

b. The Reality of the Situation

105. The suggestion that this matter represented an example of the minority directors exercising control as against Paul Crouch initially founders since Paul Crouch at the time was wholly unaware that David Espinoza was involved in the matter. He had not discussed the matter with David Espinoza but only with Jane Duff. Tr. 2389-90; 2813-14. The matter had not been discussed at any board meeting, at least prior to the action. Tr. 1498. David Espinoza's only involvement was because Jane Duff chose to involve him, which she did by means of a telephone call shortly prior to the point when the permit was sold. Tr. 1501-02. Jane Duff referenced her disagreement with Paul Crouch in an April 26, 1989 letter to Colby May; however, there is no indication that a copy of the letter was sent to David Espinoza. TBF Exhibit No. 101, Tab A. Obviously, since David Espinoza had not heard Paul Crouch's point of view, he could not have been in a position to make a responsible decision in the matter.

106. In point of fact, at his deposition in this case, David Espinoza had had no recollection of this matter. Tr. 4207. In his written testimony in this case, David Espinoza justified his decision because the corporation had too many projects going. He cited the fact that the corporation had:

". . . two full power stations under construction, as well as a few translator authorizations."

In addition, he cited the inadequate power of the Houston station. TBF Exhibit No. 105, para. 18. In fact, as of early 1989 when this matter arose, Odessa had already been built, having commenced operation in October, 1988. TBF Exhibit No. 101, para. 50. Moreover, David Espinoza in any event had no knowledge as to the status of either the full power or low power construction referenced in his testimony. Tr. 4216-18. In addition, he had no knowledge about the power or coverage of the Houston station. Tr. 4220-21. David Espinoza had no knowledge as to why Paul Crouch wanted to build Houston. Tr. 4296-97. He also did not know why the Houston station was not in fact built. Tr. 4373. It is accordingly evident that David Espinoza's written testimony concerning the Houston matter -- TBF Exhibit No. 105, para. 18 -- is in the main a fiction concocted by counsel. It is also a poor fiction in that David Espinoza was once again fed an anachronism in being made to testify that NMTV was constructing two stations simultaneously.

107. In sum, there is no factual basis for finding that the Houston "disagreement" constituted an example of minority directors exercising control vis-a-vis Paul Crouch. It appears at most to reflect a personal disagreement between Jane Duff and Paul Crouch as to the size of her workload at

the time. Apart from being enlisted as prospective support by Jane Duff, David Espinoza had no significant involvement in the matter. Moreover, the credibility of the claim is undermined by the patently candorless attempt to inflate the significance of David Espinoza's involvement in his written testimony. The situation is significant in reflecting the irresponsible nature of David Espinoza's directorship. Thus, he endorsed Jane Duff's position merely because she was the last person to talk to him without making any independent efforts to ascertain the full facts -- including Paul Crouch's views -- in order to formulate an independent position on the matter.

7. The Portland Acquisition

108. The opportunity to acquire a full power television station in Portland, Oregon arose when the permittee contacted Jane Duff whom he had previously dealt with in connection with Trinity Broadcasting Network business. The permittee called thinking that Trinity Broadcasting Network might be interested in acquiring the permit. Tr. 1753-54. A letter was sent on October 9, 1987 by Colby May to the permittee proposing an agreement in principle for NMTV to purchase the station for up to \$500,000. MMB Exhibit No. 161. The money was to come from a loan by Trinity Broadcasting Network that was not, however, formalized in writing until January 1993. Tr. 1759-60. The NMTV board in fact authorized the purchase of Portland for up

to \$600,000 by a written consent action effective October 21, 1987. MMB Exhibit No. 163. This was to provide a cushion since the permittee had not completed computing his expenses. This did not affect Jane Duff's reliance on the Trinity Broadcasting Network loan since they were willing to lend whatever the costs were even in excess of \$500,000. Tr. 1762-63. The final price agreed upon on November 13, 1987 was \$520,000. MMB Exhibit No. 166. Application for approval of the assignment of the permit was filed with the Commission on December 18, 1987. TBF Exhibit No. 101, Tab T, p. 1.

109. There was no investigation of the extent of the minority population within the service contour of the Portland station before the signing of the contract to purchase the construction permit. According to Paul Crouch, the minority population was not "the primary concern." Tr. 2390. Jane Duff said that Portland was desirable because it was a larger market that would generate revenues and it was available at a reasonable price since it was an unbuilt construction permit. Tr. 1778-81.

