

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In Re Applications of)	MM Docket No. 93-75
)	
TRINITY BROADCASTING OF FLORIDA, INC.)	BRCT-911001LY
)	
For Renewal of License of Television Station WHFT(TV) Miami, Florida)	
)	
GLENDALE BROADCASTING COMPANY)	BPCT-911227KE
)	
For Construction Permit Miami, Florida)	

VOLUME III-A

HEARING EXHIBITS

**TRINITY BROADCASTING OF FLORIDA, INC.
TRINITY BROADCASTING NETWORK
NATIONAL NATIONAL MINORITY TELEVISION, INC.**

TBF Exhibits 201-202

TRINITY BROADCASTING OF FLORIDA,
INC.,

TRINITY BROADCASTING NETWORK,

NATIONAL MINORITY TELEVISION,
INC.

Mullin, Rhyne, Emmons and Topel,
P.C.
1000 Connecticut Ave. - Suite 500
Washington, D.C. 20036-5383
(202) 659-4700

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TBF Exhibit 201 Deposition Testimony of Edward Rick,
III (Portions)

TBF Exhibit 202 Deposition Testimony of Barry L. March
(Portions)

Federal Communications Commission

Docket No. 93-75 Exhibit No. IBF 201

Presented by Ammons Replac Joint IBF
with drawn 201

Disposition { Identified 12-2-93
Received _____
Rejected _____

Reporter A. Walker

Date 12-2-93

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COHEN & BERFIELD, P.C.
Board of Trade Building
1129 20th Street N.W.
Washington, D.C. 20036
BY: LEWIS I. COHEN, ESQUIRE
 Appearing for Glendale Broadcasting
 Company

JAMES W. SHOOK, ESQUIRE
Federal Communications Commission
Mass Media Bureau
Washington, D.C. 20554
 Appearing for the FCC

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COUNTY OF LANCASTER :

SS

COMMONWEALTH OF PENNSYLVANIA:

I, ALFRED W. KERSHAW, the undersigned
Commissioner, do hereby certify that there appeared
before me, EDWARD RICK, III, the witness, being
duly sworn to testify the truth, the whole truth, and
nothing but the truth, in answer to the oral questions
propounded to him by the attorneys for the respective
parties as set forth in the following deposition.

I further certify that before the taking of
said deposition, the above witness was duly sworn, that
the questions and answers were taken down
stenographically by said Alfred W. Kershaw, Official
Court Reporter, Lancaster, Pennsylvania, approved and
agreed to, and afterwards reduced to print by means of
computer-assisted transcription under the direction of
said Reporter.

In testimony whereof, I have hereunto
subscribed my hand this 28th day of September, 1993.

Alfred W. Kershaw

Alfred W. Kershaw
Reporter-Commissioner

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P R O C E E D I N G S

(Whereupon, at or about 2:00 p.m., the following proceedings transpired:)

(Whereupon, it was stipulated that the original of the deposition would be mailed to Mr. Rick for reading and signing by the witness; that the original would then be returned to the Court Reporter for subsequent filing, with two copies, to the FCC.)

EDWARD RICK, III, called as a witness, being duly sworn or affirmed, was examined and testified as follows:

EXAMINATION

BY MR. COHEN:

Q. Would you identify yourself, please, sir?

A. Yes, I'm Edward Rick, III.

Q. What's your residence address?

A. 125 Dunharrow Drive, Lancaster, Pennsylvania.

MR. COHEN: I think we should note the appearance of counsel.

1 to fill in.

2 Among the documents that are being
3 xeroxed -- I'm now relying on my recollection; I
4 just looked at them briefly -- were some drafts, I
5 believe, of the affidavit of Edward Rick, III.

6 And I want to mark as a deposition
7 exhibit the affidavit of Edward Rick, III.

8 (Whereupon, the Court Reporter marked
9 for identification as Deposition Exhibit Rick two,
10 an affidavit.)

11 BY MR. COHEN:

12 Q. And this document is no surprise to
13 you, Mr. Rick. You have seen it probably more
14 times than you wish.

15 And I suspect you will be seeing it a
16 lot more than you wish.

17 And would you look at that affidavit?
18 And on page six, that's your signature, is it not?

19 A. Yes, sir.

20 Q. And you signed that in front of -- Am I
21 correct, did you sign that in front of that notary,
22 Melanie Allen?

23 A. Yes, sir.

24 Q. And who was present when you signed
25 that, if you can recall?

1 Q. The same for 1993?

2 A. Yes.

3 Q. I want to ask you some questions about
4 your affidavit.

5 A. Yes, sir.

6 Q. I'm now talking about the affidavit
7 that you signed, not the drafts. I have no
8 questions at this time about the drafts.

