

1 really required. You can do anything you want. And that,  
2 that's an expense, wouldn't you agree, to put in generators  
3 and all that.

4 Q But why would you need to put in emergency powers  
5 and generators just to have your inhibitor functioning --

6 MR. HARDMAN: Your Honor, I object. That was not  
7 the testimony.

8 MS. LADEN: I, yes, I, I'm --

9 JUDGE CHACHKIN: The testimony, if the power goes  
10 off, he has an emergency generator as back up.

11 MR. RAYMOND: Yes. We have it. We have emergency  
12 power, so they can't go off, ma'am.

13 JUDGE CHACHKIN: That's for the, you're talking  
14 about the RCC for that.

15 MR. RAYMOND: Well, the, the, yes, sir. Yes, sir.

16 JUDGE CHACHKIN: Not the PCP?

17 MR. RAYMOND: No, sir. On our PCP's as well, we  
18 have generators.

19 MS. LADEN: I apologize. I, I, I was trying to  
20 determine, and forgive me if I, if I don't follow the, the  
21 emergency generator, but I was trying to determine why the  
22 inhibitor might not be functioning properly ten percent of the  
23 time.

24 MR. HARDMAN: Your Honor, I, again I, I'm going to  
25 object. First of all, this issue was testified to by Mr.

1 Peters. This witness said he didn't have an explanation. The  
2 FCC inspectors who are, you know, much more technical, didn't  
3 have an explanation. The only explanation that's been  
4 testified to in this proceeding is by Mr. Peters, and he was  
5 never asked about his explanation.

6 MR. JOYCE: Peters wasn't there.

7 JUDGE CHACHKIN: Well, the witness has, has  
8 testified he doesn't have an explanation, so we might accept  
9 his response.

10 MS. LADEN: When did you first begin to get  
11 complaints from RAM?

12 MR. RAYMOND: Before we went on the air. Before we  
13 got our license. Let's go on back a little further. And I  
14 think all these exhibits here, because after my declaration,  
15 prove that it started as soon as they found out we had applied  
16 for a license.

17 MS. LADEN: Now do you, when was the first time that  
18 they complained of interference?

19 MR. HARDMAN: Your Honor, again, I, if this is a  
20 test, that's fine, of, of his, the witness's knowledge, but  
21 this is all gone over in the, in his direct testimony. If  
22 it's, it, it's been asked, the question has been asked and  
23 answered. If, if, if the credibility of the witness is being  
24 tested, that's fine. But the, but the information is already  
25 in the record.

1 MS. LADEN: Your Honor, the question is a background  
2 question. It's, it's preliminary to my next question.

3 JUDGE CHACHKIN: Well, but you're asking for a  
4 specific time and apparently there is some testimony in, in  
5 the exhibit as to when they first had knowledge of, are you  
6 talking before they went on the air, are you talking about  
7 after they went on the air, or what?

8 MS. LADEN: I'm asking the witness when he first  
9 became aware that RAM was complaining about interference,  
10 specific. Because I believe there were complaints about other  
11 things.

12 JUDGE CHACHKIN: All right. Now we're talking about  
13 you were on the air, you went on the air, March 1991, you  
14 testified.

15 MR. RAYMOND: Um-hum. Yes. Yes, sir.

16 JUDGE CHACHKIN: Did you get any complaints from RAM  
17 about interference prior to the March 1991 date, to your  
18 recollection?

19 MR. RAYMOND: Yes, yes. We, I, I believe there is a  
20 motion or whatever you call it here that --

21 JUDGE CHACHKIN: No, we're not --

22 MR. RAYMOND: Oh.

23 JUDGE CHACHKIN: -- we're not talking about motions.  
24 I, what kind of complaints are you talking about, direct,  
25 conversation, or, or what?