110. Following the execution of the Portland purchase agreement, Paul Crouch reported this along with news concerning other Trinity Broadcasting Network stations in the Trinity Broadcasting Network Praise The Lord newsletter of February 1988. MMB Exhibit No. 181, p. 1. He stated that the station ". . . will be operated by National Minority TV, an

affiliated corporation of which I am the President." This can only be construed as an assurance to the readership that the new station would be under the same control as other Trinity Broadcasting Network stations, i.e., the control of Paul Crouch.

111. TBF Exhibit No. 105, para. 16, recounts a telephone call between Jane Duff and David Espinoza concerning the proposed acquisition of Portland. Ostensibly, he indicated his approval of the transaction based on a number of facts concerning the Hispanic population in the Portland area that had come to his attention. In fact, David Espinoza did not recall the content of that conversation beyond her advising him of another opportunity to buy a station. He recalled thinking of it as another opportunity to preach the gospel. He did not recall whether the source of funds was discussed. Tr. 4361. It again appears that the editorializing about the Hispanic population in Portland in TBF Exhibit No. 105, para. 16, was merely verbiage put in David Espinoza's mouth after the fact and that his actual response to the news of the prospective acquisition was one of passive acceptance unaccompanied by any effort to ascertain the details or feasibility of the project.

112. The Portland application was signed by Paul Crouch. The extent of his review of the application prior to his signing it was essentially the same as his review of the

Odessa application. Tr. 2749. As noted, when he signed the Odessa application, he merely "flipped through" it without "studiously" reading it. It was virtually a clone of the Odessa application, including the same errors in failing to list non-director officers, asserting that there had been no change in the corporate officers and directors since the corporation's inception, and indicating that 15 rather than 17 translator applications had been initially filed. TBF Exhibit No. 101, Tab T, p. 55, 64. Since it was evidently merely copied from Odessa, the application did not list low power applications filed in July, 1987, including San Diego, CA, Douglasville, GA, Waldorf, MD and Fresno, CA. TBF Exhibit No. 105, Tab K; MMB Exhibit No. 149, p. 1, 13. The application also relied upon the same boilerplate programming statement that reflected no special emphasis on minority programming. TBF Exhibit No. 101, Tab T, p. 72. Most especially, the application contained no disclosure of the details of the relationship between NMTV and Trinity Broadcasting Network beyond Paul Crouch's interest in Trinity Broadcasting Network and related entities. There was nothing remotely approaching what Paul Crouch had previously recognized in the context of Odessa as necessary:

"put everything on the record, make it clear to the agency what the relationship between TTI and Trinity Broadcasting is, divulge everything, put everything on the record, file it with the Commission."

Tr. 2674 (emphasis added).

113. At TBF Exhibit No. 101, para. 61-62, Jane Duff cited differences in the Trinity Broadcasting Network affiliation agreement with NMTV stations from those of other affiliates which she asserted ensured greater programming flexibility. These included a provision allowing either party to cancel the agreement on 120 days notice and the absence of a provision restricting the right to carry programming of other religious broadcasters without Trinity Broadcasting Network's consent.

114. With respect to the first provision providing a mutual right of termination, there had been no exploration of any alternate programming structures other than Trinity Broadcasting Network when the Portland affiliation agreement was signed. Tr. 2216. The provision also gives "flexibility" to Trinity Broadcasting Network to pull the rug out from under NMTV by terminating its affiliation. This cannot be viewed as a purely hypothetical possibility. In the Praise The Lord newsletter of November 1987, Paul Crouch publicly threatened Community Educational Television affiliates in Beaumont and Harlingen, Texas as follows:

"I have told Beaumont and Harlingen, Texas that they have until December 31st to fully support their stations or I will remove the equipment to another area that will appreciate them and support them!"

MMB Exhibit No. 164, p. 2. Paul Crouch explained the situation as follows:

"Beaumont and Harlingen were not doing well financially and I had to pretty forcefully impress upon them that if they did not ultimately support their own local stations that we would have no choice but to dispense with them."

