

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

RECEIVED

FEB 17 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. <u>93-94</u>
	)	
Scripps Howard Broadcasting Company	)	FCC File No. BRCT-910603KX
	)	
For Renewal of License of Station WMAR-TV, Baltimore, Maryland	)	
	)	
and	)	
	)	
Four Jacks Broadcasting, Inc.	)	FCC File No. BPCT-910903KE
	)	
For a Construction Permit	)	
For a New Television Facility on Channel 2 in Baltimore, Maryland	)	

TO: The Honorable Richard L. Sippel  
Presiding Administrative Law Judge

SECOND SUPPLEMENT TO MOTION FOR SUMMARY DECISION

Scripps Howard Broadcasting Company ("Scripps Howard"), through counsel, hereby supplements its Motion for Summary Decision filed February 10, 1994. Pursuant to the order of the Presiding Judge, Scripps Howard submits for the record the original signed declaration of Emily Barr correcting and supplementing her hearing testimony.<sup>1</sup> See Order, FCC 94M-81,

<sup>1</sup> The attached declaration has a conformed original signature. Ms. Barr on February 15, 1994 signed a facsimile copy of her declaration which she cannot now locate. Accordingly, she today resigned the same declaration, and that original signature is attached.

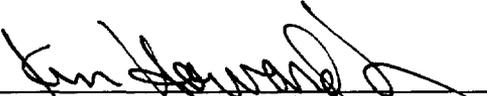
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*[Handwritten signature]*

issued February 17, 1994 and to be released February 18, 1994, at  
n.1.

Respectfully submitted,

SCRIPPS HOWARD BROADCASTING COMPANY

By: 

Kenneth C. Howard, Jr.  
Leonard C. Greenebaum  
Stephanie S. Abrutyn

Its Attorneys

Baker & Hostetler  
1050 Connecticut Avenue, NW  
Suite 1100  
Washington, DC 20036  
(202)861-1500

Dated: February 17, 1994

**ATTACHMENT**

### **Declaration of Emily L. Barr**

I, Emily L. Barr, based on my personal knowledge, state the following:

1. On February 9, 1994, I had a meeting with Stephanie S. Abrutyn, an attorney with Baker & Hostetler.

2. At one point during our meeting, I opened one of the file cabinets in my office to look for a memorandum that I had sent to Baker & Hostetler in order to refresh my recollection as to the date that I had sent the memorandum and other materials to Baker & Hostetler. A copy of this memorandum is attached hereto as Exhibit 1. I immediately reached for the file entitled "MEMOS TO B & H" to look for the memorandum. The only things that I had personally placed in the "MEMOS TO B & H" file were copies of memoranda that I or Arnold J. Kleiner had written to Baker & Hostetler, without attachments. Any attachments to the memoranda were filed separately by subject matter in different files. Thus, in the course of previous searches of my files, I never looked in the "MEMOS TO B & H" file because these memoranda already had been sent to counsel, and, as I stated above, there would be no reason for any of the documents for which I was looking to have been in that file.

3. While looking in this "MEMOS TO B & H" file on February 9, 1994, I discovered a photocopy of the notes that Janet Covington had prepared and given to me in 1992 to assist my efforts to gather and memorialize information about WMAR-TV's ascertainment contacts between May 30, 1991 and September 30, 1991. A copy of these 1992

Covington notes is attached hereto as Exhibit 2. The copy of the 1992 Covington notes that I discovered also contained a cover sheet which was a photocopy of a "post-it" note that I had written. A copy of that "post-it" note is attached hereto as Exhibit 3. The copy of the 1992 Covington notes that I discovered also contains notations made by me while I was transferring the notes to the format provided to me by Baker & Hostetler, which eventually became Attachment E to my written direct testimony.

4. I do not recall ever making a copy of the 1992 Covington notes, nor do I know how the copy that I discovered ended up in the "MEMOS TO B & H" file. Until I discovered the copy that morning, I believed that I had discarded the 1992 Covington notes and that no copies of the notes had been made or retained.

5. I have attempted to recall how the copy could have been made or retained without my knowledge. As for the existence of the copy, I assume that I must have asked my secretary at the time, who is no longer employed by WMAR-TV, to copy all documents that were forwarded to Baker & Hostetler. I also assume that, at some point, she must have misfiled the copy of the 1992 Covington notes in the "MEMOS TO B & H" file rather than the proper file which contains copies of the original calendars used in this proceeding, a file which I had checked.

