

1 1991?

2 A No. As I testified earlier, I did not ask for
3 written lists from anyone.

4 Q Do you remember anybody giving you a list
5 identifying Baltimore issues and problems in September 1991?

6 A No, I do not.

7 Q Do you know how the issue Supreme Court came to be
8 on the third quarter 1991 list?

9 A Yes, I do. That summer, as I recall, was the summer
10 that Clarence Thomas was being nominated for a position on the
11 Supreme Court and, as such, there was a great deal of interest
12 in Baltimore, primarily because Baltimore has a very large and
13 very active African-American community. And since Clarence
14 Thomas was African-American and was being nominated for this
15 position on the high court, there was a great deal of
16 discussion locally about the impact -- and, and so forth and
17 so on on that position.

18 Q Did you ask Ms. Covington to look into the Supreme
19 Court issue or the redistricting issue at all in September of
20 1991?

21 A Other than the normal conversations that we held on
22 a daily basis, I did not ask her to look into anything other
23 than what was her normal job function.

24 Q Do you know if she did that?

25 A She and I discussed many things during the third

1 quarter of 1991 that had to do with ascertainments and issues
2 and things of that nature. We undoubtedly discussed, among
3 other -- I know we discussed the Clarence Thomas issue with
4 respect to how the local community felt, and I know we
5 discussed the redistricting issue, because both were being
6 hotly debated in the, in the region.

7 Q Do you know when the Clarence Thomas confirmation
8 hearings were held?

9 A The exact date? No, I don't remember.

10 Q Do you know if they were held in October of 1991?

11 A I, I don't recall.

12 MR. ZAUNER: Do we have the date when he was
13 nominated? Or first discussed?

14 JUDGE SIPPEL: Well, I don't -- for historical
15 purposes.

16 MR. ZAUNER: -- testifying --

17 JUDGE SIPPEL: I didn't -- cross examination.

18 MR. ZAUNER: My only problem is the, the attorney
19 seemed to be testifying with that question.

20 JUDGE SIPPEL: Well, it's cross examination.

21 MS. SCHMELTZER: I'd like to have marked as Four
22 Jacks Exhibit 14 a one-page document. It says, "September
23 1991, To Emily From Janet."

24 JUDGE SIPPEL: What is this number again now?

25 MS. SCHMELTZER: Four Jacks Exhibit 14, I believe.

1 JUDGE SIPPEL: For identification.

2 MS. SCHMELTZER: For identification. Can I have
3 that marked for identification, Your Honor?

4 JUDGE SIPPEL: We're going to mark it now. It's a
5 one-page document and the number at the bottom is SH four
6 zeros 32 and it says "To Emily From Janet," with a date of
7 September '91, and it references "Overriding issues of the
8 last three months." That's my paraphrase. That's marked as,
9 as Number 14 for Four Jacks at this time.

10 (Whereupon, the document referred to
11 as Four Jacks Exhibit No. 14 was
12 marked for identification.)

13 BY MS. SCHMELTZER:

14 Q Ms. Barr, are you familiar with this document?

15 A I recall it now, yes.

16 Q Okay. And did you ask Ms. Covington to prepare this
17 document?

18 A I had, I had informed her at some point during that
19 summer that Scripps Howard requested a quarterly ascertainment
20 report and she had -- As I recall, this particular report was
21 the first time that she had given me what she thought was a
22 quarterly ascertainment report. I, I had -- I was -- I had
23 forgotten about it until you just showed it to me.

24 Q Did you give any instructions to Ms. Covington as to
25 how to prepare this report?

1 A I had talked to -- I believe it was either Terry
2 Schroeder or Ken Lowe at Scripps Howard corporate and I'd
3 asked them what they were looking for in the quarterly
4 community ascertainment report, and they told me they were
5 just looking for a general evaluation of the concerns and
6 issues that were of primary importance to our community. So I
7 relayed that to Janet verbally and asked her that she get me
8 such a report by the -- by October 15th. I don't recall why
9 it came to me earlier than that, but she chose to give it to
10 me in September.

11 Q Did the request of Ms. Covington for this
12 information, was this related to the filing of the competing
13 application?

14 A No, it was not.

15 Q Did she provide it to you after the filing of the
16 competing application?

17 A Because there's no date, no actual date on it, I
18 don't recall when it was given to me.

19 Q Did you ask her to do anything else related to this
20 list?

21 A I'm sorry. Related to this memo?

22 Q Yeah. Did you ask for any follow up?

23 A No, I did not.

24 Q Do you know whether any follow up was done?

25 A The next report she would have given me of this type

1 would have been in December of 1991, just prior to her
2 retirement. I asked her for a similar report and I asked her
3 for it in December before she retired.

