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Before the
Federal Communications Commission
Washington, D.C. 20554

MM DOCKET NO. 93-75

In re Applications of

TRINITY BROADCASTING OF
FLORIDA, INC.

File No.
BRACT-911001LY

For Renewal of License of
Station WHFT(TV) on Channel 45,
Miami, Florida

and

GLENDALE BROADCASTING COMPANY File No.
BPCT-911227KE

For a Construction Permit for a New
Commercial TV Station to operate on
Channel 45, Miami, Florida

APPEARANCES

Colby M. May, Joseph E., Dunne, III, Nathaniel F. Emmons, and Howard A. Topel, on behalf of Trinity Broadcasting of Florida, Inc., Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network and National Minority TV, Inc.; *Lewis I. Cohen* and *John J. Schauble*, on behalf of Glendale Broadcasting Company; *David Honig*, on behalf of Spanish American League Against Discrimination,; and *James Shook* and *Gary Schonoman*, on behalf of the Mass Media Bureau, Federal Communications Commission.

INITIAL DECISION OF ADMINISTRATIVE LAW
JUDGE JOSEPH CHACHKIN

Issued: October 24, 1995

Released: November 6, 1995

Preliminary Statement

1. By *Hearing Designation Order*, 8 FCC Rcd 2475 (1993) (HDO), the Commission designated the above-captioned applications of Trinity Broadcasting of Florida, Inc. (TBF) and Glendale Broadcasting Company (Glendale) for hearing in a comparative proceeding. The applications are mutually exclusive because Glendale proposes to construct a new, full-power commercial television station on the same channel in Miami, Florida, on which TBF is presently operating a full-power commercial television station.

2. The HDO, at ¶ 48 specified the following issues:

(a) To determine whether Paul F. Crouch, Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network (TBN) or its affiliates exercised de facto control over National Minority TV, Inc. (NMTV).

(b) To determine whether NMTV, Paul F. Crouch, TBN or its affiliates or principals abused the Commission's processes by using NMTV to evade the provisions of Section 73.3555(e) of the Commission's Rules and/or by using NMTV to improperly claim minority preferences in LPTV applications.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b), whether Trinity Broadcasting of Florida, Inc., is qualified to remain a Commission licensee.

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

3. The HDO, at ¶ 51, made Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network (TBN), National Minority TV, Inc. (NMTV), and Spanish American League Against Discrimination (SALAD)¹ parties in this proceeding. The HDO, at ¶ 54, placed the burden of proceeding with the introduction of evidence as to issues (a) through (c) on Glendale and SALAD, and the burden of proof as to issues (a) through (c) on TBF, TBN, and NMTV.

4. Additionally, the HDO, at ¶ 52, ordered the Presiding Judge to determine, irrespective of whether the hearing record warrants an Order denying the renewal application for WHFT(TV), whether, pursuant to Section 503(b) of the Communications Act of 1934, as amended, an Order for Forfeiture in an amount not to exceed \$250,000 should be issued against TBF, TBN, and/or NMTV for willful and/or repeated violations of Section 310(d) of the Communications Act of 1934, as amended, and/or Section 73.3555(e) of the Commission's Rules, which occurred or continued within the applicable statute of limitations.

5. By *Memorandum Opinion and Order*, FCC 93M-469 (released July 15, 1993), the Presiding Judge added the following issue against Glendale:

To determine whether Raystay Company made misrepresentations or lacked candor in low power television applications for extensions of broadcast construction permits and, if so, the effect thereof on Glendale Broadcasting Company's qualifications to be a licensee.

The Presiding Judge placed the burden of proceeding with the introduction of evidence and the burden of proof as to this added issue on TBF.

6. By *Memorandum Opinion and Order*, FCC 93M-631 (released October 4, 1993), the Presiding Judge added another issue against Glendale:

To determine whether Raystay Company made misrepresentations or lacked candor in its application to assign the construction permit of low power televi-

¹ SALAD filed a Petition to Deny TBF's application for re-

newal of license of WHFT(TV). See, HDO, at ¶ ¶ 2 and 41-43.

sion station W23AY, Red Lion/York, Pennsylvania (BAPTTL-9201141B), and, if so, the effect thereof on Glendale Broadcasting Company's qualifications to be a licensee.

The Presiding Judge placed the burden of proceeding with the introduction of evidence and the burden of proof as to this added issue on Glendale.

7. Hearing Sessions were held in Washington, D.C., from November 29, 1993, through December 22, 1993; from January 10, 1994, through January 27, 1994; and from May 3, 1994, through May 5, 1994. The record was closed on May 5, 1994. *Order*, FCC 94M-326 (released May 9, 1994); Tr. 5739-5740. Findings of fact and conclusions of law were filed August 15, 1994; replies were filed October 7, 1994.

A. Trinity Issues

1. De Facto Control and Abuse of Process

Background

8. Paul Crouch (Crouch) incorporated TBN (also sometimes referred to herein as Trinity) in 1973 as a nonprofit, non-stock California corporation. Prior to founding TBN, Crouch worked for several years at various management level positions at television and radio stations. TBF Ex. 104, pp. 2-3. TBN's principal purpose was and is to spread the Christian gospel by providing religious programming to broadcast stations and cable television systems. TBN has been operating a 24-hour per day television program service since the late 1970s. TBF Ex. 104, p. 5; Tr. 2458.

9. Since TBN's inception, Crouch and Norman Juggert (Juggert) have served as two of TBN's officers and directors. Crouch has always held the office of president and has always served as TBN's chief executive officer and chairman of its board of directors. Juggert, an attorney licensed to practice law in California, has always been TBN's principal corporate counsel. MMB Ex. 17, pp. 11, 14; TBF Ex. 104, p. 1; TBF Ex. 108, p. 1.

10. TBN acquired its first television station, now known as KTBN-TV, Santa Ana, California, in August 1974. TBF Ex. 104, p. 4. In 1975, Crouch formed Trinity Broadcasting of Arizona, Inc. (TBA) to operate what became KPAZ-TV, Phoenix. MMB Ex. 415. In 1977, Crouch formed Trinity Broadcasting of Oklahoma City, Inc. (TBOC) to operate what became KTBO-TV, Oklahoma City. Tr. 3826-3827. In 1979, Crouch formed TBF. MMB Ex., 416; TBF Ex. 36, Tab A. Crouch named himself president of each company. Crouch and Juggert have, for the most part, served as two of the directors of TBA, TBOC and TBF. Juggert has maintained the corporations' minute books for the majority of their existence. Other than locally produced programs, the TBA, TBOC and TBF stations have always broadcast TBN programming. Tr. 3802-3803, 3821, 3826-3831, 3839-3840.

11. To fund the acquisition of their respective stations, TBA, TBOC and TBF received interest-free loans from TBN. The loans were not evidenced by any notes or secu-

rity agreements. Rather, the loans were merely reflected in the companies' joint accounting and financial statements MMB Ex. 2, p. 2; MMB Ex. 3; Tr. 2476-2477, 3805-3807, 3833, 3845-3849. TBA, TBOC and TBF repaid TBN as their stations became operational and began receiving contributions. TBN's accounting department determined how much of the overall contributions that were received should be allocated to debt reduction and how much should be retained by each of the licensee corporations. Tr. 388-3809, 3834-3835.

12. At the time of their formation and at various points in their history, TBA, TBOC and TBF have had "outside" directors on their respective governing boards; that is, individuals who were not directors of TBN. Nevertheless, Crouch has always viewed TBA, TBOC and TBF as owned and operated companies of TBN. MMB Ex. 25; MMB Ex. 39; MMB Ex. 55, p. 1; MMB Ex. 104, p., 4; MMB Ex. 127.m p. 4; Tr. 2426-2429, 2530, 3835, 3849. Consequently, TBN has always counted the TBA, TBOC and TBF full power broadcast television stations in assessing compliance with the Commission's multiple ownership rules. MMB Ex. 56, p. 4; MMB Ex. 104, pp. 1-4; MMB Ex. 129, pp. 32-33; MMB Ex. 174, pp. 11-12.

13. In the summer of 1979, Pearl Jane Duff (Duff) joined TBN as a volunteer. Shortly thereafter, Crouch hired her to be TBN's public affairs director. At about the same time that Crouch made Duff a paid employee of TBN, he selected her to fill a TBN board vacancy. Consequently, Duff became the third board member (along with Crouch and Juggert) of TBN as well as TBN assistant secretary. Duff had no prior experience as an officer or board member of a non-profit entity. TBF Ex. 101, p. 22; Glendale Ex. 212; Tr. 1550-1553, 2472, 3784. Crouch attributes his hiring of Duff, an African-American, and her swift accession to TBN's board to his effort to integrate minorities into the management of TBN. TBF Ex. 104, pp. 8-9. At the time Duff became a director of TBN, she did not become a director of TBA or TBOC. MMB Ex. 17, pp. 9-10. However, early in 1980, shortly after TBF's formation, Crouch chose Duff to replace Terrence Hickey, another TBN employee, as a TBF director. Tr. 3842-3843. By September 1980, Duff had become TBN's vice president and an ordained minister of TBN. MMB Ex. 2, p. 1; MMB Ex. 4; Tr. 2433, 2474.

