

OCT 25 1993

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

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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
	)	
OHIO RADIO ASSOCIATES, INC.	)	File No. BPH-911231MC
	)	
For a Construction Permit for	)	
a New FM Station on Channel	)	
280A at Westerville, Ohio	)	

To: Honorable Walter C. Miller  
Administrative Law Judge

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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## SUMMARY

This case involves five mutually-exclusive applications for a new FM station at Westerville, Ohio. Of the five applicants, David Ringer was the only applicant to demonstrate that he deserves an award of 100% full-time integration credit. For this reason, his application should prevail.

The application of ASF Broadcasting Corporation should be denied because it has failed to show that its two-tiered ownership structure is *bona fide*. The fact that ASF's enabling documents failed to contain important insulation provisions and the evidence of how ASF's two principals came together, demonstrate that ASF's purported two-tier structure is not believable.

Neither Shellee Davis nor Wilburn Industries, Inc. have shown that the full-time integration proposals they have set forth are believable or realistic. Shellee Davis' credibility became an issue at hearing when she displayed a pattern of evasive and candorless testimony. Given this fact as well as, the rest of the hearing record, it would be impossible to believe her claim that she will sell or close her successful copier supply company in order to fulfill her integration pledge. Similarly, Charles Wilburn's claim that he will walk away from his life-long law practice in order to be fully-integrated in the new station runs contrary to the record evidence in this case.

Since ORA did not propose any integration for its principal and since Mr. Ringer was the only applicant to survive with 100% integration, his application was the clear quantitative winner.

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To: Honorable Walter C. Miller  
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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**I. APPEARANCES**

Arthur V. Belendiuk, Esq. and Shaun A. Maher, Esq. on behalf of David A. Ringer; James A. Koerner, Esq. on behalf of ASF Broadcasting Corporation; Eric C. Kravetz, Esq. on behalf of Wilburn Industries, Inc.; Dan J. Alpert, Esq. on behalf of Shellee F. Davis; John Hunter, Esq. and Stephen T. Yelverton, Esq. on behalf of Ohio Radio Associates, Inc.; James Shook, Esq. on behalf of Mass Media Bureau.

**II. PRELIMINARY STATEMENT**

1. This proceeding involves the mutually exclusive applications of David A. Ringer ("Ringer"), ASF Broadcasting Corporation ("ASF"), Wilburn Industries, Inc. ("Wilburn"), Shellee F. Davis ("Davis"), and Ohio Radio Associates, Inc. ("ORA") for authority to construct and operate a new FM

commercial radio station on Channel 280A in Westerville, Ohio.<sup>1</sup>

2. By an Order released April 15, 1993, the Commission designated these applications for hearing. See Hearing Designation Order, DA 93-423 ("HDO"). The HDO specified the following issues:

(a) To determine whether there is a reasonable possibility that the tower height and location of proposed by WBC would constitute a hazard to air navigation.<sup>2</sup>

(b) To determine which of the proposals would, on a comparative basis, best serve the public interest.

(c) To determine, in light of the evidence adduced pursuant to the specified issues, which of the applicants should be granted, if any.

3. Issues "b" and "c" were resolved at a comparative hearing held on August 31, 1993.

### III. FINDINGS OF FACT

#### A. DAVID A. RINGER

##### 1. Ownership Structure

4. "David A. Ringer is an individual applicant."

Ringer Ex. 1, p. 1 (all Exhibits herein cited as "Applicant Ex. #, p. #").

---

<sup>1</sup> The application of Kyong Ja Matchak was dismissed for failure to prosecute. See Memorandum Opinion and Order, FCC 93M-324, released June 3, 1993. The application of Westerville Broadcasting Company Limited Partnership ("WBC") was voluntarily dismissed. See Memorandum Opinion and Order, FCC 93M-510, released August 9, 1993.

<sup>2</sup> WBC filed a Motion For Summary Decision which was granted by the Presiding Judge and this issue was resolved in its favor. See Memorandum Opinion and Order, FCC 93M-275, released May 18, 1993.

**2. Integration**

5. "In the event of a grant of his application, David A. Ringer will participate in the management of the proposed facility at Westerville, Ohio. Mr. Ringer will terminate all other employment, relocate to Westerville, Ohio and serve as General Manager of the station on a full-time basis (40 hours or more per week). His duties will include overall responsibility for sales, personnel and implementation of the Station's EEO program." Ringer Ex. 2, p. 1.

