

1 Q Well, tell me about that.

2 A That was a report which was in response to a
3 request from Paul Crouch to conduct a technical analysis
4 over potential coverage of a TV station in Philadelphia.

5 Q This was not related to WTGI, then? This was
6 not related to the --

7 A Yes, it was related to WTGI, that's correct.

8 Q I'm confused, then, by your answer.

9 A Okay.

10 Q It was related to the WTGI purchase?

11 A This occurred prior to my visit.

12 Q "This" meaning what?

13 A This report was prepared prior to my visit,
14 also prior to my knowledge that National Minority was
15 involved.

16 Q So when you wrote that report, you had no
17 knowledge that NMTV was involved?

18 A Correct.

19 Q And you were writing this wearing your Trinity
20 hat?

21 A Correct.

22 Q And you had no knowledge of the prospective
23 purchase?

24 A Correct.

25 Q I see. That explains that.



1 Now, when you state here, "No matter how you
2 cut it, we're not going to have city grade over all of
3 Philadelphia," you were talking about the Wilmington
4 station?

5 A Correct.

6 Q But you thought that the station was going to
7 be purchased by Trinity?

8 A At that time, yes.

9 Q And who told you that?

10 A I assumed it.

11 Q How did it come about that you wrote this
12 report or this letter?

13 A Once again, in response to the request by Paul
14 Crouch to conduct a coverage analysis.

15 Q And he told you to do it, and you assumed it
16 was for Trinity?

17 A Correct.

18 Q Now I want to show you a document that's 06723
19 on the letterhead of TBN written to Dear Sir or Madam by
20 Patricia St. John Clerke, and ask you to look at that for a
21 second. You are copied on that letter, or that memo.

22 A Okay.

23 Q Is that an example of the -- excuse me. Can I
24 have that back, Howard, so I can ask the question.

25 Is this an example of the kind of service that



1 Patricia St. John Clerke would provide for NMTV?

2 A It's an example of something I requested her to
3 do.

4 Q For NMTV?

5 A Correct.

6 Q Now, to the extent that Patricia St. John
7 Clerke spent time on this project or any other project on
8 NMTV's behalf, does NMTV pay Trinity for her services?

9 A I wouldn't know that.

10 Q Who would know that?

11 A I don't know.

12 Q Is she still working at engineering purchasing?

13 A Correct.

14 Q Do you have any sense of what percentage of the
15 time she devotes to NMTV activities or affairs?

16 A Less than 5 percent.

17 Q Now, NMTV itself has no person who serves in
18 Patricia St. John Clerke's capacity; is that correct?

19 A I don't know.

20 Q To your knowledge.

21 A I don't know.

22 Q You don't know?

23 A I don't know.

24 Q I see. Is it your testimony, sir, that you
25 don't know to what extent NMTV has persons employed that

1 provide the kind of services that Patricia St. John Clerke
2 provides for Trinity Broadcasting?

3 MR. TOPEL: I'd object; asked and answered. You're
4 just repeating the same question. You asked it and he
5 answered it.

6 BY MR. COHEN:

7 Q Well, why was Patricia St. John Clerke
8 performing these services?

9 A Because it was ancillary to my function.

10 Q Explain what you mean by that.

11 A My function in this case was to notify the
12 vendor or to see that the vendor was notified if -- may I
13 see the document again? To return the invoice to the vendor
14 based on a dispute regarding services versus payment, which
15 was part of my pursuit on this particular project. She was
16 acting on my behalf in writing that document.

17 Q And you were acting on behalf of NMTV?

18 A Correct.

19 Q I want to show you a memorandum that purports
20 to be written by you dated May 10, 1989, document 06733.

21 A Okay.

22 Q We only have one copy, so I'd like to have it
23 back to ask you the question. This document states "To All
24 Chief Engineers," but it doesn't say chief engineers of what
25 entity. What entity was this addressed to?

1 A That was addressed to all owned and operated
2 and affiliated stations using the type of equipment but that
3 that particular issue pertained to. That would be numerous
4 entities.

5 Q Which entities?

6 A That would be Trinity. That would be CET.

7 Q CET stands for what?

8 A Community Educational TV. National Minority
9 TV. I'd have to go back over my documents to determine what
10 other entities had that particular type of equipment. I
11 don't recall.

12 Q Do you receive any income or compensation in
13 connection with your responsibilities as technical
14 consultant for NMTV?