14. Duff has served as "Assistant to the President" (Crouch) since 1981, the second highest management office in the Network's hierarchy. Tr. 1339; MMB Ex. 353, p. 10.² Duff's affidavit sworn to on September 23, 1991 (TBF EX. 121, pp. 18-20), quoted below, given in response to a Commission inquiry, makes clear the scope of her responsibilities at TBN.

Generally my areas of responsibility involve TBN's legal affairs, its public affairs, station acquisition, community outreach and public relations. As part of my responsibilities for legal matters, I review all FCC applications and am Trinity's day to day contact with communications counsel. I am responsible, with our local and FCC counsel, for EEO compliance and compliance with other state and local rules and regu-

² As discussed, *infra*, Duff's prominent position in TBN's hierarchy was first revealed to the Commission in a pleading filed by NMTV on May 23, 1991, opposing a petition to deny filed against the assignment of a Wilmington TV station to NMTV.

Likewise the scope of her responsibilities at TBN was first revealed on September 23, 1991 in response to the Commission inquiry, which, among other things, called for a description of Duff's specific duties with TBN.

lations, particularly with respect to employment matters. I am generally responsible for interfacing with counsel concerning any litigation or administrative proceedings in which Trinity is involved.

I generally oversee the production of TBN's public affairs programming, and am primarily responsible for the ascertainment of community needs in KTBN's service area. I supervise the formulation and formatting of the programs/problems list that is inserted in the public file, and ensure that the public file is properly kept up to date.

I am responsible for a great deal of KTBN's public involvement with the community, and, in the past, have appeared at civic organizations, Chamber of Commerce luncheons, churches, schools, etc. to represent the station. I now supervise other station representatives to ensure that the station is well represented in the community.

As part of my job of reviewing FCC applications I am responsible for all of TBN's translator applications. At present TBN has over 150 translators, and I review and supervise the constant efforts to expand TBN's translator coverage, and to improve the coverage of its existing stations. During the last LPTV application window I was responsible for preparation and filing of some 48 LPTV applications.

I am also the primary TBN representative at various industry functions. For example, I participated in TBN's delegation to various cable shows throughout the country, have attended several National Translator Association Conventions, and have been Trinity's representative at as well as a panel participant in the last Community Broadcasters Association meeting in Las Vegas.

15. Duff has been a salaried employee of TBN since 1979. Duff has never received a salary or any other form of compensation from Translator TV, Inc. (TTI)/National Minority TV (NMTV). Tr. 1335. Duff's son and daughter-in-law also works for TBN. Her granddaughter worked for TBN on a temporary basis. Tr. 1336. Duff's husband, who was also ordained by TBN, was on the board of directors of Trinity Broadcasting of Florida, Inc. (TBF) in approximately 1980, 1981. Tr. 1338, 1558.

16. On November 28, 1979, TBN's board amended its bylaws in order to protect Crouch's position as president of the corporation and as a member of TBN's board of directors.³ As a result, Crouch could now be removed from office and from the board only if it were determined that he committed specified acts of malfeasance. Further, he had the right to formally contest any effort to remove him from office and the board. Other board members could still be removed by simple majority vote, with or without cause. TBF Ex. 104, p. 11 and Tab C, pp. 8-2. On Novem-

ber 28, 1979, TBOC's bylaws were also amended to protect Crouch. Likewise, TBF's original bylaws contained provisions to protect Crouch's role as president. MMB/TBF Jt. Ex. 11. Although Juggert claims that it was intended that TBA's bylaws were to be amended so as to provide protection for Crouch, they were not so amended until July 30, 1984. MMB/TBF Jt. Ex. 1, p. 2; Tr. 3815. Moreover, although the bylaws of some of the other Trinity-named corporations which hold full power television licenses included or were amended to include provisions designed to protect Crouch from arbitrary removal from office and board membership, the bylaws of others never included the protective language.⁴ MMB Ex. 127, p. 4; MMB/TBF Jt. Ex. 1.

Translator T.V., Inc.'s Formation

17. On September 9, 1980, the Commission adopted a Notice of Proposed Rulemaking (NPRM) in BC Docket 78-253, which pertained to an inquiry into the future role of low power television and television translator stations. *Low Power Television Broadcasting*, 82 FCC 2d 47 (1980). Among other things, the NPRM contemplated giving a preference to low power television and translator applicants under minority ownership and control greater than 50%. In addition, a preference would accrue to applicants who first filed a complete and sufficient application for any given market. *Low Power Television Broadcasting*, 82 FCC 2d at 75.

18. On September 11, 1980, two days after the NPRM was adopted, TBN's board of directors held a special meeting. Among other things, the TBN board discussed the proposed changes in the Commission's rules concerning translators. MMB Ex. 5. Following this discussion, Crouch conceived the formation of a new corporation to develop a network of translators that would receive TBN programming via satellite and broadcast it to areas previously unserved by TBN. Crouch understood that the Commission proposed giving a preference to minority-owned applicants. Consequently, he chose Duff to join him on the new corporation's board, and he sought her assistance in locating another minority to serve as the third board member. TBF Ex. 101, pp. 23-24; TBF Ex. 104, pp. 1, 9; Tr. 2479-2480, 3855.

19. Initially, Duff approached Armando Ramirez (Ramirez), a TBN program host and pastor of an area church. However, Ramirez was deemed unqualified to serve because he was not then a United States citizen. TBF Ex. 101, pp. 23-24. Crouch then asked Phillip David Espinoza (Espinoza), another TBN program host⁵ and area pastor, to join him and Duff. TBF Ex. 104, p. 9; TBF Ex. 106, p. 3; Tr. 2305-2306, 2481-2482. Espinoza accepted, although he made clear to Crouch that his first priority was his church. Tr. 4173.

³ At various points in TBN's history, board members other than Juggert and Duff have tried to wrest control of TBN from Crouch. Tr. 3800-3802.

⁴ These corporations include: Trinity Broadcasting of New York, Inc. (TBNY); Trinity Broadcasting of Indiana, Inc. (TBI); Trinity Broadcasting of Washington (TBW); and Trinity Broadcasting of Texas (TBT). MMB/TBF Jt. Ex. 1.

⁵ Since 1976, Espinoza had produced on TBN a Spanish-language program, "Felicidad." To produce the program,

Esposito would travel once a month to TBN's studios. Initially, Espinoza solicited for funds during his program in order to pay his costs. Later, Espinoza asked TBN to cover his production costs. In exchange, TBN would keep any money sent to it for Espinoza's program. TBN never directly compensated Espinoza for his program. Occasionally, Espinoza also appeared as a guest on other TBN programs. TBF Ex. 106, pp. 2-3; Tr. 4128-4130, 4135-4137.

20. From his conversation with Crouch, Espinoza understood that, among other things, he had been asked to join the board of the new corporation because he was Hispanic. Tr. 4140. Espinoza was told by Duff that the corporation would be filing applications for low power television stations in order to preach the gospel. Espinoza understood that the stations would broadcast primarily TBN programming. TBF Ex. 106, pp. 3-4; Tr. 4142, 4307. He also understood that TBN would loan money to the new corporation. However, he did not recall any details concerning the proposed loan. Tr. 4149-4150. Espinoza knew Duff was a TBN executive. Tr. 4147.

21. On September 15, 1980, Crouch signed the articles of incorporation for Translator T.V., Inc. (TTI). MMB Ex. 7; Tr. 2303. While Juggert contends he prepared the articles at Duff's request, Crouch acknowledges that he asked Juggert to draft the articles. TBN Ex. 108, p. 2; Tr. 2483. Like TBN, TTI was organized as a nonprofit, non-stock California corporation. TBF Ex. 104, p. 3; MMB Ex. 7; Tr. 3761-3762. TTI's articles reflect religious purposes which, in Crouch's view, are very similar to those of TBN; namely, to preach the gospel. Tr. 2304-2305. Although it would have been permissible to so state, TTI's articles did not provide that the corporation was to be minority owned or controlled, and Crouch gave Juggert no instructions to draft any special provisions for the corporation in that regard. Tr. 3881-3885. The issue of minority control was not discussed with Gammon and Grange, TBN's FCC counsel, and Juggert did not request any information from the law firm on that point. MMB Ex. 6; Tr. 3988-3989. TTI was incorporated on September 16, 1980. MMB Ex. 7.

