

FCC Received September 21, 1994 @ 1:30 p.m.
Diana A. Bradshaw

ORIGINAL
RECEIVED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIPT OF PROCEEDINGS

SEP 26 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554 OFFICE OF THE SECRETARY

IN THE MATTER OF:

SCRIPPS HOWARD BROADCASTING COMPANY
For Renewal of License of Station
WMAR-TV, Baltimore, Maryland

and

MM DOCKET NO. 93-94

FOUR JACKS BROADCASTING, INC.
For a Construction Permit for a New
Television Facility on Channel 2 at
Baltimore, Maryland

DATE OF HEARING: September 12, 1994

VOLUME: 20

PLACE OF HEARING: Washington, D.C.

PAGES: 1747-1930

FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

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

RECEIVED

SEP 26 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the matter of:)
)
SCRIPPS HOWARD BROADCASTING COMPANY)
For Renewal of License of Station)
WMAR-TV, Baltimore, Maryland)
)
and)
)
FOUR JACKS BROADCASTING, INC.)
For a Construction Permit for a New)
Television Facility on Channel 2 at)
Baltimore, Maryland)

MM DOCKET NO. 93-94

The above-entitled matter came on for hearing pursuant to Notice before Richard L. Sippel, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., court room 1, on Monday, September 12, 1994, at 9:30 a.m.

APPEARANCES:

On behalf of Scripps Howard:
KENNETH C. HOWARD, JR., ESQUIRE
SEAN H. LANE, ESQUIRE
RONALD WICK, ESQUIRE
LEONARD GREENEBAUM, ESQUIRE
Baker & Hostetler, Counsellors at Law
1050 Connecticut Avenue, NW, Suite 1100
Washington, D.C. 20036-5304

On behalf of Four Jacks Broadcasting, Inc.:
GREGORY MASTERS, ESQUIRE
KATHERYN SCHMELTZER, ESQUIRE
MARTIN LEADER, ESQUIRE
Fisher, Wayland, Leader & Zaragoza
2001 Pennsylvania Avenue, NW, Suite 400
Washington, D.C. 20006

On behalf of Chief, Mass Media Bureau:
ROBERT ZAUNER
2025 M Street, Suite 7212
Washington, D.C. 20554

I N D E X

		Page No.
1		
2	Opening Statements By: Judge Sippel	1749
3	Closing Statements By: Judge Sippel	1930
4	<u>Witness</u>	
	<u>Direct</u>	<u>Cross</u>
	<u>Redirect</u>	<u>Recross</u>
5	David D. S. Smith	
6	By Mr. Greenebaum	1761
7		
8	<u>E X H I B I T S</u>	
9	<u>Scripps Howard</u>	
	<u>Identified</u>	<u>Received</u>
	<u>Rejected</u>	<u>Withdrawn</u>
10	Exhibit 39	1753
	Exhibit 40	1753
	Exhibit 40, Tab 18	1861
11	Exhibit 41	1881
	Exhibit 42	1891
12	Exhibit 43	1891
	Exhibit 44	1891
13	Exhibit 45	1915
14		
	<u>Four Jacks</u>	
15	Exhibit 26	1755
16	Exhibit 27	1755
	Exhibit 28	1755
17		
18		
19		
20		
21		
22		
23		
24	Hearing began: 9:34 a.m.	Hearing Ended: 4:15 p.m.
25	Lunch Break Began: 12:10 p.m.	Lunch Break Ended: 1:30 p.m.

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE SIPPEL: We're on the record.

Mr. Greenebaum?

MR. GREENEBAUM: We're just in the process of signing a couple stipulations --

JUDGE SIPPEL: Let's go off the record for a second.

(Off the record. On the record.)

JUDGE SIPPEL: Back on the record. I just a preliminary statement I want to make. I was asked at the close of the last session which was last Thursday after we completed the testimony of Ms. Barr that -- about how the requested deposition of David Roberts would affect the further scheduling in this case. I was informed last Friday by the General Counsel's office that the Commission has denied the deposition. I have not seen the Commission's ruling but that information would indicate to me that the concern about the Roberts deposition affecting future scheduling seems to be now moot. I just wanted to just share that information with you if you don't already have it. Mr. Greenebaum, you mentioned something about a stipulation, or how do you want to proceed now this morning?

