

FREE STATE REPORTING, INC.
1324 Cape St. Claire Road
Annapolis, Maryland 21401

ERRATA SHEET

IN RE: Scripps Howard Broadcasting and Four Jacks

DEPOSITION OF: Janet Covington

TAKEN ON: August 17, 1994

At the time, the above-named deponent desired to make the following changes:

RONALD F. WICK, ESQUIRE should be added to page 2, LINE 5 on behalf of Scripps Howard

PAGE	LINE	AS TRANSCRIBED	CHANGE TO
18	18	Witt	Wick
10	25	to	to do
11	16	--	Broadcast Operations
13	11	calendar to	calendar similar to
15	7	Tony	Tonie
17	26	that I really	that really must have
17	27	with Tony	by Tonie
18	13	-- submit it.	is what I submitted.
20	2	Gillette	Gillett
20	5	Gillette	Gillett
27	13	of	or
28	16	must be	was there
36	9	be long	belong
37	9	files may	files that may
45	13	question.	questions.
49	6	no reason	any reason
56	7	doesn't call	doesn't recall

60	17	profiles of each	profiles each
66	6	Andbinder	Ambinder
66	24	Andbinder	Ambinder
68	6	Abel.	Abell.
68	8	Abel	Abell
77	4	True Gensberg	Tru Ginsberg
81	13	Gensberg	Ginsberg
82	9	take	taken
87	5	State of local	State or local
96	5	It he	In the
100	15	conversati0on.	conversation.
100	17	privilege	privileged
101	22	clarify? you	clarify? You
103	2	I was	It was
119	23	I not	I'm not
121	13	questions --	question --
122	7	then	than
122	7	Gillette.	Gillett.
124	16	MR. HOWARD	MR. DZIEDZIC

DATED: Sept. 6, 1994 SIGNED: Janet B. Covington

1 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

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IN RE:

APPLICATIONS OF SCRIPPS *
HOWARD BROADCASTING COMPANY * MM DOCKET NO. 93-94
AND FOUR JACKS BROADCASTING, *
INC. *

Baltimore, Maryland *

* * * * *

Baltimore, Maryland

Wednesday, August 17, 1994

Whereupon,

JANET COVINGTON

the witness, called for examination by counsel for Four
Jacks Broadcasting, Inc., pursuant to notice and
agreement of counsel as to time and place, at the law
offices of Piper and Marbury, 36 South Charles Street,
Room 2A, Baltimore, Maryland 21201 where were present
on behalf of the parties:

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

Federal Communications Commission

Docket No. 93-94 Exhibit No. 38

Presented by Josipko Howard

Disposition { Identified _____
Received 9/8/94
Rejected 8

Reporter Paula McNulty

Date 9/8/94

A P P E A R A N C E S

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ON BEHALF OF SCRIPPS HOWARD BROADCASTING COMPANY:

KENNETH C. HOWARD, JR., ESQUIRE
LEONARD C. GREENEBAUM, ESQUIRE
STEPHANIE S. ABRUTYN, ESQUIRE
Baker and Hostetler
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

ON BEHALF OF FOUR JACKS BROADCASTING, INC.:

MARTIN R. LEADER, ESQUIRE
KATHRYN R. SCHMELTZER, ESQUIRE
GREGORY L. MASTERS, ESQUIRE
Fisher, Wayland, Cooper, Leader and Zaragoza, LLP
Suite 400
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

ON BEHALF OF THE MASS MEDIA BUREAU:

CHARLES DZIEDZIC, ESQUIRE
Federal Communications Commission
2025 M Street, N.W., Suite 7212
Washington, D.C. 20554

I N D E X

<u>WITNESS:</u>	<u>EXAMINATION BY:</u>	<u>PAGE:</u>
Janet Covington	Ms. Schmeltzer - Direct	4

<u>EXHIBITS:</u>	<u>MARKED</u>
1	25
2	25
3	116
4	124

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(10:20 a.m.)