1 BY MS. LADEN:

2 Q I'm I want to know when you first became aware, if  
3 ever, did you ever become aware that RAM was complaining  
4 about, let's call it collisions, because I believe that's your  
5 term --

6 A That was their term.

7 Q -- of transmitting at the same time.

8 A Yes, ma'am. At one time --

9 Q When did you first become aware of that?

10 A I thought I answered that, but I, I will go back  
11 once again, and, and I'm so familiar with these dates because  
12 it's the day after my daughter's birthday. On March 9th,  
13 Mr. Capehart put an emergency call in to me, and I will  
14 reiterate this once again, and to this day it has never been  
15 answered, why an emergency call would come to my home on a  
16 Saturday morning, telling me that there is a religious  
17 broadcasting, religious radio station interfering with RAM's  
18 transmissions. And I asked him why. He said it's your all's  
19 fault and that's it. And I told him he was crazy, that we  
20 were not even on the air. However, we had planned on going on  
21 the air on March the 11th, the Monday. At that moment,  
22 Saturday, he informed me that RAM had took the necessary  
23 whatever to make sure this interference, and they took their  
24 inhibitor off. I suggested strongly to him that that  
25 inhibitor be placed on by March the 11th, Monday, because we

1 | planned on going on. We did not go on that day, we went on,  
2 | on the next day, Tuesday. It was quite obvious to everyone  
3 | that the inhibitor was not on. I called Mr. Capehart that day  
4 | and he was so belligerent, and I know I testified about this  
5 | to, to RAM's attorney, he became so belligerent, and I will  
6 | tell you this, I do have a temper, and no one should be  
7 | allowed to talk to anyone that way and use the language that  
8 | he used over the phone to me, because I made the call, call in  
9 | front of people, he cussed me till a fly wouldn't light on me,  
10 | told me it was their frequency and that we weren't going to  
11 | cause all this interference to them, and he didn't want to  
12 | hear, and hung up on me. Hung up on me. On March the 12th.  
13 | On March the 19th, and, and I'd like to refer to his letter,  
14 | it's, it's in here, if you don't mind, I'm not quite sure what  
15 | tab it is.

16 | MR. HARDMAN: At tab 13.

17 | MR. RAYMOND: On March the 19th --

18 | (Asides.)

19 | MR. RAYMOND: -- he referred, he sent this letter,  
20 | because he had a reason why he could collide, he had a reason  
21 | that, to me, that after he, and this is he explained these  
22 | collisions to me, and, and what it was, what it boiled down  
23 | to, at that time, I do not believe they had an inhibitor,  
24 | which in this, and, and please excuse me, if my recollection  
25 | serves me real well, and, and I'm, guess I'm, I'm like

1 Mr. Joyce, I have a pretty good memory, Mr. Bobbitt testified  
2 in here that they put an inhibitor on the air when Capitol got  
3 their license in Charleston, that they had two block out  
4 devices, one in the Huntington/Ashland area and one, once we  
5 got our license, in the Charleston area. I think the record  
6 will reflect that. Now that's what the gentleman, I  
7 recollect, testified to. See their problem with that, ma'am,  
8 there was other licensing on that channel before Capitol had  
9 it in Charleston, which was Mr. Basham. And in his testimony  
10 here, he said that he had had problems with him, wrote you all  
11 a letter, the, the FCC a letter saying that I've had problems  
12 with this guy, he doesn't have an inhibitor on. They write  
13 him a letter back saying, oh, yes, we do, we can't understand  
14 what you're talking about, we weren't aware of this. But,  
15 yet, under oath, under oath in a court of law, testified that  
16 they never had it until Capitol put their license on. Now one  
17 part of that's wrong, okay? And Mr. Bobbitt, who is, quote,  
18 supposedly, they like these titles, vice-president -- the  
19 corporate vice-president or executive vice-president, was over  
20 the technicals, then surely should know when an inhibitor was  
21 placed into Charleston. He testified it was when Capitol put  
22 their system on. And to me, now everything that Mr. Basham  
23 said is so true by their own testimony. I find it  
24 preposterous. I find it disgusting that they make these  
25 allegations towards us.

1 BY MS. LADEN:

2 Q My question was once you became aware that they were  
3 concerned about collisions or interference or making  
4 complaints, whatever, did you set up a system to check for  
5 collisions?