9 A. Okay.

10 Q. In paragraph four you state that you
11 received a visit from two individuals whose names I
12 do not recall. Do you see that?

13 A. That's correct.

14 Q. Did anyone telephone in advance to
15 arrange that visit?

16 A. To my knowledge and recollection, no,
17 sir.

18 Q. So you had two visitors?

19 A. Yes, sir.

20 Q. And these were visitors that you were
21 not expecting?

22 A. That's correct.

23 Q. What time of day did the visit occur,
24 approximately?

25 A. To the best of my recollection, I would

1 say it was early afternoon.

2 Q. Do you have any particular basis for
3 being able to recall that?

4 A. No, sir.

5 Q. You cannot recall the names of the
6 individuals?

7 A. No, I cannot.

8 Q. Can you recall their sex?

9 A. Two males.

10 Q. Two males. You took some notes of that
11 visit, didn't you?

12 A. I merely made -- Yes, I did.

13 Q. There are some notes reflected in
14 the --

15 A. One note, yes, sir.

16 Q. One note. And that's Exhibit D, I
17 believe, to your declaration, which is -- Do you
18 have that before you?

19 A. I have a copy of it. Yes, sir.

20 Q. Would you read that to me?

21 A. 10/16/91, had visit from new owner of
22 rights -- I can't make that out. Oh, want
23 dust-free area. No in parentheses. And then it
24 was filed. I made that note after they left.

25 Q. My note -- this is the original which

1 Mr. Shook was gracious enough to point out to me.

2 Is that the original of your note?

3 A. Yes, sir.

4 Q. And that says --

5 A. That says: Had visit from new owner of
6 rights.

7 Q. That says: Owner. It was singular?

8 A. Right. They were two gentlemen.

9 Q. And they told you they were together?

10 A. Yes, sir.

11 Q. And did they identify themselves?

12 A. They may have, sir. I don't know.

13 They did not give me a card. They identified
14 themselves as the new owner of the rights for the
15 TV tower.

16 Q. And you have that clearly in your mind?

17 A. Yes, sir.

18 Q. And they didn't tell you they were the
19 prospective owners?

20 A. No, sir.

21 Q. They told you they were the owners
22 then?

23 A. They told me they were the new owners.

24 Q. The new owners?

25 A. Yes, sir.

1 Q. I see. But they didn't tell you whom
2 they represented?

3 A. They may have, sir. I do not recall.

4 Q. And you didn't write it down?

5 A. No, sir, I did not.

6 Q. And you didn't get a card?

7 A. No, sir. They did not give me a card.

8 As we would go on, the way the conversation ended,
9 I did not feel it was necessary to know who it was.

10 Q. And I want your best recollection.
11 When they identified themselves they just said: We
12 are the new owners of what?

13 A. Of the rights.

14 Q. Of the rights?

15 A. Yes, of the rights. That I can
16 remember. For the TV tower for the top of the
17 plant.

18 Q. Now, did both of the persons speak to
19 you, or did one talk and one listen?

20 A. Both of them talked. There was -- This
21 sounds funny, but the gentleman -- When they came
22 in my office the gentleman that sat on the
23 left-hand side started the conversation about as he
24 was coming in the door: He was the new owner for
25 the rights.

1 And we sat down, and he held the first
2 part of the conversation. And the second part of
3 the conversation dealt with the dust situation.

4 And the gentleman on the right-hand
5 side contributed at that point.

6 Q. And is it your testimony that they did
7 identify themselves by name, but you can't recall
8 it?

9 A. I am assuming that they did. I don't
10 know, sir. I do not recall if they identified
11 themselves by name. Their names were not familiar
12 to me.

13 Q. Would you have had a conversation with
14 somebody without having a name?

15 A. I don't know. Sometimes I might.

16 Q. And how long is your recollection --
17 How long did that conversation take place?

18 A. Fifteen minutes, maximum.

19 Q. And it took place where?

20 A. In my office.

21 Q. And there were three of you present?

22 A. Yes, sir.

23 Q. No one else?

24 A. No one in the office.

25 Q. And if I was to tell you that one of

1 the persons was a man named Tom Riley, would that
2 help your recollection?