P R O C E E D I N G S

Whereupon,

JANET COVINGTON

having first been duly sworn by a State of Maryland Notary Public, was called as a witness herein and was examined and testified as follows:

MS. SCHMELTZER: Ms. Covington, my name is Katherine Schmeltzer and I'm here today on behalf of Four Jacks Broadcasting Company and with me in the room is Gregory Masters and Martin R. Leader on behalf of Four Jacks. I think that it would be helpful if other counsel would indicate to that for the record.

MR. DZIEDZIC: I'm Charles Dziejdzic on behalf of the Chief, Mass Media Bureau.

MR. HOWARD: And for Scripps Howard there's Kenneth Howard, Stephanie Abrutyn, Leonard Greenebaum and Ron Witt (phonetic sp.).

DIRECT EXAMINATION

BY MS. SCHMELTZER:

Q Now, Ms. Covington, you're here today pursuant to Notice of Deposition in this FCC proceeding and you also received a subpoena? Is that correct?

A That's correct.

Q And in response to that subpoena did you

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1 search through your documents to see if you had any of
2 the documents that were requested by the subpoena?

3 A Yes.

4 Q And did you find any of the documents that
5 were requested by the subpoena?

6 A No.

7 Q Are you -- did you look through your own
8 personal files concerning those documents,
9 Ms. Covington?

10 A Yes.

11 Q Did you look through any files that were
12 anywhere else?

13 A No. The only files I have are personal
14 files.

15 Q Ms. Covington, we understand that your
16 husband's in the hospital and I'm sorry about that.
17 Nevertheless, the judge so ordered that this deposition
18 go forward. Are you on any medication today?

19 A Just Diazide --

20 Q And what is that for?

21 A High blood pressure.

22 Q Is there -- would that prevent you in any way
23 from testifying fully and accurately in this
24 deposition?

25 A No. I've been on the Diazide for 12 years.

1 Q You may have to speak up so that --

2 A Oh, I've been on it for 12 years -- just to
3 control blood pressure.

4 Q Is there anything else that would prevent you
5 from testifying full and accurately at this deposition
6 today?

7 A Well, as you know, my husband's in the
8 hospital but I will certainly do the best to testify
9 fully and accurately.

10 Q Are you represented by counsel here today,
11 Ms. Covington?

12 A Yes, I am.

13 Q And who's representing you?

14 A Stephanie and all these people.

15 Q Mr. Howard's law firm?

16 A Mr. Howard.

17 Q Did there come a point in time when you
18 retained Mr. Howard's law firm to represent you?

19 MR. HOWARD: Objection. What's the relevance
20 of counsel's representation to the issues in this case?

21 MS. SCHMELTZER: I want to find out what
22 point -- at what point in time Ms. Covington retained
23 your law firm. It does relate to questions that are
24 going to be asked in this proceeding.

25 MR. HOWARD: I'll maintain the objection but

1 we'll permit her to answer your question.

2 BY MS. SCHMELTZER:

3 Q Can you tell me at what point in time you
4 retained Baker and Hostetler?

5 A I don't recall the exact time.

6 Q Well, did you sign any kind of an agreement
7 with Baker and Hostetler?

8 A I don't think so. I don't recall.

9 Q You don't recall signing any letter --

10 A No.

11 Q -- authorizing them to represent you in this
12 proceeding?

13 A If one was submitted to me I would have
14 signed it. I do not recall that.

15 Q Do you recall conversations over the phone
16 where you had -- would have discussed representation by
17 Baker and Hostetler?

18 A Yes.

19 Q When did those first occur?

20 A I can't recall. Obviously they occurred in
21 the beginning. I cannot recall.

22 Q Did you recall when you were sent a Notice of
23 Deposition? Is that when the question of
24 representation of you came up?

25 A No, prior to that, I believe, but I can't

1 recall.

2 Q You can't recall whether it was June or May
3 or -- can you recall approximately?

4 A I can't recall.

5 Q Okay. Do you -- who is paying for Baker and
6 Hostetler to represent you in this proceeding?

7 A I think the owners of the station.

8 Q Did you have any discussion about payment of
9 Baker and Hostetler's fees with any attorney at Baker
10 and Hostetler?