MR. GREENEBAUM: We have two written stipulations with documents which we'd like to present to Your Honor and to distribute the documents to counsel.

JUDGE SIPPEL: Any objection to that, Mr. Leader?

1 We can do that as a preliminary matter and then we can start
2 with the testimony of your witness.

3 MR. LANE: At this time, Your Honor, Scripps Howard
4 would like to introduce two exhibits into evidence that are
5 stipulations agreed to between the parties. The first one
6 would be Scripps Howard Exhibit 39 which would be a
7 stipulation regarding the personal tax returns of the three
8 integrated Four Jacks principals, David D. Smith, Robert E.
9 Smith and Frederick G. Smith.

10 JUDGE SIPPEL: What years will that be for?

11 MR. LANE: For 1991, 1992 and 1993.

12 JUDGE SIPPEL: All right.

13 MR. GREENEBAUM: It's only five lines if he wants to
14 read it into the record, Your Honor.

15 JUDGE SIPPEL: Well, if you already have it prepared
16 as an exhibit we might as well get it in the record that way.
17 That's fine. You want to present that to the reporter now or
18 are you going to identify the second one first?

19 MR. LANE: Well, we just got these signed this
20 morning so we only have one original copy so whatever -- we
21 can make copies later on and what we would do is I guess
22 introduce this now.

23 JUDGE SIPPEL: We can introduce it later then.

24 MR. LANE: Okay.

25 JUDGE SIPPEL: And what about your -- then you have

1 another proposed stipulation?

2 MR. LANE: Yes, this would be Scripps Howard Exhibit
3 40. It is a stipulation between the parties regarding the
4 authenticity of certain documents that will be used, 34
5 documents, and we have the documents as attachments in two
6 bound volumes. The stipulation also has three -- stipulates
7 as to three factual matters regarding those documents and we'd
8 like to move those into -- the stipulated documents into
9 evidence at this time.

10 JUDGE SIPPEL: Any objection?

11 MR. ZAUNER: I would like to see a copy of the
12 stipulation as it -- in its final form as being offered.

13 MR. GREENEBAUM: Your Honor, for purposes of
14 convenience I've got two clean copies that I could make
15 available. There's nothing on it but the exhibit numbers and
16 the signatures --

17 JUDGE SIPPEL: Mr. Greenebaum, is that with respect
18 to number 40?

19 MR. GREENEBAUM: 39 and 40.

20 JUDGE SIPPEL: 39 and 40. Yeah, if Mr. Zauner could
21 see those.

22 MR. ZAUNER: Thank you.

23 MR. GREENEBAUM: While they're distributing those,
24 Your Honor, there's one mechanical thing I should point out.
25 I had hoped to give those tabs letter numbers but we had more

1 -- we have more documents than letters and we didn't want to
2 double up so it's 40-1, -2, -3.

3 JUDGE SIPPEL: Well, either Tab 1 or (1) will
4 identify it. Thank you.

5 MR. ZAUNER: Your Honor, by not objecting to the
6 stipulations in the attached documents are we also agreeing
7 that each of the attached documents is relevant to the issues
8 in the proceeding? That is, the documents come in for all
9 purposes? Is that the understanding?

10 MS. SCHMELTZER: No, no. Nor are we admitting that
11 they are material or probative.

12 MR. ZAUNER: So then by not objecting to the
13 stipulation what I would be doing is merely not objecting to
14 the face of the stipulation and to what it says specifically
15 and I would not be precluded from making objections to the
16 introduction of any specific document later on based upon the
17 grounds asserted by Four Jacks? Is that correct?

18 JUDGE SIPPEL: There hasn't been any -- of relevancy
19 objection so you would be able to participate in that
20 argument.

21 MR. ZAUNER: Okay. Under those conditions I have no
22 objection to Exhibit 39 and Exhibit 40.

23 JUDGE SIPPEL: Why don't we -- let's go off the
24 record for just a minute.

25 (Whereupon, off the record.)

