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2 The deposition of PETER BOYCE, taken in the
3 offices of Monroe Shine Accountants, 222 East Market
4 Street, New Albany, Indiana on May 26, 1993, at about the
5 hour of 9:30 a.m., said deposition being taken pursuant to
6 Notice for use in accordance with the Federal Rules of
7 Civil Procedure.

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16 PETER BOYCE, after having been first
17 duly sworn, was examined and testified as follows:

18 EXAMINATION

19 BY MR. BERFIELD:

20 Q Would you please state your name and
21 residential address?

22 A Peter Boyce, 410 Mount Tabor, New
23 Albany.

24 Q And do you have a business address?

25 A Same address.

1 Q And what is your business, Mr. Boyce?

2 A I'm a business of contract engineering
3 radio stations.

4 Q And you operate out of your home then?

5 A My office is behind my home.

6 Q And you say you're a contract engineer
7 for radio broadcast stations; is that correct?

8 A That's correct.

9 Q And approximately how many radio
10 stations at the present time do you serve as contract
11 engineer?

12 A Well, it depends on what you call a
13 contract situation. Some of those stations I do work for
14 on an ongoing basis, on a regular basis, and I have
15 stations all over the place that call me occasionally for
16 work.

17 We've got about five or six stations
18 here in the Louisville area we take care of on a regular
19 basis.

20 Q Could you give me the call letters of
21 those stations in the Louisville area that you take care
22 of?

23 A The Louisville area?

24 Q Yeah.

25 A WGXB.

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Q Could you tell me whether they're AM, FM
or TV?

A That's an FM. We aren't doing any TV
currently. They're all either AM or FM.

 WLSY, that's an FM. Those two are
related, kind of sister stations.

 WFPK and WFPL belong to the Louisville
Free Public Library. Let me think a second here.

 I guess you would say WBRT in Bardstown.

Q Any others?

A Well, like I said, there's a lot of them
around that call me on occasion.

Q But none you're under regular --

A Correct.

Q -- contract?

A The one in Bardstown is not a contract
either.

Q Now, you operate under a corporate
name?

A That's correct.

Q And what is the name of the corporation?

A MidAmerica Electronic Service,
Incorporated.

Q And do you recall when MidAmerica
Corporation was formed?

1 A 1981 I think.

2 Q And since it was formed has that been
3 your full-time occupation?

4 A Well, essentially, yeah. I've done some
5 other things on the side.

6 Q For example?

7 A I was part owner of a radio station in
8 North Vernon.

9 Q Any other business activities other than
10 the North Vernon stations and MidAmerica?

11 A Not directly.

12 Q You mean not where you participated in
13 the management; is that correct?

14 A Correct.

15 Q How many employees does MidAmerica have
16 now?

17 A Currently?

18 Q Yes.

19 A Two besides myself.

20 Q And could you describe the duties of the
21 two employees?

22 A One of them is a part-time secretary.
23 She works half days from 8:30 to 12:30.

24 Q Any other employees?

25 A One's a full-time engineer.

1 Q And at the present time you work 40
2 hours a week at least for MidAmerica?

3 A More or less. I can't describe exactly.
4 I might work more hours one week and less another.

5 Q Would you say it would average 40 hours
6 a week?

7 A Yeah, roughly.

8 Q And I take it you, MidAmerica, does work
9 for broadcast stations located then outside the Louisville
10 area; is that correct?

11 A I've done work on stations all over the
12 country at one time or another, but primarily around the
13 Louisville area. I'd say mostly within 75 miles.

14 Q You've told me how many employees
15 MidAmerica presently has. Has there been a time in the
16 past when MidAmerica, for example, might have had more
17 employees?

18 A Yes, sir.

19 Q And could you tell me approximately when
20 that was and how many employees were involved?

21 A Well, I had one other engineer on my
22 staff, probably been about three years ago I guess, four
23 years ago. I'm not exactly sure. And I've had a couple
24 young men working for me full time doing occasional work
25 whatever I needed done.

1 Q Now, with respect to MidAmerica, are you
2 the sole stockholder?

3 A Yes, sir.

4 Q Has that always been the case of
5 MidAmerica?

6 A Yes, sir.

7 Q And there is one other officer I believe
8 in MidAmerica; is that correct?

9 A That's correct.

10 Q And that is Larry Young?

11 A Right.

12 Q And could you explain how Mr. Young came
13 to be an officer of MidAmerica?

14 A When we filed the corporation papers I
15 needed a secretary for the corporation separate from
16 myself, so he served that purpose.