6. From April, 1992 to present, Mr. Ringer's has resided at 417 West Sixth Avenue, Columbus, Ohio, an address within the proposed station's service area. Ringer Ex. 2, p. 1.

7. Mr. Ringer was involved in the following civic activities within the service area of the proposed station:

<u>Dates</u>	<u>Activities - Locations</u>
1986, 1987	Volunteer for Salvation Army Christmas Drives - Columbus, Ohio
1987 - 1991	Volunteer for Toys for Tots Program
8/91	Fundraiser, organizer and volunteer for Children's Hospital - Columbus, Ohio

Ringer Ex. 2, pp. 1-2.

8. Mr. Ringer has the following past broadcast experience:

<u>Dates</u>	<u>Stations - Locations - Positions</u>
1961 - 1962	WMUB(FM)

Miami University - Oxford, Ohio  
News Reporter

1969 - 1972

WLNO(FM)  
London, Ohio  
Afternoon and weekend program  
director

1990 - present

WYBZ(FM)  
Crooksville, Ohio  
Secretary, Treasurer and Director

Ringer Ex. 2, p. 2.

9. "David A. Ringer will install auxiliary power generators at both the studio and transmitter locations."

Ringer Ex. 3, p. 1.

3. Diversification

10. "David A. Ringer is currently Treasurer, Secretary and Director of WYBZ(FM), Crooksville, Ohio." Ringer Ex. 4, p. 1. Mr. Ringer is a 25 percent owner in WYBZ(FM).

Hearing Transcript (herein cited as "Tr. #") at p. 137. He acquired this interest in February, 1991. Id. In the event of a grant of his Westerville application, Mr. Ringer, prior to the date the Westerville station begins operation under Program Test Authority, will sell his interest, terminate his employment and any connection he may have with WYBZ(FM) or any other media interest he may acquire." Ringer Ex. 4, p. 1. Mr. Ringer is presently in the process of selling his interest in WYBZ(FM). Tr. 146. The other owners of the station have indicated to Mr. Ringer that they would buy his interest. Id. At present, one of the owners, David Winner, is going to buy Mr. Ringer's share of the station. Id.

**B. ASF BROADCASTING CORPORATION**

**1. Ownership Structure**

11. "ASF Broadcasting Corporation is a corporation organized under the laws of the State of Ohio. A total of one thousand (1000) shares are authorized. Two hundred fifty (250) shares are voting shares, and are owned by Ardeth S. Frizzell. Seven hundred fifty (750) shares are non-voting shares, and are owned by Thomas J. Beauvais. Ardeth Frizzell is President, Secretary and the sole Director of the corporation." ASF Ex. 1, p. 1. Ms. Frizzell's contributions to the corporation shall total \$12,000 and Mr. Beauvais' shall total \$196,000. Tr. 188.

12. While Ms. Frizzell testified that she would not hire Mr. Beauvais, there is no provision in ASF's Shareholders Agreement that would bar him from being an employee, independent contractor, or agent of the Westerville station. Tr. 206; see also Wilburn Ex. 3. There is no provision in the Shareholders Agreement that would bar Mr. Beauvais from transacting business in the name of ASF. Tr. 207; see also Wilburn Ex. 3. Finally, there is no provision in the Shareholders Agreement that would bar Mr. Beauvais from communicating with Ms. Frizzell on the day-to-day activities of the stations. Wilburn Ex. 3.

13. When she was considering whether to file an application for Westerville, Ms. Frizzell approached her former employee, Joann Adams, for information. Tr. 178. Ms. Frizzell told Ms. Adams that she "needed someone

financially to help me." Tr. 178. Ms. Adams recommended Mr. Beauvais. Tr. 178-179. Ms. Adams and Mr. Beauvais were partners in a filing for a new FM station at Delaware, Ohio. The Adams/Beauvais applicant was originally awarded the license but later settled and sold the station during the appeal process due to Ms. Adams' failing health. Tr. 180.

14. The ASF Shareholders Agreement that Ms. Frizzell and Mr. Beauvais executed was similar to one that Mr. Beauvais had used with Ms. Adams in the Adams/Beauvais Delaware, Ohio filing. Tr. 193-195. None of the material terms of the Agreement were changed for the Westerville filing, with the exception of the equity split between the two principals. Tr. 195. Prior to executing the Shareholders Agreement, Ms. Frizzell met with Mr. Beauvais only one time on December 13, 1991. Tr. 191-192. This meeting lasted approximately an hour. Tr. 193.

