

b. The Actual Role of Norman Juggert in NMTV's Affairs

297. David Espinoza perceived that Norman Juggert participated in meetings, including answering questions concerning the business of NMTV. From David Espinoza's perception, Norman Juggert was providing legal counsel and advice for NMTV. Tr. 4319-20.

298. Phillip Aguilar perceived that Norman Juggert was NMTV's lawyer as well as Trinity Broadcasting Network's. He recalled seeing him at all the NMTV meetings he attended and viewed him as "a lawyer who basically had his nose in everything." TBF Exhibit No. 107, p. 36-37.

299. E. V. Hill perceived that Norman Juggert was NMTV's lawyer as well as Trinity Broadcasting Network's when he joined the board. Tr. 1926. Norman Juggert was present at all meetings E. V. Hill attended except perhaps phone meetings when he was not identified as being present. He looked upon Norman Juggert as NMTV's legal advisor and still did as of his testimony. In that capacity, Norman Juggert would assist NMTV in any way possible concerning legal matters. E. V. Hill talked to Norman Juggert both at meetings and on the telephone concerning NMTV matters, viewing him as NMTV's lawyer. Tr. 1932-33.

300. Armando Ramirez perceived Norman Juggert as the person who kept the minutes for NMTV. He understood that Norman Juggert provided legal services to Trinity Broadcasting

Network but was unsure as to whether he had ever provided services to NMTV. Tr. 4056-57.

301. Norman Juggert discussed with Jane Duff the desirability of having errors and omissions insurance, which Jane Duff acquired through Trinity Broadcasting Network's broker. Norman Juggert also provided NMTV language of an indemnity provision resulting from a legislative amendment that was adopted by NMTV. Tr. 3670-73.

302. Norman Juggert prepared at Jane Duff's request the Agreement to Provide Business Services with Trinity Broadcasting Network. MMB Exhibit No. 337. He testified that he did this as counsel for Trinity Broadcasting Network, knowing, however, that it would be utilized by NMTV as well as Community Educational Television and Jacksonville Educators Broadcasting. Tr. 3666-69.

303. Norman Juggert prepared the television agreement and production agreement (MMB Exhibit No. 383) as a result of discussions with Jane Duff in which she pointed out the need for an agreement covering Jim McClellan's production of his program "Joy in the Morning" in Portland. Jane Duff gave him a draft of a possible agreement and instructed him as to the desired terms. He testified that the interests of NMTV and Trinity Broadcasting Network were identical on this matter; however, at his deposition he said they were not and he

indicated that he was representing Trinity Broadcasting Network. Tr. 3664-65.

304. Norman Juggert drafted the secured promissory note between Trinity Broadcasting Network and NMTV arising from the Wilmington application (MMB Exhibit No. 368). He dealt with Jane Duff in connection with the note. Norman Juggert testified that in drafting the note he was representing Trinity Broadcasting Network; however, he did not communicate this to Jane Duff and he didn't know what her understanding of his role was. Tr. 3775-76.

305. As noted, Norman Juggert was the principal actor in efforts to implement the proposed NMTV loan to Community Brace.

306. To Norman Juggert's knowledge, no other California lawyer has done work for NMTV. Tr. 3718. Norman Juggert testified that he did not perceive that his role in representing both entities raised a potential conflict of interest. As a result, he never discussed the possibility of a conflict of interest with any representative of either NMTV or Trinity Broadcasting Network, including Paul Crouch and Jane Duff. From his point of view, Colby May could look after NMTV's interests if the need arose, although he was aware that Colby May also represented Trinity Broadcasting Network. Tr. 3661-63. It can be found that Norman Juggert's total indifference to possible conflicts of interest reflected his

awareness, as a director of and counsel for Trinity Broadcasting Network, that NMTV was in fact not a separate entity from Trinity Broadcasting Network and that in performing services for either entity he was performing services for Trinity Broadcasting Network.

