

1           A     But quite frankly I'm not sure whether I received  
2 that policy in writing or someone told me about it.

3           Q     Do you recall specifically any other memoranda  
4 concerning a policy or practice that you received on or about  
5 May 30th?

6           A     No, just that we did get a stack of papers.

7           Q     I'd like to refer you to paragraph 19 of your  
8 testimony. It's SH2-7 and the first sentence of paragraph 19  
9 if you'll at that says prior to consummation of the purchase I  
10 received memoranda from Scripps Howard describing the  
11 company's policies and practices and that's all you can  
12 recall?

13           MR. HOWARD: Your Honor, could I ask that in  
14 particular with respect to things where there's relevance in  
15 the rest of the paragraph that the witness be permitted to  
16 look over the --

17           JUDGE SIPPEL: Well, in this instance he's got the  
18 paragraph in front of him. It's a very short paragraph and  
19 this is cross examination.

20           MS. SCHMELTZER: I'm only asking about the first  
21 sentence.

22           JUDGE SIPPEL: I want to caution you about  
23 suggesting something the witness should do before he answers  
24 the question. Go ahead, Ms. Schmeltzer.

25           BY MS. SCHMELTZER:

1 Q I'm only directing your attention to the first  
2 sentence which refers to written material. Can you recall  
3 anything specific about the memoranda you received describing  
4 the company's policies and practices?

5 A No. I think I just answered the question.

6 Q So the only thing that you can remember is what is  
7 said in that sentence?

8 A Yes, ma'am.

9 MS. SCHMELTZER: Your Honor, I'd like to have marked  
10 for identification a document that's entitled -- this will be  
11 marked for identification as Scripps -- as Four Jacks Exhibit  
12 22.

13 JUDGE SIPPEL: Would you describe it for the record?

14 MS. SCHMELTZER: Yes. This is a document that says  
15 on the front page Scripps Howard Broadcasting Company  
16 operating code promulgated 1946, revised 1965, 1969, 1972,  
17 1978. There is a -- after the first page there is a table of  
18 contents and then there are 20 pages of text.

19 JUDGE SIPPEL: Thank you. The Reporter will so mark  
20 this document for identification Four Jacks Exhibit 22.

21 (Whereupon the document referred to  
22 as Four Jacks Exhibit No. 22 was  
23 marked for identification.)

24 JUDGE SIPPEL: Can we have a proffer of relevance of  
25 this before -- or do you need to voir dire first?

1 MS. SCHMELTZER: Yes.

2 JUDGE SIPPEL: Yes to which?

3 MS. SCHMELTZER: Yes, I need to ask the witness  
4 questions.

5 JUDGE SIPPEL: Just a few questions on voir dire --

6 MS. SCHMELTZER: Yes.

7 JUDGE SIPPEL: -- you just said. I want to have a  
8 showing of relevance here, please.

9 VOIR DIRE

10 BY MS. SCHMELTZER:

11 Q Mr. Kleiner, do you recall seeing this document  
12 before?

13 A Yes.

14 Q And when did you receive this document?

15 A This document came in a package shortly before or  
16 shortly after the close of the station.

17 Q And is this a document you reviewed?

18 A Yes.

19 Q I'd like you to turn to page 17 of this document  
20 which described specifically subparagraph (d) which --

21 MR. HOWARD: May I ask that she move to admit it  
22 into evidence before she starts cross examination?

23 MS. SCHMELTZER: I'll be happy to do that.

24 JUDGE SIPPEL: What is the relevance of this?

25 MS. SCHMELTZER: Your Honor, this is one of the

1 memoranda he received on or about May 30, 1991. He refers in  
2 paragraph 19 to receiving memoranda describing the company's  
3 policies and practices.

4 JUDGE SIPPEL: Is there any objection?

5 MR. HOWARD: Yes, Your Honor. That he received  
6 memoranda does not establish that this memorandum is relevant  
7 to the issues of this proceeding and I think one question from  
8 me could establish whether it's relevant to this proceeding.