15. At that one and only meeting, Ms. Frizzell never discussed in any depth her prior broadcast experience with Mr. Beauvais. Tr. 230. Mr. Frizzell did not discuss Mr. Beauvais' broadcast or business backgrounds prior to filing. Tr. 231. Prior to filing the ASF application, Ms. Frizzell did not provide Mr. Beauvais a copy of her personal financial balance sheet or a copy of ASF's budget. Tr. 199 & 231. Ms. Frizzell testified that she could not remember when she was made aware of Mr. Beauvais' other broadcast interests. Tr. 233. When pressed further on the subject,

Ms. Frizzell testified: "I think I learned of all this (Mr. Beauvais' interests) when this (ASF's Direct Case Exhibit) was composed in '93. I didn't know all his holdings when I asked him for the, the money, to be my partner." Tr. 233. Ms. Frizzell signed ASF's application, which included as Exhibit 2, a list of Mr. Beauvais' broadcast interests. Tr. 235-237. Despite this fact, at hearing, Ms. Frizzell was generally unfamiliar with Mr. Beauvais' other broadcast interests. Tr. 175-176.

16. The sum total of Ms. Frizzell's contributions for the Westerville project will amount to only \$12,000. Wilburn Exhibit 3 and Tr. 181-183 & 186. Ms. Frizzell has made her \$12,000 contribution. Tr. 182. As for the remaining expenses of ASF's Westerville proposal, Ms. Frizzell testified at hearing that: "It's all up to Tom (Mr. Beauvais)." Tr. 187.

## **2. Integration**

17. Ardeth Frizzell intends to be General Manager of the new Westerville station, "overseeing all aspects of the station's operation, including sales, programming, personnel, business development, promotions, etc. All personnel will report to her, either directly or through intermediate supervisors. She will devote a minimum of 40 hours per week, on a daily basis, to the management of this station." ASF Ex. 3, p. 3. Any of Ms. Frizzell's "then-

existing business interest or employment will be discontinued in order to effectuate her commitment." Id.

18. Ms. Frizzell has past broadcast experience. "Beginning in 1973, Ms. Frizzell began working for WCOL/WXGT radio. From 1973 to 1976, she was a market research assistant, collecting, compiling and preparing research information for sales presentations. From 1976 to 1978, as promotion assistant, she was responsible for details and follow-through on various promotions of the station, including paperwork and control of station-sponsored contests and prize inventory. In this capacity, she attended all outside promotions." ASF Ex. 3, p. 1.

19. "Beginning in 1978 until 1982, Ms. Frizzell was assistant bookkeeper at the station, working with trial and balance sheets, posting to invoices, working with accounts receivable and monthly billings. From 1982 until 1985, she was computer coordinator/traffic assistant at the station. Her main duty was to oversee computer operations, including scheduling of worktime between traffic and accounting departments, maintaining the computer system, entering data, scheduling commercials, and providing invoices for billing." ASF Ex. 3, pp. 1-2.

20. "From 1985 to December 31, 1991, Ms. Frizzell was employed at Station WBBY, Westerville, Ohio. She began as traffic manager and bookkeeping, responsible for accounts receivable and payables. In 1986, she was promoted to

business manager, and worked with the sales staff to maintain accounts and new business development. In 1990, she was promoted to General Manager, supervising a staff of 25 full and part-time employees. She was responsible for virtually all day-to-day operations of the station." ASF Ex. 3, p. 2.

21. "Since February 1992, Ms. Frizzell has been business and traffic manager at Station WCKX-FM, London, Ohio." Id.

22. While General Manager of WBBY, Ms. Frizzell "participated in drives to collect shoes for the homeless in 1990 and 1991, and helped to raise funds for TV Discovery Playground and for Children's Hospital." Id.

### 3. Diversification

22. "Ardeth S. Frizzell has no ownership interest in any mass communications medium." ASF Ex. 2, p. 1. "Thomas J. Beauvais is 50% owner of The Patten Corporation, an advertising agency in Southfield, Michigan. P&G Media Corporation, a wholly-owned subsidiary of The Patten Corporation is licensee of WBTZ, Pincomming, Michigan. The Patten Corporation has a one-half equity interest, in the form of non-voting stock, in Stanton Broadcasting Corporation, permittee of a new FM station at Trussville, Alabama. He is also 50% owner of GT Leasing, Incorporated, which has an 80% ownership interest in WFGR, Grand Rapids, Michigan." Id.