22. On September 19, 1980, Crouch appointed himself, Duff and Espinoza as TTI's first directors. MMB Ex. 8; Tr. 3674. Thereafter, TTI held its first board meeting, attended only by Crouch and Duff. Crouch and Duff adopted Juggert's bylaws and elected Crouch as president, Duff as vice president and secretary, and Espinoza as chief financial officer. MMB Ex. 10. No one discussed with Espinoza his duties as chief financial officer. Tr. 2490, 3885-3886. Consistent with his past practice of making himself president of organizations he founded, Crouch made himself president of TTI. Crouch maintains he became president of TTI because TBN would be providing money to the new company. MMB Ex. 415; MMB Ex. 416; Tr. 2490-2491. Crouch and Duff also passed a resolution designating the same bank that TBN used as TTI's bank. MMB Ex. 10. However, no bank account was opened for TTI. Jt. Ex. 1, p. 3; Tr. 1582-1583. Crouch and Duff voted to authorize TTI to apply for construction permits for new low power television stations. MMB Ex. 11. In this connection, Crouch envisioned TTI as a minority controlled corporation that would be used to take advantage of the minority preference while TBN would acquire unbuilt and existing stations. Tr. 2587, 2613, 2883-2884. However, TBN and TTI (later NMTV) shared one overriding mission, namely, to spread the Christian gospel. Tr. 1577, 2436. Espinoza did

not attend this meeting but asserts that he consented to all of the actions taken at TTI's first board meeting. TBF 106, p. 4.

23. TTI's bylaws specify an address for TTI's principal place of business which is the same address as TBN's principal place of business. Tr. 1575. The bylaws also provide that TTI should have between three and ten directors. Each director's term of office is three years. The bylaws state that the principal corporate officers -- president, secretary and chief financial officer -- are chosen by the board and serve at the pleasure of the board while subordinate officers may be appointed by the president. TTI's bylaws do not include any provisions protecting the person holding the office of president from arbitrary removal from office or from the corporation's board of directors. MMB Ex. 9; TBF Ex. 101, pp. 7-9. Crouch claims that because TBN's purpose was merely to sponsor the new corporation, there was no need to include provisions to protect his role as president. TBF Ex. 104, pp. 11-12. However, Crouch does not remember giving Juggert any special instructions regarding TTI's bylaws. Tr. 2484-2488. Likewise, Juggert does not know whether the reason TTI's bylaws omitted the provisions appearing in TBN's bylaws which protect Crouch's board membership and his role as president was because Crouch made a conscious decision to do so. Tr. 3861-3862. The bylaws do not include any provisions requiring that TTI be minority owned or controlled. MMB Ex. 9.

24. In addition to drafting the articles and bylaws, Juggert prepared, and Crouch signed a federal income tax exemption application for TTI. Therein, TTI informed the Internal Revenue Service (IRS) that TTI's purpose was to provide Christian television programs over UHF channels throughout the United States. TTI represented to the IRS that two of its three directors were also directors of TBN and TBF but that TTI was not under the control of any other organization.⁶ MMB Ex. 13; TBF Ex. 108, p. 2; Tr. 2506, 3679-3680. TTI's response to the IRS concerning whether or not TTI was controlled by another entity was based on the absence of a written agreement giving TBN control over the board or decisions of TTI. Tr. 3681. After responding to several IRS requests for further information, TTI received tax exempt status in August 1981. MMB Ex. 35; MMB Ex. 36; MMB Ex. 37, Glendale Ex. 12; Glendale Ex. 13; Jt. Ex. 1, p. 2.

TTI's Early Activities and Board Meetings

25. Between November 6, 1980, and January 6, 1981, TTI filed 17 applications with the Commission for construction permits for new television translator stations.⁷ Contemporaneously, TBN, through its wholly-owned subsidiary, International Panorama TV, Inc., and other TBN owned and operated companies, filed six more applications for new translator stations. MMB Ex. 28, pp. 8-9. TBN advised its supporters of all of the filings in various "Praise

⁶ In their federal income tax exemption applications, TBA and TBF had likewise advised the IRS of their relationship with TBN but nevertheless contended that they were not under the control of any other organization. MMB Ex. 415; MMB Ex. 416. Nevertheless, Crouch recognizes that TBA and TBF (as well as TBOC, TBI, TBNY, TBW and TBT) are owned and operated companies of TBN for all practical purposes. TBF Ex. 104, p. 4. Further, while Crouch claims it was never his thought to control TTI, he recognizes that control can be exercised through

common directors. Finally, Crouch concedes that, given the similarity of the TBN and TTI boards of directors at the time of TTI's formation, TTI was every bit as much an owned and operated company of TBN as TBA. TBF Ex. 104, pp. 11-12; Tr. 2426-2434, 3015.

⁷ None of TTI's applications was for a low power station. In other words, TTI initially proposed simply to rebroadcast KTBN-TV, TBN's flagship station, and not to produce its own programming. MMB Ex. 27.

the Lord" newsletters, which TBN mailed on a monthly basis. MMB Ex. 25; p. 1; MMB Ex. 39, p. 1; MMB Ex. 40, p. 1; Tr. 2540-2542. In April 1981, the Commission imposed a general "freeze" on accepting new translator applications and processing those already on file. MMB Ex. 34; TBF Ex. 101, pp. 25-27; Jt. Ex. p. 2. Consequently, no further action was taken with respect to any TTI translator application until late 1983. MMB Ex. 55, p. 2.

26. The TTI and TBN translator applications were basically prepared by the same TBN personnel and TBN-hired consultants. Tr. 1590-1594, 1596, 2512, 3269. All of the TTI applications relied on TBN for funding. MMB Ex. 28, pp. 8-9. Although they acknowledged that TTI and TBN shared two common officers and directors, the TTI applications represented that TTI was not directly or indirectly controlled by any other entity.⁸ MMB Ex. 28, p. 3. However, Crouch, under cross examination, reluctantly conceded that the representation was not accurate and TTI should have stated it was under the control of TBN in light of the common board memberships of Crouch and Duff. Tr. 3003-3011. The TTI applications proposed unattended operation and carriage of KTBN-TV, TBN's flagship station. TBF Ex. 101, Tab L, pp. 35, 42 and Tab M, p. 33. It was understood that every application to be filed by TTI would specify carriage of TBN programming. Tr. 3355. Espinoza had no role in preparing or reviewing the applications before they were filed, and he never received a copy of any application filed by TTI. It was his understanding, based on discussions with Duff, that TTI would file applications based on a community's population and minority population. TBF Ex. 106, pp. 4-5; Tr. 4196-4197, 4316-4318.

27. TTI held its first annual board meeting in February 1982 jointly with the board meetings of "all corporations affiliated" with TBN. The common thread among these corporations was the presence of Crouch and Juggert or Crouch and Duff on their boards of directors. Although not required to do so by its bylaws, TTI, as did all the corporations in attendance, held an election of its directors and officers. Crouch, Duff and Espinoza were reelected. The only other business related directly to TTI that is noted in TTI's February 1982 minutes involved review of a financial statement prepared by TBN's financial director. The statement summarized the financial condition of the TBN corporations, including TTI. The minutes reflect no discussion of the status of TTI's translator applications or TTI's specific financial situation. At the meeting, Juggert acted as TTI's secretary. MMB Ex. 47; MMB Ex. 48; Tr. 1626-1628, 2551-2552, 3707-3708.

28. TTI continued to hold its annual meetings jointly with TBN and its affiliated corporations through 1987. At those meetings, Crouch, Duff and Espinoza reelected themselves as directors and officers. In addition, beginning in 1985, TTI elected as an assistant secretary the same person or persons chosen as assistant secretaries for TBN and most of the other domestic TBN-affiliated corporations. MMB Ex. 55; MMB Ex. 70; MMB Ex. 91; MMB Ex. 124. According to Crouch and Duff, the assistant secretaries were added for signatory convenience, even though there was nothing for any TTI officer to sign until TTI's 1987 television application. Tr. 1657, 2637-2638. Although Espinoza

had no idea why the persons chosen were elected as officers of TTI, he never questioned the choices for assistant secretary. Tr. 4349-4350.

TBN's Representations Concerning TTI

29. Notwithstanding the Commission freeze on the filing and processing of low power television and translator applications, TBN solicited funds from its supporters for TTI's pending translator applications in its "Praise the Lord" newsletters during 1982 and early 1983. The typical solicitation read:

Purchase a Low Power Broadcast Station for Your Hometown 1,000 watt low powered stations can reach entire cities 24 hours a day. Applications currently on file include Washington, D.C., Las Vegas, San Francisco and approximately twenty more major American cities. Each station costs \$110,000 (approximate average building cost.)