15 A No.

16 Q Do you know if Trinity provides them gratis?

17 A I don't know.

18 Q Do you keep records so that your time can be
19 allocated for billing purposes, assuming that time you
20 devote to NMTV is billed to NMTV?

21 A No.

22 Q You may have answered this question, and if so,
23 I ask you for your indulgence, but the term "technical
24 consultant" that you use use when you're providing services
25 for NMTV, was that a term suggested to you?

1 A No, it wasn't. The term is of my own origin,
2 and I refrain from using the term "consulting engineer"
3 because it is generally accepted amongst the engineering
4 community that a registered professional engineer having
5 passed the PE exam in the state in question is really the
6 only one entitled to use the term "consulting engineer." So
7 I chose "technical consultant" to compensate for that. I am
8 not a registered professional engineer in the state of
9 California.

10 Q So you chose to call yourself "technical
11 consultant"?

12 A That's correct. That was my choosing.

13 Q Now I want to ask you about a letter dated
14 August 26, 1991 from you to a man named Dan Slape of WTGI.
15 It's not signed by you, but it's produced from Trinity's
16 file or NMTV's files.

17 A That document -- sorry. Go ahead and ask your
18 question.

19 Q Do you recognize the document?

20 A Yes, I do.

21 Q Now, it states that "NMTV has retained me to
22 visit your studio." When you used the word "retained," what
23 did you mean?

24 A I mean they requested. To me it's a matter of
25 semantics, what the word "retained" means. To me it means

1 they have use of my services.

2 Q And who retained you?

3 A Jane Duff.

4 Q And how did she retain you?

5 A She called me to her office and said, "Ben, I
6 would like you to perform an equipment inventory at WTGI in
7 Wilmington, Delaware."

8 Q And you did?

9 A I did.

10 Q And you traveled to Wilmington?

11 A Correct.

12 Q Did NMTV pay for your expenses, to your
13 knowledge?

14 A To my knowledge, I don't know.

15 Q You put your expenses on a credit card?

16 A I don't recall.

17 Q What is your practice when you travel?

18 A I would either use a personal American Express,
19 I would use a Trinity credit card, or on rare occasions
20 cash, I guess.

21 Q Do you use an NMTV credit card?

22 A No.

23 Q Do you recall how you financed your trip to
24 WTGI?

25 A I don't recall.

1 Q So you made that trip?

2 A Yes, I did.

3 Q And you did visit the studio and transmitter
4 sites?

5 A Yes, I did.

6 Q Did you then make a report to Mrs. Duff?

7 A I've answered that question.

8 Q That was the report you referred to earlier?

9 A That's correct.

10 Q Okay. I wasn't clear on that. Now I want to
11 ask you about document 04086 on your letterhead as a
12 technical consultant, May 13, '92, to a fellow Timothy
13 Crutcher. It purports to be your signature.

14 Do you recognize that document?

15 A Yes, I do.

16 Q Now, who asked you to provide this service for
17 NMTV, if you can recall?

18 A Jane Duff.

19 Q Do you provide any services for NMTV that are
20 not specifically requested by Jane Duff?

21 A Yes, I do.

22 Q In what circumstances do you do that?

23 A Within the scope of the relationship I have
24 with Paul Crouch as explained to me by Jane Duff in dealing
25 with budgetary and technical and equipment issues for

1 full-power stations for National Minority.

2 Q I'm sorry, I need to hear your answer read
3 back. I don't understand it.

4 (Record read.)

5 BY MR. COHEN:

6 Q You mean you have the authority to do this on
7 your own; is that what you're saying? I don't understand
8 your answer. You mean you can act without specific
9 instructions; is that what you're saying there?

10 A Why don't you repeat the question, because I
11 don't think I understand it now.

12 Q I may have confused you. Would you go back and
13 give my question to the witness.

14 (Record read.)

15 THE WITNESS: It means the same thing to me. There
16 are other people who request things defined by Paul with
17 respect to his relationship within NMTV as regarding working
18 with me. He will request things from me from time to time
19 that fall within that category of our reporting relationship
20 with respect to NMTV matters.

21 BY MR. COHEN:

22 Q I think I understand.

23 A Beyond that, no, I don't.

24 Q I think I understand your answer. Thank you.

25 So nobody other than Paul Crouch or Jane Duff?

1 A That's correct.

2 Q I understand. Now I want to show you a
3 document dated December 6, 1989 on your letterhead as
4 technical consultant to Mark Fountain.

