

BUCKET FILE 343  
ORIGINAL

FCC MAIL SECTION Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUN 4 2 30 PM '93

FCC 93M-331  
31665

In re Applications of	)	MM DOCKET NO. 93-107 ✓
DAVID A. RINGER	)	File No. BPH-911230MA
ASF BROADCASTING CORPORATION	)	File No. BPH-911230MB
WILBURN INDUSTRIES, INC.	)	File No. BPH-911230MC
SHELLEE F. DAVIS	)	File No. BPH-911231MA
WESTERVILLE BROADCASTING COMPANY LIMITED PARTNERSHIP	)	File No. BPH-911231MB
OHIO RADIO ASSOCIATES, INC.	)	File No. BPH-911231MC
For Construction Permit for an FM Station on Channel 280A, in Westerville, Ohio	)	

MEMORANDUM OPINION AND ORDER

Issued: June 2, 1993 ; Released: June 4, 1993

1. Westerville Broadcasting Company Limited Partnership (WBC) seeks a ruling on a "Motion to Compel Production of Documents." They filed their motion on May 17, 1993, directed it at ASF Broadcasting Corporation (ASF), and want ASF to produce "all bank letters and other financing documents with the dollar amounts unexpurgated." ASF opposed WBC's motion on May 26, 1993.

2. More specifically, WBC is requesting inter alia relevant financial statements of the sources of ASF funds; i.e. the relevant financial statements of ASF principals Ardeth S. Frizzell and Thomas J. Beauvais.

3. ASF argues that WBC ". . . is merely seeking to obtain material which may permit it to file a motion to enlarge the issues. That is beyond the proper scope of discovery. It is a fishing expedition."

Ruling

4. WBC's motion to compel will be granted. They seek documents that appear reasonably calculated to lead to the discovery of admissible evidence. The time honored "fishing expedition" cry is no longer valid, because mutual knowledge of all the relevant facts gathered by all the parties is essential to proper litigation.

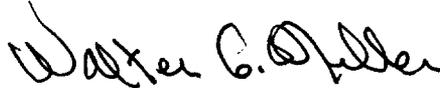
5. To that end, any party may compel his opponent(s) to disgorge whatever facts they have in their possession. The document/deposition discovery procedure simply advances the stage at which the disclosure can be compelled from the time of trial to the period preceding it. This reduces the possibility of surprise.

6. Stated another way, the philosophy underlying the Commission's streamlined hearing procedures remains in tact. The parties must do anything necessary to make the trial a search for the truth, not a game of hide-and-seek.

SO the "Motion to Compel Production of Documents" that Westerville Broadcasting Company Limited Partnership filed on May 17, 1993, and directed at ASF Broadcasting Corporation (ASF) IS GRANTED; and

ASF WILL MAKE the pertinent documents available for inspection and copying at the law offices of Reddy, Begley and Martin, 1001 22nd Street, N.W., Suite 350, Washington, D.C., 20037 within 5 days of the release of this order.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Walter C. Miller". The signature is written in a cursive style with a large initial 'W'.

Walter C. Miller  
Administrative Law Judge