6 A No, I did not. Absolutely not.

7 Q Did you check the functioning of the inhibitor?

8 A No, I did not. I, I'm not technical, ma'am. I  
9 directed Mr. McCallister to check the systems.

10 Q Did you ever direct anyone to check the speed of the  
11 morse code transmission?

12 A No, ma'am.

13 JUDGE CHACHKIN: When was that complaint, when, when  
14 was Capitol given notice of, of that problem?

15 MS. LADEN: I believe the first, that, that was a  
16 result of the inspection.

17 JUDGE CHACHKIN: Oh.

18 MR. RAYMOND: The only technical person that got  
19 involved in the morse code, and I'm sorry, sir, I have a hard  
20 time remembering your name, but it wasn't Mr. Walker, it was  
21 the other gentleman, that took the phone away from me when the  
22 Commonwealth, he looked at the dip switches, said they were  
23 the way they were supposed to be, then he testified it could  
24 have been upside down and we had a little joke here afterwards  
25 that, you know, it doesn't go in, it only goes in one way, so

1 | it couldn't have been upside down. And later, later, and  
2 | believe me I'm not a rocket scientist, okay, but I thought,  
3 | huh, if it's slow and it's in the fast speed, why don't I move  
4 | it to the slow speed, and it changed it. So I put it into the  
5 | slow mode at a later point. I did this.

6 | JUDGE CHACHKIN: When was --

7 | MR. RAYMOND: And now, then it started I.D.'ing  
8 | faster, I think, I'm sure it did.

9 | JUDGE CHACHKIN: When was that point?

10 | MR. RAYMOND: Oh, I don't know. It was after, after  
11 | they made me aware of it.

12 | COURT REPORTER: Excuse me, I'd like to change the  
13 | tape, please.

14 | (Off the record. Back on the record.)

15 | JUDGE CHACHKIN: You're saying that the morse code  
16 | was, was going slow, even though it was in the fast mode on  
17 | the machine? Is that what you're saying?

18 | MR. RAYMOND: That is exactly what the, if my  
19 | recollection serves me right, was the testimony of the  
20 | engineer, that he did talk to Commonwealth. I called them  
21 | because I was questioned about the morse code speed, and I  
22 | said this is how it was set from the factory. And I called  
23 | them and that's when he took the phone away, and, and I took  
24 | it as an insult then because I was a little upset that like he  
25 | wasn't going to believe anything I said. But, anyway, he

1 ended up talking to the technician from Commonwealth, the  
2 manufacturer of this, and he looked at the dip switches and, I  
3 mean, it's either, it's like a light switch, it's on or it's  
4 off, okay? And, said, well, they are set right, huh, they're  
5 set right. Hung the phone up. That they, they appear to be  
6 right. I, makes me assume that, that it was right. Then he,  
7 then after we get this complaint -- notes, if your morse code,  
8 you're going to be fined or some, well, but anyway during the  
9 course of that time, like I said, I'm not a genius, but I  
10 thought, well, if it's set one way, maybe it's set, it needs  
11 to be set in the slow mode and that'll be fast. Maybe they  
12 had their wires crossed, but it was set properly. It was set  
13 properly by Commonwealth, and that is what the technician,  
14 you, the field engineer heard.

15 JUDGE CHACHKIN: Well, you're testifying that  
16 Commonwealth, when they installed the equipment, set the  
17 machine?

18 MR. RAYMOND: It came, they, when they sent the card  
19 down, it was preset, yes, sir.

20 JUDGE CHACHKIN: And nobody at Capitol touched it?

21 MR. RAYMOND: Oh, no, no. And the field engineer  
22 testified that it was the proper setting, as Commonwealth had  
23 told him to be into the fast speed.

24 JUDGE CHACHKIN: Okay.

25 MR. RAYMOND: Unless the card could have been upside

1 down and I, and I think if he's asked again, he will say there  
2 is only one way a card can be installed.

3 JUDGE CHACHKIN: So you're, what you're saying is  
4 when it was changed to the slow mode, it started morse code  
5 was quicker, is that what you mean?