307. It must be found that Norman Juggert's direct testimony is not a full and candid disclosure of the nature of his relationship to NMTV. This is true even if one accepts the suggestion that matters not disclosed in Norman Juggert's direct testimony were technically legal services provided to Trinity Broadcasting Network. They nonetheless affected NMTV and Norman Juggert's role could not be properly assessed without knowledge of these matters. In fact, the contention that services relating to NMTV performed in conjunction with a director of NMTV were services rendered for Trinity Broadcasting Network appears to be an after-the-fact justification to disguise the reality that at the time the services were performed, there was no distinction in the minds of those involved between NMTV and Trinity Broadcasting Network. Moreover, the directors of NMTV not directly associated with Trinity Broadcasting Network for the most part failed to perceive any distinction between Norman Juggert's role and the role that would be expected of an attorney representing NMTV.

18. Hiring of Key NMTV Employees

309. A consideration of the hiring of key NMTV employees involves only consideration of the Odessa and Portland stations. Apart from the employees at those stations, NMTV had no employees since January 26, 1987. Tr. 1471.

a. Odessa

309. The initial manager at Odessa was Harold Prentice. He was interviewed by Jane Duff. Since, however, his duties would be almost entirely engineering in nature, he was also interviewed by Ben Miller upon whose judgment Jane Duff relied as to his engineering qualifications. Tr. 1794-95.

310. He was succeeded by Darlene Eve. MMB Exhibit No. 263. Ms. Eve had originally been hired as a Receptionist. MMB Exhibit No. 182. Responsibility for her hiring would have rested with the local manager, Mr. Prentice. Tr. 1794.

b. Portland

311. The only manager at Portland has been Jim McClellan. He began working for Trinity Broadcasting Network in 1976, leaving after a year but returning in 1982, where he produced programs, did voice-overs and announcements, and managed Trinity Broadcasting Network's road crew. TBF Exhibit No. 109, p. 3-4. He heard of the opening in Portland while having lunch with Terrence Hickey and Ben Miller. He let Jane Duff and Paul Crouch know of his interest in the station manager's

position, for which he was subsequently hired. Id., p. 6-8. His wife was also hired as public affairs and traffic director. They are not minorities. Tr. 4427, 4433.

312. The Chief Engineer at Portland is Mark Fountain. Fountain was a maintenance engineer at Trinity Broadcasting Network who wished to work at Portland. Jane Duff consulted with Ben Miller as to his engineering qualifications. Fountain was the only applicant and no attempt was made to solicit further applications from outside sources, since Jane Duff felt there was no purpose in it. Tr. 1908-11. Fountain is not a minority. Tr. 4433.

19. Intermingling of NMTV and Trinity Broadcasting Network Business

313. The record reflects many instances in which NMTV business was intermingled with Trinity Broadcasting Network business. An analysis of Mass Media Bureau Exhibits reveals the following categories of intermingling: A. letters addressed to a person at Trinity Broadcasting Network about NMTV business; B. letters and memos concerning both NMTV and Trinity Broadcasting Network business; C. letters and memos concerning NMTV business but using a Trinity Broadcasting Network letterhead; D. letters and memos concerning NMTV business signed in a Trinity Broadcasting Network capacity; and E. letters and memos concerning NMTV business to or from Trinity Broadcasting Network personnel. The following

reflects Mass Media Bureau Exhibits in each of these categories (some Exhibits fall into more than one category) (multiple statements from the law firm of Colby May addressed to Trinity Broadcasting Network are not included):

-- A: 14, 15, 16, 22, 23, 32, 35, 36, 77, 119, 136, 168, 194, 198, 227, 228, 239, 241, 343, 344, 352, 376, 403, and 406;

-- B: 15, 22, 23, 33, 41, 77, 168, 194, 202, 218, 220, 239, 241, 246, 295, 343, 344, 352, 360, 361, 370, 390, 391, 395, 403, 406, and 409;

-- C: 20, 33, 120, 126, 177, 229, 242, 286, 360, 361, 362, 363, 391 and 409;

-- D: 33, 37, 120, 126, 177, 229, 242, and 245

-- E: 249, 264, 269, 279, 281, 292, 298, 310, 311, 313, 319, 326, 328, 331, 333, 335, 336, 340, 343, 350, 362, 363, 370, 371, 390, 391, 392, 393, 395, 397, 401, and 409.