MMB Ex. 49, p. 18; MMB Ex. 53, p. 12; MMB Ex. 56, p. 6; Tr. 2555, 2562, 2571. Applications for the aforementioned markets had been filed by TTI, not TBN. Despite the solicitations, TBN's financial statements (and TTI's tax returns) for 1982 and 1983 show no income for TTI. MMB Ex. 61, pp. 24-25; MMB Ex. 85; MMB Ex. 86, pp. 30-31. TBN's last solicitation for low power/translator stations occurred in its April/May 1983 "Praise the Lord" newsletter. Crouch does not remember why the solicitations stopped. Tr. 2590-2591.

30. In the "Praise the Lord" newsletters which solicited funds for translators, TBN also requested money for Espinoza's program, "Felicidad." The newsletters described Espinoza as "a board member of our Satellite Division." MMB Ex. 49, p. 17; MMB Ex. 53, p. 11; MMB Ex. 56, p. 5. The only board on which Espinoza served that had any connection with TBN during this time was TTI. Neither Crouch, Duff, Espinoza nor Juggert raised any objection to the nature of the characterization of Espinoza or reference to TTI as TBN's satellite division. Tr. 2555-2556, 2562, 2571, 3937-3939, 4172-4173. TBN in its "Praise the Lord" newsletters continued through 1984 to represent Espinoza as a member of its satellite division. MMB Ex. 66, p. 5; MMB Ex. 76, p. 5; MMB Ex. 82, p. 12.

TTI's Financial Situation

31. On November 19 and 20, 1980, TBN conducted a telethon to raise money for various programs and projects including TTI's translator applications. TBF Ex. 104, pp. 20-21. The telethon raised \$21 million in pledges. MMB Ex. 18, p. 1. William Phipps (Phipps), TBN's Director of Finance, determined that, of that amount, slightly more than \$9 million was pledged for "satellator/translator stations." MMB Ex. 19. Subsequently, Phipps refined the projection by determining that more than \$500,000 was pledged for the purpose of building translators. MMB Ex. 29. Although TBN received some \$17 million in contributions during the 17 month period ending December 31, 1981, TBN's accounting department credited only \$31,033 to TTI. All of the money for TTI apparently came in 1980. No money was credited to TTI for 1981 despite a specific

⁸ Initially, TTI's application for Crestline, California, mistakenly listed Juggert as an officer and director of TTI.

MMB Ex. 17, p. 7; Tr. 1606-1607.

solicitation for low power stations during TBN's 1981 fall telethon. MMB Ex. 38; MMB Ex. 43, p. 6; MM Ex. 50, pp. 6 and 21; Jt. Ex. 1, p. 7.

32. TTI did not open a bank account with the money credited to it by TBN. Jt. Ex. 1, p. 3. Furthermore, TBN's accounting department debited TTI for expenses which TTI had not incurred. Jt. Ex. 1, pp. 7, 10-12. Thus, TTI's federal tax return for 1980 show that TTI had incurred expenses of \$23,249, leaving a positive fund balance of \$7,784. MMB Ex. 38. Moreover, notwithstanding the processing and application filing freeze imposed by the Commission in 1981, TBN's financial statement for that year showed that TTI incurred sufficient expenses in 1981 to have a negative fund balance of \$34,820. MMB Ex. 50, p. 21. Similarly, TTI's 1981 tax return showed that it had received no income, but had incurred \$46,418 in expenses. MMB Ex. 52. TTI's lack of income from solicitations and unexplained mounting debt made little or no impression on its three directors. MMB Ex. 55, p. 2-3; Tr. 1630-1631, 2560-2561, 2566. Espinoza, TTI's chief financial officer, did not receive a copy of the 1980 or 1981 tax returns filed by TTI, and there is no evidence that he reviewed them prior to their filing or had any involvement in their preparation. Tr. 1624, 2560-2561, 4196.

33. Although TTI had little if any business activity in 1982 and 1983, its debt, according to TBN's accounting department, continued to increase significantly. MMB Ex. 61, p. 25; MMB Ex. 86, p. 31. Thus, by the end of 1983, TBN's financial statement showed that TTI had "intercompany accounts payable" of \$386,424, and a negative fund balance of \$206,853. MMB Ex. 86, pp. 28-29. Although these figures were reviewed by TTI's directors, they generated no questions, comments or concern. MMB Ex. 70, p. 5; Tr. 1637, 1653-1654, 2582-2583, 2624, 2628, 4334-4335. On the contrary, after reviewing the 1983 audited financial statement for TBN, which included TTI, Espinoza "expressed his appreciation to God for His faithfulness." MMB Ex. 91, p. 3.

34. TTI's indifference toward its financial situation continued through the filing of its February 1987 application to obtain its first full power television station. Thus, while TBN's 1984 and 1985 financial statements, which included columns for TTI, reflected an ever rising debt for TTI, none of TTI's directors questioned the reasons for the debt, the accuracy of the figures, or the propriety of including TTI information with data for TBN and its owned and operated companies. MMB Ex. 93; MMB Ex. 101; MMB Ex. 110; MMB Ex 124; Tr. 1660-1661, 2635-2636.

TTI's Minority and Diversity Certifications

35. On March 31, 1983, the Commission adopted a Second Report and Order in General Docket No. 81-768, pertaining to rules allowing the use of lotteries to select from among certain competing applications. *Random Selection Lotteries*, 93 FCC 2d 952 (1983). Among other things, the Commission decided to give preferences to low power television and translator applicants that: (1) were more than 50% controlled by minorities; and (3) owned no other media of mass communications. The latter was called a diversity preference. A lesser diversity preference would

be given to applicants that owned three or fewer media of mass communications. Those who had already filed a low power or translator application were permitted to amend their applications to obtain credit for any allowable preferences. For purposes of awarding a minority preference, both general and limited partnership interests were considered in determining minority control. Also, non-stock corporations and unincorporated associations were to be judged as to minority status on the basis of the composition of the board. In determining eligibility for a diversity preference, an ownership interest would be counted against the applicant or its owners if the person or persons involved owned more than 50% of a medium of mass communications. *Random Selection Lotteries*, 93 FCC 2d at 953, 970, 976-977, 979. In August 1983, the Commission issued a public notice with instructions and a form to certify entitlement to a minority and diversity preference. TBF Ex. 105, Tab G.

36. In March 1983, the TBN board consisted of Crouch, Duff and Juggert. Consequently, Duff and Crouch constituted 2/3 (66.7%) of the board of TBN. In addition, Duff was or had become an officer and director of TBA, TBOC, TBF, TBI, and TBNY, each of which was the licensee of a full power television station. MMB Ex. 42; MMB Ex. 55; Tr. 2564-2565.

37. On May 27, 1983, the TBN board held a special meeting in which it added Janice Crouch, Crouch's wife, to TBN's board. She was not then made an officer. As a result, the TBN board consisted of Crouch, Janice Crouch, Duff, and Juggert. MMB Ex. 57. Shortly after Janice Crouch became a TBN board member, she gave Crouch a proxy to vote on her behalf at all TBN board meetings. MMB Ex. 58. According to Crouch and Juggert, Janice Crouch did not like to attend TBN's business meetings. Adding Janice Crouch to TBN's board did not change her basic responsibilities at TBN.⁹ Janice Crouch was not added at this time to boards of TBA, TBOC, TBF, TBI or TBNY. Tr. 2574-2575, 2990-2993, 3911-3912, 3913-3916.

38. The minutes for TBN's May 27, 1983, meeting reflect that Janice Crouch was added to provide "checks and balances" to TBN's board. MMB Ex. 57. According to Crouch, Janice Crouch was made a board member to give her some "security" and to allow for continuity of the TBN ministry in the event Crouch died or became incapacitated. Tr. 2573-2574, 2960-2961. Juggert understood that in the event of Crouch's death, Janice Crouch would succeed Crouch as president and be entitled to the protections from removal of office accorded the president by TBN's bylaws. Tr. 3656-3657, 3904-3906. However, when Janice Crouch was added to TBN's board, Duff was TBN's vice president. Janice Crouch did not become TBN's vice president, and thus stand next in line to Crouch, until sometimes after Duff resigned from TBN's board in August 1984. MMB Ex. 70, pp. 2-4; MMB Ex. 80; MMB Ex. 91, p. 4. Colby May (May), who had recently left Gammon and Grange to form a new law firm which would represent TBN, does not know why Janice Crouch was added to the board. Tr. 3290. Moreover, Janice Crouch, herself, does not appear to know why she was made a director of TBN. MMB/TBF Jt. Ex., 1, Tab H.