6 MR. RAYMOND: Yes, sir, that is correct.

7 MS. LADEN: Now --

8 JUDGE CHACHKIN: Did you ever discuss this with  
9 Commonwealth, this problem?

10 MR. RAYMOND: Yes, sir. It, they, the inspectors  
11 even discussed it with Commonwealth.

12 JUDGE CHACHKIN: You mean after this point, did you  
13 discuss with Commonwealth the, the setting that you had, --

14 MR. RAYMOND: Yes, sir, that, that I had, you know,  
15 they, they're still saying it's too slow and you've got it in  
16 the fast, you know, you had, you're telling me for the fast  
17 speed it's set properly. They're still saying it's too slow.  
18 Sir, I don't read morse code. I don't, I don't know it, okay?  
19 And I said I'm going to play with it and I switched it to the  
20 other thing and it did pick up. And, and that was the end. I  
21 mean evidently the, something, wires or whatever, or the  
22 little circuitry or, and it's all closed circuitry, I guess is  
23 what you call it, you know, maybe they're, maybe they were  
24 crossed, but not by Capitol.

25 BY MS. LADEN:

1 Q Now did the engineers tell you, when you were  
2 discussing the morse code, isn't it a fact that they told you  
3 that the morse code was going out too slow?

4 A Yes, ma'am. I, I just said that. Yes, ma'am.

5 Q They told you that at the time of the inspection?

6 A Yes, ma'am. That's why the call was gone to  
7 Commonwealth, because I didn't know. I didn't know the speed  
8 of what it was going, I just knew it was going out. They told  
9 me it was too slow. I wanted to find out how to change it, to  
10 make it go fast. I immediately called Commonwealth when they  
11 told me this, in our terminal room I called. There is a phone  
12 back there, it was on the wall. I called Commonwealth while  
13 the other gentleman, and maybe Mr. Walker might have been in  
14 the room at that time. He took the phone from me and finished  
15 the conversation. His answer was it's set right, or, huh, it,  
16 it looks like to me like it's right.

17 Q So did you assume at that point that the morse code  
18 transmission speed was correct? I'm not talking about the  
19 setting.

20 A No. I had no reason, believe me. I'm not going to  
21 go up against the FCC or the IRS or any Government agency. I  
22 don't care what Commonwealth told me. These men told me it  
23 was too slow.

24 Q Did you, did you have, after that inspection, did  
25 you have anybody, at any time, time the morse code

1 transmission?

2 A No, ma'am. I did not. I had no reason to doubt  
3 these men. I don't need to validate what they said.

4 Q But they have told you that the morse code  
5 transmission was too slow --

6 A Yes, they did.

7 Q -- had they not?

8 A Yes, ma'am, they did.

9 Q And you didn't check the, you didn't time the speed?

10 A I wouldn't know how to time the speed, ma'am. Now  
11 could I have someone else time it? Yes, but why would they  
12 lie to me.

13 Q They told you it was too slow --

14 A Yes.

15 Q -- and you didn't --

16 JUDGE CHACHKIN: Well, let, let me ask you this.  
17 You told, you testified that after this conversation with  
18 someone at Commonwealth, you changed the reading --

19 MR. RAYMOND: Uh-huh.

20 JUDGE CHACHKIN: -- the setting.

21 MR. RAYMOND: Yes, sir.

22 JUDGE CHACHKIN: Now at the time you changed the  
23 setting, did the, did the inspectors check to see whether the,  
24 it was too slow at that point?

25 MR. RAYMOND: No, sir, they weren't there at that

1 time when I was, I got into playing with it. I was a nervous  
2 wreck, okay? They told me it was too slow, I called  
3 Commonwealth to verify it. Their, Commonwealth's verification  
4 that it was in the proper setting. They told me, huh, it's  
5 set right. It's still too slow. That was the end of that  
6 morse code conversation.