17 Q And did you have -- prior to that had
18 you had a business relationship of any kind with Mr.
19 Young?

20 A I wouldn't exactly say a business. We
21 have been friends for years since we were, I don't know,
22 17, 16 or something.

23 Q Now, you mentioned that you were part
24 owner for a time in radio stations in North Vernon,
25 Indiana?

1 A Yes, sir.

2 Q Could you tell me when you acquired your
3 ownership?

4 A 1983.

5 Q And what were the call letters of the
6 station?

7 A At that time?

8 Q Yes.

9 A WOCH AM and FM.

10 Q And the AM station, was that a daytime
11 or full-time?

12 A Day-timer.

13 Q And what was its power?

14 A 1,000 watts.

15 Q And what was the category of the FM
16 station, WOCH?

17 A Class B.

18 Q With full power?

19 A Yes, sir.

20 Q 50 kilowatts?

21 A 50 kilowatts.

22 Q When you acquired half ownership of
23 these stations in 1983, were the stations already on the
24 air then?

25 A Oh, yeah. They had been for years.

1 Q And was the 50-percent ownership that
2 you acquired, was that in a corporation which held these
3 licenses?

4 A Yes, sir.

5 Q And what was the name of the
6 corporation?

7 A Southeast Indiana Radio, Incorporated.

8 Q And you bought 50 percent of the
9 outstanding stock in Southeast Indiana Radio?

10 A That's correct.

11 Q And at the time that you -- who did you
12 acquire your stock from in 1983?

13 A I don't understand how to answer that
14 one. We formed the corporation when we bought the radio
15 station.

16 Q Okay. You said "we." Who are you
17 referring to?

18 A My partner in the radio station. His
19 name was Jim Wooley, W-o-o-l-e-y.

20 Q In other words, Mr. Wooley and you
21 formed Southeast Radio Corp.?

22 A Southeast Indiana Radio Corporation.

23 Q Southeast Radio, and bought the
24 stations, and you each owned 50 percent?

25 A That's correct.

2
1 Q Okay. And then did there come a time
2 when Mr. Wooley sold his 50 percent interest?

3 A Yes, sir.

4 Q And when was that?

5 A I think 1986 or 7. I'm not sure.

6 Q And to whom did he sell the 50 percent?

7 A He sold his 50 percent share to Robert
8 Conrad.

9 Q And then just round out the picture.
10 There came a time when your interest in these radio
11 stations in North Vernon was sold; is that correct?

12 A Well, the whole Southeast Indiana was
13 sold, the whole interest was sold.

14 Q In early 1993?

15 A Correct. Mr. Conrad wanted out
16 basically, and we sold the whole thing.

17 Q In the sale were there any promissory
18 notes given to you as part of the purchase price?

19 A Promissory notes given to me.

20 Q Was it a cash deal?

21 A No, there's a note to Southeast Indiana
22 Radio. I guess the answer is yes.

23 Q There is?

24 A There's a note involved in the purchase
25 of the radio station, correct.

2 1 Q And are the assets of the radio station
2 pledged as security for that note; do you know?

3 A Yes.

4 Q And do you recall how long the note has
3 5 to run, how many years the note is for?

6 A 13 years.

7 Q Do you know in the context of the sale
8 in your contract for the sale of these North Vernon radio
9 stations, was there any type of agreement by you, a
10 covenant not to compete, any kind of an agreement?

11 A Yes.

12 Q By you to refrain from engaging in the
13 radio business?

14 A Yes.

15 Q Do you recall offhand what the terms of
16 that covenant not to compete were?

17 A I think it was a 40-mile radius of
18 Columbus, Indiana.

19 Q And Columbus is where the offices are?

20 A The FM studio is in Columbus.

21 Q Do you recall how long that covenant not
22 to compete runs for?

23 A I'm not sure. I think it was two years,
24 but I'm not sure. I don't remember off the top of my
25 head.

3 1 Q And that's in the contract, the
2 covenant?

3 A I think so.

4 Q Now, during the period 1983 to 1986 when
5 you and Mr. Wooley were the co-owners of these North
6 Vernon stations, what services, if any, did you provide
7 for for the stations in terms of the operation of the
8 stations? Did you provide engineering services?

