

ORIGINAL

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

DOCKET FILE COPY ORIGINAL

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-F

HEARING EXHIBITS

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

TBF Exhibit 265

**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**

VOLUME III-F

HEARING EXHIBITS

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

TBF Exhibit 265 Deposition Testimony of Harold Etsell,
Jr.

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

- - - - -

■ In re Applications of:

TRINITY BROADCASTING OF FLORIDA, INC.,
For Renewal of License of Station
WHFT(TV) on Channel 45,
Miami, Florida

MM DOCKET
NO. 93-75

File Number
BRCT-911001
LY

and

GLENDALE BROADCASTING COMPANY,
For Construction Permit for a
New Commercial TV Station to
Operate on Channel 45,
Miami, Florida

File Number
BPCT-911227
KE

Tuesday,
October 19, 1993

DEPOSITION OF:

HAROLD ETSSELL, JR.

called for examination by Counsel for Trinity Broadcasting of Florida, pursuant to notice, at the law offices of Mullin, Rhyne, Emmons and Topel, 1000 Connecticut Avenue, Suite 500, Washington, D.C. 20036, when were present on behalf of the parties:

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Federal Communications Commission

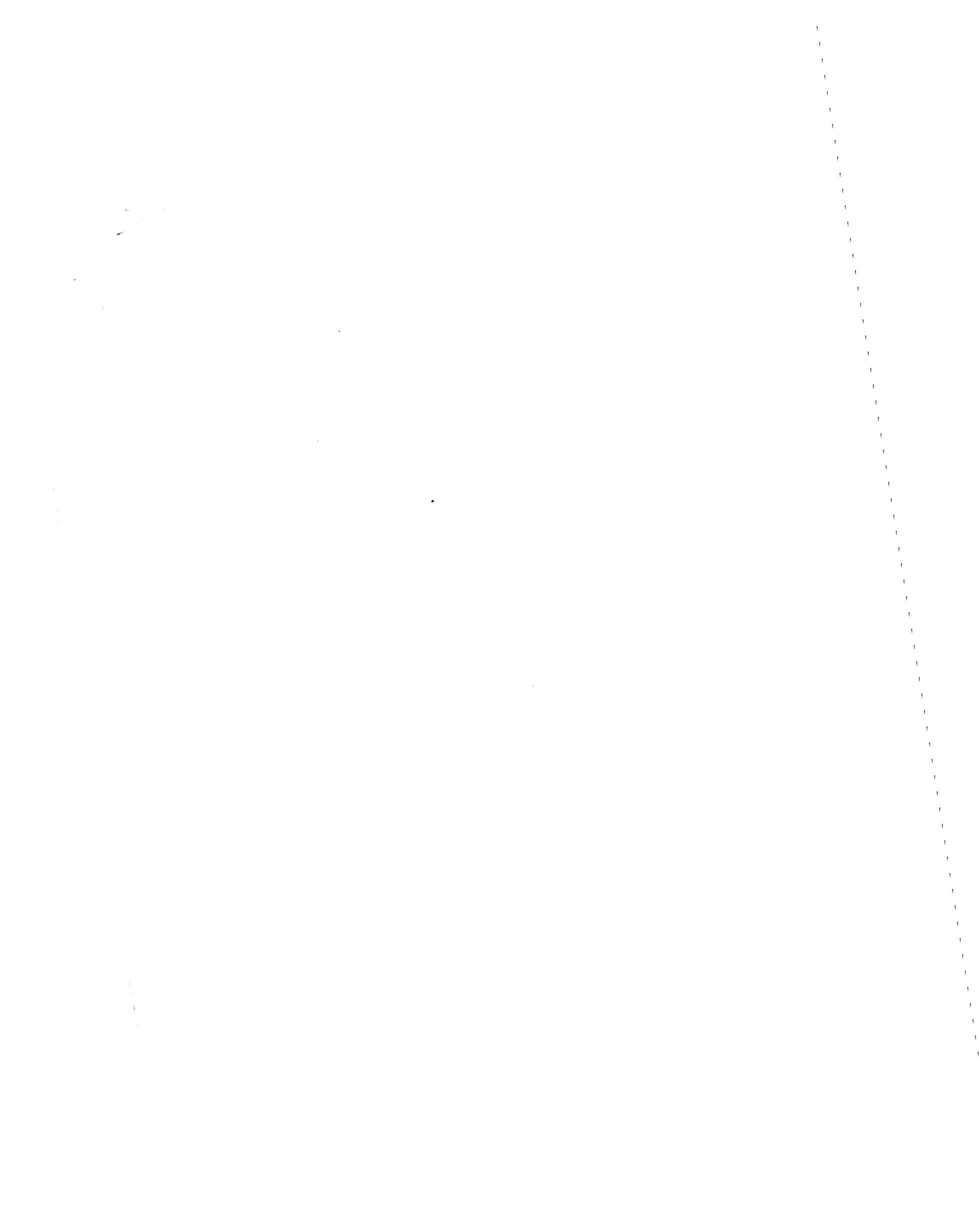
Docket No. 92-75 Extension TF-265

Presented by Summers

Disposition { Issued 12.2.93
Advised 12.2.93

Reporter C. W. Adams

Date 12.2.93



APPEARANCES:On Behalf of Trinity Broadcasting of Florida, Trinity
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I N D E XWITNESSES:DIRECT CROSS REDIRECT RE CROSS**HAROLD ETSSELL, JR.**

By Mr. Emmons 4

By Mr. Schonman 117

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1 P-R-O-C-E-E-D-I-N-G-S

2 12:50 a.m.

3 WHEREUPON,

4 HAROLD ETSSELL, JR.

5 was called as a witness by counsel for Trinity
6 Broadcasting of Florida, Inc., and having been first
7 duly sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. EMMONS:

10 Q Mr. Etsell, first, would you state for the
11 record your name and your residential address, please?

12 A Harold Etsell, Jr., 2620 Pennlyn Drive,