20. Representations made to the Commission in Response to Questions as to NMTV's Ownership

314. Questions as to NMTV's ownership have been at issue in three proceedings: the Wilmington assignment of license proceeding; a proceeding seeking a declaratory ruling concerning NMTV's status; and the instant proceeding. The candor of Trinity Broadcasting Network/NMTV's performance must be assessed in light of Paul Crouch's forceful recognition at

the time of the Odessa purchase that the appropriate course of action was to:

"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). It must further be assessed in light of Trinity Broadcasting Network's past experience in the International Panorama case where the provision of false information to the Commission nearly cost Trinity Broadcasting Network a license. There can thus be no question as to Trinity Broadcasting Network/NMTV's awareness of the requirements for accuracy and candor. The only question is whether they chose to honor these requirements in their submissions in the three proceedings concerning NMTV's ownership.

a. The Commission's March 30, 1992 Letter

315. Inquiry was most recently made prior to designation in this case by the Mass Media Bureau in its March 30, 1992 letter to NMTV. Glendale Exhibit No. 219. This letter posed 15 narrowly focused inquiries concerning NMTV's relationship to Trinity Broadcasting Network requiring information and supporting documentation.

316. The effect of the Commission's letter was to finally bring about the type of disclosure that Paul Crouch had recognized as appropriate as far back as Odessa. Thus, Paul Crouch conceded that prior to this Commission letter, it had never been disclosed that Ben Miller had supervised the construction of Odessa and Portland; that Trinity Broadcasting Network employees under Ben Miller's supervision provided transmitter site acquisition services and had responsibility for the purchasing of equipment and supplies for NMTV; that Trinity Broadcasting Network donated equipment and supplies to NMTV; that Trinity Broadcasting Network provided payroll, accounting and bookkeeping services; that NMTV had entered into an Agreement to Provide Business Services with Trinity Broadcasting Network; that NMTV used the services of Planck Technical Services, Inc. and Media Services Agency; that NMTV used the services of Norman Juggert as an attorney; that NMTV's tax returns were prepared by the same accountants who prepared those of Trinity Broadcasting Network; and that NMTV had adopted a corporate action appointing Trinity Broadcasting Network accounting agent. Tr. 2393-95.

317. Jane Duff was evasive in response to similar inquiries. She sought to equate Ben Miller's execution of the engineering portions of the Odessa and Portland license applications as having constituted disclosure that Trinity Broadcasting Network's employees supervised the construction

of the stations. Tr. 1544-45. Jane Duff sought to justify non-disclosure based on what was required by Commission forms. This was cited to justify non-disclosure of the fact that Trinity Broadcasting Network provided operator and maintenance manuals to NMTV. Tr. 1545-46. When asked about disclosure in a number of areas prior to the Commission's March 30, 1992 letter, she responded by asserting a failure to "focus" on such areas. The areas in which Jane Duff concedes that NMTV failed to "focus" prior to the Commission's letter included that Trinity Broadcasting Network provided technical and operational support for NMTV; that Trinity Broadcasting Network employees provided transmitter site services for NMTV; that Trinity Broadcasting Network provided station and studio construction services for NMTV; that Trinity Broadcasting Network employees handled the purchasing of equipment and supplies for NMTV; that Trinity Broadcasting Network donated equipment and supplies to NMTV; that Trinity Broadcasting Network provided payroll, accounts payable, and business services to NMTV; that NMTV had no checking account prior to 1987; that no NMTV officer who was not a Trinity Broadcasting Network employee ever signed an NMTV check; that Trinity Broadcasting Network provided NMTV with an open line of credit; that Trinity Broadcasting Network and NMTV had similar insurance and benefit plans; that NMTV utilized the services of Planck Technical Services, Inc. and Media Services Agency;

that NMTV tax returns were prepared by the same accountants who prepared those of Trinity Broadcasting Network; and that NMTV utilized the services of Norman Juggert as an attorney. Tr. 1545-48.

b. Representations in the Wilmington Proceeding

318. Jane Duff's first opportunity to "focus" on full disclosure occurred in response to a Petition to Deny and objections to the Wilmington assignment of license application. NMTV's Consolidated Opposition was filed on May 22, 1991. MMB Exhibit No. 353.

319. NMTV asserted in its Consolidated Opposition that it had "acquired, constructed and operated two full power television stations since early 1987." Id., p. 4-5. This was a fundamentally candorless assertion since the stations were in fact built with the money of Trinity Broadcasting Network, under the supervision of Trinity Broadcasting Network employees, and operations were underwritten by Trinity Broadcasting Network support. NMTV itself would have had no independent capacity to acquire, construct and operate two television stations.