4 Q Well, did you make any attempt to ask her to amplify
5 the categories on this report?

6 A Not that I recall.

7 Q Did you discuss with Ms. Covington any categories
8 that might be appropriate to do for a town meeting in late
9 September?

10 A We had talked earlier in -- starting actually back
11 in winter of 1991 and going through the spring and summer of
12 1991 about the escalation of crime, and, and we spoke -- many
13 of us in the station spoke directly about a concern that
14 citizens had about street crime. And Janet was involved in
15 those conversations. And as a result of several conversa-
16 tions, we did develop a town meeting that occurred in, I
17 believe it was late September or mid-September of 1991.

18 Q The process of having a town meeting, that -- was
19 that a process that was initiated under Gillette?

20 A That had been going on for a long time. I, I
21 believe that process may have started under the Abel
22 ownership.

23 Q Which preceded Gillette?

24 A Right.

25 Q And how many town meetings had you done in prior

1 years?

2 A In, in my tenure there, we had done approximately
3 two or three town meetings a year. I don't know how many were
4 done prior to my tenure there.

5 Q Is there -- Would there have been any reason for
6 your asking Ms. Covington for some expansion of the September
7 1991 memo?

8 A No, not that I recall.

9 MS. SCHMELTZER: I'd like to have marked for
10 identification as Four Jacks Exhibit 15 a document that's
11 dated September 13, 1991, and it's to Emily Barr from Janet
12 Covington, re quarterly summary.

13 JUDGE SIPPEL: The reporter will so mark that
14 document as Four Jacks Number 15 for identification.

15 (Whereupon, the document referred to
16 as Four Jacks Exhibit No. 15 was
17 marked for identification.)

18 JUDGE SIPPEL: How many pages is this one? Four
19 pages?

20 MS. SCHMELTZER: Four pages.

21 JUDGE SIPPEL: Four-page document.

22 BY MS. SCHMELTZER:

23 Q Do you recall having seen this document before,
24 Ms. Barr?

25 A I do now, yes.

1 Q And what was the reason for obtaining this document
2 from Ms. Covington?

3 A As I recall, this was the quarterly summary that we
4 just spoke of.

5 Q So you did ask her to expand the material that was
6 in the September 1991?

7 A I don't know if this came -- I do not know if this
8 first page came before or after this, 'cause I don't remember
9 the sequence of events.

10 Q Okay.

11 A As to which came first.

12 Q So the first page could have been even attached to
13 the September 13, 1991?

14 A Possibly.

15 JUDGE SIPPEL: Well, now, wait a minute now. Be
16 careful how you say it that way. By the first page, you mean
17 Exhibit 14?

18 MS. SCHMELTZER: Fourteen, Four Jacks Exhibit 14.

19 THE WITNESS: I don't know.

20 BY MS. SCHMELTZER:

21 Q You don't know. So you don't know if Four Jacks
22 Exhibit 14 was prepared in mid-September of 1991?

23 A Isn't that the one-page document?

24 Q Right.

25 A No, I don't know when that was prepared other than

1 | in the month of September.

2 | Q And again, I ask you was the preparation of these
3 | documents in any way related to the filing of the competing
4 | application on September 3rd?

5 | A No, it was not.

6 | Q Did anyone talk to you after September 3rd about
7 | changing the way the station did its ascertainment procedures?

8 | A The only change that was made in the way the station
9 | did its ascertainment procedures was joining the Baltimore
10 | Broadcasters Coalition, which was discussed with -- between
11 | Arnie Kleiner and Dick Janssen shortly after we were purchased
12 | by Scripps Howard Broadcasting.

13 | Q Have any changes been made as far as the way the
14 | community leader interviews are recorded?

15 | A Not with respect to how we've done them -- How we do
16 | them now versus how we did them --

17 | Q Yes.

18 | A -- then? No.

19 | Q So you still don't write down any community leader
20 | interviews?

21 | A Not the ones that we write down -- When we go to the
22 | Baltimore Broadcasters Coalition and interview people at
23 | those, we write those down. We have not changed our, our
24 | methods.

25 | Q The only method you now have is when you join in the

1 Broadcast -- Baltimore Broadcasters Coalition, those are
2 written down?

3 A The only method we have that's written down is the
4 Baltimore Broadcasters Coalition. It doesn't change the
5 format of the other methods.

