inconvenience, Ms. Frasier could stop back about 4 P.M. to pick up the lists that had not yet been photocopied. Ms. Frasier agreed that this arrangement would be fine.

3. When Ms. Frasier returned later that afternoon, I went back to the reception area to see if I could be of any assistance. As I remember, Jessica was telling Ms. Frasier that there was more material relating to the Stations' programming. Jessica asked Ms. Frasier whether she want Jessica to copy that

material for her. Ms. Frasier said that it would not be necessary, and that she had obtained enough information.

Dated: August 3, 1990

Betty E. Trumbley
Betty E. Trumbley

DECLARATION

I, FRANCIS C. SHOUBE, JR., declare:

1. I am the Chief Engineer for Normandy Broadcasting Corporation, licensee of Stations WWSC/WYLR(FM), Glens Falls, New York.

2. On the morning of June 22, 1990, I was told by Jessica Bennett, Normandy's receptionist, that someone was in the office requesting to see the WWSC and WYLR(FM) public inspection files and had requested copies of the files. Jessica told me that the person had said that she was doing research for a term paper for her sister.

3. Jessica asked me for guidelines on how to proceed. After reading Section 73.3526 of the current FCC Rules and Regulations, I told Jessica that she should get the name of the person and that we would provide machine copying at our cost. I later called Jessica and told her the cost would be 0.05¢ per page.

4. Later, I was in the front office and was present when Jessica gave the person, whom I now know is Sherrae Frasier, copies Jessica had made from the file. Jessica told Ms. Frasier there were many other items in the file and

FS

that Jessica would be able to copy them the next day. Ms. Frasier said she did not want any further documents.

5. I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 3, 1990


Francis C. Shoups

CERTIFICATE OF SERVICE

I, ROSE M. ANGELO, a secretary in the office of Normandy Broadcasting Corporation do hereby certify that a copy of the foregoing **REPLY TO ORDER ISSUED JUNE 15, 1992** has been sent via Federal Express, Next-Day Delivery prepaid this 25th day of June, 1992 to the following:

Administrative Law Judge
Richard L. Sippel
Federal Communications Commission
2000 L Street, N.W., Room 212
Washington, D.C. 20554

Paulette Laden, Esq.
Federal Communications Commission
Hearing Branch, Enforcement Division
2025 M Street, N.W., Room 7212
Washington, D.C. 20554

David Tillotson
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

Secretary of the Federal Communications Commission
1919 M Street, N.W.
Suite 222
Washington, D.C. 20554


Rose M. Angelo