9 JUDGE SIPPEL: Mr. Zauner?

10 MR. ZAUNER: I agree. I don't think just the fact  
11 that he received this alone establishes its relevancy.

12 JUDGE SIPPEL: What do you intend to do with this  
13 with this witness? This is a rather detailed document --

14 MS. SCHMELTZER: That's correct.

15 JUDGE SIPPEL: -- which --

16 MS. SCHMELTZER: Which lay out some procedures.

17 JUDGE SIPPEL: Yes. Do you have specific procedures  
18 in mind with respect to specific issues in this case?

19 MS. SCHMELTZER: Yes.

20 JUDGE SIPPEL: Such as -- well -- I'm just looking  
21 at some of these items. For example, the fairness doctrine.  
22 That's not in this case. Tell me what areas you want to  
23 question him.

24 MS. SCHMELTZER: Just the area back in -- on page 17  
25 and 18, Your Honor.

1 JUDGE SIPPEL: That would be procedures for  
2 ascertaining needs, et cetera --

3 MS. SCHMELTZER: That's correct.

4 JUDGE SIPPEL: -- and procedures for handling  
5 complaints.

6 MS. SCHMELTZER: Just procedures for ascertainment.

7 JUDGE SIPPEL: All right. So we're only interested  
8 in just that one section.

9 MS. SCHMELTZER: I'll be happy to just stipulate  
10 that we're offering that area.

11 JUDGE SIPPEL: And since 1978 up to the present  
12 there have been quite a bit of changes in the FCC regulatory  
13 requirements with respect to ascertainment, isn't that  
14 correct?

15 MS. SCHMELTZER: I realize that.

16 JUDGE SIPPEL: Well, and I don't see what -- this  
17 only speaks -- the latest revision speaks as of 1978. Even if  
18 we spent a half an hour talking about this with the witness I  
19 don't see what it's going to -- where it's going to add  
20 anything here of relevance.

21 MR. HOWARD: Your Honor, I would object that she  
22 needs to establish a foundation as to whether that section was  
23 in effect before beginning to cross examine.

24 MS. SCHMELTZER: Well, Your Honor, you know, once  
25 again I would like to caution Mr. Howard not to --

1 JUDGE SIPPEL: Well --

2 MR. HOWARD: That's a foundation question.

3 JUDGE SIPPEL: It's a foundation question. I'm  
4 trying to be attuned to that, Ms. Schmeltzer, but this is a  
5 foundation question. I don't see that there's been sufficient  
6 foundation laid to receive this into evidence. I would not  
7 want to put this document in and then feel obligated to make  
8 findings on it based on what -- I'm primarily concerned about  
9 the date of it.

10 MS. SCHMELTZER: Well, can I --

11 JUDGE SIPPEL: Now, you can ask the witness as to  
12 what if anything he made reference to in setting whatever  
13 ascertainment policies he had in place after Scripps Howard  
14 took over, all right, and take it from there. In other words,  
15 if the witness is saying that he's relying on something, then  
16 -- in terms of a document -- then I'd permit cross examination  
17 on it. But this is too much -- at this point in the record  
18 it's too remote and I just don't want to invite unnecessary  
19 evidence, bring factual information into the record unless  
20 it's clearly relevant, particularly something that could be as  
21 extensive as this.

22 MS. SCHMELTZER: Well, could I have just a few more  
23 questions then, on that point?

24 JUDGE SIPPEL: Well, I'm going to -- you moved it.  
25 I'm denying your motion.

1 (Whereupon the document referred to  
2 as Four Jacks Exhibit No. 22 was  
3 rejected.)

4 JUDGE SIPPEL: You can continue to ask this witness  
5 questions with respect to ascertainment and if he answers it  
6 in such a way that complies with my ruling you can come back  
7 to this but for the time being it's out. All right?

8 MS. SCHMELTZER: All right.

9 JUDGE SIPPEL: Do you understand me?

10 MS. SCHMELTZER: Yes.

11 JUDGE SIPPEL: So you may continue to question him  
12 on ascertainment and what he used in terms of determining his  
13 ascertainment policy.

14 BY MS. SCHMELTZER:

15 Q Did you receive -- on or about May 30 or thereafter,  
16 Mr. Kleiner, do you recall receiving any materials from  
17 Scripps Howard which outlined an ascertainment process for  
18 you?

19 A Not specifically.

20 Q Well, do you recall anything?

21 A I recall getting a packet of materials that had  
22 policies and company things that included information on  
23 pension plans and health insurance and a lot of things.