C. SHELLEE F. DAVIS

1. Ownership Structure

23. "Shellee F. Davis is an individual applicant, and consequently will own 100% of her proposed station." Davis Ex. 1, p. 1.

2. Integration

24. Davis' Direct Case Exhibit states:

"When Shellee Davis' application is granted, Shellee Davis will serve full-time as General Manager of the station and will work full-time, a minimum of 40 hours per week in that capacity. She will terminate all other paid employment and will sell her existing business in order to effectuate that commitment. As General Manager, Ms. Davis' duties will include overseeing and assuming ultimate responsibility for the day-to-day activities at the station, including sales, on-air, and general office departments. She will be responsible for overseeing on-air logs and traffic, sales to agency and local accounts, the hiring of sales and office staff, and managing the Public File, the Equal Employment Opportunity Program, and the commercial production undertaken by the station."

Davis Ex. 1, p. 1.

25. In order to effectuate her full-time integration pledge, Ms. Davis states that she "will terminate all other paid employment and will sell her existing business in order to effectuate that commitment." Id. Ms. Davis testified that she is 100% owner of Britt Business Systems, Incorporated. Tr. 376. Britt is an office equipment lease dealer for Xerox and Panasonic. Tr. 377. Britt's client list includes Anheuser-Busch, AT&T, Ohio State University, American Electric Power Company, the State of Ohio, the law

firm of Baker and Hostetler and others. Tr. 419. Britt was voted the number one dealer in the Midwest. Tr. 420.

26. At one point in the proceeding, Ms. Davis testified that she owned 100 percent of Britt. Tr. 376. Later, she testified that her brother-in-law, Ben Davis, actually owns part of her business in Cleveland. Tr. 431. Upon questioning from the Presiding Judge, Ms. Davis acknowledged that the Cleveland office was a separate business and that she had separated from her brother-in-law. Tr. 431-432. When Ms. Davis was asked to further explain her relationship with her brother-in-law, she testified "He was not a stockholder or an officer in Britt Business Systems. He ran the Columbus or the Cleveland office." Tr. 437. Upon further questioning by the Presiding Judge as to whether Mr. Davis was her employee, Ms. Davis finally stated: "I'm sorry. Okay, yes, he was, but he wasn't a partner as --" Tr. 437. Later, Ms. Davis was confronted with conflicting information contained in one of the documents she included in her Direct Case Exhibits. Ms. Davis was shown a copy a newspaper article from Black Enterprise, May 1991 in which it was stated that her brother-in-law was her partner. Tr. 439 and Davis Ex. 1B. When asked if this was a true statement, Ms. Davis acknowledged that it was not. Tr. 439. The article also stated that Ben Davis was Britt's Vice President. Davis Ex. 1B. Ms. Davis also agreed that this was not a true

statement. Tr. 440. Finally, Ms. Davis was shown an article entitled "Small Business Awards" where Ben Davis was again referred to as her partner. Tr. 440 and Davis Ex. 1E. Ms. Davis again admitted that this was not a true statement. Tr. 441. Ms. Davis admitted that she was interviewed for these articles and that she had told the newspaper that Ben Davis was her partner. Tr. 440 & 444. She was not so sure whether she had told them that Ben Davis was her vice president. Tr. 442.

27. Ms. Davis has made Britt a profitable business. Tr. 376. The company's gross revenues for 1991 were

approximately \$1.2 million and for 1992 were approximately

Tr. 376-7. At one point during the hearing, Ms. Davis stated that her salary for 1992 was only \$25,000. Tr. 421. However, after continued probing by the Presiding Judge, Ms. Davis finally admitted that the \$25,000 figure was not accurate and that her actual income for 1992 was much larger. For example, Ms. Davis admitted that Britt's income for 1992 was about \$80,000 and that this \$80,000 actually belonged to her. Tr. 425-426. When the Presiding Judge asked her: "So, so if I wanted to know what, what Shellee Davis did to improve her lot during 1992, I'd have to add \$80,000, \$25,000, and \$1,000, wouldn't I? You're \$106,000 richer as, as a result of 1992, aren't you?" Tr. 426. To this, Ms. Davis replied: "Okay. All right. Well, I'm sorry." Id

28. Ms. Davis is a hands-manager of her business. Tr. 377. She acknowledged that part of the ongoing success of her company was due to her personal involvement. Tr. 377. She also admitted that the success of her business was based on the relationships that she had established with her customers. Tr. 379-80 and Davis Ex. 1, Attachment A. Ms. Davis gives her customers her personal guarantee and she admitted that this was the most important part of the business. Id. Britt's largest accounts are the "house accounts" which were clients that Ms. Davis "nurtured from day one." Tr. 378-379. While Ms. Davis stated that part of the reason her business was successful was her well qualified staff of nine, Ms. Davis intends to take two of these employees, Kindall Carmichael her office manager and Jim Johnson her sales representative, to work with her at the new radio station. Tr. 382.