11 A No. I was told that I wouldn't have fees to
12 pay.

13 Q Was there any kind of written communication
14 concerning your representation that you received from
15 Baker and Hostetler?

16 MR. HOWARD: Objection. That's privileged
17 communication from lawyer/client.

18 MS. SCHMELTZER: No. I'm asking whether
19 there's -- there was a -- an agreement from Baker and
20 Hostetler concerning their retention.

21 WITNESS: In the specific I can't recall. I
22 got letters and I have a letter that I would be here. I
23 got a subpoena, but I do not recall the sequence.

24 MS. SCHMELTZER: Okay. Do you have any idea
25 what Mr. Howard or Ms. Abrutyn's hourly rates are?

1 WITNESS: No, I don't.

2 MR. HOWARD: Objection. That's preposterous.

3 BY MS. SCHMELTZER:

4 Q Now, in connection with preparing for this
5 deposition, Ms. Covington, did you meet with attorneys
6 to prepare for this deposition?

7 A Yes.

8 Q When did you meet with the attorneys?

9 A I had breakfast with them this morning.

10 Q Did you meet with them prior to that to
11 prepare for the deposition?

12 A Yes. I met one other time and then Stephanie
13 came to my condominium last week to also search what
14 files I have there.

15 Q Did you review files with Ms. Abrutyn at your
16 condominium?

17 A Yes.

18 Q And did you discover any documents that were
19 relevant to the subpoena?

20 A No.

21 Q Did you discuss whether there were documents
22 that might be relevant to the subpoena?

23 MS. ABRUTYN: Objection. What she discussed
24 with me is privileged information.

25 BY MS. SCHMELTZER:

1 Q Did you find any documents that --

2 A No. I told you. That was the first
3 question. No, I did not find anything.

4 Q Have you spoken with Ms. Barr since her
5 deposition in this proceeding, Emily Barr?

6 A I haven't met with her and I was not -- I was
7 told that I could not talk to Emily about anything that
8 dealt with this case, but I could talk to her about
9 other things, about her wedding, my husband and -- you
10 know, personal things, but nothing that deals with this
11 case so I did not.

12 Q And I take it you have not read a copy of
13 Ms. Barr's deposition?

14 A No.

15 Q Were you ever asked to testify previously in
16 connection with this proceeding at all?

17 A No.

18 Q Now, you were at WMAR-TV for a number of
19 years, I take it? Is that correct?

20 A 43 and 10 months.

21 Q And did you begin with the station when it
22 went on the air?

23 A Four months after.

24 Q I see. So you have been at the station
25 through a number of licenses? Is that correct?

1 A That's correct.

2 Q When did you -- and let me ask you this.

3 Prior to May 30 -- immediately prior to May 30, 1991

4 what was your position at the station?

5 A Director of Public Affairs.

6 Q Did that continue when Scripps Howard took

7 over the station?

8 A Yes.

9 Q How long did you remain at WMAR-TV under
10 Scripps Howard's stewardship?

11 A I retired at the end of that year, January of
12 the following year. I was 68.

13 Q So you retired in December or in January?

14 A I had some overtime, you know, cleaning up
15 and taking boxes of things out, but I basically retired
16 at the end of, end of the year.

17 Q Did your -- what were your responsibilities
18 -- the licensee immediately preceding Scripps Howard
19 was Gillette? Is that correct?

20 A That is correct.

21 Q Did your responsibilities change at all from
22 the stewardship under Gillette to the stewardship under
23 Scripps Howard?

24 A No. I still was Director of Public Affairs
25 and chaired the Editorial Board -- and I continued to

1 it until I left the station.

2 Q And what were your responsibilities as
3 Director of Public Affairs?

4 A I was responsible for reviewing most of the
5 -- public service announcements, putting out schedules,
6 -- service announcements -- for ascertaining the
7 community -- going to meetings and dinners and, you
8 know, when -- and often when they had town meetings and
9 things like that I was involved in assembling cross-
10 section community audiences, and categorically they
11 were my responsibilities.