⁹ At this time, Janice Crouch worked in TBN's programming department and regularly appeared as a co-host on TBN's *Praise the Lord* and *Behind the Scenes* programs. She also assisted in the preparation of the monthly "Praise the Lord" newsletter

and frequently traveled with Crouch on TBN business. MMB Ex. 49, pp. 4 and 13; MMB Ex. 53, p. 9; MMB Ex. 56, p. 3; Tr. 2444-2446.

39. Although Crouch denies that Janice Crouch was made a TBN board member for the purpose of increasing TTI's diversity preference, that was the net effect.¹⁰ Tr. 2575-2577. By virtue of Janice Crouch's addition to TBN's board, Crouch's and Duff's combined interest in TBN was reduced from 2/3 (67%) to 1/2 (50%). Because Crouch's and Duff's combined interest in TBN was no greater than 50%, May and Duff believed that TTI was then in a position to, and did in fact, certify in February 1984 with respect to its pending translator applications that it was entitled to a full diversity preference.¹¹ MMB Ex. 72; Tr. 1641, 1643. Although only three such certifications are in the record, it is likely that certifications were filed for all pending TTI applications. MMB Ex. 129, p. 32.

40. In addition to certifying that it was entitled to a full diversity preference, TTI certified that it was entitled to a minority preference. MMB Ex. 72. May advised Duff that TTI was entitled to certify to a minority preference because two of its three directors were members of minority groups. TBF Ex. 105, p. 9; Tr. 1640, 3106, 3275-3277. TTI filed the minority preference certifications with respect to the same applications wherein it had claimed entitlement to the full diversity preference. MMB Ex. 72.

Colby May and TBN

41. May and his law partner Joseph E. Dunne, III, are and have been TBN's principal FCC counsel since 1983. May's practice focuses on communications, particularly broadcast, matters. May has practiced law, primarily before the Commission, since his admission to the bar in 1980. TBF Ex. 105, pp. 2-3. TBN is now, and always has been, May's biggest client. Tr. 3056, 3248-3249.

42. From the inception of his practice, May's monthly bill to TBN contained a line item entry for each of the various companies for which TBN was responsible. Thus, May's bill would itemize services rendered to TBA, TBOC, TBF, etc. and provide a total amount due from TBN. TBF Ex. 105, Tab D. By billing in this fashion, May could keep his administrative costs down, and TBN's accounting department could still keep track of the amounts expended on behalf of each company. May's hourly rate was the same for each Trinity company. MMB Ex. 62. In addition, when a new company was added to the TBN family of companies, May added the new name to the bill, itemized the charges for that company, and included those charges in the total billed to TBN. Thus, for example, in late 1983, when May began to provide services for Community Educational Television, a company which TBN organized (see ¶ 48, *infra*), May simply added the new company to TBN's bill. MMB Ex. 62; MMB Ex. 64; MMB Ex. 68; Tr. 2593-2594, 3319-3320.

43. As noted, May had reviewed the Commission's August 1983 public notice dealing with translator application preferences and provided advice to Duff regarding TTI's eligibility for the minority and diversity preferences. TBF Ex. 105, pp. 10-11 and Tab G. In addition, May's firm filed the three certifications made by TTI for its pending applications for construction permits for translators to

serve Philadelphia, Columbus and St. Louis. MMB Ex. 72. Finally, May notified Duff of any TTI applications returned by the Commission. Although all these services were rendered on behalf of TTI, May billed TBN for them. None of May's bills to TBN for these services included any reference to TTI, nor was there a separate bill prepared for TTI. MMB Ex. 68; MMB Ex. 74; MMB Ex. 75; MMB Ex. 77; MMB Ex. 78; MMB Ex. 79; Tr. 3307-3312.

TBN's Activities During Pendency of TTI Applications

44. While TTI's applications were awaiting processing at the Commission, TBN expanded its full power commercial television station holdings to the then-permissible limit of seven. As noted, by the time TTI was formed in September 1980, TBN, through its companies, TBA, TBOC and TBF, had or was about to acquire licenses for full power television stations in Southern California, Phoenix, Oklahoma City and Miami. MMB Ex. 17, pp. 11-13; MMB Ex. 25, p. 4; TBF Ex. 104, p. 4. In the spring of 1981, TBN formed Trinity Broadcasting of Indiana, Inc. (TBI), which acquired the license for a full power commercial television station in Richmond, Indiana. MMB/TBF Jt. Ex. 1, pp. 1-2; MMB Ex. 39. In the fall of 1981, TBN formed Trinity Broadcasting of New York, Inc. (TBNY), which acquired the license for a full power commercial television station in Poughkeepsie New York. MMB/TBF Jt. 1, p. 2; MMB Ex. 5. Finally, in 1983, TBN company Trinity Broadcasting of Seattle, Inc. (later, Trinity Broadcasting of Washington, Inc. or TBW) acquired the license for a full power commercial television station in Tacoma, Washington. MMB Ex. 49, p. 18; MMB Ex. 55, p. 2; MMB Ex. 56, p. 4.

45. Between 1982 and the summer of 1984, each of the aforementioned Trinity companies had Crouch, Duff and Juggert as three of its officers and directors. Typically, Crouch was president, Duff was vice president and Juggert was secretary/treasurer. MMB Ex. 42; MMB Ex. 55; MMB Ex. 70; Tr. 2564-2565. Juggert kept the corporations' minute books. Tr. 3708-3711, 3821, 3828, 3897-3898. In late 1984 or early 1985, Janice Crouch took Duff's place as a director and as a vice president of new Trinity licensee corporations as well as TBA, TBOC and TBF. MMB Ex. 91; Tr. 2592. From 1982 through 1987, all of the Trinity-named companies (including others which will be discussed later) held their annual meetings jointly with Crouch presiding. TTI held its annual meeting as part of the joint annual meetings of the TBN companies, and elected as assistant secretaries the same persons elected to the position of assistant secretary of the Trinity-named companies. MMB Ex. 47; MMB Ex. 48; MMB Ex. 55; MMB Ex. 70; MMB Ex. 91; MMB Ex. 101; MMB Ex., 124.

46. At their formation and at various points in their history, TBI and TBNY (but not TBW) have had directors who were not also directors of TBN. Nevertheless, Crouch and Juggert have always viewed TBI and TBNY (and TBW) as owned and operated companies of TBN. MMB Ex. 53, pp. 1, 5; TBF Ex. 104, p. 4; Tr. 2561, 2568, 3957-3959. Consequently, TBN has always counted the TBI, TBNY and TBW full power commercial broadcast television sta-

¹⁰ Also, as a practical matter, Crouch now had two votes, which, according to Juggert, both Juggert and Duff understood and wanted. Tr. 3913.

¹¹ In determining whether TTI was entitled to a diversity preference, May and Duff only considered the media interests of TBN. They did not consider the media interests of TBA, TBOC,

TBNY, TBI, TBW or TBF. Thus, May and Duff failed to note that, with the recent departure of a TBF board member, Crouch and Duff constituted 67% of TBF's board. Hence, TTI should not have claimed the full diversity preference. MMB Ex. 55, p. 1; MMB Ex. 70, p. 2; Tr. 3285-3288.

tions as TBN stations in assessing compliance with the Commission's multiple ownership rules. MMB Ex. 56, pp. 1, 4; MMB Ex. 67; MMB Ex. 76, p. 4; MMB Ex. 104, p. 4; MMB Ex. 127, p. 4; TBF Ex. 101, Tab R, pp. 1-10. Except for each station's locally produced programs, the TBI, TBNY and TBW stations have always broadcast TBN programming. MMB Ex. 53, p. 8; MMB Ex. 76, p. 2; MMB Ex. 82, p. 2; MMB Ex. 100, p. 3.

47. To finance the acquisition and/or construction of the television stations in Richmond, Poughkeepsie and Tacoma, TBN advanced the necessary funds without interest to the respective licensee corporations, just as it had done with respect to the stations licensed to TBA, TBOC and TBF. As with the monies loaned to TBA, TBOC and TBF, the TBN loans to TBI, TBNY and TBW were evidenced only by the TBN companies' joint accounting records and financial statements, not by any notes or security agreements. MMB Ex. 44; MMB Ex. 46; Tr. 2546-2547. TBI, TBNY and TBW repaid TBN as their respective stations became operational and began receiving contributions. TBN's accounting department determined from monies received by the stations or by TBN directly how much should be allocated to debt reduction and how much should be retained by each licensee corporation. MMB Ex. 61; MMB Ex. 86; MMB Ex. 93; MMB Ex. 110; Tr. 3951-3953.