1 (Whereupon, on the record.)

2 JUDGE SIPPEL: The record shall reflect that I have
3 instructed the reporter to mark and receive into evidence as
4 Scripps Howard 39 and 40 the two stipulations which
5 actually -- stipulate as to the authenticity of certain tax
6 information with respect to the Four Jacks principals. It
7 does not deprive or does not concede at this point the
8 relevancy of the evidence. And the reporter has at my
9 instruction given them back to counsel and appropriate copies
10 will be made and distributed.

11 (Whereupon, Scripps Howard Exhibits
12 39 and 40, were marked for
13 identification and received into
14 evidence.)

15 JUDGE SIPPEL: Does that conclude your preliminary
16 matters, Mr. Greenebaum?

17 MR. GREENEBAUM: There's one other. We've informed
18 counsel for Four Jacks that we don't believe we will get to
19 David Smith today and rather than have him -- Robert, rather
20 than have him waiting around we've told them that we'll do him
21 tomorrow.

22 JUDGE SIPPEL: That's fine. That's in accordance
23 with my instructions of last week also. Then having concluded
24 preliminary matters, Mr. Leader, you have a witness this
25 morning?

1 MR. LEADER: Yes, sir.

2 JUDGE SIPPEL: And that is?

3 MR. LEADER: David D. Smith.

4 JUDGE SIPPEL: Are you ready to go forward at this
5 time?

6 MR. LEADER: If you are.

7 JUDGE SIPPEL: Yes, I am. That's what I'm here for.

8 MR. GREENEBAUM: In that connection, Your Honor, we
9 have some objections to his frozen direct. I assume you want
10 to do that after they move it in.

11 JUDGE SIPPEL: We'll do -- yes, sir, we'll take that
12 -- would you raise your right hand, please? Please be seated.

13 MR. LEADER: Your Honor, I'm going to hand the
14 reporter two copies of Four Jacks directory -- may I just ask
15 a brief question? Mr. Smith is going to sponsor his
16 declaration but I'll give this copy to the reporter and it
17 will be -- how do you -- so that we're not confused, do you
18 want it to be 26-A, B and C or do you want us to reintroduce
19 it tomorrow with a separate number? All three are contained
20 in one --

21 JUDGE SIPPEL: Well, we reserved at your request --

22 MR. LEADER: 26, 27 and 28.

23 JUDGE SIPPEL: We reserved those numbers so I would
24 -- unless anybody has an objection, I would suggest that the
25 document itself be marked Four Jacks Exhibits 26, 27 and 28.

1 MR. LEADER: They are.

2 JUDGE SIPPEL: I believe that would accommodate the
3 bound volume procedure which I have no objection to.

4 MR. LEADER: Let the record show I've given the
5 reporter an original copy of the Four Jacks Exhibits 26, 27
6 and 28.

7 (Whereupon, Four Jacks Exhibits 26,
8 27 and 28 were marked for
9 identification.)

10 JUDGE SIPPEL: And it will only be Exhibit 26 that
11 this witness will be sponsoring?

12 MR. LEADER: That's correct, and move that Exhibit
13 26 be -- Exhibit 26 which is the declaration of David D. Smith
14 be admitted into evidence.

15 JUDGE SIPPEL: Are there objections?

16 MR. GREENEBAUM: Yes, Your Honor.

17 JUDGE SIPPEL: Well, before I rule on the motion
18 let's go down the objections.

19 MR. GREENEBAUM: The first objection would be on
20 page 2, paragraph 5, line 5, the last word in line 5 and the
21 first two words in line 6, the sentence starting, "however
22 inartfully worded, I intended to make clear," I don't believe
23 "however inartfully worded" is factual statement or a
24 statement of his intent. It's a conclusion as to what
25 somebody else wrote.

1 JUDGE SIPPEL: Mr. Leader?

2 MR. LEADER: I think it reflects his state of mind
3 -- after we get all the facts will determine what the
4 conclusions are.

5 MR. GREENEBAUM: I just believe that's something
6 Your Honor has to decide and the witness's statement on that
7 doesn't help.