7 BY MS. LADEN:

8 Q When, and you indicate that at some later point, you  
9 played with it and found out that on the slow, what you  
10 thought was the slower setting, it was actually faster --

11 A That is correct.

12 Q -- is that correct?

13 A Yes, ma'am.

14 Q When was that?

15 A Oh, ma'am, I --

16 Q After the inspection?

17 A It was after the inspection. I do not know.

18 Q Months later?

19 A I couldn't tell you if it was two days or two months  
20 later. I had --

21 Q Isn't it a fact that it was, that it was after the  
22 notice of apparent liability from the Commission?

23 A No, ma'am. I do not know. All, I do not know. And  
24 if it was, it would kind of make sense to me. If Commonwealth  
25 is telling me it's right, they're saying it's wrong. I don't

1 know how to fix it. Commonwealth said it was right. It's too  
2 slow. What am I supposed to do. But all I know is at some  
3 time I got in there and started, and, you know, I don't even  
4 know this, maybe the inspector can answer. I think it was  
5 like two, two, a dip switch with just two settings, or maybe  
6 it had four, I don't, so I just moved it around to the  
7 opposite of what they said it should be.

8 Q But isn't it a fact that you moved it around after  
9 the FCC --

10 A Ma'am, I honestly do not know. I honestly do not  
11 know.

12 Q -- after the FCC issued it's notice of apparent  
13 liability?

14 A For the, I do not know.

15 Q Did you, wait, while you were out marketing your  
16 private carrier paging system, did you ever tell anyone that  
17 you were going to busy up the frequency once you had your  
18 private paging system operating?

19 A Absolutely not.

20 Q Did you ever tell someone by the name of Doug Thomas  
21 (Phonetic) anything like that?

22 A I did not speak to Doug Thomas. That was an  
23 answering service. I'd like to explain. He used to have an  
24 answering service that was an agent for us in Huntington  
25 before we operate, opened the Huntington office. I did not

1 | have contact with him. It was prior to my coming. Now he, he  
2 | did have the agent for just a little while after I came, maybe  
3 | six months or so, he had this answering service in the  
4 | Huntington area, because I remember quite well he was very  
5 | upset because I came in February, in March I decided to, to  
6 | already expand our industry, company, and put an office in  
7 | Huntington. He got very upset because he could lose some  
8 | revenues, because now we were going to have sales people. I  
9 | think at about, a short time after that, Mr. Moyers, and, and  
10 | this is how I understood it, Mr. Moyer (sic) ended up buying  
11 | his answering service from him and, maybe, I don't know, and  
12 | this is all hearsay that, from here on out, that maybe  
13 | Mr. Thomas didn't own the answering service and I don't, I  
14 | don't know, but I, I do believe that Mr. Moyer acquired his  
15 | customers. Whether he wants to use the term purchased the  
16 | answering service or purchased the customers, or whatever,  
17 | that, that came about.

18 |           JUDGE CHACHKIN: You said you never spoke to  
19 | Mr. Thomas.

20 |           MR. RAYMOND: No, sir. I said I did not have  
21 | dealings with him quite a lot. I came on in February. He got  
22 | mad at me in March.

23 |           JUDGE CHACHKIN: February of what year?

24 |           MR. RAYMOND: '89. In March of '89, we opened the  
25 | Huntington office and by doing that, we would have an office

1 and we wouldn't need, quote, the agents as badly and he would  
2 not get the sales of the pagers and get his agent fee, and so  
3 on and so forth. He was quite upset at the fact of that. As  
4 a matter of fact, he wanted to share office space with us, and  
5 move his little answering service into our office, and there  
6 was a big disagreement over that. And soon after that, I  
7 think Mr. Moyer testified he owns an answering service,  
8 acquired Mr. Doug Thomas' clients, and I think Mr. Thomas put  
9 in some exhibits and I, I found it kind of funny.

10 JUDGE CHACHKIN: Well, when was this alleged  
11 conversation supposed to take place?

12 MS. LADEN: Your Honor, I think it's, there's a  
13 reference in a declaration that's not being, has not been  
14 offered for the truth therein, but there is a declaration in  
15 one of Capitol's exhibits. But I'm not sure which one, Your  
16 Honor.