24 Q Okay. And that was the package that included the  
25 operating code to which we've just referred?

1           A     It may have. I don't know. It might have come at a  
2 different time.

3           Q     But you did receive it sometime in 1991?

4           A     I did, yes.

5           Q     Were --

6           JUDGE SIPPEL: Let me. May I interrupt for just a  
7 minute?

8           MS. SCHMELTZER: Um-hum.

9           JUDGE SIPPEL: Did you ever make -- you have this  
10 document in front of you.

11          MR. KLEINER: Yes, sir.

12          JUDGE SIPPEL: You know we're talking to about pages  
13 16 and 17 where it says --

14          MR. KLEINER: Seventeen and eighteen I think she  
15 said.

16          JUDGE SIPPEL: Sixteen and -- yes. Seventeen and  
17 eighteen is correct. Did you ever make reference to that in  
18 terms of determining an ascertainment policy or carrying out  
19 ascertainment instructions during the period of time that  
20 Scripps Howard had the station and you were there?

21          MR. KLEINER: No, sir. We had --

22          JUDGE SIPPEL: Go ahead.

23          MR. KLEINER: We had ascertainment policies already  
24 in place and at the time -- we talked every day.

25          JUDGE SIPPEL: I understand that. I understand your

1 testimony. But I've got a very specific question and I  
2 believe you've answered it. You told me that no, you didn't  
3 make reference to or utilize this document --

4 MR. KLEINER: Correct.

5 JUDGE SIPPEL: -- pages 17 and 18.

6 MR. KLEINER: There was a change in ascertainment  
7 policy, however.

8 JUDGE SIPPEL: All right. I'm going to permit you  
9 to go on with that, but we're trying now to determine as to  
10 what to do with this document. Again, I don't think there's a  
11 foundation there. He does have testimony with respect to  
12 ascertainment policy --

13 MS. SCHMELTZER: Okay.

14 JUDGE SIPPEL: -- and you may certainly -- go ahead.

15 CROSS EXAMINATION

16 BY MS. SCHMELTZER:

17 Q I believe you just said in response to a question  
18 from the Judge, Mr. Kleiner, that there was a change in  
19 ascertainment policy.

20 A That's correct.

21 Q When did that occur?

22 A Shortly after Scripps Howard took over the station.

23 Q What was the change in ascertainment policy?

24 A Mr. Johnson asked us to join a coalition in

25 Baltimore that we had not previously been members of which

1 would -- that meets either once a quarter or twice a year --  
2 I'm really not sure -- and it was group ascertainment so we  
3 would add additional ascertainments to us in addition to what  
4 we were doing.

5 Q And do you recall when WMAR-TV actually joined that  
6 organization?

7 A I don't recall exactly -- probably the summer of  
8 '91.

9 Q Was there a check cut when you joined that  
10 organization?

11 MR. HOWARD: Objection, Your Honor. He's answered  
12 it. What's the inquiry into -- it's unduly unnecessary  
13 inquiry.

14 JUDGE SIPPEL: Well, I understand that but we do  
15 have a short period of time here. This was the man who was in  
16 charge of the station. Let's see how many facts he can  
17 recall.

18 MS. SCHMELTZER: Was there a check cut when you --

19 JUDGE SIPPEL: Overrule the objection. Go ahead.

20 BY MS. SCHMELTZER:

21 Q Was there a check cut when you joined that  
22 organization?

23 A There was a small charge. I don't know if -- at  
24 what time the check was cut.

25 Q Do you know -- do you recall whether the check may

1 have been cut after September 3, 1991?

2 A I don't know.

3 Q When was the first meeting of that -- it was the  
4 Baltimore Broadcaster's Coalition, is that correct?

5 A Yes.

6 Q When was the first meeting of that organization?

7 A I don't recall.

8 Q Was it in November 1991?

9 A I don't recall.

10 Q Do you recall filling out any kind of an application  
11 form to join to the coalition?

12 A Not specifically, no.

13 Q Do you recall any letter that would establish the  
14 date that you joined the organization?

15 A I don't recall.

16 Q Now, you said that was a change in ascertainment  
17 policy.

18 A It was in addition to our ascertainment policy.

19 Q Was there any other change in ascertainment policy  
20 after May 30, 1991?

21 A Not that I recall.

22 JUDGE SIPPEL: While he's on that subject, I think  
23 you're passing something up. Was -- it sounds to me the way  
24 that you're answering her specific questions with respect to  
25 that group that perhaps you didn't think that that was too

1 important.