48. With TBN having reached its ownership limit of seven full power commercial television stations and there being some question as to when the Commission would complete processing of its and TTI's translator applications, Crouch looked for other means to spread the gospel. One way, which had already been in use for some time, was cable carriage.¹² Another way was by means of an agreement with television licensees to carry TBN programming. MMB Ex. 66, p. 11. A third way was to apply for noncommercial educational television channels. MMB Ex. 73, p. 1. Thus, in 1983, Crouch organized a corporation to file applications for noncommercial television stations. MMB Ex. 56, p. 1; MMB Ex. 104, p. 1; Tr. 2569. Crouch called the new corporation Community Educational Television, Inc. (CET). Crouch, Duff, Juggert and Julie Arguinzoni, a TBN employee, became CET's directors. Crouch made himself president; Duff, vice president; Juggert, secretary/treasurer; and John Casoria, Phipps' successor as TBN's finance director, assistant secretary. MMB Ex. 70, p. 4. In 1984, CET obtained a construction permit for a new noncommercial educational television station at Harlingen, Texas. Thereafter, Crouch hoped that CET would acquire additional noncommercial educational television stations. MMB Ex. 70, p. 6. CET held its annual meetings jointly with TBN and the Trinity-named companies from 1984 through 1987. Crouch, Duff and Juggert have served continuously as CET board members. MMB Ex. 70, pp. 4, 1; MMB Ex. 91; MMB Ex. 101; MMB Ex. 124; TBF Ex. 122, pp. 250-256; MMB Ex. 402, p. 7.

49. Like the Trinity-named corporations, CET received its initial funding in the form of an interest-free loan from TBN, and the CET loan was evidenced only on TBN's financial statements and books, not by any note or security agreement. CET's obligation to TBN was not reduced to a note until January 1, 1993. Jt Ex. 1, p. 28. However,

unlike the Trinity-named companies, CET appeared only on TBN's 1983 financial statement. MMB Ex. 86, pp. 28-31. Beginning with calendar year 1984, CET had its own financial statement; however, that statement was prepared by the same accounting firm that prepared TBN's financial statement, and the CET statement was sent to TBN. MMB Ex. 93, p. 4. This occurred because TBN's accounting department handled CET's money until CET set up its own accounting department. MMB Ex. 324; Tr. 3928-3929.

50. Notwithstanding the formation of a separate accounting department for CET and the signing by TBN of program affiliation agreements with CET's three stations in Harlingen, Beaumont and Houston, TBN has continually represented that CET's stations are owned and operated by TBN. MMB Ex. 89, p. 1; MMB Ex. 104, p. 4; MMB Ex. 111, pp. 1-3; MMB Ex. 110, p. 4; MMB Ex. 127, p. 4; MMB Ex. 148, p. 1; MMB Ex. 160 p. 7; MMB Ex. 164, p. 2; MMB Ex. 184, pp. 2-3; TBF Ex. 122, p. 254; Tr. 2625. In addition, throughout CET's existence, May and Juggert have provided legal services and W. Benton Miller (Ben Miller), TBN's vice president for engineering, has been CET's vice president for engineering. MMB Ex. 378; TBF Ex. 105, Tab D, pp. 7-69; Glendale Ex. 210, p. 14; Jt Ex. 1, p. 28; Tr. 3421-3422.

51. When the Commission began to grant low power and translator applications in 1983, Crouch learned that some permittees were unable to build and operate their stations. Consequently, the bare permits became available for sale for no more than the permittee's legitimate and prudent expenses. Crouch determined that buying the permits and building the stations would be an economical way of expanding TBN's audience. MMB Ex. 63, p. 1. Although TTI was created for the purpose of applying for and acquiring television translator stations, neither Crouch nor Duff gave any consideration to having TTI purchase the available permits. MMB Ex. 11; Tr. 2624, 3895-3897, 3967-3969. Duff claims that TTI could not afford to buy them. Tr. 1467-1468. Crouch viewed TTI merely as a vehicle to obtain translator stations by applying for new construction permits which allowed TTI to take advantage of the minority preference. Tr. 2587-2588. Such preference was useful only if TTI's new construction permit application happened to be mutually exclusive with another construction permit application for the same or nearby location. The preference was unavailable in the context of an assignment application. Tr. 1468. TBN began buying permits no later than 1984 and continued to purchase them thereafter. MMB Ex. 70, p. 5; MMB Ex. 87; MMB Ex. 91, pp. 2, 6; MMB Ex. 96, p. 3; TBF Ex. 122, pp. 1-22; Tr. 2607, 2632.

52. In addition to spawning TTI and CET, TBN, beginning in 1983, assisted other Christian television broadcasters by lending them money to acquire or build their stations. The corporations included: Tri-State Christian TV; All American TV, Inc.; Oceania Broadcasting Network, Inc.; Prime Time Video, Inc. (later known as Prime Time Christian Broadcasting, Inc.); Radiant Life Ministries, Inc.; and Sonlight Broadcasting Systems, Inc. (collectively, "borrowers"). However, unlike the no-interest, no-note arrangement with TTI and CET, TBN obtained interest bearing notes, security agreements and/or special concessions in

¹² By the spring of 1982, TBN programming appeared on cable systems in 31 states. MMB Ex. 49, pp. 5-6. By the fall of 1983, TBN programming appeared on cable systems in 37 states. MMB

Ex. 66, pp. 12-14. By June 1986, TBN was carried on 450 cable systems in 42 states. MMB Ex. 104, p. 1.

program affiliation agreements from the borrowers. *Jt. Ex. 1*, pp. 29-38; *MMB Ex. 114*; *TBF Ex. 101*, Tab Y; *TBF Ex. 105* Tab S; *Tr. 1669-1672*, 2351-2353, 3984-3987. Further, while the borrowers generally aired TBN programming pursuant to program affiliation agreements with TBN, TBN never represented that the borrowers' stations were owned and operated by TBN. *MMB Ex. 73*, p. 1; *MMB Ex. 100*, p. 2; *MMB Ex. 104*, p. 4; *MMB Ex. 112*; *Tr. 2643-2644*, 2651, 2662-2663. In addition, the borrowers did not rely on TBN's accounting department to process their contributions, and their financial information did not appear as part of TBN's financial statements. *MMB Ex. 86*; *MMB Ex. 93*; *MMB Ex. 110*. Moreover, they held their own annual board meetings apart from TBN, and they did not have any TBN employees or board members as officers or directors. *MMB Ex. 70*, p. 8; *MMB Ex. 91*; *MMB Ex. 101*; *MMB Ex. 114*; *Tr. 3965*. Finally, when May rendered legal services to the borrowers, he billed them directly, not through TBN. *Tr. 3424-3429*.

53. As noted above, Duff resigned from TBN's board and, contemporaneously, from the boards of all the TBN companies which held licenses for full power commercial television stations in the United States in the summer of 1984. *MMB Ex. 80*. Duff's resignation from TBN's Board had no effect on her employment at TBN and she continued to serve as assistant to the president (Crouch) with the same duties and responsibilities. *Tr. 1650*. She did not resign from the boards of TTI, CET, Trinity Broadcasting of Nevis or Trinity Broadcasting of Ciskei, the latter two being foreign corporations established by TBN to run television stations in the Caribbean and South Africa. *MMB Ex. 91*; *MMB Ex. 101*; *Tr. 3901-3904*. Duff stated she resigned from the boards of the TBN companies because her role as director of CET required a lot more work including travel. *Tr. 1650-1652*. Neither Crouch nor Juggert made any effort to replace Duff with a minority on any of the domestic TBN company boards. *Tr. 2631*, 3898. Soon after Duff's resignations, Janice Crouch became vice president of the domestic TBN-named broadcasting companies. *MMB Ex. 91*. Despite her resignation from the majority of the TBN companies as an officer and director, Duff continued to attend many TBN board meetings in her capacity as assistant to the president. *MMB Ex. 96*; *MMB Ex. 98*; *MMB Ex. 99*; *Tr. 1668*, 1674, 1677.

TBN Expands to 12 Full Power Commercial Television Stations

54. On February 1, 1985, the Commission released a *Memorandum Opinion and Order (MO&O)* in General Docket No. 83-1009. Therein, the Commission affirmed a prior decision to modify the national multiple ownership rules to allow group owners to hold cognizable interests in up to 12 television stations. In addition, the Commission determined that a group owner could hold cognizable interests in up to 14 television stations if two of the stations were minority controlled.¹³ Minority controlled was defined as more than 50% owned by one or more members of a minority group. The new rules were to become effective April 2, 1985. *Amendment of Section 73.3555*, 100 FCC 2d 74 (1985). The *MO&O* (and the underlying *Report and*

Order, 100 FCC 2d 17 (1984)) did not address the concept of *de facto* control, not did it change Note 1 to Section 73.3555, which reads as follows:

Note 1: The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.¹⁴

Thus, the multiple ownership rules continue to prohibit ownership and control by one person or group in excess of specific numerical limits.