320. NMTV was described as a corporation "with a history of over ten (10) years duration." Id., p. 10. It is not disclosed that the corporation was largely dormant prior to 1987. NMTV asserted that it "has its own bank accounts" without disclosing that such was not the case until 1987 or

that Phillip Aguilar was not a signatory to any such accounts whereas Trinity Broadcasting Network officials were. Id. It was asserted that NMTV receives its own revenues and contributions without disclosing NMTV's financial dependence on Trinity Broadcasting Network and that revenues and contributions received by NMTV were based on its carriage of Trinity Broadcasting Network programming in accordance with Trinity Broadcasting Network's zip code revenue sharing practice. Joint Ex. 1, p. 21-23. NMTV asserted that it had its own employee policies and insurance without discussing the similarity with Trinity Broadcasting Network. Id., p. 11.

321. It was asserted that NMTV had regular meetings of the board at which corporate business was discussed and voted upon. Id. NMTV also asserted that the objecting party had not shown "that Mrs. Duff and Rev. Aguilar aren't directors, or that they don't go to meetings, vote on corporate business or comply with their corporate fiduciary responsibilities." Id., p. 17. It is not disclosed that as of May 22, 1991, Phillip Aguilar had attended none of the three meetings held after the initial meeting at which he had been elected. It was further stated with respect to David Espinoza and Phillip Aguilar that they were "principals with a depth of personal, broadcast and managerial experience who would give credit to any nonprofit corporation on whose board they sat." Id., p. 22. In fact, the record discloses that neither David Espinoza

nor Phillip Aguilar functioned as responsible directors since they lacked knowledge of and involvement in most aspects of the corporation's operations.

322. NMTV asserted that "It hires and fires its own employees. . . . It files its own tax returns. It pays its own bills." Id., p. 17. This failed to reveal the role of Ben Miller in hiring several key employees, that NMTV's operations depended in part on Trinity Broadcasting Network employees and that Trinity Broadcasting Network prepared NMTV's tax returns and paid its bills.

323. NMTV asserted in response to an allegation of fraudulent fundraising:

"Indeed, since the cornerstone of NMTV's funding to acquire WGTV-TV is its December 7, 1990 letter from the Bank of California, requesting donations is in no way false or misleading. A party may have loan funds available and still wish to pay cash to reduce its debt burden--especially if it is purchasing a bankrupt station."

Id., p. 26. In fact, the referenced bank letter (MMB Exhibit No. 334) was not intended as the source of financing for the station. As noted above, according to Jane Duff, it was merely for appearances to conceal Trinity Broadcasting Network's involvement from other parties to the negotiations. NMTV's reliance was actually on a loan from Trinity Broadcasting Network, not on either the bank loan or contributions.

324. The Consolidated Opposition was verified by a declaration of Jane Duff generally affirming the truth of the pleading. Id., p. 28. Paul Crouch testified that he had some discussions with Colby May about NMTV's response but he had left it pretty much to Colby May and Jane Duff who was the main liaison with Colby May. Tr. 2930-31.

325. Jane Duff's next opportunity to "focus" came in response to a Commission letter dated September 13, 1991 in the Wilmington proceeding. MMB Exhibit No. 374. The primary concern of the Commission's letter was to determine that the minority directors of NMTV, especially Phillip Aguilar, were bona fide directors. NMTV's response was submitted on September 24, 1991. It consisted of a series of affidavits with a cover letter signed by Colby May and Joseph Dunne. TBF Exhibit No. 121. In the cover letter, it was made clear that NMTV's response was limited only to matters deemed "directly responsive" to the Commission's letter, excluding, among other things, any matters pertaining to NMTV's "method of operation" prior to Aguilar's election to the board. TBF Exhibit No. 121, p. 1. This directly contradicted the recognition of Paul Crouch at the time of Odessa that NMTV's posture should be to:

"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).