2 MR. KLEINER: I'm sorry. I didn't think what was  
3 important?

4 JUDGE SIPPEL: The ascertainment -- this group, this  
5 group approach to ascertainment. I mean, you had been  
6 carrying on your ascertainment procedures in a certain way and  
7 there's a lot of your testimony in that. Then all of a sudden  
8 you're asked -- you're told that you have to join this group  
9 and you really can't recall when you had a meeting or when you  
10 but a check or -- I mean, it sounds to me in the tone of your  
11 voice and how you're answering these questions that it didn't  
12 sound like it was really that much of a big deal to you.

13 MR. KLEINER: It wasn't. I'm sure it was important  
14 but it wasn't a big deal.

15 JUDGE SIPPEL: All right.

16 MR. KLEINER: And we didn't have a problem joining  
17 it.

18 JUDGE SIPPEL: No, I'm not suggesting that. I'm  
19 just trying to react to how you testified.

20 MR. KLEINER: Yes, it is. I'm sorry you think I  
21 misled you.

22 JUDGE SIPPEL: No, I was not misled. Go ahead, Ms.  
23 Schmeltzer.

24 BY MS. SCHMELTZER:

25 Q Do you receive -- do you recall receiving any

1 memoranda from Scripps Howard after they took over the station  
2 concerning community ascertainment reports?

3 A No.

4 Q Do you recall receiving any correspondence or memos  
5 from Scripps Howard after they took over the station  
6 concerning program analyses reports?

7 A There was a program analysis report, yes. I do  
8 recall something about program analysis.

9 MS. SCHMELTZER: Your Honor, I'd like to have marked  
10 for identification as Four Jacks Exhibit 23 a three page  
11 document. It's on the letterhead of Scripps Howard  
12 Broadcasting. It says interoffice memo and it's dated 5 May  
13 1989.

14 JUDGE SIPPEL: Five May '89?

15 MS. SCHMELTZER: That's right.

16 JUDGE SIPPEL: All right. The report will so  
17 identify that document.

18 (Whereupon the document referred to  
19 as Four Jacks Exhibit No. 23 was  
20 marked for identification.)

21 JUDGE SIPPEL: How many pages did you say?

22 MS. SCHMELTZER: Three pages.

23 JUDGE SIPPEL: Thank you.

24 BY MS. SCHMELTZER:

25 Q Mr. Kleiner, I'd like to ask you if you recall

1 seeing this report after Scripps Howard Broadcasting took over  
2 WMAR-TV, this memo?

3 A Not directly, no.

4 MS. SCHMELTZER: Your Honor, I'll say it for the  
5 record. This was -- this turned over in discovery.

6 BY MS. SCHMELTZER:

7 Q You don't recall seeing this document after Scripps  
8 Howard --

9 A No, I do not recall seeing it.

10 Q Do you recall ever seeing this document?

11 A No.

12 Q Let me have you look at the page 2 which is the  
13 attachment. It says television program analysis and  
14 schedules. Have you ever seen that page?

15 A No, I have not.

16 Q In any shape or form?

17 A No, I have not.

18 Q And you don't recall that Scripps Howard sent you  
19 this document when they took over WMAR-TV?

20 A No, I do not.

21 MS. SCHMELTZER: Your Honor, I'd like to provide you  
22 with a copy of Mr. Kleiner's deposition for reference.

23 JUDGE SIPPEL: Thank you.

24 MS. SCHMELTZER: And I'm going to provide Mr.  
25 Kleiner a copy.

1 BY MS. SCHMELTZER:

2 Q Mr. Kleiner, I'd like to refer you to page 28 of  
3 your deposition, line 6. And do you recall there that I  
4 showed you the May 5, 1989 program analysis report and asked  
5 if you recalled when you saw that document?

6 A I'm sorry. Repeat the question.

7 A Do you recall that I asked you at your deposition on  
8 July 14, 1993 if you recalled when you first saw the May 5,  
9 1989 program analysis report?