Tr. 2743. If Trinity Broadcasting Network were to suddenly announce the termination of NMTV's affiliation, it is questionable whether a viable alternative format could be put in place in the four months provided for under the termination provision, especially given NMTV's overwhelming dependence on Trinity Broadcasting Network. There is no basis for finding that this provision either was or was intended as a guarantor of NMTV's independence.

115. With respect to the absence of restrictions on the carriage of programming of other religious broadcasters, no NMTV station has ever carried a program that would be subject to such restrictions in the case of other affiliates. Tr. 2217. Moreover, the absence of this provision cannot be cited as evidence that NMTV is independent of Trinity Broadcasting Network since such an argument assumes what it seeks to prove. Thus, if NMTV were in fact controlled by Trinity Broadcasting Network, then there would be no need for a provision restricting NMTV's choice of programming. Accordingly, the absence of the provision would become significant only if it

were first proved by other evidence that NMTV is independent.

116. In TBF Exhibit No. 101, Para. 63, Jane Duff claimed that the transmitter site lease negotiated at Portland was designed to ensure program flexibility by virtue of a provision she had insisted upon that permitted continued use of the site in the event of a change of program format, albeit at a higher rent. The owner had originally wished to retain the right to cancel the lease in the event of a change in program format. Jane Duff conceded, however, that the effect of this provision is also to preserve the value of the station in the event of a future sale of the station. Tr. 2218-19. Jane Duff's May 2, 1988 letter to the site owner made clear her interest in ensuring the value of the station in the event of a resale. Thus, the resale value would be impaired if NMTV could not also transfer rights in the transmitter site. TBF Exhibit No. 101, Tab Z, p. 5, para. 16. NMTV, of course, in fact sold its Odessa station in order to "trade-up" to a larger market. Conversely, NMTV never formulated any plans for or discussed the possibility of changing its program format. Tr. 2220-21. There is no basis for finding that the inclusion of the provision at issue in the Portland site lease is evidence supporting a finding of NMTV's independence of Trinity Broadcasting Network, given that the provision has a compelling purpose unrelated to any desire to maintain programming flexibility.

8. Operational Practices

a. Programming

117. The Odessa station always broadcast the entire Trinity Broadcasting Network schedule. Tr. 1433.

118. The Portland station initially broadcast the entire Trinity Broadcasting Network schedule. As of the hearing, it broadcast 16 hours per week of locally produced programming (including reruns) consisting of three programs: Joy in the Morning, Northwest Praise The Lord, and a public affairs program, Northwest Focus. Tr. 4404-05. As will be seen, Trinity Broadcasting Network retained content control over at least the first two programs, in the first instance pursuant to an agreement and in the second pursuant to "guidelines."

119. The Joy Program began to be produced in Portland in June 1992. Tr. 4405. Jim McClellan had been hosting the program at Trinity Broadcasting Network since 1982. TBF Ex. 109, P. 3. When he went to Portland, he ceased being involved in it during most of 1990 and 1991. Toward the end of 1991, he was asked to resume hosting the program which he did initially by flying from Portland to Los Angeles where he would tape a month's worth of shows in five days. When the Portland studio was completed, the program was produced in Portland under NMTV's auspices and it had been produced in Portland since then. Tapes were sent to Trinity Broadcasting

Network and it was also carried on Trinity Broadcasting Network. Tr. 4406-12.

120. Jim McClellan testified that upon the completion of the Portland studio, Trinity Broadcasting Network gave the Joy program to NMTV. Tr. 4411. Jane Duff also claimed that the program "was given to, to NMTV" and "belonged to, to NMTV." Tr. 2175. In fact, the program was produced under a Television Agreement and Production Agreement dated February 2, 1992 and an undated addendum thereto. MMB Exhibit No. 383. According to Jane Duff, this agreement was basically negotiated between Jim McClellan and Paul Crouch since it primarily related to Jim McClellan's services. Tr. 2166. According to Paul Crouch, however, he was not involved in the negotiations, which occurred between Jane Duff and a representative of Trinity Broadcasting Network unknown to him. Tr. 2950-51. As Paul Crouch understood the agreement, it merely provided for cost-sharing in the production of the program. Tr. 2952. According to Norman Juggert, Trinity Broadcasting Network's counsel, he prepared the agreement based on a draft provided to him by Jane Duff. Tr. 3664-65. It is fair to find from this conflicting evidence that Jane Duff and Norman Juggert prepared the agreement essentially as he testified and that Jane Duff gave misleading testimony in order to disguise the fact that the terms of the agreement were determined by Trinity Broadcasting Network, acting

through Jane Duff and Norman Juggert, without any negotiations involving anyone acting independently on behalf of NMTV, resulting in an agreement highly favorable to Trinity Broadcasting Network.