55. Shortly after the new rules became effective, TBN set out to acquire additional full power commercial television stations. By TBN's 1986 annual meeting Crouch reported that TBN had obtained or would soon obtain stations in Albuquerque, New Mexico, Canton, Ohio; and Greensboro, North Carolina. The first would be licensed to TBA, while the other two would be licensed to TBN. TBN viewed these stations as its eighth, ninth and tenth full power commercial television stations. *MMB Ex. 96*; *MMB Ex. 101*, p. 2; *MMB Ex. 102*, p. 1. By June 1986, TBN was awaiting Commission approval for its eleventh and twelfth stations: Bloomington/Indianapolis, which would be licensed to TBI; and Dallas, which would be licensed to TBT. *MMB Ex. 99*; *MMB Ex. 104*, p. 1. No consideration was given as to whether TTI should acquire any of these full power commercial television stations. *Tr. 2639*.

TTI Becomes National Minority TV, Inc.

56. Sometime in 1986 after Crouch knew that TBN had reached or was about to reach its limit of 12 full power commercial television stations, Crouch was contacted by Dave Roeber, a long-time TBN programmer. Dave Roeber related that his brother, Alfred, held a construction permit for an unbuilt full power commercial television station in Odessa, Texas. Crouch informed Duff that Alfred Roeber wanted to sell his construction permit to Trinity. Duff called May to explore what could be done. *Tr. 1688*, 2697-2698; *MMB Ex. 82*, pp. 2, 11; *MMB Ex. 100*, p. 3.

57. May advised Crouch and Duff that TTI could acquire the Odessa construction permit. May asserts he based this advice on his reading of *Amendment of Section 73.3555* and the resulting rule, but did no other research. *Tr. 3488-3491*.¹⁵ May concluded that because two of the three persons on TTI's board were minorities, Crouch could obtain an interest in a thirteenth full power commercial television station, provided the national audience reach of TBN's stations did not exceed the limit set by the Commission's Rules. *TBF Ex. 105*, p. 14. In May's view, TTI's legal standing and the racial and ethnic identity of its three board members were the crucial factors which would allow TBN and TTI to qualify for the multiple ownership exception to the rule of 12. *TBF Ex. 105*, p. 13. Note 1 to Rule 73.3555 was in the text of the Rule which May read when he rendered his advice. *Tr. 3218-3220*. May is aware that under Note 1 control is not limited to minority stock ownership but includes actual working control. However, May claimed he paid no attention to Note 1 or Commis-

¹³ The caps for television station ownership were also subject to an audience reach limitation.

¹⁴ Note 1 dates back to the early years of the national multiple ownership rules. See *Amendment of Sections 3.25, etc.*, 18 FCC

288, 296 (1953).

¹⁵ May believes he sent Crouch a copy of the *Report and Order*. *Tr. 3230*.

sion precedent interpreting Note 1. He asserted that in his mind control and ownership are functionally the same in the case of a non profit entity and the exception to the Rule of 12 was satisfied where the minority group constituted more than 50% of the directors. Tr. 3218-3225. However, when asked to define "cognizable" interest as used in the *Report and Order*, May agreed that neither Crouch nor TBN could legally exercise actual working control over NMTV as that term is used in Note 1. Tr. 3226. Further, May always understood and so advised Crouch that the directors of NMTV had to be the parties that were, in fact, controlling and operating NMTV and generally directing the policies and affairs of the company. Tr. 3220, 3226, 3228-3229. According to May, control of NMTV's affairs included, among others, the hiring and firing of employees, decisions on buying, selling or leasing property, how much money to invest in the construction of a studio, the development of local programming and the holding of annual meetings separate from TBN. Tr. 3399-3402). May's opinion and the basis for it were never reduced to writing. Tr. 3229-3230, 3488.

58. On December 22, 1986, following several telephone conversations with Duff about the possible sale of the Odessa permit, May sent Duff a draft purchase agreement. May pointed out to Duff that the agreement contained a special provision concerning Crouch because Crouch had ownership interests in the maximum number of full power commercial television stations allowed by the Commission. That provision required a Commission finding that TTI qualified as a minority controlled organization as defined by Section 73.3555 of the Commission's Rules. MMB Ex. 119. May's bills for the period November 10 through December 12, 1986, and the period December 15, 1986 through January 9, 1987, show no charges to TTI. MMB Ex. 118; MMB Ex. 123. May's bill for the period January 12 through February 13, 1987 shows services rendered to National Minority TV. MMB Ex. 132. TTI changed its name to National Minority TV on February 2, 1987. MMB Ex. 128. May asserts that this bill could have reflected the Odessa purchase agreement. May, however, was not able to recall what services were rendered in connection with this bill. Tr. 3436-3437.

59. On December 29, 1986, Duff sent the purchase agreement to Dave Roever. Duff prepared her transmittal letter on TBN stationery and signed it as assistant to the president (of TBN). MMB Ex. 120. She now feels that it was an error to use TBN stationery for TTI-related business. Tr. 1696. The agreement was executed on January 10, 1987. Duff signed on behalf of TTI as its vice president. MMB Ex. 122.

60. The purchase agreement, in section 7(a), recites that TTI is a nonprofit corporation organized and in good standing under the laws of California. Because Crouch had the maximum number of interests allowed a non-minority, the agreement recognizes that TTI would have to establish compliance with Section 73.3555(d)(1)(A) and 73.3555(d)(2)(A) of the Commission's Rules. The agreement provides that if the Commission does not approve the agreement because of Section 73.3555, the agreement will become void. The agreement also states in section 7(b) that execution and delivery of the agreement and consummation of the purchase of the station has been duly authorized by TTI's board. MMB Ex. 122, pp. 7-8. There is

no documentary evidence to suggest that, at the time the agreement was executed, TTI's board had considered (much less approved) the purchase or discussed financing for the acquisition or construction of the station.

61. On January 19, 1987, TTI held its annual board meeting in conjunction with the annual meetings of TBN and its affiliated corporations. Among others, Crouch, Duff, Juggert and May attended. Espinoza did not attend. At the joint meeting, Crouch remarked that Trinity was in the business of acquiring stations since ownership will protect against damage to TBN's ministry. May discussed equal employment opportunities. Duff reported about ascertainment. Among other things, TBN's board authorized TBN to spend up to \$3 million to acquire low power television construction permits and stations. No money was allocated to TTI for translators or low power stations and the minutes are silent about TTI's contract to buy a full power television permit for Odessa. TTI reelected Crouch, Duff and Espinoza as directors and officers and added TBN employees, Phillip Crouch and Terrance Hickey, as assistant secretaries. MMB Ex. 124; Tr. 2684-2689.

62. On January 26, 1987, Crouch, Duff and Hickey¹⁶ signed an action by written consent authorizing TTI's officers to take all necessary action to acquire the Odessa permit. The action by written consent also authorized TBN to act as TTI's accounting agent until further notice. Among other things, TBN was empowered to process donations to TTI, pay its bills and prepare its financial statements. Both Duff and Crouch acknowledge that the latter authorization simply memorialized past practice. MMB Ex. 125. The action by written consent was prepared by Juggert at May's suggestion. Espinoza did not sign the action by written consent until 1993, several years after he had resigned from TTI's board. Tr. 1470-1471, 2313, 3714-3715.

63. On January 30, 1987, Duff transmitted to May the application for Commission consent to the assignment of the Odessa permit. Duff prepared her transmittal letter on TBN stationery and signed it as assistant to the president (of TBN). MMB Ex. 126. Espinoza testified that he learned in a telephone call from Duff about the possibility of obtaining the Odessa station permit. Tr. 4344. However, Espinoza had no understanding why TTI had not previously considered buying a full power station permit, why it had not bought any low power or translator permits, or whether it would have made more sense in view of TTI's indebtedness for TTI to buy a low power rather than a full power station permit. TBF Ex. 106, pp. 7-8; Tr. 4344-4347. On February 2, 1987, Crouch, Duff and Espinoza met and changed the name of their corporation from TTI to National Minority TV, Inc. (NMTV). MMB Ex. 128. Two separate minutes of the event were prepared. One was signed by Duff; one by Hickey. MMB Ex. 128. Subsequently, Juggert prepared and filed with the California Secretary of State's office the necessary paperwork to change the corporate name from TTI to NMTV. MMB Ex. 136. On February 3, 1987, May filed the Odessa assignment application with the Commission. MMB Ex. 129.