326. The Commission's letter had asked what percentage of station funding would come from a bank loan and what percentage would come from viewer contributions. Faced with this direct inquiry, NMTV was forced to disclose that the money would in fact come from a Trinity Broadcasting Network loan, rather than either of the sources suggested in its Consolidated Opposition. No explanation was offered. Id., p. 16. The Commission's inquiry thus confirmed the misleading nature of the assertions in the Consolidated Opposition as to the source of NMTV's funding. Although disclosing the note that would have governed the purchase of Wilmington, NMTV did not disclose the extent to which it was already indebted to Trinity Broadcasting Network or the fact that such loans were undocumented, giving the misleading impression that the documented Wilmington loan was the norm in Trinity Broadcasting Network-NMTV financial dealings.

327. Despite the Commission's concern as to the good faith of Phillip Aguilar's directorship, no disclosure was made of his attendance at only 2 of 5 meetings, his non-cooperation in providing information necessary to report his criminal conviction, his execution of a patently erroneous affidavit intended for submission in response to the Commission's letter, or the general perception of the inadequacy of his performance that resulted in his interest

being diluted by the addition of E. V. Hill just over a week after the submission of NMTV's response.

328. Inquiries in the Commission's letter concerning the role of Jane Duff at Trinity Broadcasting Network reflected that the Commission had not been adequately informed as to that relationship previously.

c. Representations in NMTV's Request For Declaratory Ruling

329. Jane Duff's next opportunity to "focus" came in the context of the Request for Declaratory Ruling of National Minority TV, Inc. filed November 18, 1991. Glendale Exhibit No. 216. This pleading was occasioned because the time period for consummation of the Wilmington transaction specified by the Bankruptcy Court expired prior to Commission action on the assignment of license application, requiring dismissal of that application as moot. Id., p. 14-15.

330. Para. 9 of the Request stated as follows concerning Phillip Aguilar:

"Rev. Aguilar attends most board meetings and reads the minutes of the meetings sent to him. He also speaks with Mrs. Duff periodically about NMTV business. Rev. Aguilar receives and reviews regular financial statements and audited financial statements when they are prepared."

Id., p. 7.

331. As of October 1, 1991, Phillip Aguilar had attended only two of five NMTV board meetings. There was one additional meeting between October 1, 1991 and November 18, 1991, the date of this pleading. Phillip Aguilar attended that meeting, so his record stood at 3 out of 6 meetings, which falls short of "most". Moreover, the October 2, 1991 meeting was by telephone conference call. NMTV was in fact aware that meeting attendance was a problem with Phillip Aguilar since it was necessary for Jane Duff to send him a special reminder to ensure his presence at the June 27, 1991 meeting. Nor does the record support that he was sent or that he read minutes of meetings.

332. The assertion that he "periodically" communicated with Jane Duff could be justified only by its lack of specificity. Phillip Aguilar had a phobia of talking directly on the telephone so that he would usually speak indirectly through his secretary. Jane Duff recalls talking to him one time during his directorship. Tr. 1494. There were 5 or 6 times when Jane Duff talked to Phillip Aguilar through his secretary in phone calls initiated by her. Tr. 2256-57. The implication that Phillip Aguilar was regularly sent financial statements when they were prepared is contrary to fact. They were at most made available when (and if) he attended a meeting, as Jane Duff conceded. Tr. 1535-36.

333. Even if the statements made in para. 9 were entirely true in themselves, there was still a lack of candor in failing to disclose the facts, indisputably known by November 18, 1991, indicating that Phillip Aguilar's directorial performance was poor, resulting in the addition of E. V. Hill to the NMTV board. These include the matters reflected in Joseph Dunne's October 1, 1991 letter and the impact on Phillip Aguilar's ability to function as a director resulting from problems within his own ministry occasioned by newspaper allegations of misconduct..

334. With respect to E. V. Hill, the Request stated at Para. 6 that:

"Other than a few appearances on Trinity programs, and occasional assistance from Trinity in generating support for LA soup kitchens, Dr. Hill has no present or past connection with Trinity."

Glendale Exhibit No. 216, p. 6. In fact, E. V. Hill was a regular programmer on Trinity Broadcasting Network with a written contract and had been a speaker at Trinity Broadcasting Network promotional rallies since the early 1980s for which he received honoraria which in 1991 amounted to nearly \$20,000. TBF Exhibit No. 102, p. 11; Glendale Exhibit No. 188.