6 Q And when you go to the Baltimore Broadcasters
7 Coalition, I take it that a management person writes his name
8 on a sheet of paper. Is that correct?

9 A That's correct.

10 MR. HOWARD: Your Honor, I object because this is
11 outside the renewal period and really irrelevant to --

12 JUDGE SIPPEL: I'll sustain the objection.

13 BY MS. SCHMELTZER:

14 Q Referring you to what's been marked for
15 identification as Four Jacks Exhibit 15, can you tell us why
16 this quarterly summary was written down, whereas the preceding
17 ones had been oral?

18 A Well, until Scripps Howard purchased us in -- on
19 May 30th of 1991, we were not asked to do quarterly
20 ascertainment summaries. The reason there was not one written
21 in July of 1991 is because we had literally just become a part
22 of the Scripps Howard Broadcasting Company and they were
23 giving us a certain amount of latitude to get used to their
24 reporting and filing procedures.

25 Q Did they send you a letter saying they were giving

1 you latitude to get used to their procedures?

2 A No, they sent a form to Arnie Kleiner which listed
3 all of the reports that they would like to receive and when
4 they were due and to whom they should be sent. And it was my
5 understanding from conversations I had personally with Arnie
6 Kleiner and with Ken Lowe and Terry Schroeder from Scripps
7 Howard corporate that we were to look over this document, ask
8 them if we had any questions, and to get to the issues that
9 were referred to on this document as soon as we possibly
10 could.

11 Q But you don't have anything in writing?

12 A No.

13 Q I'd like you to look at the second quarter list for
14 a moment. That's the WMAR second quarter list, Attachment F.

15 JUDGE SIPPEL: Are, are you finished with these
16 marked exhibits?

17 MS. SCHMELTZER: Well, I might have a little more if
18 you'll just --

19 JUDGE SIPPEL: Well, I don't want to lose track of,
20 of getting them into the record, if you want to move them in.

21 MS. SCHMELTZER: I'll be happy to -- Let me move,
22 move those two exhibits into the -- I first move Four Jacks
23 Exhibit 14 into the record.

24 JUDGE SIPPEL: Is there any objection to 14? Any
25 objection to 15?

1 MR. ZAUNER: Your Honor, the Bureau would object --
2 Well, let me ask this. What is the purpose of 14 and 15? Why
3 are they being offered?

4 JUDGE SIPPEL: Well, can you make a proffer,
5 Ms. Schmeltzer? There's no objection from Scripps Howard and
6 it looks like it does relate to -- that it does have relevance
7 to issues of ascertainment. I don't, I don't see --

8 MR. ZAUNER: Your Honor, we have a list of programs
9 issues that's based upon. We have the programming. I just
10 don't see what this adds to, to the record.

11 MS. SCHMELTZER: I think it goes to the process of
12 when the licensee determined the issues.

13 MR. ZAUNER: Your Honor has already made certain
14 rulings to protect the record versus the -- with regard to the
15 time that the licensee learned about the filing of the
16 competing application. I think those rulings were, were
17 correct and I, I think that this is superfluous if that's the
18 purpose that it's being offered for.

19 JUDGE SIPPEL: Well, it, it, it, it may be -- it
20 does get down to some very specific illustrative examples as
21 to how certainly Ms. Barr was operating in September of '91.
22 It was in the relevant time period and it, it, it may help, it
23 may help both sides to sharpen up on -- and myself on the
24 findings. So I'm -- I understand your objection and -- but
25 I'm going to exercise my discretion and I'm going to grant the

1 motion and receive 14 and 15 into evidence at this time.

2 (Whereupon, the documents referred to
3 as Four Jacks Exhibit Nos. 14 and 15
4 were received into evidence.)

5 BY MS. SCHMELTZER:

6 Q Ms. Barr, let me ask you a question about 15, if I
7 may. If you would look that over, there are some blanks at
8 rather odd places. Has anything been redacted from that
9 exhibit, to your knowledge?

10 A No. I can explain those blanks. This was a
11 document that was pulled off of a computer and the --
12 apparently the page breaks weren't, weren't forming properly.
13 So I'm not -- I mean, it's just a page break that didn't work
14 when it was pulled off the computer.

15 Q Okay. Thank you. Now, if you'll look for a moment
16 at the second quarter issues programs list --

17 A Yes.

18 Q -- under education, I take it that the only two, the
19 only two categories that came under Scripps Howard's tenure
20 were -- are the last two paragraphs, June 15th and 16th, and
21 then June 27 and 28. Is that correct?