12 Q To whom did you report under Scripps Howard's
13 stewardship?

14 A To Emily Barr and Arnie Kleiner.

15 Q What was Emily Barr's position at the time?

16 A Director of --

17 Q Did you have any kind of regularly scheduled
18 meetings with Emily Barr?

19 A I met with Emily on a daily basis. There
20 were regularly scheduled meetings but I met with her on
21 a daily basis.

22 Q Where was your office in proximity to Emily
23 Barr's office?

24 A Not as far away as this room is long. It was
25 right next to it. There was a main office and then

1 | there was a door because they had split one office in
2 | half and so it was just one door away from the door
3 | into the main executive offices and she's right
4 | opposite that door.

5 | Q Now, in 1991, from May 30th of 1991 until the
6 | end of that year, did you keep a daily calendar?

7 | A I kept a calendar with my appointments in it
8 | and some notations, yes.

9 | Q And can you describe for us what that
10 | calendar looked like?

11 | A It was one of those -- you know, the kind of
12 | inexpensive Daily Reminder calendars and just had the
13 | hours of the day written down and it had -- in the back
14 | it had phone numbers and -- a directory, a directory
15 | that you could put stuff in the back, so it was just a,
16 | it was just a calendar. It was, if I may use my
17 | hands --

18 | Q Well, can you --

19 | A About that big.

20 | Q Do you want to approximate the size in inches
21 | for us?

22 | A I guess about 12, 12 and -- it wasn't a small
23 | one -- and may be just a little bit wider.

24 | Q About 12 -- about the size of a standard-
25 | sized page, 8-1/2" x 11"?

1 A Yes. Something --

2 Q Right. Did it have a black cover?

3 A Black or brown because I used them every year
4 and the station gave them to the people who worked
5 there and I didn't have a fancy personal calendar.

6 Q So would your calendar have been similar to
7 whatever calendar Maria Velleggia had, for instance?

8 A I don't know what kind of calendar she had.
9 One like mine would have been available to her if she'd
10 gotten it from the mail room.

11 Q Do you know whether you had a calendar to
12 Emily Barr's?

13 A I think Emily's was a big calendar, more --
14 you know, fancier calendar than mine.

15 Q And did you keep a calendar -- a separate
16 calendar for each year?

17 A Yes.

18 Q And I think you indicated that the calendar
19 had pages and notes -- time notations, 10:00 a.m. or
20 11:00 a.m.? Is that correct?

21 A Um-hum.

22 Q So when you wrote down an appointment at
23 11:00 a.m. can you give us an approximation of what you
24 would write down?

25 A It would depend on, on the appointment -- but

1 I would write the person, the place and the phone
2 number if I didn't already have it in the back or
3 didn't know it, and maybe just a jotting about what it
4 might be, you know, if it was aging or if it were, you
5 know, just something like that.

6 Q So you would usually -- customarily write
7 down a person, a place, a phone number and perhaps an
8 indication of what it might be about?

9 A To the -- me. You know, I mean if it were a
10 number I knew or something, but it was scant, you know,
11 but, but I would write it down there so I would know
12 where I was going.

13 Q Did you -- when you made notations in your
14 calendar did you make them in pencil or pen or both?

15 A Writing down appointments -- in whatever
16 instrument was there, pencil or pen.

17 Q During the summer of 1991 were you involved
18 at all in the preparation of the station's Issues
19 Program Lists?

20 A Oh, yes. I mean I gave a report on -- you
21 know, to Emily like quarterly toward what I thought the
22 primary issues in the community were and that we should
23 be looking to for, you know, the upcoming months or
24 year or long range, and I would give a list and then a
25 further amplification, you know, of what I thought the

1 pulse of the community was.

2 Q Now, whose responsibility primarily was it to
3 do the Issues and Programs Lists? Was it yours?

4 A It was, it was a shared responsibility. Some
5 of the issues -- the final supervisory responsibility
6 was Emily Barr's.