10 A Yes.

11 Q And do you recall telling me that you were sent this  
12 material when Scripps Howard acquired the stations?

13 A Line 11 says I said probably at the same time.

14 Q Right. And then on line 12 I asked you, so when  
15 Scripps acquired the stations you were sent this material and  
16 your answer was?

17 A Yes.

18 Q Yes. And was that correct, that you received this  
19 document when Scripps Howard acquired the station?

20 A On or about that time.

21 Q Your deposition testimony is correct?

22 A I believe so.

23 Q Now, when you -- Your Honor, I would like to move  
24 the receipt of Four Jacks Exhibit 23 into evidence.

25 JUDGE SIPPEL: Well, make a statement of relevance

1 and let's see if there's an objection.

2 MS. SCHMELTZER: Your Honor, this was one of the  
3 memoranda. According to Mr. Kleiner's deposition this was one  
4 of the memoranda he received after Scripps Howard acquired the  
5 station on May 30, 1992 --'91.

6 JUDGE SIPPEL: And what does it --

7 MS. SCHMELTZER: And it talks about a community  
8 ascertainment report.

9 JUDGE SIPPEL: All right. Is there an objection to  
10 this? Mr. Zauner?

11 MR. ZAUNER: Could I maybe have just one second to  
12 read the memo in its entirety?

13 JUDGE SIPPEL: Let's go off the record.

14 (Off the record.)

15 (On the record.)

16 MR. ZAUNER: Would it be possible to have a voir  
17 dire questioning of this witness on this document?

18 JUDGE SIPPEL: Do you want to conduct a voir dire?

19 MR. ZAUNER: Just -- yeah, one question.

20 JUDGE SIPPEL: Go ahead.

21 VOIR DIRE

22 BY MR. ZAUNER:

23 Q Did you ever use this document in any way in  
24 formulating or instituting the ascertainment process at WMAR-  
25 TV during the relevant time period?

1 A Not in formulating or instituting, no, sir.

2 JUDGE SIPPEL: What about in carrying out?

3 MR. KLEINER: This is not -- well, this is not a  
4 formulating or instituting document. This is a record of what  
5 you did, this program analysis report I believe if I'm reading  
6 it correctly, and I would have -- this report would have been  
7 filled out under auspices of Ms. Barr.

8 JUDGE SIPPEL: Mr. Zauner?

9 MR. ZAUNER: Your Honor, I would object on the  
10 grounds of relevancy. I don't see how the fact that they  
11 prepared or didn't prepare a certain report or received a copy  
12 of the report that was to be sent to Scripps Howard relates to  
13 the renewal expectancy. The station has to run on the  
14 programs that they presented and the responsiveness of that  
15 programming to the needs and interests ascertained. The  
16 reporting that they did to Scripps Howard or didn't do is  
17 irrelevant to that determination we have to make here.

18 JUDGE SIPPEL: Well, I think ascertainment  
19 methodology is certainly --

20 MR. ZAUNER: Yes --

21 JUDGE SIPPEL: -- it goes to the very heart of the  
22 issue.

23 MR. ZAUNER: I would agree with you.

24 JUDGE SIPPEL: And this is not -- well, let me --  
25 I'm sorry. I don't mean to cut you off.

1 MR. ZAUNER: I'm sorry. I was cutting you off. I  
2 apologize. I apologize, Your Honor. I was going to say I  
3 agree with you. I think that if this went to the methodology  
4 that was used, that would be then relevant. But this doesn't  
5 seem to go to the methodology that was used. It seems to go  
6 to a reporting system.

7 JUDGE SIPPEL: Well, that's how you back into the  
8 methodology. It's a question of moving from the ultimate back  
9 to its origin. Does Scripps Howard have an objection to this?

10 MR. HOWARD: Yes, sir. I object on the basis of  
11 foundation. The counsel for Four Jacks argued that the  
12 deposition testimony established foundation but it doesn't  
13 state that he -- I don't see any statement in the deposition  
14 that he read the document. It's that he saw the document  
15 probably at the same time.

16 JUDGE SIPPEL: Well, he -- go ahead, I'm sorry.

17 MR. HOWARD: That's both foundation and relevance.  
18 I object on those grounds.

19 JUDGE SIPPEL: All right. Well, I heard Ms.  
20 Schmeltzer really focuses more for identification using the  
21 deposition testimony and to focus his recollection and this is  
22 clearly relevant and it's going to be received into evidence.