5 I think we've established that he's the chief
6 engineer in Portland; is that right?

7 A Correct.

8 Q Do you recognize that document? It's document
9 04087.

10 A Okay.

11 Q Did anyone ask you to provide that service?

12 A Yes.

13 Q Who?

14 A Jane, within the scope of her request to deal
15 with technical issues relating to the construction of KNMT;
16 in other words, in a broad sense by Jane within the scope of
17 responsibilities she expected from me with respect to the
18 construction of that station.

19 Q NMTV purchased a construction permit; is that
20 correct? The station wasn't built, was it?

21 A Correct.

22 Q Did you supervise the construction of that
23 station?

24 A Yes, I did.

25 Q Did you travel to Portland?

1 A Yes.

2 Q How many times?

3 A At least four.

4 Q Do you receive reports from Mark Fountain?

5 A Reports, per se. Probably that would be more
6 accurately identified as memorandum, questions, requests for
7 information, that type of thing.

8 Q You receive those type of documents from him?

9 A Technical interface documents, yes.

10 Q Give me your best estimate of how frequently
11 you receive a document like that.

12 A Three times a year, maybe four.

13 Q Do you speak with Mr. Fountain on the
14 telephone?

15 A On occasion.

16 Q Give me your best estimate of how many times in
17 a month or a week you speak with him.

18 A Three or four times a year.

19 Q If he has a problem, are you the person he
20 calls?

21 A Occasionally.

22 Q Who supervises him?

23 A His station manager.

24 Q Was the Odessa station that NMTV owned, was
25 that constructed by NMTV?

1 A Yes.
2 Q Did you supervise the construction of that
3 station?

4 A Yes, I did.

5 Q Did you travel to Odessa?

6 A No.

7 Q You did not?

8 A Never.

9 Q So you were fortunate, then, huh?

10 A Very fortunate.

11 MR. COHEN: Off the record.

12 (Recess taken.)

13 BY MR. COHEN:

14 Q I want to show you a series of documents on the
15 stationery of Trinity Broadcasting Network, Inc. Engineering
16 Department Low-Power Worksheet, documents 56848, 55475,
17 55476, 55465, and 56361.

18 I may be in error here, and if I am, I'm sure
19 you will let me know, but were these low-power worksheets
20 for NMTV facilities?

21 A 56848, I don't know. 55475, I don't know.
22 55465, I don't know. 56361, yes.

23 Q Now, if this was on the stationery of Trinity
24 Broadcasting Network, was that in error, or is that the
25 practice?

1 A It's not on stationery.

2 Q A form, excuse me.

3 A It's not a form. It's a computer printout.

4 Q Computer printout, I stand corrected. Thank
5 you for that help.

6 Was it the practice to put this on a Trinity
7 Broadcasting Network, Inc. computer printout if it was work
8 done for NMTV?

9 A The program that I wrote that generates that
10 has Trinity programmed into it. It's very difficult to
11 change and therefore would have -- any time an individual
12 was attempting to attain those figures, they would have to
13 run that software that had Trinity automatically programmed
14 into it.

15 Q Because NMTV doesn't have that software?

16 A No.

17 Q Now I want to show you a document consisting of
18 pages 55624 through 55630, which is also apparently
19 generated by a computer, and it's a computer generated form
20 with "Trinity Broadcasting Network, Inc." at the top, and
21 the title is "Columbus, Ohio."

22 And I ask you: Was this for an NMTV facility?

23 A I don't know.

24 Q Do you know if channel 20 in Columbus, Ohio is
25 an NMTV facility?

1 A I don't recall.

2 Q It may be a Trinity facility or it may be an
3 NMTV facility?

4 A I know that NMTV has a station in Columbus,
5 Ohio. I don't recall what channel number it is.

6 Q Well, what I'll do is over the evening recess
7 I'll ascertain what channel NMTV operates on in Columbus and
8 I will give you some information tomorrow which might help
9 you in answering that question.

10 Do you know whether NMTV has a facility in
11 Little Rock on channel 33?

12 A I don't recall.

13 Q Now I want to show you a document that says
14 "Trinity Broadcasting Network Engineering Department Memo,"
15 dated July 21, 1991 to Paul Crouch from you concerning
16 Wilmington, Delaware (Philadelphia).

17 Will you look at that for a second.

18 MR. TOPEL: Let's get the number for the record.
19 It's 55600.

20 MR. COHEN: Oh, I'm sorry.

21 Q Now, this memo that you wrote, was this a memo
22 you wrote before you knew that NMTV was to be the purchaser
23 or the purported purchaser of the Wilmington station?