29. When asked how she knew that Britt was a marketable business, Ms. Davis testified: "Based on the fact that the office equipment industry, what Britt has to offer, its standing within the business community, its standing as a Xerox dealer, Britt is a very marketable company." Tr. 386. Ms. Davis later acknowledged that what makes Britt valuable is its right to sell equipment. Tr. 389-90. However, the record shows that Ms. Davis' franchises with Xerox and Panasonic are non-exclusive. See Ringer Ex. 5 & 6. Furthermore, her contract with Panasonic specifically

states that "The relationship created by this Agreement is not an asset or property of DEALER (Ms. Davis)...and cannot be sold." Ringer Ex. 5 at §16B. This very same contract also states that "Neither this Agreement nor any of the rights or interests of DEALER hereunder may be assigned, transferred or conveyed...." Ringer Ex. 5 at §16A(i). Her contract with Xerox, which Ms. Davis contends represents about 80 to 85 percent of her business, states:

"Xerox entered into this Agreement based upon the personal representations of your principals as to their knowledge of the Territory, ability to market the supplies, provide service, and your financial status. Assignment, transfer of the sale of any of its rights, or delegation of any of its responsibilities, under this Agreement without Xerox's prior written consent (which shall ne be unreasonably withheld) shall be cause for termination of this Agreement."

Ringer Ex. 6 at §L.1.1 and Tr. 430.

30. Ms. Davis acknowledged that she had not spoken with Xerox about her plans to sell Britt nor had she obtained their consent to such a sale. Tr. 398. Furthermore, while she claims that she will sell Britt to work full-time at the new radio station, Ms. Davis has made no effort to do so. Tr. 383. Ms. Davis testified that she had no idea how long it would take to sell Britt. Tr. 386. When she was asked if she would sell Britt before she started operating the radio station, Ms. Davis answered "I would put it up for sale and hopefully someone will buy it as soon as possible." Tr. 385. Along those same lines, Ms. Davis testified that she thought her radio station would be

making a profit within three months. Tr. 384. Ms. Davis admitted that this estimate was based merely on her own personal feelings and that she did not know anything about advertising revenues in the market or the profitability of radio stations in the Columbus market. Tr. 384.

31. Ms. Davis' husband, Reginald was a principal in two FM applications, one for Indianapolis, Indiana and one for Upper Arlington, Ohio. Tr. 401. Upper Arlington, like Westerville, is a Columbus, Ohio suburb. Tr. 401-402. Ms. Davis' brother-in-law, Ben Davis was also a principal in an application for Huron, Ohio. Tr. 404. It was Ben Davis that told Ms. Davis how to go about filing her Westerville application. Tr. 404. Ben Davis recommended his communications counsel to Ms. Davis. Tr. 405.

32. "Ms. Davis seeks enhancement credit by virtue of her...minority status (African-American descent), her record of past local area residency adjacent to the community of Westerville (1984 - 92), her proposed future residency in or adjacent to Westerville, and her past local area civic activities and involvement in the business community. From 1984 - 85 she lived at 1957 E. Prince George Drive, Columbus, Ohio; in 1985 - 86 she lived at 338 Olentangy-Forst Dr. in Columbus, Ohio; in 1986 - 92 she lived at 5518 Moccasin Dr. in Westerville, Ohio; and from 1992 to the present she has lived at 463 Jessing Trail, Worthington,

Ohio.... Davis Ex. 1, pp. 1-2. Ms. Davis has a record of extensive civic activities. Davis Ex. 1, pp. 2-7.

33. "Shellee Davis will install auxiliary generating equipment at her station in order to allow for continued operation of the station during power outages." Davis Ex. 2, p. 1.

### 3. Diversification

34. "Shellee Davis neither owns or controls any medium of mass communications." Davis Ex. 1, p. 7.

