

1 MR. HOWARD: Your Honor, I'd also like to object
2 that this question was too broad.

3 MS. SCHMELTZER: It was sustained, already
4 sustained.

5 JUDGE SIPPEL: I don't want to revisit that which
6 I've already sustained. Let's go off the record.

7 (Off the record.)

8 (On the record.)

9 BY MS. SCHMELTZER:

10 Q Mr. Kleiner, did you ever -- in response to some
11 questions from Mr. Howard you described the method of
12 ascertainment that you used during the period May 30 to
13 September 3, 1991. Did you ever -- would you call this kind
14 of an informal method of ascertainment? Is that how you would
15 characterize it?

16 MR. ZAUNER: Objection. Why do we care how he would
17 characterize the method? We know what the method was and it
18 would be up to us to make a determination as to its
19 sufficiency.

20 JUDGE SIPPEL: Mr. Howard?

21 MR. ZAUNER: It's his opinion.

22 MR. HOWARD: I agree with the objection.

23 JUDGE SIPPEL: I'll sustain the objection.

24 BY MS. SCHMELTZER:

25 Q Did you ever have any discussions with Scripps

1 Howard concerning the manner in which WMAR-TV was conducting
2 ascertainment between May 30 and September 3, 1991?

3 MR. HOWARD: Object. There's no specificity as to
4 who at Scripps Howard she --

5 MS. SCHMELTZER: With anyone at Scripps Howard.

6 JUDGE SIPPEL: Scripps Howard, you mean Scripps
7 Howard management?

8 MS. SCHMELTZER: Um-hum, correct.

9 JUDGE SIPPEL: Do you understand that question?

10 MR. KLEINER: Yes.

11 JUDGE SIPPEL: Scripps Howard, you know who Scripps
12 Howard management --

13 MR. KLEINER: Was Scripps Howard aware of how we
14 were ascertaining the community. Is that the question?

15 BY MS. SCHMELTZER:

16 Q Yes.

17 A I can't speak to the relevant period because things
18 run, but they knew how we were ascertaining in the community,
19 yes. They knew what we were doing and they asked us to join
20 the coalition.

21 Q They knew what you were doing and they asked you to
22 join the --

23 A In addition to what we were doing.

24 Q The coalition. Did you ever have any discussions
25 with anyone at Scripps Howard that authorized you not to send

1 | them the community ascertainment report?

2 | MR. HOWARD: Objection. Your Honor, this ground's
3 | covered.

4 | JUDGE SIPPEL: I'll sustain the objection. This is
5 | really going back over what --

6 | BY MS. SCHMELTZER:

7 | Q Did you ever have any discussions with any officials
8 | of Scripps Howard management relieving you of any reporting
9 | responsibilities?

10 | MS. SCHMELTZER: Objection, Your Honor, outside the
11 | scope of redirect.

12 | JUDGE SIPPEL: I'll sustain.

13 | MS. SCHMELTZER: Well, I don't think it's outside
14 | the scope of redirect, Your Honor, because Mr. Howard went to
15 | some detail, into some detail concerning the oral methods that
16 | were going on.

17 | JUDGE SIPPEL: Well, that's right, but not, I mean,
18 | there was nothing said either plus or minus about written
19 | reports and we've been down, we've been through this so many
20 | different times, I don't think it's fair to the witness to
21 | take him through it again.

22 | BY MS. SCHMELTZER:

23 | Q I have one more question and that is did you ever
24 | receive any memos from Scripps -- memos or letters from
25 | Scripps Howard's management telling you that they approved of

1 the method of ascertainment that you were conducting?

2 MR. HOWARD: Objection, Your Honor.

3 JUDGE SIPPEL: I'll permit the question. I'll
4 overrule the objection.

5 MR. KLEINER: Not that I recall.

6 BY MS. SCHMELTZER:

7 Q The only thing you recall is that they asked you to
8 join the Baltimore Broadcaster's Coalition?

9 MR. HOWARD: That's not what he's answering, Your
10 Honor.

11 JUDGE SIPPEL: I'll -- again I have to caution
12 counsel, don't put words in this witness's mouth and I'm going
13 to sustain the objection.

14 MS. SCHMELTZER: I have nothing further, Your Honor.

15 JUDGE SIPPEL: Nothing further. Mr. Zauner, any
16 more -- do you have any cross or recross rather?

17 RE CROSS EXAMINATION

18 BY MR. ZAUNER:

19 Q Mr. Kleiner, do yo recollect any meeting or
20 telephone conversation with any member of the community action
21 board concerning the problems or community needs of Baltimore
22 during the relevant time period?

23 A I don't recall.

24 MR. ZAUNER: No further questions.

25 JUDGE SIPPEL: Is there any re-redirect?

1 MR. HOWARD: No, Your Honor.

2 JUDGE SIPPEL: I have no questions either. Mr.
3 Kleiner, you're excused as a witness.

4 MR. KLEINER: Thank you.

5 JUDGE SIPPEL: I see no reason to continue the
6 sequestration order. These witnesses can talk about their
7 testimony if they -- that is the witnesses can talk. We start
8 at 9:30 Monday morning with the first witness of Four Jacks.
9 I take it that will be in the order in which they're presented
10 here.

11 MS. SCHMELTZER: That's fine with us, Your Honor.

12 JUDGE SIPPEL: One of -- well, I think you have your
13 schedule.

14 MS. SCHMELTZER: Right. Mr. David Smith was
15 planning to be here on Monday morning.

16 JUDGE SIPPEL: David Smith will be here at 9:30
17 ready to go.

18 MS. SCHMELTZER: Right. Now, I don't know if --
19 should we have two witnesses available on Monday?

20 JUDGE SIPPEL: Well, you know how -- I think you
21 should. I don't know -- can --

22 MR. GREENEBAUM: Your Honor, Ken Greenebaum.

23 JUDGE SIPPEL: Mr. Greenebaum?

24 MR. GREENEBAUM: It is our hope to be through by
25 the close of business on Tuesday, possibly by lunch. We don't

1 plan to get into much more than what we've done on cross
2 examination today and we're going to try to keep it short. So
3 I would suggest having two witnesses here on Monday. I don't
4 think we'd get to a third one but I think we'd get to the
5 second for sure. If we have a little time left over it won't
6 be so bad to wait until the next morning.

7 JUDGE SIPPEL: Okay. Well, I do appreciate that
8 advance notice. And that will be it. Just bring two
9 witnesses and if we happen to finish at three, so be it.
10 We'll just come in the next morning.

11 MR. GREENEBAUM: Subject to no objections.

12 JUDGE SIPPEL: Subject to no objections.

13 MS. SCHMELTZER: I do have one other matter and I
14 guess Mr. Howard and I didn't have time to chat about this.
15 Do you want me to put slightly, slightly better copies of the
16 Barr calendar in evidence? Well, let me -- I think I should
17 probably give the Reporter and the Judge slightly better
18 copies.

19 JUDGE SIPPEL: I will always go with the better
20 copy.

21 MR. HOWARD: I will not object to better copies.

22 JUDGE SIPPEL: All right. We can do that off the
23 record. We're off the record until 9:30 on Monday morning.

24 (Whereupon, at 2:10 p.m. the hearing adjourned to
25 reconvene on Monday, November 15, 1993 at 9:30 a.m.)

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN THE MATTER OF SCRIPPS HOWARD BROADCASTING COMPANY
Name AND FOUR JACKS BROADCASTING, INC.

MM DOCKET NO. 93-94
Docket No.

WASHINGTON, D.C.
Place

NOVEMBER 12, 1993
Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 910 through 1064, 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 12, 1993
Date

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