6. As for the retention of the copy, I turned over more than 10,000 pages of documents to Baker & Hostetler in connection with this matter, including immense volumes of exhibits. I had and continue to have no recollection of having sent the 1992 Covington

notes to Baker & Hostetler. When I examined the file in which the notes should have been retained and discovered that they were not there, I assumed that I must have discarded them, and I so testified at the hearing.

7. After my discovery of the copy of the 1992 Covington notes, Baker & Hostetler informed me that Ms. Covington's original 1992 notes had been found in their files. Prior to that, I believed that I had thrown those notes away. I still have no recollection of sending or copying the 1992 Covington notes, and as I stated above, it did not occur to me to look in the "MEMOS TO B & H" file for the 1992 Covington notes, or any other documents, because the only items that were supposed to be in that file were copies of memoranda, without attachments, that Mr. Kleiner or I had sent to Baker & Hostetler.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

FEBRUARY 15, 1994

  
\_\_\_\_\_  
Emily L. Barr



June 25, 1993

TO: DAVE ROBERTS

FROM: EMILY BARR *EB*

RE: REQUEST FOR DOCUMENTS

Attached please find the original documents you requested earlier this week. The following items are included:

**The Morning Show:** Memos and personal notes regarding its development and implementation.

**Personal Calendars:** Janet Covington's original notes to me were prepared specifically for this license challenge issue but she did not save her actual calendar. Howard Zeiden no longer has his 1991 calendar either. The other individuals listed on the ascertainment interviews did not retain their personal calendars, however, their participation in these meetings can be substantiated, in virtually all cases, by checking either Arnie's, Maria Velleggia's or my calendar. In those cases, their names or initials were written alongside the names of the community/business leaders with whom we met.

**News and Public Affairs Personnel:** Job descriptions, qualifications (in the form of resumes, bio's, etc) and hours of work are included. These were taken from personnel files so you will not be receiving original documents at this time.

**Tape Index:** Attached.

cc: Arnie Kleiner  
Terry Schroeder  
Frank Gardner



Emily

EXHIBIT 2

(1)

September 3 9 AM - Met with Towns Festival rep. ~~rest on all support~~ - Agreed to do PSA and ~~arrangement~~ on featured story ideas

September 5 - 2 PM. Meeting with Ray Jenkins, editorial writer of Sun, Jack Epstein, educator, Karen Wilson to determine theme + guests for 4 breakfast series for NCCJ. Topic: Widening the Mainstream - how to encourage businesses to strive for more diversity in workplace + promote inter-group understanding. Speakers identified for each session.

Subsequently, I called Don Hutchinson, head of M&DA + incoming pres. of Md. Chamber of Commerce to kick off series

Sept 4

9 AM Metro Classic Meeting - Planning for <sup>high school</sup> championship basketball games (4) and involvement of <sup>other</sup> students in the volunteer cadre needed prior to and day of event. Channel 2 agreed to a series of player profiles on sports and

to PSA campaign to promote event  
2 PM - met with PR - Bald Museum of Art - about promotion of Monet exhibit thru PSA + news or public affairs programs

Sept 5

7:30 Stanley Collins Memorial Breakfast at this posthumous salute to a legendary humanitarian - talked with Dr. Clem Kaufman about speaker - city education program being related to UMBC for possible on-air celebration

2

~~Sept 5~~ - 6 PM - Dinner honoring Shirley Marcus, former head of Baltimore Department of Social Services who was leaving to be deputy director of The Childrens Defense Fund in Washington D.C. (Shirley member of Channel 2's Advisory Committee) Talked with Judge Robert Watts about youth crime and the need to fix recreational after school activities for young people

~~Sept 6~~ <sup>10 AM</sup> Met with Lisa Williams - Ex. Asst. Md. Office for Handicapped Individuals about developing PSA's to promote compliance with handicapped parking spaces - Agreed to help also discussed other handicapped issues + ideas for accessing media through news + feature stories

3 PM - Met with Jo Ann Long from State Drug Commission to discuss on-going local efforts of prevention

~~Sept 10~~ <sup>9:30</sup> - Final Fund - Long Range Planning Mtg. Discussed strategies to increase return on BGE envelope campaign <sup>meeting with</sup> Bellbonds company, Penn Advertisement suggested - Called - arranged one for next day.