13 Boothwyn, Pennsylvania. The zip code is 19061.

14 Q Do you have a business address?

15 A No, not at this time.

16 Q Do you understand what we call the
17 sequestration rule in this case? Has Mr. Cohen or
18 anyone with Mr. Cohen's firm explained it to you?

19 A Yes.

20 Q Heretofore in this case on these issues
21 we've had testimony in depositions from John Schauble,
22 David Gardner, George Gardner, Edward Rick and Barry

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1 March. My question to you is have you discussed with
2 anyone the substance of the deposition testimony that
3 has been given by any one of those individuals?

4 A No, I have not.

5 Q We also had this morning deposition
6 testimony from Lee Sandifer. I take it you have not
7 discussed with anyone the substance of Mr. Sandifer's
8 testimony.

9 A No, I have not.

10 Q When did you first become associated with
11 Raystay Company or any of the affiliated companies of
12 George Gardner?

13 A My first affiliation with George Gardner
14 was August of 1987 when George Gardner and I formed a
15 company called GH Cable Company.

16 Q And you said that that was your first
17 association with Mr. Gardner. What is your background
18 prior to that time?

19 A My background prior to that time?

20 Q Yes.

21 A I've been in cable for 21 years and so my
22 background was cable television. Prior to working

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1 with Mr. Gardner, I worked for a company called
2 Harthinks Cable, Incorporated, which was a division,
3 I believe, of the larger corporation of Harthinks.
4 Prior to that, if you'd like to go back -- I don't
5 know how far you want to go back.

6 Q Well, you said that was a number of years,
7 I take it.

8 A That was for about three years.

9 Q Okay. And in cable before that as well?

10 A I've been in cable for the last 21 years.

11 Q Have you ever had business dealings with
12 Mr. George Gardner prior to 1987?

13 A Mr. Gardner and I served on the
14 Pennsylvania Cable Television Association board of
15 directors for a number of years. I'm not quite
16 certain how many.