23 (Whereupon the document referred to  
24 as Four Jacks Exhibit No. 23 was  
25 received into evidence.)

1 JUDGE SIPPEL: Ms. Schmeltzer, do you have more  
2 questions on this document?

3 MS. SCHMELTZER: Yes, Your Honor.

4 JUDGE SIPPEL: Twenty-three is in.

5 CROSS EXAMINATION

6 BY MS. SCHMELTZER:

7 Q Mr. Kleiner, do you recall giving this memo to Ms.  
8 Barr?

9 A Not directly, no.

10 Q Do you recall directing Ms. Barr to do a community  
11 ascertainment report?

12 A No.

13 JUDGE SIPPEL: Wait just a minute, Ms. Schmeltzer.  
14 You ask the witness would he consider this to be a community  
15 ascertainment report and if not, what would he consider it to  
16 be.

17 BY MS. SCHMELTZER:

18 Q On page 2, Mr. Kleiner, which talks about television  
19 program analysis and schedule, is that the program analysis  
20 report? Is that what that would be?

21 A It looks like it but I don't know for sure.

22 Q Did WMAR-TV ever do a program analysis report?

23 A I believe we did.

24 Q Well, did it follow the format that's included on  
25 page 2 here?

1           A     I don't know.

2                    JUDGE SIPPEL: Excuse me. Are these questions going  
3 to the relevant period of time or --

4                    MS. SCHMELTZER: During the relevant period of time.

5                    JUDGE SIPPEL: His -- he can only answer during the  
6 relevant period of time --

7                    MR. HOWARD: Okay, as long as the witness  
8 understands that.

9                    JUDGE SIPPEL: -- because Scripps Howard documents  
10 weren't before him until Scripps Howard took the station over.  
11 Right?

12                   BY MS. SCHMELTZER:

13            Q     Between May 30 and September 3, 1991, did WMAR-TV do  
14 a program analysis report?

15            A     I don't know.

16            Q     You would be the person who would know if that were  
17 done, wouldn't you, Mr. Kleiner?

18            A     No, not necessarily.

19            Q     Who would know that?

20            A     Either I would or Ms. Barr.

21            Q     Would -- and if Ms. Barr did a program analysis  
22 report would she talk to you about it?

23            A     She might.

24            Q     And she might not?

25            A     And she might not.

1 JUDGE SIPPEL: I want to clarify something for  
2 myself. I really -- I'm sorry to interrupt you. I don't like  
3 to do that. But did -- Would Ms. Barr have the authority to  
4 take on something like this exhibit as a reporting device or  
5 technique and use it without consulting with yourself?

6 MR. KLEINER: Absolutely, sir. This is -- if I'm  
7 reading this correctly this is just a document of what had  
8 already occurred. It's a simple process I believe of going to  
9 a log and looking at public affairs programs and PSAs.

10 JUDGE SIPPEL: Well, assuming --

11 MR. KLEINER: There's no reason for me to look at it  
12 unless there's a problem.

13 JUDGE SIPPEL: Well, that was the next question I  
14 have. If she did prepare, fill this out on a regular basis,  
15 would it not come to your attention as some kind of reporting  
16 technique even though you might not go down each and every  
17 one?

18 MR. KLEINER: Only if there was a reason for me to  
19 see it.

20 JUDGE SIPPEL: And that would be what, if she  
21 brought it to your attention or somebody else brought it?

22 MR. KLEINER: If we did something exceptionally  
23 great or if we had a problem.

24 JUDGE SIPPEL: Where would -- well, I keep putting  
25 this in a hypothetical sense. You don't know for a fact as to

1 whether or not this reporting -- I'm calling it a reporting  
2 document -- whether this was used?

3 MR. KLEINER: That's correct.

4 JUDGE SIPPEL: Was anything like it used to your  
5 knowledge?

6 MR. KLEINER: I don't know, sir.

7 JUDGE SIPPEL: If it were used, where would it go,  
8 just in a file in Baltimore?

9 MR. KLEINER: In a file or sent to corporate.

10 JUDGE SIPPEL: Well, that's a big distinction.  
11 Would it -- it might have been kept in a file in Baltimore and  
12 sent up to Cincinnati.