9 A Yes, sir.

10 Q Did you provide any other services for
11 the stations other than engineering? I'm just referring
12 to the North Vernon stations and during the first period
13 when it was you and Mr. Wooley.

14 A Both of us shared in the management
15 decisions of it, overall management decisions of it.

16 Q Well, was Mr. Wooley at the station on a
17 daily basis?

18 A Yes.

19 Q And did he carry a title such as general
20 manager?

21 A Yes.

22 Q And during this period of '83 to '86,
23 approximately how much time during the average month would
24 you say you spent at the stations?

25 A Oh, that varied, but I was probably up

1 there one or two days a week.

2 Did you ask me how many hours or what
3 did you ask me?

4 Q Well, as best you can describe how much
5 time you devoted to the North Vernon stations in this '83
6 to '86 time period when it was you and Mr. Wooley.

7 Now, your engineering services, how long
8 did that take you to perform typically?

9 A I don't know how to split it apart
10 exactly.

11 Q Why don't you just describe what you
12 did?

13 A I mean typically I would go up there and
14 do some engineering things, and we would spend other time
15 reviewing financial things and employee things and
16 probably spent half of my time on each or something I
17 guess. I don't know exactly.

18 Q Well, did you go up there every week or
19 were there some weeks when you didn't go up there?

20 A I had a few weeks when I didn't go up
21 there, but I might have spent three or four days up there
22 some other weeks. So I'm saying on the average I spent
23 probably a couple days a week on it.

24 Q During this time you were also
25 maintaining your MidAmerica business; is that correct?

1 A Correct.

2 Q What were Mr. Wooley's duties as general
3 manager?

4 A Well, he had multiple duties. He wore
5 many hats, as small radio stations do. He was the morning
6 announcer a good deal of the time. He was -- he handled
7 sales a good deal of the time.

8 Q Did he manage the staff?

9 A Partly, on a day-to-day basis, yeah.

10 Q Now, when Mr. Wooley then sold his 50
11 percent interest in 1986 to Mr. Conrad -- is that correct?

12 A That's correct.

13 Q Okay. After Mr. Conrad became a part
14 owner, did he participate in the operation of the station?

15 A Yes, sir.

16 Q Did he in effect replace Mr. Wooley?

17 A Partially. Not entirely. He didn't do
18 any on-the-air work or sales, per se.

19 Q Did he have the title of general
20 manager, Mr. Conrad?

21 A No.

22 Q Did he have the title of station
23 manager?

24 A No.

25 Q What was his title, if any?

1 A He and I were both owners and partners
2 in the station, and we had a manager for daily operation.

3 Q You brought in a new person then in
4 1986; is that correct?

5 A Well, he had been our sales manager. We
6 moved him in a management position.

7 Q I see. What was his name?

8 A His name was Sean Lynch.

9 Q And what title was Mr. Lynch given then?

10 A He was general manager.

11 Q And did he in effect then perform the
12 managerial duties day to day that Mr. Wooley had?

13 A Oh, similar but not exactly the same.
14 He was a salesperson, didn't do any on-the-air work. I
15 think he relied on us more for decisions about direction
16 of management than previously.

17 Q During the period '86 until you sold the
18 stations in '93, what was your participation in the
19 management operation of these stations? Was it the same
20 essentially as '83 to '86 or did it change?

21 A Yeah, essentially the same, pretty much
22 the same.

23 Q And you would say that -- during the '86
24 to '93 period how much time would you say you averaged?

25 A Just say I was up there a couple days a

1 week probably.

2 Q Now, other than your involvement with
3 the North Vernon stations, have you ever been employed on
4 staff at a broadcast station?

5 A Several.

6 Q And were those staff positions all
7 engineering?

8 A Yes.

9 Q And when was the last -- the most recent
10 time when you were on staff at a radio station on the
11 engineering staff?

12 A 1977.

13 Q And what station was that, if you
14 recall?

15 A Well --

16 Q Was it in this area?

17 A Yeah. It was WKLO, which is now WDJX.

18 Q I'm not trying to test your memory if
19 you don't know.

20 Are you familiar with the contour of the
21 North Vernon FM station, the one mill, one MV/M contour?

22 A Roughly.

23 Q Do you know, is there any overlap
24 between the one MV/M contour of the North Vernon station
25 and the one MV/M contour you're proposing for New Albany?

4
1 A No, there's not.

2 Q Do you know approximately how close --
3 I'm using a term one millivolt per meter, which is
4 abbreviated MV as in victory slash M, one MV/M.