8 MR. LEADER: Well, he's explaining --

9 JUDGE SIPPEL: I hear you. I'm not hesitating
10 because I want to hear more. I'm going to deny the motion. I
11 agree with Mr. Leader. I think it does go to the witness's
12 frame of mind. I must say it's unusual to see a phrase like
13 that in direct testimony, direct testimony in defense of an
14 integration pledge. But you're free to either leave it that
15 way, Mr. Greenebaum, or you can cross-examine on it.

16 MR. GREENEBAUM: I might have a few questions.

17 JUDGE SIPPEL: All right.

18 MR. GREENEBAUM: On page 3, paragraph 7, line 7, the
19 eighth word, "true employees." The sentence says, "My
20 brothers are enrolled in Sinclair Insurance and Benefit Plan
21 just as are true employees of the company." I don't think the
22 word "true" is either fair or of any significance there.

23 JUDGE SIPPEL: Is there such a thing as an untrue
24 employee of Sinclair?

25 MR. LEADER: Well, I think it goes to the -- I mean,

1 | is there an untrue employee? I'm sure there are in a
2 | different context. I think he's trying to distinguish his
3 | employment from the employment of others.

4 | MR. GREENEBAUM: I believe you're either an employee
5 | or you aren't.

6 | MR. LEADER: Well, that's what we're here to talk
7 | about, Mr. Greenebaum and without saying any more --

8 | JUDGE SIPPEL: I hear you. I'm going to deny the
9 | objection.

10 | MR. GREENEBAUM: The next sentence we would ask --
11 | we would object to which says, " -- has W-2 and W-4 tax forms
12 | for my brothers and me because the law requires tax
13 | withholding for persons receiving money from the company."
14 | That's a conclusion of law and I would submit to Your Honor
15 | that the accuracy of that statement could be questioned as
16 | well and I don't want to have to bring in tax people to set it
17 | along those lines or expert testimony.

18 | MR. LEADER: I would only submit that the only form
19 | that you file with IRS that gets logged in with computers, a
20 | W-2 and a W-4, there is no form for an officer or a director
21 | of a company to -- that an officer or director of a company
22 | receives showing that it has obtained directors' fees and
23 | payments which are made to that particular individual. So I
24 | think that the only way that one reports -- excuse me. I
25 | think the only way that a company can report any payment other

1 | than a dividend to a person is with a W-2 and a W-4 form. The
2 | employee or the recipient fills out the W-2 which has to do
3 | with deductions and the W-4 is the company's reflection of how
4 | much was paid to that person. A director of a company --

5 | JUDGE SIPPEL: I hear the point. Mr. Greenebaum,
6 | once more?

7 | MR. GREENEBAUM: I don't want to say too much in
8 | front of the witness. I'm not sure that's an accurate --

9 | JUDGE SIPPEL: Do you want me to excuse him? I
10 | mean, is it that important?

11 | MR. GREENEBAUM: No. I'm just not sure that's an
12 | accurate statement of the law and if Your Honor is going to
13 | leave that in then I assume you're going to let me cross-
14 | examine him on his knowledge of the tax laws and I've got the
15 | code, Your Honor, and I'll go through it with him and also
16 | would request permission to bring in an expert and talk about
17 | the tax laws and what they say and don't say because this is
18 | inaccurate in our view and just complicates the picture in
19 | order to give the slant on these factors.

20 | JUDGE SIPPEL: I'll permit reasonable cross-
21 | examination on anything that's left in here but I'm not going
22 | to permit -- based on what you've represented thus far, I'm
23 | not going to permit an expert -- I'm not going to permit
24 | expert testimony. I just don't see that it would be
25 | necessary. But I'll permit you certainly to cross-examine on

1 that point.

2 MR. GREENEBAUM: I think this is --

3 JUDGE SIPPEL: So, I'm going to deny the objection.

4 Next objection?

5 MR. GREENEBAUM: Page 4, paragraph 8, the sentence
6 that says "This intention is reiterated in the registration
7 statement and prospectus filed with the Securities and
8 Exchange Commission in December 1993." I think that's for
9 Your Honor to determine whether or not the intention is
10 reiterated. It's a conclusion.