17 Q Now, in 1987, when you first became
18 associated with Mr. Gardner, what was the nature of
19 that business relationship?

20 A We formed the cable company to seek and
21 acquire cable television properties.

22 Q And are you a part owner of that company?

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1 A Not at this time.

2 Q Were you at that time?

3 A Yes.

4 Q Would I be correct in assuming that the G
5 and the H in the name of the company stood for George
6 and Hal?

7 A That is a correct assumption.

8 Q That would be your first name and George
9 Gardner's first name. Now, when did you first become
10 associated with Raystay Company or Waymaker Company?

11 A Principally in 1988. There was always an
12 association, but not direct management involved with
13 the Raystay properties. My direct management role
14 occurred in 1988.

15 Q And did you at that time become an
16 employee of Raystay or Waymaker?

17 A I became an employee of Waymaker Company.

18 Q A full-time employee?

19 A Yes.

20 Q Have you ever been an officer and/or
21 director of Waymaker Company?

22 A I was a Vice President of Waymaker

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1 Company.

2 Q For how long a period of time?

3 A Until my termination date.

4 Q Which was?

5 A October 1st of this year.

6 Q 1993?

7 A Correct.

8 Q You were not a director?

9 A No.

10 Q Were you ever an officer or director of
11 Raystay Company?

12 A Yes. I was a Vice President of Raystay
13 Company. I'm frankly not sure the date that that
14 position was created. It would have been in the area
15 of 1988, as I recall. It might have been, frankly,
16 1999. I don't recall.

17 Q 1989.

18 A Excuse me, '89. I was a Vice President
19 until terminated.

20 Q Until October 1, 1993?

21 A October 1, 1993.

22 Q And was Mr. Lee Sandifer also a Vice

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1 President for part of that time of Raystay Company?

2 A Yes.

3 Q So you and he both served as Vice
4 Presidents?

5 A Excuse me. I don't know if he was a Vice
6 President of Raystay Company. He was a Vice President
7 of Waymaker Company.

8 MR. SCHONMAN: Can I interrupt? I'm
9 having trouble hearing the witness. I wonder if he
10 could speak up.

11 THE WITNESS: Sorry.

12 BY MR. EMMONS:

13 Q And since October 1, 1993, is it correct
14 that you have no employment or other business
15 relationship with Raystay or Waymaker?

16 A That is correct.

17 Q Do you have any consulting arrangement
18 with either company?

19 A No.

20 Q Now, with respect to -- let me ask you
21 this. There are two companies, Waymaker Company and
22 Raystay Company. The record in this proceeding

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1 establishes that there is a management services
2 agreement between Raystay and Waymaker whereby
3 Waymaker provides management services to Raystay. My
4 question to you is, you were not an employee of
5 Raystay Company, is that correct?

6 A That is correct.

7 Q And so, would it be correct to say that
8 the work you did for Raystay, to the extent that you
9 did work for Raystay, was in your capacity as an
10 employee of Waymaker Company and was provided to
11 Raystay as a service under the agreement between those
12 two companies?

13 A Yes.

14 Q What were your duties as an employee of
15 Waymaker Company, generally speaking? And if they
16 changed over a period of time, let us know that too.

17 A I'm not sure that I could give you
18 specific times and dates of different positions held
19 accurately, but my beginning relationship with
20 Waymaker was as a Vice President working with the
21 Raystay properties, as well as the GH properties, in
22 a management role overseeing various projects for

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1 Raystay and operating as the chief operating officer
2 for GH Cable Company. My role with Raystay eventually
3 evolved to the point where I was the chief operating
4 officer for Waymaker and Raystay Company until
5 approximately the end of the first quarter of 1991.
6 At that time my role changed to concentrate on GH
7 Cable properties for most of that year. Near the end
8 of 1991, as I can best recall, I became involved again
9 in marketing and some training issues with Raystay
10 Company and principally stayed in that role throughout
11 1992 and '93.