121. The Television Agreement and Production Agreement thus obligated NMTV to produce the program and related announcements. Pursuant to Section 1 of the Agreement, the program was defined as a "work made for hire" under the Copyright Act of 1976, as amended. Section 11(a) provided that NMTV transferred to Trinity Broadcasting Network any "right, title and interest" not already conveyed pursuant to the "work made for hire" status. Pursuant to Section 2(a), it was agreed that:

"The format of the Programs shall be documentary and public affairs in style with various segments including panel discussions and such additional interviews as the Producer [NMTV] and Sponsor [Trinity Broadcasting Network] may agree upon from time to time."

Section 2(b) specified that the length of the program would be determined by the parties. Section 2(d) included a provision that the programs would include nothing that "may or will" subject Trinity Broadcasting Network to "public ridicule or censure." Section 2(e) of the agreement stated as follows:

"(e) Quality. The Programs and Announcements shall be of high quality in all respects. The Sponsor [Trinity Broadcasting Network] shall be entitled to approve the person or persons providing the Announcements, as well as the person or persons producing the Program and the person or persons participating in the program."

Section 2(g) specified that Jim McClellan would "play the primary role" in the program. The provision also stated:

"The Producer [NMTV] represents that it has heretofore entered into an agreement for Mr. McClellan's services during the term of this Agreement in order to perform hereunder."

Section 4 stipulated that NMTV would "consult" with Trinity Broadcasting Network on the "subject and content" of the announcements and the program. Pursuant to Section 7 of the agreement, as amended, Trinity Broadcasting Network could, at its election, compensate NMTV by reducing NMTV's outstanding debt. Under the terms of agreement, therefore, Trinity Broadcasting Network retained effective control of the Joy program. Moreover, the provision requiring that NMTV maintain an agreement with Jim McClellan ensuring his availability to produce the program restricted NMTV's ability to remove Jim McClellan as manager of its Portland station.

122. MMB Exhibit No. 393 is a May 7, 1992 memo from Jim McClellan to Ruth Brown and Jane Duff concerning a "part-time producer's assistant". It stated:

"Here is the Job Description for the Part-Time Assistant I need to help produce "JOY" and our other productions. If you think we should use her for "JOY" only, that's okay too. I've enclosed both Job Descriptions for you to choose one."

Ruth Brown was the overall manager of Trinity Broadcasting Network's personnel office. Tr. 2172. Jim McClellan's request was thereafter the subject of formal approval by the NMTV board at a May 8, 1992 meeting. MMB Exhibit No. 394. Jane Duff claimed that board approval was required because Jim McClellan had already hired the full complement of employees that would ordinarily be allowed. Tr. 2175. She professed not to know why Jim McClellan had sent his memo to Ruth Brown. Tr. 2177. She vigorously denied suggestions by the Presiding Judge that this reflected Trinity Broadcasting Network's interest in personnel since it was paying for the program. Tr. 2176-78. In fact, as noted, Trinity Broadcasting Network not only had an interest in but a contractual right of approval as to the persons involved in the production of the Joy program, pursuant to Section 2(e) of the Television Agreement and Production Agreement. Claims by Jane Duff that the program had been given to NMTV and that Trinity Broadcasting Network had no interest in its personnel were clearly contrary to fact. Also specious is Jane Duff's reference to this matter at TBF Exhibit No. 101, p. 36, as an example of her autonomy in making hiring decisions since this

decision was subject to the approval of Trinity Broadcasting Network.

123. Northwest Praise The Lord was a local version of the Praise The Lord program carried on Trinity Broadcasting Network. It was subject to guidelines established by Trinity Broadcasting Network, except that the local version did not have to get the prior approval of Trinity Broadcasting Network. Tr. 4423-24. The broadcast of this program began in November 1992. Tr. 4405.

124. Northwest Focus was a general public affairs program that was broadcast once a week beginning in September 1992 and twice a week beginning in December 1992 or January 1993. Tr. 4405-06.