11 JUDGE SIPPEL: Well, I recognize your -- I'm sorry,
12 Mr. Leader, I think I can handle this one with --

13 MR. LEADER: Thank you.

14 JUDGE SIPPEL: -- without your input. But the
15 iteration -- I'll use the word iteration -- but the statement
16 in that registration statement December 1993 was used as -- it
17 was referred to me by Scripps Howard and it was made a portion
18 of the ruling -- the basis for the ruling I should say in my
19 Memorandum, Opinion and Order 94M-51 wherein I added an issue
20 so I think that his testimony with respect to what was in that
21 prospectus at least to this limited extent is relevant and
22 appropriate. But I don't mean to say that is not for
23 my -- that it's not for me to make the conclusion, you're
24 absolutely correct on that, but I'm going to overrule that
25 objection.

1 MR. GREENEBAUM: Would Your Honor then make the same
2 ruling as to the next sentence? I don't want to belabor this
3 if Your Honor --

4 JUDGE SIPPEL: Yes, I will. Those are -- I
5 recognize that technically those are legal arguments, they're
6 conclusory. But I have made it a practice in these
7 proceedings on issues which clearly go to the heart of the
8 matter to permit witnesses to briefly state their positions.
9 But that's all that is is just a position that's being stated.

10 MR. GREENEBAUM: And we would make the same
11 objection for the record as to the last sentence in
12 paragraph 9 at the bottom of that page.

13 JUDGE SIPPEL: Same ruling.

14 MR. GREENEBAUM: Thank you.

15 JUDGE SIPPEL: Objection denied. Now again, I want
16 that made absolutely clear and I'm sure it is that I am not
17 expecting to see that testimony quoted in proposed findings as
18 being established simply because of the fact that I'm letting
19 it in at this time. It has to be taken in the context of all
20 the evidence in the case because I will not accept it as being
21 probative of the issue on those statements -- just those

1 everybody's clear on that. Mr. Zauner, you have any
2 objections?

3 MR. ZAUNER: No, Your Honor.

4 JUDGE SIPPEL: Does that conclude your objections,
5 Mr. Greenebaum?

6 MR. GREENEBAUM: It does, Your Honor.

7 JUDGE SIPPEL: Then without any changes, Exhibit No.
8 26 for Four Jacks is received in evidence.

9 (Whereupon, the document referred to
10 as Four Jacks Exhibit No. 26 was
11 received into evidence.)

12 MR. LEADER: Mr. Smith is available for cross-
13 examination.

14 JUDGE SIPPEL: Mr. Greenebaum?

15 MR. GREENEBAUM: Before we do that, Your Honor, I
16 think we're distributing the copies of the stipulation.

17 JUDGE SIPPEL: Let's go off the record for a minute
18 then.

19 (Off the record. On the record.)

20 Whereupon,

21 DAVID D. S. SMITH

22 having first been duly sworn, was called as a witness herein
23 and was examined and testified as follows:

24 CROSS-EXAMINATION

25 BY MR. GREENEBAUM:

1 Q Would you state your full name, please, sir?

2 A David Deniston Sinclair Smith.

3 Q Where and in what capacity are you employed,
4 Mr. Smith?

5 A I'm an officer and a director of Sinclair Broadcast
6 Group which is a holding company that is the sole stockholder
7 in a number of television stations.

8 Q Are you an employee of Sinclair?

9 A I consider myself to be an officer/director, not an
10 employee in the normal sense of the word, at least what I
11 would consider to be normal.

12 Q Are you employed by anyone?

13 A I'm an officer and director in a lot of company --

14 Q Where do you work?

15 A I work at 2000 West 41st Street, in Baltimore,
16 Maryland.

17 Q Is that the offices of Sinclair?

18 A That's correct.

19 Q And the telephone number for Sinclair that appears
20 on the SEC documents which is (410) 467-5005, is that the
21 phone number for Sinclair?