Sept. 11

3 P.M. meeting with Penn Advertising  
+ Fuel Fuel Board members. Channel 2  
Art directors attended - Fruitful -  
Got sys. home commitment - promise of  
20 three-out week - Channel 2 agreed  
to do art work -

5:30 - Meeting of Humanitarian Dinner  
Committee

September 12 -

7:30 - Minority Business Association  
breakfast (in conjunction with Md.  
Chamber of Commerce) - Only Young  
speaker - Workshops between breakfast  
and

12:00 - Minority Business Assoc. Lunch  
Channel 2 had tables to both breakfast  
lunch -

September 13 -

noon - Public relations committee meeting  
with Family + Childrens - Increasing  
visibility for agency strategies across  
and conditioning staff to recognize news  
story potentials in services delivered  
to individuals + families

September 16 11 A.M. - 7: met of several meetings  
scheduled with Ellen Kohler of Balto  
City Recycling Program to develop R.S.A.

campaign + story ideas to alert people to  
 pending curb side recycling in Balt.  
 City and to encourage citizen participation  
 We agreed to produce spots -

Sept 16 - 6 PM - Meeting of MCA Martin Luther  
 King B'fest Committee - decided to  
 book Taylor Branch to be speaker  
 Channel 2 to do PSA - Also to be a corporate  
 sponsor -

Sept 17 - 2 PM - Rev. Dan Horner - an AIDS  
 victim Rev. Horner dedicating his life  
 to speaking out - Target audience  
 young blacks - Worked on PSA message  
 We agreed to produce in cooperation  
 with a 501-C3 non-profit

Sept 19 - 2 PM - Met with Ellen Kohn again  
 on storyboards + other aspects of  
 City's recycling campaign

6 PM - NAACP Unity Banquet

Sept 24 - Town Meeting Crime - Studied audience  
 - which Channel 2 assembled represented  
 contacts with cross section of neighborhoods  
 and community wide organizations that  
 reflected the diversity of the city and  
 the commonality of the concern

Sept. 25 -

Talked with Peterson & Whelan representatives  
re: promotion of Pets Walkathon -  
Developed possible feature story lines -  
agreed to produce PSA -

Sept 26. 2:30 PM - Dawn Patrol Meeting - to  
form up event series + promotion  
strategies to gain attendance of business

Sept 27. Fuel Fund Board Meeting

Sept 28 - 9:30 - 4:30 - Attended Metropolitan  
Education Coalition / Day Long Saturday  
seminar - on educational concerns - funds  
Representatives from all counties there  
and roster of excellent, challenging speakers  
for the all-attendee presentations.  
Additionally series of workshops held.  
I served on the panel that addressed  
accessing the media

8 PM - Lifesize - station sponsored

June 3rd -

11 AM - Rebecca Warren - script. M'fume +  
Cordin in. for Humanitarian Dinner

June 4<sup>th</sup>

8:30 attended adult services committee - Family  
and Children for staff review of need  
and service gaps for elderly population  
in Central Maryland

4 PM - Met with Elmer - Md Food Committee

June 5<sup>th</sup>

2 PM - NCCS Reception for Student Winners in  
Channel 2 Brotherhood/Sisterhood Week  
Essay/Poetry Contest conducted in a play in  
Central Md. public, private + parochial schools

7:30 Associated Black Charities Reception

and Channel 2 associated organizations - Lat Med  
Award for Television - Black Church Managers  
received 1st award - Ann Howard

CHECK DONOR - STANLEY

June 6<sup>th</sup>

Victorine O'Adams Humanitarian Award  
Dinner - Recipients Kwesi M'fume  
and Ben Cordin - Beverly Burke  
Rouse - Conducted by Full Fund Co.  
Janet Covington, president -

(over)

June 7<sup>th</sup> Lunch with Abby Lazarus - March of Dimes -  
re: shortfall of Walkathon - how Channel 2 could  
support Fall Walk and other M.O.D. pgs

June 10<sup>th</sup> - 4 P.M. Planning Meeting with reps from Central Maryland  
for WMA-R - TV Paddle for People -