335. Para. 10 asserted that Paul Crouch was not involved in day-to-day operations of the station unless requested by Jane Duff. Glendale Ex. No. 216, p. 7. This ignored the fact

that Jane Duff deferred to Paul Crouch in connection with engineering and related budget matters.

336. At Para. 36, NMTV asserted that it prepared and filed its own tax returns, without noting that such documents were prepared and filed by Trinity Broadcasting Network. It also asserted that it hired its own employees, without noting that its operations relied in part on Trinity Broadcasting Network employees and that Ben Miller was involved in key hiring decisions. Id., p. 29.

337. At Para. 37 and 39, NMTV vaguely disclosed that it had received construction financing from Trinity Broadcasting Network. Id., p. 29-31. No details were provided as to the extent of NMTV's debt or the fact that there was no written agreement concerning it. Indeed, the discussion suggested that NMTV's debt was governed by the terms of the note pertaining to the Wilmington loan; however, that note was rendered moot by the failure of the transaction. Joint Ex. 1, para. 44. For instance, Para. 37 of NMTV's Request asserted that station acquisition loans would be repaid at 5 percent interest (the amount specified in the Wilmington note); however, the note subsequently adopted on January 1, 1993 to formalize NMTV's obligation does not address interest. Id., para. 45.

338. Paul Crouch was not sure whether he saw a copy of NMTV's Request prior to filing. At some point, he "scanned"

it, but he could not recall whether he read it word for word. He was at most "generally aware of" but not "familiar with" the document. Tr. 2400-01. Jane Duff thought she had seen the Request before it was filed and felt, after some hesitation, "pretty sure" that she had read it. She was not sure whether she read it again after filing and had no recollection of discussing it with Paul Crouch. Tr. 1530-31.

d. Representations in this Proceeding

339. Jane Duff's final opportunity to "focus" was in the context of TBF's February 21, 1992 Consolidated Opposition to Petitions to Deny in this proceeding. TBF Exhibit No. 120. This is an anomalous document since although nominally a TBF pleading, it in fact reads as a joint response on behalf of TBF and NMTV.

340. On the control issue, Colby May testified that he did little more than recast information previously submitted in connection with Wilmington, which is discussed above. No effort was made to provide further information. Tr. 3175.

341. An issue was raised as to the candor of NMTV's purported reliance on the December 7, 1990 bank letter as the basis for NMTV's financial certification in the Wilmington application. It was asserted in response at TBF Exhibit No. 120, p. 23, that NMTV initially relied upon the bank loan but later changed its reliance to a "more favorable source", i.e., Trinity Broadcasting Network. The record in this case shows

that the bank loan was intended as a "for appearances only" negotiating device and that the intended reliance for funding was always on funds to come from a Trinity Broadcasting Network loan. Tr. 2118-19.

342. An issue was sought as to the failure to report Phillip Aguilar's conviction. In its response, TBF did not disclose Phillip Aguilar's non-cooperation in providing information concerning this matter. TBF Exhibit No. 120, p. 20-22 and referenced Exhibits 4 and 5.

e. The Candor of NMTV/TBF

343. It can accordingly be found that NMTV has lacked candor in its representations to the Commission as to information pertinent to the control issue. But for the Commission's wisdom in directing two narrowly focused inquiries to NMTV, it is probable that the Commission's resolution of the matters pending as of designation would have been premised on a seriously incomplete if not misleading record. This is particularly significant since Paul Crouch was always aware that the appropriate posture was to:

"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). The record, however, discloses a consistent course of conduct that was the antithesis of this policy.

21. Status of the NMTV/Trinity Broadcasting Network Relationship as of the Close of the Record

344. Paul Crouch and Jane Duff made clear that there had been no change in any way in the extent of NMTV's reliance on Trinity Broadcasting Network as of the close of the record in this case. Thus, the two companies still had the same attorneys, same accounting firm and same consulting engineers. E. V. Hill and Armando Ramirez still could not sign checks. The Agreement to Provide Business Services between NMTV and Trinity Broadcasting Network remained in effect. Tr. 1513; 2367-68. Trinity Broadcasting Network continued to provide engineering services such as those provided by Ben Miller, the "consultant", and George Horvath. Tr. 1489-90. Jane Duff testified that she saw no need to modify any of the interrelationships with Trinity Broadcasting Network. Tr. 1488-90.