125. All local programming was preempted during the twice annual week long Trinity Broadcasting Network Praise-a-thon, which was a principal source of revenue. Tr. 4412-13; 4414.

126. The station had a local prayer partner line similar to that of Trinity Broadcasting Network. Since they did not yet have enough volunteer prayer partners, the Trinity Broadcasting Network phone number was still used when there were no local prayer partners available. Tr. 4418; 4464-65. The station also had a food and closing ministry, His Hand Extended, which was similar to that of Trinity Broadcasting Network. Tr. 4420.

127. According to E. V. Hill, it was his experience that Trinity Broadcasting Network stations such as the station in Poughkeepsie carried local programming. Tr. 2044. Paul Crouch testified that it was intended from the beginning that Odessa and Portland would carry Trinity Broadcasting Network programming but he recognized that this might be less than full-time in view of Commission requirements for the production of some local programming. Tr. 2765-66. Since at least 1984, it has been the practice of Trinity Broadcasting Network to respond to these requirements by presenting a local Praise The Lord program and a generic public affairs program. This is evident from the May 1984 Praise The Lord newsletter wherein funds are solicited for local Praise The Lord programs in Los Angeles, Phoenix, Oklahoma City, Cincinnati, New York and Miami as well as for "Public Report" programs because the "FCC requires that all TV STATIONS deal with the top 10 problems of our communities." MMB Exhibit No. 76, p. 10. It is accordingly evident that the type of local programming carried on the Portland station conformed to the long standing pattern of Trinity Broadcasting Network for meeting what it perceived to be Commission requirements. Moreover, this same pattern of a local Praise The Lord program and generic public affairs program is evident in the programming of TBF in Miami at issue in this proceeding, as will be seen in the discussion

of TBF's programming under the renewal expectancy criterion, infra.

128. Paul Crouch testified that he helped make programming decisions concerning the Portland station and in some cases he in fact made the decisions. He didn't make the schedule as to when local programs would preempt network programming; however, he didn't make such scheduling decisions with respect to Trinity Broadcasting Network stations. Tr. 2338-39.

b. Other Operational Practices

129. Two 1991 Jane Duff memos concerning public file inspection procedures were sent to both Trinity Broadcasting Network station managers and Portland. Glendale Exhibit No. 109; Tr. 1400; Glendale Exhibit No. 111; Tr. 1401-02 . A 1990 Jane Duff memo concerning the FCC's political file requirements was sent to Trinity Broadcasting Network station managers and Portland. Glendale Exhibit No. 106; Tr. 1400. A 1991 letter from Jane Duff to Jim McClellan conveyed the same information concerning the children's program report requirement that was conveyed to Trinity Broadcasting Network managers. Glendale Exhibit No. 113; Tr. 1402. A 1989 memo from Jane Duff requiring that new Public Affairs programs be sent to her for review as to "the quality of technical standards and program content" was sent to Trinity

Broadcasting Network managers and Portland. Glendale Exhibit No. 103; Tr. 1406.

130. Jane Duff adopted the same personnel standards and practices applicable at Trinity Broadcasting Network for Portland. Glendale Exhibit No. 112; Tr. 1400-01. The employee manuals for NMTV and Trinity Broadcasting Network were very similar. Tr. 1456-57. Jane Duff adopted the same policy regarding the use of station vehicles at Portland that applied at Trinity Broadcasting Network stations. Glendale Exhibit No. 116; Tr. 1401. A December 16, 1992 memorandum concerning employee standards and practices was sent to both Portland and Trinity Broadcasting Network managers. Glendale Exhibit No. 120; Tr. 1403. A 1990 memo from Jane Duff concerning payroll time sheet procedures was used for both Trinity Broadcasting Network stations and Portland. Glendale Exhibit No. 107; Tr. 1402.

c. Media Services Agency

131. Media Services Agency was a division of Trinity Broadcasting Network that billed and collected for time made available by Trinity Broadcasting Network to other ministry clients. Media Services Agency provided services for NMTV's station in Portland. The Portland station paid the standard agency commission which at the time of the hearing was five percent. Tr. 2335-36. The services of Media Services Agency related to programmers who bought time on Trinity Broadcasting

Network. The proceeds collected by Trinity Broadcasting Network were shared among the network affiliates such as NMTV which carried such programs. Each affiliate's share was reduced by the five percent commission payable to Media Services Agency. Tr. 2335-37.