5 MR. CAREY: Thank you.

6 (Discussion off the record.)

7 A You're asking me how much separation
8 there is between them?

9 Q Yes, between the one, if you know. If
10 you don't, that's something we can readily ascertain.

11 A I don't know exactly. I'd say there's
12 10 miles in there or something, 5 miles. I don't know
13 exactly.

14 Q Thank you.

15 (Discussion off the record.)

16 Q Now, I noticed in your integration
17 statement you submitted you indicate that you have been a
18 Kentucky Colonel since approximately 1970.

19 Is that something you were appointed to?

20 A It's a Governor appointment for
21 Kentucky.

22 Q Honorary?

23 A Yeah.

24 Q And you say participated in various
25 functions. Could you give me one example or two examples?

1 A I have been to the barbecue and stuff.
2 Everybody has.

3 Q Social functions?

4 A It's a social function thing.

5 Q Then I notice you listed that you were
6 on a special advisory committee for the New Albany Floyd
7 County radio station, 1991?

8 A (Nodded head affirmatively.)

9 Q Yes?

10 A Correct, yes.

11 Q And are you still a member of that
12 committee?

13 A No, it was a temporary committee for one
14 year.

15 Q And what was the purpose of the
16 committee?

17 A The superintendent of schools was
18 evaluating what the potential uses were for the radio
19 stations, what might be done to improve the use of it and
20 he assembled a group of people who were related to
21 broadcasting to kind of talk about what they were doing,
22 what they might do better.

23 Q This was a noncommercial educational low
24 power FM station?

25 A It's not really low power. It's 2800

1 watts.

2 Q I see. And approximately how many
3 people were on the committee?

4 A I think there was 8 or 10. I can't
5 remember exactly.

6 Q And did you attend any of the committee
7 meetings?

8 A All of them I think.

9 Q Approximately how many meetings was
10 that, if you recall?

11 A 6 or 8 I think. I don't remember
12 exactly now.

13 Q Thank you.

14 I'll ask you, how did you learn about
15 the opportunity to file for a new FM in New Albany,
16 Indiana?

17 A I'm not exactly sure whether I just
18 happened to -- I think my lawyer probably sent me a memo
19 on it.

20 Q And what lawyer was that?

21 A Earl Stanley.

22 I pretty much watch what's going on in
23 the allocation area anyway around the whole area so ..

24 Q In any event you became aware of the
25 allocation?

4 1 A Correct.

2 Q And did you then retain Mr. Stanley to
3 assist in preparing and filing such an application?

4 A Yeah, but I had retained him all along.
5 He had been counsel for the radio station in North Vernon.

6 Q I see.

7 A Ongoing relationship with him.

8 Q And other than Mr. Stanley did you
9 receive any other professional help in preparing your
10 application?

5 11 A I retained Don Everest with Cohen-Dippel
12 to do some of the engineering work.

13 Q Did you do some of the engineering work
14 yourself or --

15 A I did some of the legwork and things.

16 Q Did you receive any other professional
17 assistance in preparing your application?

18 A No.

19 Q Now, did Mr. Larry Young play any role
20 in the preparation of your application?

21 A No.

22 Q Just generally speaking, Mr. Young
23 became secretary of the MidAmerica corporation at the time
24 it was incorporated back around 1981?

25 A Yes, sir.

5 1 Q And from 1981 forward what functions, if
2 any, did Mr. Young perform with respect to MidAmerica?

3 A No active participation other than --
4 other than, like I said, he was -- served as secretary of
5 the corporation. That's it. He's not been an active
6 working participant.

7 MR. CAREY: Let's go off the record a
8 moment.

9 (Discussion off the record.)

10 MR. CAREY: Are you ready to go back on
11 the record?

12 Q Yes, go back on the record.

13 Did Mr. Young furnish you any documents
14 of any kind prior to -- in connection with the New Albany
15 application?

16 A Documents?

17 Q Any pieces of paper of any kind.

18 A No.

19 Q Now, did Mr. Young obtain in the future
20 an ownership interest in the New Albany station?

21 A No, he has no involvement in it at all.

22 Q Other than the fact that Mr. Young was
23 the corporate secretary of MidAmerica, did you have any
24 other -- have you ever had any other business relationship
25 or business interest with Mr. Young?

1 A Business meaning other than friendship?
2 No. We have never been in business together, you mean, or
3 something like that?