17 MR. HARDMAN: In general, Your Honor, the affidavits  
18 of that sort were attached to RAM's original petition to deny  
19 the FCC, which is Exhibit CAP-2, and the, the, those  
20 declarations start somewhere around page 18 of the exhibit,  
21 and go through 27, page 27.

22 MR. JOYCE: The reference is page 19 and 20 of  
23 Capitol Exhibit 2, Your Honor.

24 JUDGE CHACHKIN: All right.

25 MR. RAYMOND: Are, are you, now I thought we were

1 talking about, excuse me. May I? I thought we were talking  
2 about Doug Thomas, not Caroline Frye (Phonetic), Mr. Moyer's  
3 wife or ex-wife at this time now. But at the --

4 MR. JOYCE: The reference is in that, the reference  
5 is in that declaration.

6 MS. LADEN: Yes, I've --

7 MR. RAYMOND: Oh, okay.

8 MR. HARDMAN: Well, this is double hearsay.

9 MR. LADEN: I'm not offering the declaration,  
10 Mr. Hardman.

11 MR. HARDMAN: No.

12 MR. JOYCE: Of course, hearsay evidence is  
13 admissible under the Administrative Procedure Act, if it will  
14 serve the ends of justice.

15 JUDGE CHACHKIN: What does that mean?

16 MR. JOYCE: I, if Mr. Hardman's making a, a hearsay  
17 objection to, to this document, I'm just saying that under the  
18 --

19 JUDGE CHACHKIN: Reliable hearsay.

20 MR. JOYCE: I'm sorry.

21 JUDGE CHACHKIN: Here we have an affidavit of  
22 Mr. Moyer's ex-wife about a conversation that she had, that's  
23 reliable hearsay?

24 MR. RAYMOND: That was his wife at that time, and  
25 it's his ex-wife now.

1 JUDGE CHACHKIN: Was his wife.

2 MR. RAYMOND: But I don't see my name in here  
3 anywhere. I'm sorry, maybe I --

4 JUDGE CHACHKIN: No, Mr. Thomas wasn't called and --

5 MS. LADEN: Mr., Your Honor, I --

6 JUDGE CHACHKIN: -- wasn't called as a witness.

7 MS LADEN: -- I'm not offering the declaration. I,  
8 I would then --

9 JUDGE CHACHKIN: All right. Well, you asked some  
10 questions. I was just wondering, at least the date-wise, when  
11 this alleged conversation occurred. There's no mention here  
12 of when this conversation occurred.

13 MR. RAYMOND: No, I can't find my name. And I, I'm  
14 overlooking it, I guess.

15 (Asides.)

16 MR. JOYCE: Thursday, March 1st, 1990, is the --

17 JUDGE CHACHKIN: All right. All right.

18 MR. JOYCE: -- date referenced that --

19 JUDGE CHACHKIN: In any event, if the Bureau felt  
20 that he had relevant evidence, I'd assume they would have  
21 called him.

22 MS. LADEN: Your Honor, I'm asking him if he ever  
23 did --

24 BY MS. LADEN:

25 Q Mr. Raymond, did you ever tell anyone that you were

1 going to busy up the frequency?

2 A Absolutely not.

3 Q I wonder if you could turn to Private Radio Bureau  
4 Exhibit 13, at page 13. Now in the first paragraph there,  
5 partial paragraph, and the first full sentence begins  
6 evidently. Do you see that?

7 A I' sorry, what in what paragraph?

8 Q The first full sentence on that page --

9 A Just a minute, I found evidently.

10 Q -- begins with the word evidently.

11 A Yes, ma'am. I see it.

12 Q Could you read that to yourself, please. Until the  
13 end of the paragraph.

14 A Okay.

15 Q Does that refresh your recollection as to when you  
16 changed the setting on the dip switch?

17 A No, ma'am. I, I will stand by exactly what I said  
18 that I did change them. I have no problem in, in that at all,  
19 absolutely not. I know I did. I do not know when. I, I, I  
20 don't know, I mean you're the attorney, I, but I, I don't, I  
21 just don't know when.