22 A Yes.

23 Q Okay. Now, if you look under the next issue,
24 unemployment, the only thing addressing unemployment was done
25 under Gillette's stewardship. Isn't that correct?

1 A That's correct.

2 Q Is that also true for race relations-minority
3 concerns?

4 A Yes.

5 Q And under metropolitan-state concerns, it would be
6 the last two paragraphs that address Scripps's tenure?

7 A That's correct.

8 Q Okay. Looking at crime and the criminal justice
9 system, that all was programming that was done under Gillette.
10 Is that correct?

11 A That's correct.

12 Q And is the same true for the media?

13 A Yes.

14 Q Looking at environmental concerns, it would be the
15 last paragraph that was under Scripps' stewardship?

16 A That's correct.

17 Q Under social welfare and societal concerns, I find
18 nothing under Scripps's stewardship.

19 A Right.

20 Q Under child abuse, it would be the last paragraph,
21 correct?

22 A That's correct.

23 Q And under health and safety, it would be the last
24 two paragraphs?

25 A That's correct.

1 Q And May 30, 1991?

2 A Yes.

3 Q Yeah, and May 30, 1991. Under drug and alcohol
4 abuse, I find nothing under Scripps' stewardship. Is that
5 correct?

6 A Right.

7 Q And same thing for government affairs and
8 legislation?

9 A Correct.

10 Q And the only thing under performing arts,
11 entertainment and recreation that was under Scripps Howard's
12 stewardship were the editorials on June 13 and June 14?

13 A That's correct.

14 Q Now, Ms., Ms. Covington indicated in mid-September
15 1991 that budgets were an important issue. Was that
16 translated onto your third quarter list at all?

17 MR. HOWARD: Would you direct us to where --

18 JUDGE SIPPEL: Where are you picking that up,
19 Ms. Schmeltzer?

20 MS. SCHMELTZER: I'm looking at Ms. -- I'm looking
21 at Four Jacks Exhibit 14.

22 JUDGE SIPPEL: That's this one-page document.

23 THE WITNESS: Oh, you're looking at the one-page
24 document. I'm sorry, what was the question?

25 BY MS. SCHMELTZER:

1 Q Was that translated onto your -- onto the issues
2 that you address during the third quarter?

3 A There were several issues in the third quarter that
4 were referred to as government affairs legislation,
5 metropolitan-state -- I would have -- I can't recall
6 specifically what we did under those, but I would be happy to
7 go through and look at the programming that was done to see if
8 those particular issues were addressed.

9 Q And what about Baltimore City Mayoral City Council
10 election, is that somewhere on your third quarter list?

11 A Again, there are metropolitan-state concerns listed.
12 I don't -- I would have to go through the list to see if those
13 specific issues were addressed.

14 Q Well, what exactly did metropolitan-state concerns
15 cover? That's a very broad issue?

16 A That's correct.

17 Q What did it cover? What specifically was the issue?

18 A I'm going to look, if you don't mind.

19 Q You're looking at the third quarter list?

20 A I'm looking at the third quarter list.

21 JUDGE SIPPEL: Okay, let's go off the record and
22 look at it, and you tell us when you're ready.

23 THE WITNESS: Thank you.

24 (Off the record.)

25 JUDGE SIPPEL: All right, we're back on the record.

1 THE WITNESS: Could you ask me the question again?

2 BY MS. SCHMELTZER:

3 Q The question was what particular issue did
4 metropolitan-state concerns involve?

5 A We had done a series of reports during the third
6 quarter of 1991 with respect to a variety of issues concerning
7 the different counties in our coverage area, Carroll County,
8 Harford County, St. Mary's County, etcetera.

9 Q Those are the programs you ran. What specific issue
10 were you --

11 MR. HOWARD: She's answering the question. You're
12 interrupting her answer.

13 JUDGE SIPPEL: Let the witness finish. You go ahead
14 and you finish.

15 THE WITNESS: Thank you. We were covering these
16 particular areas within our viewing area and, and talking
17 about the economic impact that these particular areas had on
18 our -- on the rest of the state, the, the -- what
19 contributions the people who lived in these areas made to
20 again the rest of the state, and the uniqueness of the
21 different counties with respect to the make-up of Maryland,
22 the entire state.

23 In addition to that, we looked at some of the other
24 issues. For example, on July 2nd, we looked at the issue of
25 state workers who had gone to court over the governor's

1 imposed 40-hour work week. That impacted 80,000 state
2 workers. Things of that nature.