4 Q Yes.

5 A No, we have never been involved in
6 business together or anything like that, no.

7 MR. BERFIELD: I believe that completes
8 my questions.

9 MR. SOLOMON: I have some.

10 MR. CAREY: Let me interrupt. Do you
11 want me -- is it agreed that I shall save my --

12 MR. BERFIELD: Of course.

13 MR. CAREY: -- my questions in response
14 to yours? I'm not waiving them. I would just, if it's
15 all right I'll just save my examination, if any, for after
16 yours.

17 MR. SOLOMON: Sure.

18 MR. CAREY: Okay.

19 MR. SOLOMON: No problem.

20 * * * * *

21 EXAMINATION

22 BY MR. SOLOMON:

23 Q Mr. Boyce, where did you live during the
24 years 1961 to '62?

25 A '61 to '62, in Fern Creek.

1 Q And where is Fern Creek, sir?

2 A Jefferson County in Kentucky.

3 Q All right. Is that within the coverage
4 area of your proposed station?

5 A I don't think so. I haven't looked to
6 see. I don't know.

7 Q You don't know?

8 A I don't know for sure.

9 Q During the period of 1961 to '62, you
10 say you were scoutmaster; is that correct? I'm referring
11 to your integration statement.

12 A '61 to '62?

13 Q Do you want to look at your integration
14 statement?

15 A I was for a while, yeah. Someplace back
16 in there I was.

17 Q Make that assistant scoutmaster. I'm
18 sorry.

19 A Okay.

20 Q Let me refer you to page 6 of your
21 integration statement. Just take a look at the first
22 entry under civic.

23 A Okay.

24 Q What troop was that and where was that
25 located?

1 A Troop?

2 Q Troop.

3 A That would have been Troop 56 in Fern
4 Creek.

5 Q In Fern Creek?

6 A Yes, sir.

7 Q Where did you live during 1963 and 1964
8 when, again, you were scoutmaster?

9 A Same, Fern Creek.

10 Q How about 1968 when you were the
11 recipient of the Wood Badge Training Award also?

12 A '68?

13 Q '68.

14 A I would have still lived in Fern Creek.

15 Q All right. And now in 1969 to when you
16 received the Vigil Honor where did you live at that time?

17 A I think I lived in Fern Creek, yeah.

18 Q All right. And 1969 to '70 you were
19 involved with the Council, junior leader training
20 scoutmaster; is that correct?

21 A Yes, sir.

22 Q All right. And where did you live
23 during that period of time when you had that involvement?

24 A Probably I lived in Fern Creek then.

25 Q All right. In 1970 did you move to New

5 1 Albany?

2 A Yes.

3 Q All right. Regarding any of the
4 scouting activities between 1970 and 1993 in which you
5 were a participant or are a participant, were any of these
6 positions held with troops outside the coverage area of
7 your proposed station?

8 A Wait a minute now. From 1970 to 1993?

9 Q To 1993.

10 A Outside the coverage area?

11 Q Right. Do you want to take a look at
12 your integration statement?

13 A Well, everything from 1970 on was
14 basically in southern Indiana area.

15 Q That's a large area. Southern Indiana,
16 does that include the areas within your coverage area,
17 proposed station?

18 A Yes.

19 Q Are there any -- did any of these
20 activities take place to your knowledge or recollection in
21 areas beyond your coverage area?

22 A Well, some could have been in, some
23 could have been out. I don't know. The whole southern
24 Indiana area, which the Boy Scout program in southern
25 Indiana covers six counties.

1 Q So some of the activities were not
2 necessarily activities with organizations of the scouts
3 within the coverage area of your proposed station; is that
4 correct?

5 A Well, I'm not sure how to answer your
6 question, okay? The Boy Scout office is located in -- was
7 located in New Albany during that period of time.

8 Q Right.

9 A And most of my activities were involved
10 with the scout office in New Albany. Most of my
11 participation from 1970 forward was on a council level,
12 not with individual scout troops.

13 Q Where is the council based now?

14 A New Albany, Indiana.

15 Q Okay. You testified before concerning
16 your activities at the advisory committee of the New
17 Albany Floyd County schools radio station. You said, as I
18 recall, you attended six or eight meetings during that
19 period?

20 A I think so.

21 Q All right. Did you have any special
22 title or were you just an advisor?

23 A I don't think anybody had any title in
24 that project. It was supervised -- the meetings were held
25 by the assistant superintendent of the school system.