22 Q Doesn't this declaration of yours indicate it was  
23 after the FCC's letter of July 3rd?

24 JUDGE CHACHKIN: What year is this, in '92?

25 MS. LADEN: The, July, the letter from the FCC

1 referred to here, this is a statement in response to the  
2 notice of apparent liability.

3 JUDGE CHACHKIN: I just want to get the date  
4 straight. July 3rd, 1992?

5 MS. LADEN: It was, that letter was written July 30,  
6 1992.

7 MR. RAYMOND: Okay. Well --

8 MR. HARDMAN: This, this declaration is  
9 September 29, 1992.

10 JUDGE CHACHKIN: Yes.

11 MR. RAYMOND: Right, I didn't see, it didn't have,  
12 okay. I didn't read the part of the year.

13 (Asides.)

14 MR. RAYMOND: Excuse me. As I read this, until what  
15 was just said about the years, ma'am, I still cannot tell you  
16 what year, because I read it was July 30th, after I'd received  
17 the letter from or, or legal staff had received the letter,  
18 we've had so many letters from you all it's kind of, I, I can  
19 still, not without looking at the date that I signed this, it  
20 was September of '92. I cannot tell you if this letter was  
21 July 30th of '90, '91, or '92.

22 MS. LADEN: Now this statement and that exhibit is  
23 in response to the Commission's notice of apparent liability.

24 MR. RAYMOND: Okay. If I could start at the very  
25 beginning, I, I could probably answer this, but not from this

1 one paragraph, I cannot tell you what year, I'm sorry.

2 JUDGE CHACHKIN: Do you want to read over your  
3 declaration?

4 MR. RAYMOND: I have, no, I mean she's asked me a  
5 specific year. If I look here and she told me I can look --

6 JUDGE CHACHKIN: Well, you can read over the entire  
7 declaration --

8 MR. RAYMOND: No, I cannot --

9 JUDGE CHACHKIN: -- if you need to, to refresh your  
10 recollection as to, if it'll help you as to when you made the  
11 setting, change in the setting, if it helps you, you can read  
12 the entire declaration.

13 MR. RAYMOND: Now, if I may ask, when, when, what  
14 year did you send us the, the letter that's referred to there  
15 that you're calling the apparent liability?

16 MS. LADEN: The notice of apparent liability was  
17 dated July 30, 1992.

18 MR. RAYMOND: And the inspection was in '91?

19 MS. LADEN: That's correct.

20 MR RAYMOND: Then by this paragraph on 13, where I  
21 say after reviewing the letter of July 30th of '91, correct?

22 MR. HARDMAN: No, '92.

23 MS. LADEN: No, '92.

24 MR. RAYMOND: It's '92. I discovered that the dip  
25 switches were, indeed, set for a slow speed rather than fast.

1 The setting was not changed, my, so I would say that it was  
2 after July 30th, as you specified, yes, ma'am. Now that I  
3 have the whole context of, of the years that we're talking  
4 about, and that this is explained to me.

5 JUDGE CHACHKIN: So according to this letter,  
6 according to your statement, you called Commonwealth after you  
7 received the letter of July 30th, 1992?

8 MR. RAYMOND: Yes, sir.

9 JUDGE CHACHKIN: Now according to your testimony, at  
10 that time, you discovered that this dip switch was, indeed,  
11 set for the slow speed rather than the fast speed. Now do you  
12 recall your conversation with Commonwealth at that time? What  
13 was discussed between you and Commonwealth?

14 MR. RAYMOND: No, sir.

15 JUDGE CHACHKIN: Well --

16 MR. RAYMOND: I just know by changing the setting,  
17 as I, as I said earlier, by changing, reversing the settings  
18 as they were set, we got a faster morse code. And I also know  
19 that, that the field engineer said they were set properly.  
20 So, to me, if they were set properly and it was going slow,  
21 and I changed the dip switches to an improper setting, via  
22 Commonwealth, and they moved fast. The main thing of it is I  
23 got it to go faster.