3 Q Is St. Mary's County within your service area?

4 A I would have to look at a coverage map because I am
5 not that familiar with -- I think St. Mary's County is on the
6 Eastern Shore.

7 Q Now, you've just identified some programs, but my
8 question is what particular issues did metropolitan-state
9 concerns deal with, other than these -- the programs --

10 A As I said before, it dealt with some of the economic
11 impact of what went on in these particular regions vis a vis
12 the rest of the state and the metropolitan area. It dealt
13 with issues of tourism, cultural diversity, things of that
14 nature.

15 Q Well, don't you also have a category on here that's
16 labeled economic development?

17 A Yes. These issues are not -- Again, they don't all
18 fall under one category. We try to put the in what we believe
19 to be the most reflective category of the issue, but there are
20 many times when an issue -- For example, drug abuse can relate
21 to crime just as much as it can relate to alcohol and drug
22 abuse. It really, it really is more of an issue to how you're
23 referencing it, the subject, to where it might fall.

24 Q Ms. Covington also identified the Baltimore City
25 Mayoral City Council election. Where was that addressed in

1 the third quarter?

2 A I, I believe that may have been addressed in the
3 fourth quarter. These issues, when they would come up, are
4 not mutually exclusive to one quarter. These were fluid
5 issues that went on over the course of several -- in some
6 cases several quarters, in some cases they're ongoing. The,
7 the mayoral race and the sort of lackluster attitude towards
8 the entire campaign was an issue that became more discussed
9 in, I remember, in October and early November of that year as
10 we got closer to election time.

11 There was, however, under the government affairs
12 category, there were several times the issue of voter
13 registration was addressed.

14 Q Am I correct that when you met informally with a
15 leader that that leader would oftentimes give you more than
16 one issue that was of importance to the community?

17 A Certainly.

18 Q But you didn't write any of these down, you carried
19 them around in your head?

20 A We would, we would -- After having many of these
21 discussions, we would come back and discuss with each other
22 and amongst ourselves some of the issues that we had heard
23 about.

24 Q And everybody just remembered that Mr. Smith had
25 identified three issues and Mrs. Jones had identified five

1 | issues and Mrs. White had identified another two issues. That
2 | was all just carried around in people's heads?

3 | A Well, it doesn't really work that way. I mean, you
4 | have discussions that, that are ongoing. And over a period of
5 | time, and that period of time might be a week or it might be
6 | six months, you determine that there is a great deal of
7 | anxiety, for example, about the issue of street crime. And so
8 | from that, you then, you then offer up programming that will
9 | be responsive to those concerns.

10 | Q Did -- When, when people attended events, did they
11 | write down written reports of any contacts they made at those
12 | events?

13 | A No, there were no written reports. Are you, are you
14 | referring to station-sponsored events or are you referring to
15 | events in general?

16 | Q Well, for, for instance, if, if you and Mr. Kleiner
17 | and Ms. Velleggia attended a NAACP banquet, would you write
18 | down a written report of who you spoke with at that banquet
19 | and what issues you discussed?

20 | A No. As I stated earlier, we did not have written
21 | reports of those conversations.

22 | JUDGE SIPPEL: We're getting close to quarter after
23 | and I had really told the people this morning that we would be
24 | finishing at 4:00. I've stayed 15 minutes more because of --

25 | MS. SCHMELTZER: We can break here.

1 JUDGE SIPPEL: You want to break now? Will this be
2 as good a time as any? All right. I did, I, I kept it going
3 15 more minutes because of the, the delay we've had in, in
4 terms of trying to track down those calendars and things.
5 We're in recess until 9:30 tomorrow morning. You're still
6 under oath, so you're not to talk with any of the other
7 witnesses that will be coming in after you. All right? Do
8 you understand?

9 THE WITNESS: No problem.

10 JUDGE SIPPEL: All right, we're in recess.

11 (Whereupon, at 4:13 p.m., on Monday, November 8,
12 1993, the hearing was adjourned.)

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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN RE APPLICATIONS OF SCRIPPS HOWARD BROADCASTING COMPANY
Name AND FOUR JACKS BROADCASTING, INC.

MM DOCKET NO. 93-94

Docket No.

WASHINGTON, D.C.

Place

NOVEMBER 8, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 421 through 639, inclusive, are the true, accurate and complete transcript prepared from the reporting by MARYKAE FLEISHMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

November 18, 1993

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