13 MR. KLEINER: If Cincinnati required it and we did  
14 it, we'd have sent it to them.

15 JUDGE SIPPEL: But you don't have any recollection  
16 of any of those variables?

17 MR. KLEINER: No, I do not.

18 JUDGE SIPPEL: All right, sir. I apologize again,  
19 Ms. Schmeltzer. You may proceed.

20 BY MS. SCHMELTZER:

21 Q Directing your attention to the first page of Four  
22 Jacks Exhibit 23, Mr. Kleiner, was it your understanding that  
23 WMAR-TV was to prepare a community ascertainment report?

24 A No, I had no understanding of that.

25 Q During the period May 30, 1991 to September 3, 1991

1 | did WMAR-TV prepare any community ascertainment reports?

2 |       A     I don't know.

3 |       Q     You don't know?

4 |       A     I don't know.

5 |       Q     Mr. Kleiner, directing your attention to the second  
6 | paragraph of that Four Jacks Exhibit 23, that says that  
7 | Scripps Howard would like the stations to randomly select a  
8 | composite week each quarter and list the information requested  
9 | on the attached program analysis report form. Did you do any  
10 | kind of analysis of composite week programming?

11 |            JUDGE SIPPEL: Wait a minute. It does not say  
12 | analysis report form. It simply says analysis form.

13 |            MS. SCHMELTZER: On the program, on the attached  
14 | program analysis form. Let me ask -- let me back up. I'll  
15 | withdraw that question.

16 |            BY MS. SCHMELTZER:

17 |       Q     Did you have any understanding as to whether WMAR-TV  
18 | after May 30, 1991 needed to do any kind of program analysis  
19 | report concerning its composite weeks?

20 |       A     No.

21 |       Q     Did you ever speak with anyone at Scripps Howard  
22 | about this May 5, 1989 memorandum?

23 |       A     Not that I recall.

24 |       Q     Now, I'd like to direct your attention to what has  
25 | come into evidence as attachment F to Mr. Schroeder's

1 testimony. Would he have that in front of him? Could you  
2 please --

3 JUDGE SIPPEL: We'll go off the record for a minute.

4 (Off the record.)

5 (On the record.)

6 MS. SCHMELTZER: If I may approach the witness.

7 JUDGE SIPPEL: You may, Ms. Schmeltzer.

8 BY MS. SCHMELTZER:

9 Q Mr. Schroeder, I'd like to show you a copy of--

10 A I'm Mr. Kleiner.

11 Q I'm sorry. Mr. Kleiner, I'd like to show you a copy  
12 of an interoffice memo dated July 18, 1991 and it says  
13 recurring reports, shows it was sent to a series of people,  
14 among those the initials listed are AJK. Are those your  
15 initials?

16 A Yes, they are.

17 Q Do you remember receiving this document?

18 A I'll have to read it.

19 JUDGE SIPPEL: Go off the record 'til he has a  
20 chance to read it and before we go off, this is attachment F  
21 or Tab F to the testimony of Mr. Terry Schroeder. Let's go  
22 off the record.

23 (Off the record.)

24 (On the record.)

25 BY MS. SCHMELTZER:

1 Q Do you recall receiving that memorandum?

2 A Yes, I think I do.

3 Q And did you talk to Mr. Schroeder at all about the  
4 memorandum?

5 A Not that I recall.

6 Q Now, if you'll turn to page 2 of the memorandum, did  
7 you have a chance to review page 2?

8 A No, I did not.

9 Q Okay. Please, feel free to --

10 JUDGE SIPPEL: Well, do you want to point to  
11 specific areas that you're interested in and he can take a  
12 look at those?

13 BY MS. SCHMELTZER:

14 Q If you'll look under administrative FCC other.

15 A Okay.

16 Q Do you see that that calls for a community  
17 ascertainment report from all stations quarterly by the 15th?

18 A Um-hum.

19 JUDGE SIPPEL: You have to answer --

20 MR. KLEINER: Yes.

21 JUDGE SIPPEL: You have to verbalize the answer.

22 MR. KLEINER: Yes. I'm sorry.

23 BY MS. SCHMELTZER:

24 Q Did your station send the community ascertainment  
25 report quarterly by the 15th?