24 A Yes.

25 Q Do you know two persons named Skinny and Rex?

1 A Yes.

2 Q And who are they? I wanted to make sure
3 Mr. Topel was awake. That's the reason I asked that
4 question.

5 A They are both engineering employees of KTBN
6 Shortwave, Salt Lake City.

7 Q Is that a Trinity facility?

8 A Yes.

9 Q Does Mrs. Duff, to your knowledge, have
10 responsibilities for that Trinity station?

11 A FCC interface -- I believe, EEO compliance and
12 FCC interface are the scope of her responsibilities.

13 Q I want to show you a document that was supplied
14 in discovery called "Trinity Broadcasting Network Site
15 Acquisition Checklist," document 06700 through 06703.

16 Are you familiar with that document, sir?

17 MR. TOPEL: For the record, it appears to be two
18 documents.

19 MR. COHEN: My error. Let me straighten you out. I
20 wouldn't have stated it as one document. Let me go back. I
21 see. Thank you for the help.

22 Q I want to show you two companion documents.
23 One is entitled "Trinity Broadcasting Network Site
24 Acquisition Checklist," document 06700, and the other one is
25 entitled "National Minority Television, Inc. Site

1 Acquisition Checklist," document 06702 and 03. My friend
2 Mr. Topel has graciously pointed out to me those are two
3 documents, not one.

4 I ask you if you are familiar with both of
5 those documents.

6 A I don't recall specifically that I have seen
7 these two particular documents.

8 Q You have?

9 A I do not specifically recall that I have seen
10 these two documents.

11 Q Do you know who prepared those two documents?>

12 A They would have been provided by George
13 Horvath.

14 Q "Provided" means prepared?

15 A Prepared, composed.

16 Q Would that have been under your supervision?

17 A Directly, yeah.

18 Q Now, did you instruct him to prepare a site
19 acquisition checklist?

20 A This was something that he deemed to be
21 necessary, and I agreed that it would be a good idea.

22 Q And he did this for both NMTV and for Trinity?

23 A Apparently so.

24 Q I think we've established, or you established,
25 that Mark Fountain is the chief engineer for the NMTV

1 station in Portland.

2 A Correct.

3 Q I want to show you document 06170, which is a
4 memo from you to Paul Crouch on the letterhead of National
5 Minority TV, Inc. Engineering Department Memo.

6 Do you recognize that?

7 A Yes, I do.

8 Q Does NMTV, Inc. have an engineering department,
9 sir?

10 A I would say that the de facto engineering
11 department would consist of those people who perform
12 engineering functions.

13 Q And what do you mean by "de facto"?

14 A Those who perform functions.

15 Q For NMTV?

16 A Uh-huh.

17 Q And who are those persons?

18 A At the moment I would say the people in
19 Portland, Oregon, and by association, my consultancy.

20 Q By association you?

21 A Uh-huh.

22 Q Because you are not in Portland, you are here
23 in Southern California, right?

24 A Right.

25 Q Were you the one that determined that "NMTV

1 Engineering Department Memo" should be at the top of that
2 page?

3 A Yes, I did.

4 Q What was your reason for placing that language
5 there?

6 A Probably on my word processor in the
7 rearranging of various letterheads I left it in there for
8 some arbitrary reason.

9 Q And in this document you very graciously were
10 asking Paul Crouch to give Mr. Fountain an honorarium, is
11 that correct, to award him an honorarium?

12 A Correct. Because of the relationship I held
13 with Mr. Crouch with respect to technical and budgetary
14 issues, I approached him in particular on this one instance
15 because I felt he would have sympathy toward the individual
16 because of the technical challenges involved and that he
17 would approach the NMTV board on both this gentleman's and
18 my behalf because of his special sympathy and technical
19 knowledge of the situation.