24 MS. LADEN: But you did that almost a year after the  
25 inspection, isn't that correct?

1 MR. RAYMOND: By, by what this says, yes, ma'am.  
2 And I, I'll stand behind it. As I said, I, I could not tell  
3 you prior to.

4 MS. LADEN: Now when a customer came to your office  
5 and he wanted to get private carrier paging service, what did  
6 you do? I mean how did somebody sign up?

7 MR. RAYMOND: Well, first of all, I'm not a sales  
8 person. I do not deal with the customers in that type of  
9 setting, all right? I may deal if there is a problem or there  
10 is a complaint, but I do not sign them up. However, I would  
11 be glad to tell you how this, this went about. Number one, if  
12 they came in and they could not afford our RCC paging, just a  
13 minute, our prices, it gave, gave us the opportunity to drop  
14 the price, if you will, drop the service, as you will, to a  
15 private carrier. At that time, we would ask some basically,  
16 you know, some, some standard questions. Where do you live,  
17 give us an address, blah, blah, blah, so we can finish filling  
18 out an agreement, and then they would be given a pager, it  
19 would be tested to make sure it would work, and they'd be on  
20 their way. Basically the same as the RCC part of it.

21 JUDGE CHACHKIN: We'll take a ten minute recess at  
22 this time.

23 (Whereupon, a brief recess was taken from 11:03 to  
24 11:15 p.m.)

25 JUDGE CHACHKIN: Please be seated. Let's go back on

1 the record. One, one thing I wanted to ask you about, after  
2 you and the FCC inspectors spoke to someone at Commonwealth,  
3 who, who stated, according to your testimony, that the setting  
4 was proper, did the FCC inspector at that time retest the  
5 morse code transmissions?

6 MR. RAYMOND: Well, for clarification, sir, I didn't  
7 get to talk to them. The phone was taken away from me. The,  
8 the inspector talked to them. His comment was that that it  
9 was set properly, and that was the end of that conversation.  
10 Now if they tested the length after that, I'm, I'm not aware  
11 of it. I have no reason to doubt that they did or didn't, I,  
12 I don't know.

13 JUDGE CHACHKIN: You, you just don't know whether  
14 they retested the transmissions after the conversation with  
15 Commonwealth, is that what you're saying?

16 MR. RAYMOND: No, sir, I do not know what they did,  
17 sir.

18 JUDGE CHACHKIN: Let's continue.

19 BY MS. LADEN:

20 Q Would you turn your attention, please, Mr. Raymond  
21 to Private Radio Bureau Exhibit Number 11.

22 A Yes, ma'am.

23 Q Would you turn in that exhibit to page 14?

24 A Yes, ma'am.

25 Q Is this the pager pickup agreement, is this an

1 example of the pickup agreement that people would fill out  
2 when they came to --

3 A It is --

4 Q -- get paging service?

5 A -- it is one form of, of an agreement, yes, ma'am.  
6 I think, and I've not ever, I haven't seen your exhibits, but  
7 I think if you go to 17, page 17, I'm sorry, you will see what  
8 I referred to as, a, a short form. Now this happened just to  
9 be from a Malcolm Holmes' (Phonetic) pager on 1524, he  
10 couldn't get pages, when it did, it'd go off, other pages  
11 would be covered up by, and he returned and cancelled it.  
12 Okay. That is, and as you look at the top, it says sales  
13 order. So we sometimes use what's called a short form, as  
14 well as a long form.

15 Q Okay. Did you use these forms for the RCC --

16 A Yes, ma'am, we do.

17 Q -- business also?

18 A Yes, ma'am.

19 Q Is it Capitol's normal business practice to use one  
20 of these two forms when someone becomes a customer?

21 A Since I, after I came, they had another form in '80  
22 or in '89. I, I came on board in, like I say, February 1st of  
23 '89. They had another one. I, I incorporated this. I, I  
24 designed this form, front and back. The, the, referring to  
25 page 14, and I'll refer to that as the long form, if, if we