345. There is no evidence that NMTV ever hired a wholly independent counsel to advise it as to the propriety of its relationship with Trinity Broadcasting Network under the Commission's requirements. As noted, both Colby May and Norman Juggert were primarily attorneys representing Trinity Broadcasting Network. As discussed, at one point Tyrone Brown

was retained by NMTV or Trinity Broadcasting Network (as indicated by the testimony of E. V. Hill). In any event, a letter from Tyrone Brown to Jane Duff dated February 26, 1992 reflected that Tyrone Brown found that the discharge of the duties for which he was retained necessarily involved representation of both NMTV and Trinity Broadcasting Network. TBF Exhibit No. 107, Tab A, p. 132. Tyrone Brown indicated that he would work with Colby May and Joseph Dunne "as matters come up that require discussion . . ." He further indicated that:

"When I need to make contact directly with someone in Irvine, I will try to reach you first, since it is clear that Dr. Crouch is swamped with work and that in this area he depends on you completely."

Id., p. 133. Thus, Tyrone Brown did not view Jane Duff as being his client but only as the representative of his actual client, Paul Crouch. The letter does not reflect that copies were sent to Phillip Aguilar or E. V. Hill. The record does not reflect what -- if any -- advice Tyrone Brown gave as to the propriety of the relationship between NMTV and Trinity Broadcasting Network. NMTV also retained the law firm of Mullin, Rhyne, Emmons and Topel, P.C. to represent it in this proceeding. This firm jointly represented NMTV, Trinity Broadcasting Network and Trinity Broadcasting of Florida, Inc. MMB Exhibit No. 412. Thus, the failure to hire independent

counsel continued through the closing of the record in this case.

346. Instead of undertaking efforts to establish NMTV's obligations under the Commission's rules, Jane Duff testified in this proceeding that she would refuse to make any changes in NMTV's operations unless first apprised by the Commission as to what changes its rules and policies would require. TBF Exhibit No. 101, p. 61-70.

B. Glendale - Lancaster/Lebanon Extension Application Issue

1. Background

347. George Gardner is the owner of fifty-one percent of Glendale's stock. He is one of the two directors of Glendale, as well as its President, Treasurer, and Secretary. George Gardner is also the sole voting stockholder of Raystay Co. (Raystay), which is the owner and operator of several cable television systems. Glendale Ex. 208, P. 2. He is Raystay's sole director, its President, and its Chief Executive Officer. Tr. 5199. He founded Raystay in 1968, and he has controlled Raystay since that time. Tr. 5199-5200.

348. Raystay is the owner and operator of cable television systems. Glendale Ex. 208, P. 2. Since December 16, 1988, Raystay has also owned and operated low-power television station W40AF, licensed to Dillsburg, PA. Glendale Ex. 208, P. 2, Tr. 5205. W40AF is also known as TV40. Tr.

5205. By October 31, 1991, Raystay had used \$507,487 in funds from its other operations to subsidize TV40. TBF Ex. 256, Tr. 5109-5110. By October 31, 1992, that figure had increased to \$759,052. TBF Ex. 256.

349. Lee H. Sandifer began work for Raystay and Waymaker Company (Waymaker) in June 1990. Tr. 4966. Mr. Sandifer is employed by Waymaker, which is a management company owned by George Gardner that provides management services to Raystay. Tr. 4966, 4968. Mr. Sandifer is Chief Financial Officer; and he has been a Vice President of Raystay from early 1991 to the present. Tr. 4968. Mr. Sandifer has been responsible for supervising accounting and financial operations during the term of his employment. Tr. 4969-4970. He started supervising David Gardner and the contract management area in the late summer or fall of 1990. Tr. 4970. From August 1991 to the fall of 1993, he was in charge of operations for TV40. Id. Since June 1990, Mr. Sandifer has reported to George Gardner. Id.

350. David Gardner is employed by Waymaker Company as the contract manager. Glendale Ex. 209, P. 2. In that capacity, he works with other employees of Raystay and Waymaker to secure and to write contracts, mostly for cable programming services. Tr. 4542. He and Mr. Sandifer are in charge of securing insurance for all operations. Id. He also works to secure licenses and operating permits from the Commission and