3 A. No, sir.

4 Q. That name doesn't strike you?

5 A. No, sir.

6 Q. Strike a bell?

7 A. No, sir.

8 Q. And if I was to tell you that Mr. Riley
9 met with you, that wouldn't help your memory?

10 A. No, sir.

11 Q. And if I was to tell you that Mr. Riley
12 said he was representing someone who was interested
13 in purchasing the permit that was to be located in
14 your property, that wouldn't refresh your
15 recollection either?

16 A. No, sir. No.

17 Q. Did these persons state their
18 relationship to each other?

19 A. No, sir. Not to my recollection.

20 Q. How long did you say that meeting
21 occurred?

22 A. No more than fifteen minutes.

23 Q. Now, state the substance of what was
24 said during that visit.

25 A. The substance of that conversation

1 dealt with the TV antenna that had been discussed
2 prior or -- when Mr. Daly had called on me earlier
3 the first time.

4 And, as I stated, when they came in the
5 room they explained that they were the owners, new
6 owners to the rights for this TV antenna.

7 And there was some banter back and
8 forth, and the discussion came around to that they
9 would need a dust-free area to house their
10 equipment.

11 And I explained to him at that time,
12 both gentlemen, that that was virtually impossible
13 with our setup, that our plant is not dust-free
14 inside.

15 We purposely, because of environmental
16 reasons, we prefer to keep the dust inside as
17 opposed to outside.

18 There was also a discussion about
19 dust-free and dry area, and that is also a problem
20 due to malfunctions in the plant.

21 We have had malfunctions where the
22 water system has failed, which is on the second
23 deck approximately fifty, sixty feet in the air,
24 and water then runs all over the place.

25 They asked me again if there was -- Was

1 I sure that there was no area that was, you know,
2 dust-free, other than my office and the office
3 area. No.

4 And they said then: Without a
5 dust-free area, they could not place anything
6 there. And that was the end of the conversation.

7 Q. You mentioned a few times, sir, that
8 these persons said they were the new owner of the
9 rights.

10 A. That's the term they used, sir.

11 Q. Did you ask them what they meant by
12 rights?

13 A. No, I did not.

14 Q. Did you know what they meant by rights?

15 A. I made an assumption there that they
16 were talking about the rights that Mr. Daly had
17 talked to me back in '89 or whenever it was.

18 Q. But you never asked them what they
19 meant by rights?

20 A. No, sir. We never got that far. We
21 got to discussing the plant and the dust situation.

22 Q. Did these persons tell you that they
23 were representatives of -- Strike that.

24 Have you ever heard the word: Raystay?

25 A. No, sir. Have I heard it now, yes.

1 Strike that. That question is not a
2 proper question.

3 Now, turning to paragraph four of your
4 affidavit and trying to help your recollection, you
5 state one of the visitors said that he was the new
6 owner of the rights?

7 A. That's correct.

8 Q. But you don't know -- Let me ask you
9 this question. Are you certain that neither person
10 identified who was the new owner of the rights?

11 A. To the best of my recollection, I do
12 not -- I don't know if they did or they didn't,
13 sir. If they did, I don't remember who they said.

14 Q. And do you recall asking?

15 A. No, sir. I don't think I did.

16 Q. And the reason you didn't ask was you
17 didn't get that far; is that it? In your
18 conversation?

19 A. That's, basically, about it because, as
20 I had stated there, I had not given anybody any
21 rights.

22 So it was kind of a -- This whole thing
23 was a kind of a shock to me that they -- In all
24 honesty, they didn't present the case that it was
25 automatic, cut and dried, that they were placing a

1 television antenna on it.

2 Something was open for discussion, and
3 this thing came to the dust situation, and that was
4 it.

5 Q. Was it your sense that they wanted to
6 talk to you about working something out with you?

7 A. They came in as the new, quote, owner
8 of the rights.

9 We sat down, and they started
10 discussing the television antenna that someone had
11 been there before about.

12 And it got into the conversation of the
13 dust-free area. It was obvious that they wanted to
14 put something on top of the plant.

15 Q. Or else why would they have come to see
16 you?

17 A. Exactly.

18 Q. So what was your understanding then of
19 the purpose of their visit?

20 A. To talk to me about it.

21 Q. To see if the site was suitable?

22 A. The only thing that was mentioned as
23 far as suitability of the site was dust, and once
24 the dust was discussed, that was the end of the
25 conversation.