12 Q The GH Cable properties, am I correct that
13 those are located in Arizona and Mississippi
14 primarily?

15 A At this time, yes.

16 Q Were there other locations at earlier
17 times? Or during the period 1990 to '93.

18 A We owned another cable property at one
19 time. It was in Oklahoma. I'm not quite sure if we
20 sold that in 1990 or 1989.

21 Q Were you a full-time employee of Waymaker?

22 A Yes.

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1 Q And you were a salaried employee?

2 A Yes.

3 Q You didn't bill for hours worked, in other
4 words, you had a regular salary?

5 A We changed the way we applied hours from
6 time to time. At times I did bill specific companies,
7 at times I did not.

8 Q And the times you did not you were on a
9 salaried basis?

10 A I was always on a salaried basis per se,
11 but the charges would be applied to a certain company.

12 Q I see. And to whom did you report in your
13 capacity as an employee of Raystay?

14 A Of --

15 Q Of Waymaker Company.

16 A I reported to George Gardner.

17 Q Was that true throughout your tenure with
18 the company?

19 A Yes.

20 Q Did you report to anyone other than George
21 Gardner?

22 A No.

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1 Q Were there any employees who reported to
2 you in a corporate reporting sense?

3 A Again, that changed depending upon my role
4 with the company. At one time virtually everybody
5 reported to me that was not on the Waymaker staff.

6 Q Let me see if I understand that. At one
7 time virtually everybody who was not an employee of
8 Waymaker reported to you?

9 A At one time. The reporting relationship
10 was shared between George Gardner and myself with the
11 bulk of the management staff reporting to me.

12 Q When was that?

13 A That would have been in the period of --
14 through 1990 and into the early part of 1991. It may
15 have included some portion of '89. I'm not sure.

16 Q Now, during that period of time, was David
17 Gardner among the people who reported to you?

18 A No.

19 Q Did Lee Sandifer ever report to you?

20 A No.

21 Q To whom did David Gardner report?

22 A To George Gardner. Again, what time frame

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1 are you speaking about?

2 Q Well, I was going to ask you next did
3 there come a point in time that David Gardner began
4 reporting to Lee Sandifer rather than to George
5 Gardner?

6 A Yes.

7 Q Do you know when that was?

8 A No.

9 Q Do you know why that was? Do you have an
10 understanding of why that was?

11 A No.

12 Q How frequently typically do you
13 communicate with George Gardner in the course of
14 business operations?

15 A In general several times a week.
16 Sometimes a week or more might pass where we would not
17 communicate.

18 Q Did you work in Raystay offices or the
19 Waymaker offices in Carlisle?

20 A No, I did not.

21 Q Where did you work out of?

22 A At the address I gave you at the beginning

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1 of this meeting.

2 Q Your home address?

3 A My home address, yes. That is not for
4 all, but approximately one year when I had an off-site
5 office again in the area of my home.

6 Q Okay. Did you -- was it your practice to
7 visit the Carlisle offices from time to time?

8 A Yes.

9 Q How frequently did you visit Carlisle?

10 A That varied depending upon the activity
11 and necessity. It could be once a week. I may have
12 missed a couple of weeks at times and I might be there
13 two or three days a week over the course of the years
14 that I worked for the company.

15 Q Typically by what means did you keep
16 George Gardner informed of your activities?

17 A Primarily oral presentations, on the
18 telephone and in person.

19 Q Did you ever provide memoranda or
20 correspondence to Mr. Gardner?

21 A In certain cases.

22 Q Was it more often than not that you had

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1 oral discussions or more often than not that you had
2 written communications?