22 A Yes, it is.

23 Q And if I wanted to reach you I could do it through
24 that number?

25 A Yes.

1 Q And how is that phone answered?

2 A SBG, I believe. I've never answered it but I would
3 presume that's what it's answered as.

4 Q Does Sinclair have any employees?

5 A Yes.

6 Q And does Sinclair keep records in the normal course
7 of its business?

8 A Keeps certain records, certainly.

9 Q Keeps payroll records?

10 A Yes.

11 Q Keeps records that reflect who its employees are,
12 does it not?

13 A I presume it does, yes.

14 Q And those records, at least of them are here and
15 we'll go through them in detail today. But if one were to
16 look at the records that reflect who the employees of Sinclair
17 are, would your name appear on those records?

18 A I think it would.

19 Q And would your brothers' names also appear
20 throughout those records?

21 A I would think so.

22 Q And the corporation has certain benefit program and
23 plans for the benefit of its employees, does it not?

24 A Well, I presume it's for the benefit of its
25 employees and officers and directors, yes.

1 Q My question is for the employees.

2 A Yes.

3 Q And you participate in those employee benefit plans
4 do you not?

5 A Yes, I do.

6 Q Are any employee benefit plans of which you're aware
7 in which you do not participate?

8 A Not that I can think of offhand, no.

9 Q Now, you have indicated that you don't consider
10 yourself an employee in the normal sense because you don't
11 have a boss. Is that right?

12 A That's correct.

13 Q Sinclair is a corporation. Is it not?

14 A Yes.

15 Q It is organized I believe under the laws of the
16 State of Maryland?

17 A Yes.

18 Q And it's a corporation in good standing at the
19 present time?

20 A Yes.

21 Q It's always been in good standing so far as you know
22 since it was organized?

23 A To my knowledge, yes.

24 Q It was organized so far as you know with the filing
25 of articles of incorporation with the State of Maryland?

1 A Yes.

2 Q And it has shareholders?

3 A Yes.

4 Q And you and your brothers are shareholders?

5 A That's correct.

6 Q And does -- do the shareholders of Sinclair like

7 most other corporations elect a board of directors?

8 A Yes.

9 Q And the board of directors meets annually and from

10 time to time in between. Is that correct?

11 A Yes.

12 Q And does the board of directors of Sinclair like

13 most corporations elect officers for the corporation?

14 A Yes.

15 Q And the officers of Sinclair like most other

16 corporations are responsible to the board. Is that correct?

17 A Yes.

18 Q Now, are you are presently the president. Is that

19 correct?

20 A Yes.

21 Q Do you have an employment contract?

22 A No.

23 Q If your brothers were of a mind to do so, they could

24 exercise their votes as directors to remove you as an officer.

25 Could they not?

1 A I can't really comment on what my brothers could or
2 couldn't do.

3 Q Well, can't the board remove you as an officer?

4 A I guess as a theoretical matter they could if they
5 wanted to, certainly.

6 Q So, your situation is no different than any other
7 corporate officer in that you are responsible to the board and
8 absent an employment contract serve at their will. Do you
9 not?

10 MR. LEADER: Well, I'm going to object to the form
11 of the question and the phrase that his role with the
12 corporation is no different than any other. Because
13 Mr. Greenebaum, there are all different kinds of corporations
14 and there are publicly held corporations and -- and they each
15 have different responsibilities.

16 JUDGE SIPPEL: Well, I hear you but I'm going to be
17 sure you don't go too far in giving the witness some ideas of
18 how to answer that question. But I think the witness can
19 answer that question. I mean, I've been through some of this
20 testimony earlier on and I get the feeling he can handle it.

21 MR. LEADER: Well, the --

22 JUDGE SIPPEL: I don't think he's being misled and I
23 don't think it's an unfair question. I'll overrule the
24 objection.

25 WITNESS: What's the question again,

1 Mr. Greenebaum?

2 MR. GREENEBAUM: I'll ask the reporter to read it to
3 you.

4 COURT REPORTER: I'll have to play it back.

5 (Whereupon, tape was played back.)