d. Changes In Non-director Officers of NMTV

132. Changes were made in the non-director assistant secretaries of NMTV based on changes in management responsibilities at Trinity Broadcasting Network. In an action by written consent of September, 1988, Charlene Williams was elected assistant secretary of NMTV and given check signing authority. MMB Exhibit No. 214. This reflected that she had been appointed director of finance for Trinity Broadcasting Network and as a result was made an assistant secretary of NMTV as well as all Trinity Broadcasting Network related corporations so she could sign checks. Tr. 1836-37. At the ensuing annual meeting of January 23, 1989, Phillip Crouch and Charlene Williams were elected assistant secretaries (Terrence Hickey was not). MMB Exhibit No. 237. In a July, 1989, action by written consent, Matthew Crouch was elected an assistant secretary of NMTV with check signing authority. TBF Exhibit No. 101, Tab EE, p. 18-19. No changes were made in the assistant secretaries at the 1990 and 1991 annual meetings. MMB Exhibit No. 293; MMB Exhibit No. 338. At the January 1992 annual meeting, Terrence Hickey and Allan

Brown were elected assistant secretaries. MMB Exhibit No. 386. Allan Brown was director of finance of Trinity Broadcasting Network by that time. Tr. 2154-55. He had in fact been a signatory of some NMTV checking accounts since June 27, 1990, under the erroneous belief that he had already been elected an NMTV assistant secretary. MMB Exhibit No. 396, p. 2, n.12.

9. Resignation of David Espinoza and Overview of his Directorship

133. David Espinoza resigned as a director of NMTV by letter of July 23, 1990. TBF Exhibit No. 105, Tab A. He cited a tremendous increase in his workload as the reason for his resignation. Throughout his letter, he referred to Trinity Broadcasting Network, including a reference to resigning from the Trinity Broadcasting Network board. Only on one occasion, in the third paragraph, did he refer to resigning from the NMTV board. In his written testimony, he explained this as reflecting his view that he was also resigning from Trinity Broadcasting Network as well as NMTV by virtue of that letter. TBF Exhibit No. 105, para. 24. Given the serious credibility problems that infect much of his counsel-drafted written testimony, this cannot be accepted at face value. A more probable explanation is that David Espinoza never drew a very clear distinction between NMTV and

Trinity Broadcasting Network, viewing them as largely interchangeable entities.

134. Some aspects of David Espinoza's directorship have already been addressed. These aspects reveal that he generally lacked significant knowledge of or involvement in the affairs of NMTV. This conclusion is reinforced by consideration of other aspects of his performance.

135. David Espinoza didn't know whether Jane Duff or Paul Crouch received a salary from Translator T.V., Inc. Tr. 4147-48. He did not know the time period or interest rate of loans from Trinity Broadcasting Network. Tr. 4149-50; 4276-77. He didn't know whether the debt as of the end of 1989 (\$3.735 million) was subject to a promissory note or what the security, interest or repayment schedule was. Tr. 4161-62. He didn't know whether there was a limit on the amount of money Trinity Broadcasting Network would loan. Tr. 4269-70.

136. David Espinoza didn't know how many employees were hired at Odessa. Tr. 4159. He knew nothing about NMTV's legal expenses for 1987, 1988 and 1989. Tr. 4162. He did not know details concerning the zip code revenue formula applicable to Odessa. Tr. 4163-64. He did not know how NMTV's bookkeeping and accounting requirements were met. Tr. 4164; 4296. He didn't know why Translator T.V., Inc. had no bank account until 1987, what checks were used to meet its expenses prior thereto, or who signed such checks. Tr. 4267.

He never saw an NMTV purchase order/check requisition form. Tr. 4296.

137. David Espinoza didn't recall ever having a copy of the corporate articles and bylaws. Tr. 4181. He never received copies of tax returns. Financial statements were never mailed to him. FCC applications were not mailed to him. He would receive minutes only when he had been unable to attend a meeting. He never received a written agenda of a meeting. Tr. 4196-98. Written agendas were prepared by Jane Duff at least for annual meetings and Paul Crouch would receive them. Tr. 2463. He never got a letter from Colby May or received copies of counsel's letters. Tr. 4198. He thought he had seen a copy of the Odessa application at Jane Duff's office but was never sent one. He did not recall ever having seen the Portland application. Tr. 4270-73. His review of financial documents would be limited to glancing at documents passed out at board meetings; however, he never noticed negative fund balances that were accruing during the 1980s. Tr. 4334-35.