3 A More often than not we had oral
4 communications.

5 Q Now, were you asked within the last few
6 weeks or couple of months by anyone to search your
7 files for documents relating to Raystay's low power
8 construction permits?

9 A Yes.

10 Q How did that -- who communicated that to
11 you and what did you do?

12 A John Schauble requested that I search my
13 files. I informed him that I had virtually no
14 original records in my files and that I did not keep
15 correspondence necessarily in the file. I had some
16 correspondence in my computer. I searched my computer
17 to produce what I had.

18 Q Did you typically keep your files of your
19 activities in your home or did you keep them at the
20 Carlisle offices?

21 A All original records were kept in the
22 Carlisle office. I had some duplicating records in my

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1 home and in my other office when I had a different
2 office.

3 Q In response to the -- let me back up and
4 ask you this. You said that John Schauble contacted
5 you. Did Mr. Schauble provide you a list of the kinds
6 of documents that he was interested in?

7 A I didn't have the list. I recall it was
8 a verbal communication.

9 Q Do you recall what he --

10 A I may have received something in writing
11 that I don't remember at this point.

12 Q What do you remember verbally that he said
13 in terms of describing what documents were relevant?

14 A Any records that I have.

15 Q Pertaining to what?

16 A Pertaining to the low power television
17 stations and their licensing or anything of that
18 nature.

19 Q And did you turn over to Mr. Schauble all
20 such documents that you were able to locate in your
21 files?

22 A I did discover very recently that I had

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1 some very old budgets, 1988, 1989, and some old
2 correspondence that I did not find until literally
3 just the other day. They were all prior to 1990.

4 Q They were all prior to 1990? Well, when
5 were they generated, do you know?

6 A '88, '89.

7 Q And they pertained to the low power
8 construction permits?

9 A No. It was pretty much related to the
10 activities of TV-40 itself and some correspondence
11 related to those activities.

12 Q Okay.

13 A All operational.

14 Q I'm going to show you some documents that
15 I understand were located in your files and that you
16 turned over to Mr. Cohen's law firm and they were then
17 produced to us. I want to ask you if these are
18 documents you recall having found. If you don't mind,
19 I'll just come over because I want to make it easier.

20 A No problem.

21 Q They're numbered in sequence starting at
22 page 75596 and carrying through 75602. If you'd like

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1 to just take a look at those and I'll ask you
2 questions when you're done.

3 Have you had a chance to look at those?

4 A Yes.

5 Q My question is are those documents
6 documents that you've located in your files pursuant
7 to Mr. Schauble's contact?

8 A They were in my computer.

9 Q Apart from those documents, did you locate
10 any other documents that were within the scope of
11 documents described to you by Mr. Schauble?

12 A No.

13 Q Now, I think you testified a minute ago
14 that -- you used the term "original documents," and
15 then contrasted it to duplicate documents. Are these
16 documents that you've just been looking at, are these
17 in your terminology originals or duplicates?

18 A Those are original documents.

19 Q All right.

20 A Obviously they're not originals, but they
21 were in my computer file. Consequently, they were an
22 original record.

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1 Q And your testimony was that all duplicate
2 documents would be located at the Carlisle offices?

3 A No. I did say all original records were
4 in the Carlisle office, having known that these
5 records were sent to the Carlisle office.

6 Q Okay. You don't have copies of any other
7 documents in your files at home, other than what
8 you've produced to us, that were within the ambit of
9 Mr. Schauble's document --

10 A Other than what I've discussed just a
11 moment ago, that I did find those budgets that I did
12 not know I had.

13 Q Yes. Okay. Do you know of any Raystay
14 low power television documents that have been
15 discarded or destroyed at any time?

16 A No.

17 Q Now, the record in this case establishes
18 that in March 1989 Raystay filed applications at the
19 FCC for five low power construction permits, two in
20 Lancaster, two in Lebanon and one in Red Lion. The
21 question to you is were you involved in any way in the
22 planning or the preparation of those applications?

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