1 A. I'm sure it went something like: Has
2 anyone contacted you?

3 Q. When you say I'm sure, are you
4 reconstructing or recalling?

5 A. I am reconstructing.

6 Q. I really don't want you to reconstruct.

7 A. Well, I know you don't.

8 Q. If you can't recall, I'd much rather
9 you tell me you can't recall.

10 A. All right, I can't recall.

11 Q. Now, did the visitors, these unnamed
12 visitors at the October, 1991 visit, have an
13 opportunity to determine that in their view the
14 site was dusty?

15 A. Did they have the opportunity? Yes,
16 they had the opportunity. They didn't take it.

17 Q. How would they know -- How could they
18 tell you that it was dusty if they didn't take it?

19 A. They didn't tell me. I told them.
20 They wanted a dust-free area.

21 Q. But they didn't inspect the site at
22 all?

23 A. No, sir. They did not.

24 Q. So they had no way of knowing that the
25 site was dusty other than what you told them?

1 A. They had the opportunity to inspect the
2 site.

3 Q. Other than what you told them?

4 A. That's correct.

5 Q. So there I see. I didn't get that
6 subtle distinction.

7 So they never learned for themselves
8 that the site was dusty? You told them the site
9 was dusty?

10 A. I told them that I could not supply
11 them with a dust-free area.

12 Q. And they never inspected the site?

13 A. To my knowledge. I mean when they went
14 outside, whether they went and looked at it from
15 outside when they left, I don't know.

16 But as far as to go inside where they
17 wanted to put their equipment, they didn't go.
18 They had the opportunity -- They did not ask to go
19 in there.

20 Q. Were you with them the entire time they
21 were in your facility? I mean you, personally.

22 A. The entire time that they were in the
23 office, yes.

24 Q. In the premises?

25 A. No. Obviously not, sir, because they

1 would have driven in, parked their car, and came up
2 in the office, and then we held our discussion in
3 the office, and they went down the steps and left.

4 Q. So you don't know whether they wandered
5 around and had a visual inspection without your
6 presence?

7 A. They could not have gotten into the
8 plant.

9 Q. So, so they couldn't --

10 A. They would have had to come through the
11 office to get in.

12 Q. They couldn't have done it because they
13 had to go through your office to go into the plant?

14 A. Basically, yes, sir.

15 Q. So you're certain then they didn't have
16 an opportunity to visually inspect?

17 A. Visually outside looking at the plant
18 is the only way, as far as I know, they could get
19 in the plant.

20 Q. Where was the transmitter to be
21 located?

22 A. By transmitter, are you talking about
23 what I call the TV antenna?

24 Q. Call it the TV antenna.

25 A. They told me: On top of the structure.

1 Q. What was your understanding as to where
2 it was to be located when Daly talked to you?

3 A. When Daly talked to me, it was on top
4 of the structure at some point.

5 Q. Now, you're going to have to help me
6 because I have never seen your structure.

7 A. Okay.

8 Q. I have always wanted to, but I have
9 never got a chance. If you would invite me, I
10 would come.

11 A. There are a lot of them around
12 Washington, D.C., sir.

13 Q. But no one ever invites me anywhere.

14 A. Actually, sir, the one exhibit will
15 give you a good idea of what it looks like.

16 Q. My question is -- In my ponderous way
17 what I am trying to find out is the structure then
18 was supposed to be on the roof; is that it?

19 A. They wanted to put the antenna on top
20 of the roof.

21 Q. On top of the roof, okay. Now, from
22 the vantage point of where you met, could they see
23 the place where the antenna was to be located?

24 A. No, sir.

25 Q. Did you discuss with the visitors where

1 the transmitter was to be -- could be located? Did
2 you ever get that far?

3 A. No. Their discussion -- as far as
4 could be located, they came in, and there was the
5 TV antenna or transmitter that was to go on the top
6 of the plant.

7 And then we got into the discussion of
8 their equipment that had to be in a dust-free area.
9 And that's when everything came to a screeching
10 halt.

11 Q. So did you ever talk about the roof?

12 A. With those gentlemen, did I ever talk
13 about the roof?

14 Q. Yes.

15 A. I cannot recall, sir. No.

16 Q. In paragraph seven in line one, two,
17 three, four, five, six, you say: To the best of my
18 knowledge the visitors did not inspect the
19 facilities.

20 Okay, what do you mean to the best of
21 my knowledge, because that seems to qualify the
22 rest of the sentence?

23 A. You know, they did not go out into the
24 plant. They did not go up on the roof. And the
25 best of my knowledge, once they went outside, what