20 Q "His" meaning Paul Crouch?

21 A Right.

22 Q And did Paul Crouch do that?

23 A I don't know.

24 Q Do you know whether Mark Fountain ever got the
25 honorarium?

1 A I don't know.

2 Q You never pursued it?

3 A No.

4 Q You mentioned the NMTV board. Have you ever
5 attended an NMTV board meeting?

6 A No, I haven't.

7 Q Do you know at the present time who the NMTV
8 directors are?

9 A Some of them.

10 Q Which ones do you know?

11 A Jane Duff, Paul Crouch, Armando Ramirez,
12 E.V. Hill, Phil Aguilar.

13 Q Do you know who the NMTV officers are?

14 A No.

15 Q Do you know who a fellow named Eddie Sills is?

16 A Yes.

17 Q Who is he?

18 A He is presently chief engineer for KMLM,
19 Odessa.

20 Q And back in 1990 what was his position?

21 A I don't recall in 1990.

22 Q October of 1990.

23 A I don't recall what he was at that particular
24 date.

25 Q Okay. Let me show you a document, 06730, on

1 the letterhead of National Minority TV, Inc. Engineering
2 Department Memorandum, dated October 10, 1990. I will ask
3 you to look at that document. It's signed by Eddie Sills,
4 chief engineer.

5 Have you ever seen the document?

6 A Yes, I have.

7 Q Now, do you know why Eddie Sills was writing to
8 Pat St. John Clerke?

9 A No. It's a mystery to me, other than the face
10 value of the letter --

11 MR. COHEN: He's answering the question. This is a
12 very articulate witness. He is able to take care of
13 himself, Howard.

14 THE WITNESS: I don't know.

15 BY MR. COHEN:

16 Q So you have no explanation or understanding as
17 to why he wrote Pat St. John Clerke asking her to purchase
18 for the station?

19 A His motive was obviously to ask for equipment
20 for the station.

21 Q Was that the procedure, to your knowledge, that
22 was in place when --

23 A Absolutely not.

24 Q Could I finish the question?

25 A Sorry.

1 Q -- when NMTV owned the Odessa station?

2 A No.

3 Q What was the procedure?

4 A The procedure was for the employee to go
5 through their station manager, the station manager to
6 approach their reporting relationship. I believe in this
7 particular case it would have been between Darlene Eve and
8 Jane Duff.

9 MR. COHEN: Howard, I was going to go into a little
10 different area here now. Would this be a good time to quit?
11 We're going to go on until tomorrow. If you insist, we will
12 work another eight minutes.

13 MR. TOPEL: Off the record.

14 (Whereupon the deposition proceedings
15 concluded at 4:50 p.m.)

16 (Whereupon Mr. Miller's deposition was
17 resumed on Wednesday, September 22, 1993 at
18 11:00 a.m.)

19 /

20 /

21

22

23

24

25

The undersigned Certified Shorthand Reporter of the State of California does hereby certify:

That prior to being examined, the witness in the foregoing proceedings was duly sworn to testify the truth, the whole truth and nothing but the truth.

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision; and I hereby certify that the foregoing transcript of proceedings is a full, true and correct transcript of my shorthand notes so taken.

I further certify that I am neither counsel for nor related to any party to said action, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this 11th day of October, 1993.



SHERI CLARK BELL
CSR No. 6368

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

In re Applications of)
)
TRINITY BROADCASTING OF)
FLORIDA, INC.)
)
For Renewal of License of)
Station WHFT(TV), Channel)
45, Miami, Florida)
)
GLENDALE BROADCASTING)
COMPANY)
)
For a Construction Permit)
for a New TV Station on)
Channel 45 at Miami, Florida)

MM DOCKET NO. 93-75
File No. BRCT-911001LY

File No. BPCT-911227KE

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COHEN & BERFIELD

DEPOSITION OF WARREN BENTON MILLER, II

Santa Ana, California

Wednesday, September 22, 1993

Volume II

Sheri L. Clark-Bell
**DEPOSITION
SERVICE, INC.**

REPORTED BY:

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1 Before the
2 FEDERAL COMMUNICATIONS COMMISSION
3 Washington, D.C. 20554

4 In re Applications of) MM DOCKET NO. 93-75
5 TRINITY BROADCASTING OF)
6 FLORIDA, INC.) File No. BRCT-911001LY
7 For Renewal of License of)
8 Station WHFT(TV), Channel)
9 45, Miami, Florida)
10 GLENDALE BROADCASTING) File No. BPCT-911227KE
11 COMPANY)
12 For a Construction Permit)
13 for a New TV Station on)
14 Channel 45 at Miami, Florida)

15
16 Deposition of WARREN BENTON MILLER, II,
17 Volume II, taken on behalf of Glendale Broadcasting Company,
18 at 2100 North Broadway, Suite 310, Santa Ana, California,
19 commencing at 11:00 a.m., on Wednesday, September 22, 1993,
20 before SHERI L. CLARK-BELL, Certified Shorthand Reporter No.
21 6368, pursuant to Notice.
22
23
24
25