7 Q Did Tony Wright have any participation in
8 that process?

9 A For air? Are you talking about the air?

10 Q I'm talking about the --

11 A Maybe I do not understand your question?

12 Q Let me make sure you know what the -- what an
13 Issues -- the Issues and Programs Lists are.

14 A Yeah.

15 Q Let me show you. I'm going to show you a
16 copy of the WMAR-TV's second quarter 1991 Issues and
17 Programs List. This was introduced as an exhibit.
18 This particular copy doesn't have an exhibit number on
19 it. It just has an internal coding number.

20 MS. ABRUTYN: Let me just get it in the
21 record that we put in SH00002-9.

22 MS. SCHMELTZER: That's correct.

23 WITNESS: No. This is not what I did.

24 BY MS. SCHMELTZER:

25 Q Okay. This is not --

1 A But I --

2 Q -- something that you were --

3 A But part of what is in here in this final
4 confirmation would come from part of what I submitted.
5 I'm sure, you know, it went into this, but I did not do
6 this clerical or, you know, summation material.

7 Q Well, I'd like you to look through this and
8 see if you had any participation in any part of this.

9 A Well, the first thing is I wrote the
10 station's editorials and -- researched and wrote the
11 editorials and basically chaired the Editorial Board.

12 Q So did you have any participation in putting
13 together this particular exhibit?

14 MS. ABRUTYN: Objection. Can you be more
15 specific about what you mean by putting together? Did
16 she type it up? Did she write a draft? Did she give
17 Emily information that may be found in it? It's a
18 little vague to me. I mean I don't know, I don't
19 know --

20 MS. SCHMELTZER: I'll be happy to follow up
21 with those questions, but I guess my first question is
22 did you have any, any participation in physically
23 putting together this material?

24 WITNESS: Oh, no. No. I would have
25 submitted material that would be reflected in there

1 but, as I said, I didn't, I didn't do the, you know,
2 the -- points. This is something that I really must
3 done with Tony Wright because she did handle some files
4 and things, but I'm not totally familiar with her job.

5 BY MS. SCHMELTZER:

6 Q If you just look through the exhibit, I'd
7 like to ask you if you have ever seen it before today?

8 A This particular exhibit?

9 Q The whole package, yes.

10 A No, not -- I do not recall seeing this
11 before.

12 Q This is the second quarter 1991 Issues and
13 Programs List.

14 A Yeah.

15 Q You don't recall having seen this --

16 A No, I do not recall.

17 Q -- when you were at WMAR-TV?

18 A No. This would be totally new.

19 Q Let me show you a copy of a document that's
20 entitled Third Quarter 1991 Issues and Programs List
21 and this also was a hearing exhibit. This particular
22 one does not have the exhibit number on it. And I'd
23 like first to ask you if you have ever seen this
24 document before?

25 A No. I do not recall ever seeing this in this

1 | format.

2 | Q Did you have any responsibility for places
3 | Issues and Programs Lists such as these in the public
4 | inspection file?

5 | A My responsibility was to submit those reports
6 | to Emily. I did not keep the public inspection file.

7 | Q But the reports -- any reports you did were
8 | different from this --

9 | A Yes.

10 | Q -- from this -- either second/third quarter
11 | or third quarter list?

12 | A Yes. But when I looked through here part of
13 | the information -- submit it. You want this back?

14 | Q Yes. Thank you. Now, did there come a time
15 | in 1991, Ms. Barr (sic), when you became aware that
16 | after --

17 | MR. GREENEBAUM: She's not Ms. Barr.

18 | BY MS. SCHMELTZER:

19 | Q I'm sorry, Ms. Covington -- that you became
20 | aware that a competing application had been filed
21 | against the Scripps Howard license renewal application?

22 | A Yes. I believe that was filed before the
23 | renewal date, wasn't it?