6 JUDGE SIPPEL: I take it back, that was the
7 question. Did you hear that question or do you want it again?

8 WITNESS: Correct me if I'm wrong, but was the
9 question I serve at their discretion or serve at their will?
10 If you asked me if I serve at their will of the board of the
11 directors -- at the will of my -- brothers?

12 MR. GREENEBAUM: I can't hear the witness, Your
13 Honor.

14 JUDGE SIPPEL: I'm going to have to have her read it
15 back again. Let's have it back again.

16 (Whereupon, tape was played back.)

17 JUDGE SIPPEL: That's the question. Did you hear
18 the question?

19 WITNESS: Do I serve at their will --

20 JUDGE SIPPEL: Do you understand the question,
21 Mr. Smith?

22 WITNESS: Yes. I serve at the will of the board.
23 There's no argument about that.

24 BY MR. GREENEBAUM:

25 Q And I believe in your position that you haven't had

1 a job in the normal sense where you were an employee since you
2 were 20 years old 23 years ago. Is that correct?

3 A Yes.

4 Q Well, you have had jobs in the normal sense in the
5 interim have you not, sir, as an employee?

6 A In the interim? What period do you define as
7 interim?

8 Q The 23 years that you just referred to.

9 A I've always been a self -- you know,
10 officer/director of any number of companies that I've started
11 either by myself or with other people. I've never had a boss.

12 Q In your deposition of July 21, 1994 -- indicated
13 that you were an employee in 1984 of WPTT in Pittsburgh as the
14 general manager. Isn't that correct?

15 A I stand corrected. Yes.

16 Q So, you did have a job as an employee at that time,
17 right?

18 A Yes, that's correct.

19 Q And you also were an employee of Comark (phonetic)
20 in the interim weren't you?

21 A No. I was an officer/director. I don't consider
22 myself to be employed. It was a company I started.

23 Q Well, on page 18 of your deposition of July 29,
24 1993, talking to you about Comark --

25 A Comark.

1 Q -- question on line 6, "When did you stop your
2 relationship with that company?" Answer: "Well, I stopped
3 employment in approximately 1984." What did you mean by that?

4 A I think it's just a poor choice of words. I mean,
5 I've always been an officer/director of the company.

6 Q Do you recall being asked that question and giving
7 that answer at that time?

8 A Not specifically, but I don't deny it.

9 Q And you also assist in construction of --
10 Channel 20 in Columbus, Ohio. Did you not?

11 A Yes.

12 Q Who were you an employee of at that time?

13 A I was an employee of WPTT as general manager at that
14 time in Pittsburgh.

15 Q Well, you have referred to yourself as an employee
16 of Sinclair in this proceeding have you not, sir?

17 A It's possible, Mr. Greenebaum. I don't specifically
18 recollect all the documents. If I have it's not necessarily
19 the most appropriate characterization of the way I view
20 myself.

21 Q Let me refer you to your testimony in this
22 proceeding before Judge Sippel on November 13th, 1993,
23 page 1134, when were talking about Gerstel Development Limited
24 Partnership (phonetic) that starts at line 7. Would you like
25 to see that or would you accept my reading of the questions

1 and answer?

2 A I don't have any problem with you asking the
3 question -- read it accurately.

4 Q You talked about the offices of Gerstel and I asked
5 you on line 21, "Is that an office?"

6 Line 22, Answer: "It is an office. Yes, it is an
7 office, that's correct."

8 Line 24, Question: "Do you work there?"

9 Line 25, Answer: "Yes, I work there as an employee
10 of Sinclair." Do you recall being asked those questions and
11 giving those answers?

12 A I'm not sure the answer fits the question in that
13 respect.

14 Q But do you recall giving that?

15 A Yes.

16 Q Gerstel has nothing to do with Sinclair.

17 Q And do you recall that later on in that deposition,
18 page -- I asked you about that and I don't want to repeat it
19 at your deposition on July 21, '94, essentially what I've
20 asked you here today on page 8 and you answered just as you
21 have today. On page 109 of that deposition Mr. Zauner asked
22 you this question. Question, the last sentence at the bottom
23 of 1134 where you say, "Yes, I worked as an employee of
24 Sinclair -- what were you attempting to convey by that
25 answer?"