138. David Espinoza didn't know specifically what Phillip Crouch was supposed to do when elected assistant secretary in 1985. Tr. 4251-52; 4349-50. He was told about the election of Crouch and also Terrence Hickey, but he had no understanding of what they did in carrying out their duties as assistant secretaries. Tr. 4274. He was similarly ignorant

of Charlene Williams' role as assistant secretary. He also didn't know what her role was at Trinity Broadcasting Network. Tr. 4279-80.

139. David Espinoza didn't know why Translator T.V., Inc.'s annual meetings were combined with those of Trinity Broadcasting Network through 1987. Tr. 4254-55. He never received copies of or even saw NMTV checking account statements. Tr. 4275. He didn't recognize Media Services Agency, Planck Construction Company, or Allan Brown. Tr. 4302-03. He never saw legal bills from or the retainer letter with Colby May's law firm (nor was he made aware of the contents thereof). Tr. 4228-29.

140. David Espinoza couldn't remember even within the ballpark how much Odessa cost. Tr. 4355. He didn't know why the figure of \$1 million was set for the sale of Odessa, whether that figure reflected the fair market value of the station, or who suggested it. Tr. 4378-79. He didn't know whether the Fresno low power station was put on the air. Tr. 4373.

141. Para. 21 of David Espinoza's testimony (TBF Exhibit No. 105) asserted that he provided input to Jane Duff concerning possible communities for low power applications. He recalled discussing the Fresno, CA application, although he did not recall the substance of the conversation. He could not recall any discussion concerning three other communities

applied for at the same time -- Waldorf, MD, Douglasville, GA and San Diego, CA -- and didn't know how they came to be selected. He could recall no discussions concerning the next set of applications filed by NMTV -- Salt Lake City, UT, Hartford, CT, Columbus, OH and Wilmington, DE (not to be confused with NMTV's application for a full power station in Wilmington). He similarly could not recall discussions concerning the next set of applications -- Toledo, OH (2 applications), Charlotte, NC, Greenville, SC and Little Rock, AR. Nor could he recall discussions concerning the final set filed during his directorship -- Stockton, CA, Columbia, SC, Portland, ME, Sacramento, CA and Huntington, WV. Tr. 4384-90. Notwithstanding his inability to identify a single community, he nonetheless maintained that he had had some discussions with Jane Duff. Tr. 4389. Nonetheless, in the absence of any firm evidence of his actual input, there is no basis for finding his involvement to be of any significance.

10. The Directorship of Phillip Aguilar

a. Election and Background of Phillip Aguilar

142. The choice for the replacement of David Espinoza was decided by Paul Crouch and Jane Duff in a phone call. Tr. 2915. The choice was between E. V. Hill, Armando Ramirez and Phillip Aguilar. Phillip Aguilar won because of his proximity to Trinity Broadcasting Network's headquarters. Id. He was

elected on August 15, 1990 and resigned on April 13, 1993. MMB Exhibit No. 318; TBF Exhibit No. 107, Tab A, p. 87.

143. No consideration was given to choosing a local minority from Odessa or Portland for the NMTV board. Tr. 2916.

144. Phillip Aguilar appeared on Trinity Broadcasting Network programs on a number of occasions as a representative of Set Free Christian Fellowship, Inc. Set Free cooperated with Trinity Broadcasting Network in a program for the collection and distribution of food and clothing since 1984 or 1985. Set Free provided volunteer phone counselors for Trinity Broadcasting Network phone lines for several years. In 1987, the arrangements were formalized so that Trinity Broadcasting Network paid Set Free \$5,000 per month for providing phone counselors and picking up donated food and clothing at Trinity Broadcasting Network's headquarters. Trinity Broadcasting Network permitted Set Free to use two houses owned by Trinity Broadcasting Network in Orange County as shelters for persons in need. It also permitted use of property in Colleyville, TX and Ottawa, IL for such purposes. TBF Exhibit No. 107, Tab A, p. 3-6.

145. Phillip Aguilar was elected director and vice president of NMTV at a special board meeting held on August 15, 1990. MMB Exhibit No. 318. He was told by Paul Crouch that being a board member involved attending meetings and