24 | Q There was a time when you became aware that
25 | a --

1 A Yeah.

2 Q -- competing application had been filed?

3 A Yes.

4 Q Do you know when that occurred?

5 A Uh-uh. I don't recall.

6 Q Were you involved in any discussions at the
7 station about the filing of the competing application?

8 A I don't recall specific conversations but I
9 -- I'm sure that there were conversations.

10 Q There were conversations about the fact that
11 a competing application had been filed?

12 A I think that would be expected, but I don't
13 recall specifically.

14 Q Do you recall being involved in any
15 conference calls concerning the filing of the competing
16 application?

17 A No.

18 Q Do you recall being asked to take any actions
19 in response to the filing of the competing application?

20 A No.

21 Q Did Emily Barr ask you in approximately
22 September 1991 to do any additional reports concerning
23 ascertainment?

24 A No, not that I recall. Earlier I think there
25 may have been some reporting requested by Scripps

1 Howard -- a difference in reporting than the way
2 Gillette -- you know, we had reported before, but I
3 don't recall, you know, the time, but I do know that
4 when Scripps Howard took over there was a formalization
5 of some -- that had been less formal under Gillette.

6 Q Did that formalization occur in the summer of
7 1991?

8 A I think it began to occur then, but I can't
9 remember exactly when.

10 Q Can you recall --

11 A It's a lot of years back now.

12 Q Right. Can you recall exactly what
13 formalization would have occurred in the summer of
14 1991?

15 A I just think it was more formal, more formal
16 reports, report forms and things like that, but I don't
17 recall us being on there and the conversation that more
18 would come down, but that's all I recall.

19 Q Do you recall who told you that the reporting
20 would be more formalized?

21 A I imagine Arnie and -- I think Arnie and
22 Emily. I'm not sure, but Arnie because I also spent a
23 lot of, you know, time in his office when he was the
24 GM.

25 Q I'd like to show you a document that's -- has

1 the date September '91 and it says, "To: Emily From:
2 Janet." This was a Four Jacks exhibit. It was Four
3 Jacks Exhibit 14 at the hearing. And I'd like to ask
4 you, Ms. Barr (sic), if you --

5 A I'm Janet.

6 Q I'm sorry. Ms. Covington, I'd like to ask
7 you if you recall preparing this memo?

8 A Yeah. I -- it was another part of this,
9 wasn't there, a more fully explanatory part?

10 Q That's correct.

11 A And this is a cover? Yeah.

12 Q Was this the cover to the other portion?

13 A I think they were both the, the same. I
14 think one was like -- this is what it was and one was a
15 further explanation --

16 Q Well, let me give you the --

17 A -- but I'm sure of that.

18 Q Let me give you the next one then.

19 A I did not do this typing.

20 Q Let me show you another document. This is a
21 four page document. It bears a date of September 13,
22 1991. It says, "To: Emily Barr From: Janet Covington
23 Re: Quarterly Summary," and this was Four Jacks
24 Exhibit 15.

25 A I, I did this in longhand on, you know, legal

1 | paper and then it was typed by the secretary or the
2 | shared secretary for Production and Public Affairs, so
3 | I did the report but Helen Jones did the typing because
4 | I, I don't type that well. I don't type pretty much at
5 | all.

6 | Q Now, the sheet that is entitled September
7 | '91, was that the cover sheet to the document that's
8 | dated September 13, 1991?

9 | A They're both in the same -- one may be the
10 | cover sheet or it was the first thing and this an
11 | amplification, you know, of what the issues, what the
12 | issues had been and what we had -- you know, what the
13 | last three to six months reflected we should be looking
14 | to in the fall and beyond.

15 | Q Now, do you recall whether you prepared these
16 | two items at the same time or whether you prepared the
17 | one page item before the other item?

18 | A If I can't -- they would have been first at
19 | the same time because they're the same, you know, basic
20 | kind of material.

21 | Q Did Emily Barr asked you to prepare this
22 | report?

23 | A It was the quarterly summary.

24 | Q This was the quarterly summary?

25 | A Yes. You know, I did a quarterly summary, so