#### D. WILBURN INDUSTRIES, INC.

##### 1. Ownership Structure

35. "Wilburn is a corporation organized under the laws of the state of Ohio. The corporation is authorized to issue 375 shares of voting stock and 375 shares of non-voting stock. All shares authorized have been issued: Charles W. Wilburn has been issued 375 shares of voting stock; Bernard P. Wilburn has been issued 375 shares of nonvoting stock." Wilburn Ex. 1, p. 1.

36. Wilburn was not always a "two-tiered" corporation. At the time it filed its Westerville application, Wilburn had one class of voting stock which was split 50/50 between Charles and Bernard Wilburn. Tr. 293-4. In January, 1992, Wilburn recast its corporate structure to its current form. Tr. 305.

37. In its Direct Case Exhibit, Wilburn states that "Charles W. Wilburn is President, Secretary, Treasurer and the sole Director of the applicant." Wilburn Ex. 1, p. 1.

Wilburn states further that "Bernard P. Wilburn is neither an officer nor a director of the company." Id. However, the record shows that under its original form, Bernard Wilburn was Secretary of the corporation. Tr. 323. There was no written election nor resignation of this position. Tr. 323. When it recast its corporate structure in January, 1992, Wilburn filed a "Certificate of Amendment by Shareholders to the Articles of Incorporation" with the State of Ohio. Tr. 326 and Davis Ex. 6. On that document, Charles Wilburn signed as President and Bernard Wilburn signed as Secretary of Wilburn. Tr. 326. Charles Wilburn testified that Bernard "signed as secretary of the existing corporation. And then after this amendment, he would be out of here because he was not a voting shareholder. I think this refers to probably the secretary of the corporation prior to the amendment." Tr. 327. While the Amendment reports to the state the change in the overall structure of Wilburn, it does not specifically state that Bernard Wilburn was no longer the corporate secretary. Davis Ex. 6. The text at the bottom of this Amendment form reads "Ohio law does not permit one officer to sign in two capacities, Two separate signatures are required, even if this necessitates the election of a second officer, before the filing can be made." Davis Ex. 6 and Tr. 329.

## 2. Integration

38. In his Direct Case Exhibit, Charles Wilburn stated:

"If the application of Wilburn Industries, Inc. is granted, I will be employed at its radio station on a full-time basis, at least 40 hours per week, as its General Manager. As General Manager, I will oversee the day-to-day- operations of the station, supervising its programming (including public service programming), sales, promotional and internal administrative activities. I will be responsible for the hiring, promoting and termination of employees, and will oversee the implementation of the station's EEO program."

Wilburn Ex. 2, p. 1.

39. In order to accomplish his pledge of full-time integration, Charles Wilburn stated that:

"If the Wilburn Industries, Inc. application is granted, I will move my residence to Westerville, Ohio, which lies approximately nine miles from current residence. If the application is granted, I also will terminate my current practice of law in Circleville, Ohio and will limit any other business activities which could conflict with my commitment to the station."

Wilburn Ex. 2, pp. 1-2.

40. When they originally filed their Westerville application, the Wilburns intended to share in the management of the station. Tr. 300 & 362. According to Exhibit 4 of their application, Charles was to be "assistant to the public service director" and Bernard was to be "assistant programming director." Tr. 303 & 363. When they amended their application in January, 1992, Charles then proposed to become general manager. Tr. 308. When asked at

hearing what he thought, at the time he filed the amendment, his duties would be as General Manager, Charles Wilburn stated "My duties would be to hire competent people to operate the station since I have no such experience and to oversee them. And I would make all the final decisions." Tr. 308.

41. Charles Wilburn has been a practicing attorney in Circleville, Ohio since 1964. Tr. 286. He currently practices law with his son Bernard. Tr. 287-8 & 356. The firm does general practice, including probate work, wills, estates, domestic work, personal injury and between 60 and 75 tax returns a year. Tr. 356. In order to fulfill his full-time integration pledge, Charles Wilburn intends to turn-over his legal business to his son Bernard. Tr. 288. Charles Wilburn testified that "Well, it (his law practice) will be turned over to Bernard. I won't dispose of it. I mean, I won't give it away. It'll stay in the firm and Bernard will be taking it over." Tr. 316.

42. When asked what his normal work schedule is like, Charles Wilburn testified "Our normal hours are 9 to 4:30. That's the office hours we maintain. It usually is -- For me, it is usually longer than that." Tr. 289. When asked what his personal hours were, Charles Wilburn stated: "Probably eight hours a day, approximately, in the office." Id. His office has no other attorneys or support staff, other than a secretary. Tr. 290. Bernard has not yet made