June 11 - Flag Day Luncheon - Channel 2 had student and  
and student advisor from New Mexico as guests at Table  
~~Events highlight of Flag Day which Channel 2 promoted PSA's + News~~  
MAY BE PGM IN FILE ON SPEAKER ON MARIA MAY

June 12<sup>th</sup> 9 AM Paddle Shoot with representatives from sub -  
6 divisions - Channel 2 had prints made for sub -  
decision to use for their pledge gathering fund raising  
6 PM - Reception + Dinner for Flag Day student participants  
from across nation. Talked with students about  
implementing Pledge for Peace locally

June 13 10 AM Met with Nancy Tyler re: consumer  
education + accepted PSA's offering free booklets  
from Pueblo, Colorado -

June 14 9 AM Sp. Committee - Food Fund Cent. Dist.

June 16 6 PM Zooming (didn't attend but was Channel 2 Event)

June 17 Noon Lunch with P. Jordan - former employee  
Advised her on contacts she wanted for  
new job in county television

June 19<sup>th</sup> Talked with Clint Coleman - Mayor's Press office  
about lack of materials in city rec. centers and  
lack of funds to get same and plan for Channel 2 to ask  
public to donate

Met with Dorothy Jordan on Afram. PSA's  
developed on the Honorees, PSA's for all events - Parade - 10K  
run - luncheon - 4 day festival + ideas  
for new features  
2:30 Family + Children - Agency Services Committee  
to begin prioritizing agency services -  
Staff members briefed committee members  
4 PM Agency Luncheon came as special guests to  
discuss children's needs in all of these areas

representing Girl Scouts

~~June 20<sup>th</sup> 1:30 Met with Bill Klinger - to discuss Girl Scouts and campaign concept~~

~~June 25 5 PM YWCA committee meeting~~

~~June 26 10 AM Policy Committee - FFCM Inv  
5:30 attended YMCA Druid Hill Y meeting  
station honored for special PSA program  
and used with frequency. Druid Hill Y  
credited PSA with significantly  
increasing memberships at newly renovated inner  
city facility - Horace Holcomb Luce~~

~~June 27 Noon Family + Childrens Board meeting  
(Emily's <sup>date</sup> calendar) Meeting with Jan Bair, Dorothy Cruz  
Anne Greer of Baltimore League of  
Women Voters re: Marginal debate  
Alic's Voter Registration Countdown PSA  
campaign (each day "x" day left to register)~~

~~5 PM Metro Council Committee recap of  
event - (station TV sponsor - Paul  
Farrell) and timetable for '92 committee  
assignments + deadlines~~

~~June 28 FFCM Policy Mtg~~

~~June 29 Evening - Alvin Ailey concert - Channel 2  
sponsored - we promoted in PSA + handouts  
+ do major university connection~~

~~July 9<sup>th</sup> 3:30 P.R. committee Md Chamber of Commerce -  
discussed presentation of public of  
mergers with MEGA. Jack Feltner, chair~~

~~July 10<sup>th</sup> 3 PM Meeting with Bulletin rep. Judy Hallund +  
Maggie Games - literacy~~

~~July 11<sup>th</sup> 4:30 pm NCCL board mtg Channel 2 - discussed  
social issues in community + strategies to combat  
2:15 Meeting Mary Ashland business Fundraising  
re: PSA + pgm ideas~~

~~July 18<sup>th</sup> 10:30 Met with Bonnie Stecker re: Family + Child  
Care + campaign + production~~



EXHIBIT 3

JAMES Conington's  
original notes  
to MA regarding  
appointments  
as commitments  
She did not save her original  
calendar —

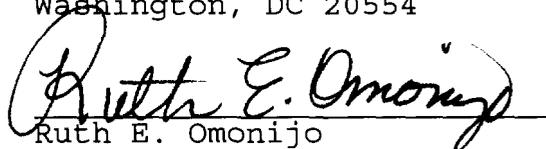
Certificate of Service

I, Ruth E. Omonijo, a secretary in the law offices of Baker & Hostetler, hereby certify that I have caused copies of the foregoing "Second Supplement to Motion for Summary Decision" to be hand-delivered this 17th day of February, 1994, to the following:

The Honorable Richard L. Sippel  
Presiding Administrative Law Judge  
Federal Communications Commission  
2000 L Street, N.W.  
Room 218  
Washington, DC 20554

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Ruth E. Omonijo