NMTV's Odessa Application

64. The information contained in NMTV's portion of the assignment application for the Odessa permit was derived by May from the files he maintained pertaining to

¹⁶ Hickey was never a TBN director. Tr. 2694-2695.F

TTI/NMTV (hereafter NMTV), which had not been updated since 1981. He did not look at the files he maintained regarding TBN's ownership nor did he consider the results of the elections of officers conducted during the TBN companies' meeting held two weeks earlier. Tr. 3539-3540, 3595-3596. May claims he discussed the information in the application with Duff but not with Crouch. Tr. 3195-3196. Although May insists that he received no special instructions from Crouch concerning disclosures to be made about NMTV and TBN's relationship, he also claims that Crouch made it clear to him that Crouch wanted complete and open disclosure of all factors which would show that NMTV was a minority controlled company. Tr. 3197, 3202-3203, 3380-3381.

65. Crouch initially testified that he told May to disclose in the Odessa application everything regarding the relationship of NMTV and TBN. Tr. 2674. In this regard, Crouch testified:

"I told Mr. May very explicitly, I said, if we go for this and he did make it clear to me that I believed we were the very first applicant to approach the Commission for this exception. And I said, we're plowing new ground, new territory here and I said, 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. If they pass on it and approve it, fine, our goal was to acquire as many stations and network affiliates as we possibly could."

Notwithstanding Crouch's testimony, none of NMTV's applications seeking a minority exemption including the Odessa assignment application signed by Crouch disclosed to the Commission information about Duff's relationship with TBN or NMTV's relationship with TBN. Crouch was given a number of opportunities to explain the discrepancy but was unable to offer a credible justification. Tr. 2707-2712, 2752-2757. In the end, when confronted with the Portland application which, like the Odessa application, failed to disclose Duff's role with TBN, Crouch sought to retract his earlier damaging testimony and place the onus on May for any failure to inform the Commission. In this regard, Crouch stated "... what I instructed my counsel to do was to file and put on the record *everything he felt necessary to put on the record.*" Tr. 2755. *Emphasis supplied.* Crouch's belated attempt to place the onus on his counsel is not credible and is rejected.

66. The NMTV application incorrectly reports that the company has, and had during its entire history, only three directors and officers; namely, Crouch, Duff and Espinoza. The application discloses Crouch's television holdings but submits that because two of NMTV's three directors are minorities, NMTV qualifies as a minority controlled company and Crouch can therefore have an interest in a 13th television station pursuant to Section 73.3555(d)(1) of the Commission's Rules. Aside from referencing translator applications filed by TTI in which it had been stated that Duff was then a director of TBN and informing that both Crouch and Duff had interests in two CET stations, the application provides no information about Duff's relation-

ship with TBN or NMTV's relationship with TBN. MMB Ex. 129, pp. 24, 32-33, 35-36; Tr. 3625-3629. Although NMTV had, according to TBN's records, a negative fund balance of nearly \$350,000, NMTV certified that it was financially qualified to consummate the transaction and operate the facilities for three months. MMB Ex. 110, p. 8; MMB Ex. 129, p. 26. The application is silent about the source of NMTV's funds. Finally, there was nothing specific in the application about NMTV's programming plans, although it was understood from the outset that NMTV's Odessa station would broadcast TBN programming. MMB Ex. 129, 27, 40; Tr. 4145. Crouch who signed the application, claims he only gave it a cursory review.¹⁷ Tr. 2699. After receiving a copy of NMTV's articles of incorporation, bylaws and organizational minutes, the Commission granted NMTV's application on June 9, 1987. MMB Ex. 139; Tr. 3538.

NMTV and TBN Activities During Pendency of Odessa Application

67. Shortly after the filing of the Odessa station, the search began for NMTV's second (and Crouch's 14th) full power commercial television station. After various communications with the holder of the construction permit for a station in Oroville, California, Duff had May draft a proposal to acquire the permit. MMB Ex. 134. Ultimately, however, Duff decided not to pursue the matter. Tr. 1721. Neither Crouch nor Espinoza professed to know about Duff's interest in the Oroville Station. Tr. 2715, 4358.

68. Meanwhile, Crouch had been contacted about the possible availability of a television station in Wilmington, Delaware. Tr. 2716. After Crouch determined what NMTV's offer should be, May transmitted a purchase proposal for the station on March 23, 1987. At a time when NMTV did not even have a bank account, the proposal reflects that NMTV offered more than \$4 million for the station's equipment, plus additional sums for the station's land. MMB Ex. 137; Jt. Ex. 1, p. 16; Tr. 1725. While Espinoza claims he and Duff discussed in 1987 the possible purchase of a station in Wilmington, there are no contemporaneous board minutes or resolutions regarding the Wilmington proposal. Tr. 1725-1725 4229, 4359-4360.

69. With the next "Praise the Lord" newsletter following the filing of the Odessa application (March 1987), Crouch announced that TBN "continues to lead the way as the largest group owner currently of TV stations in America with over 50 wholly owned stations over 25 affiliated stations, and over 550 cable stations in all 50 states" MMB Ex. 133, p. 1. The last page of the newsletter includes a list of studio locations and telephone numbers. Only one, in Gadsden, Alabama, is identified as an affiliated station. The others listed were TBN's owned and operated full power stations, its Denver low power station, its foreign stations, and CET's Beaumont and Harlingen stations. MMB Ex. 133, p. 4. The listing is consistent with TBN's practice of advising its supporters of the addresses and phone numbers of all TBN and CET stations in the "Praise the Lord" newsletters as soon as the stations became operational. MMB Ex. 53, p. 1; MMB Ex. 89, p. 1; MMB Ex. 104, p. 4; MMB Ex. 111, p. 4.

¹⁷ In *International Panorama TV, Inc. (KTBN-TV)*, FCC 83D-4 (released January 25, 1983), Crouch was found to have abdicated responsibility to assure himself that all representations in a

renewal application were true and correct. SALAD Ex. 35, p. 21.

Odessa, Texas

70. On June 22, 1987, less than two weeks after the Commission granted the Odessa assignment application, the NMTV board held a special meeting to consider what to do with the authorization. According to the minutes, Crouch moved to sell the Odessa permit while Duff and Espinoza wanted to build and operate the station. Given Duff's and Espinoza's position, Crouch's motion failed for lack of a second vote. The board then authorized the corporate officers to open a bank account, and Espinoza pushed to have planning begun for local programming for the Odessa station. Crouch believed NMTV should not spend any money for local programming until the station was financially sound. However, Duff again sided with Espinoza and agreed to develop plans for local programming. Finally, because the corporation had no money, the board agreed to authorize the corporate officers to obtain a loan. The minutes do not reveal the amount or source of the loan; however, it was understood that NMTV would obtain the needed construction money from TBN. MMB Ex. 147. When the Odessa transaction was closed on June 30, 1987, NMTV obtained from TBN the \$12,500 needed to purchase the permit from Roever. MMB Ex. 167; Jt. Ex. 1, p. 17; Tr. 1701.

71. Sometime before the Odessa permit was granted, Crouch had determined that the Odessa station was incapable of making enough money to make construction worthwhile. Tr. 2383. While he ultimately acceded to the wishes of Duff and Espinoza to build the station, he made no effort to assist or prod Duff either to build a studio for the production of local programming or to develop local programming.¹⁸ Tr. 2722-2726. In fact, no studio was ever constructed for the Odessa station. Further, although the June 22, 1987, minutes indicate that Duff and Espinoza were anxious to build the Odessa station and air local programming, no local programming was ever developed. Neither Duff nor anyone else prepared an Odessa station budget which called for the development of local programming. Tr. 1483, 4223-4230, 4236-4237.

72. Construction of NMTV's Odessa station began in early 1988 after land suitable for a transmitter site was located. MMB Ex. 179. Basically, TBN personnel and procedures were used in the construction of the station, and TBN made money available for construction expenses on an as-needed basis. MMB Ex. 185; MMB Ex. 186; MMB Ex. 187; MMB Ex. 191; Glendale Ex. 210, pp. 91-93; Tr. 2773-2780. TBN's chief engineer, Miller, oversaw construction. Glendale Ex. 210, pp. 22, 36. TBN's administrative and engineering personnel were made available at no charge to NMTV. According to Crouch TBN did not use a hard-line business approach with NMTV because TBN was the sponsoring organization. TBF Ex. 104, p. 16.

73. NMTV's Odessa station, KMLM(TV), began broadcasting by mid-October 1988. MMB Ex. 222. On October 21, 1988, Duff, on behalf of NMTV, signed a TBN program affiliation agreement for the station. There is no evidence anyone signed the agreement on behalf of TBN, although Duff says she gave it to Crouch to review. MMB Ex. 223;

Tr. 1848-1848. In any event, KMLM(TV) began broadcasting TBN programming and the "Praise the Lord" newsletter commenced listing the station among the TBN owned and operated stations and the CET stations. MMB Ex. 225, p. 6; Tr. 4145. Throughout the period that NMTV held the license for KMLM(TV), only TBN programming was broadcast. Tr. 1433.

74. On December 12, 1988, NMTV held a special meeting of its board of directors. Among other things, Crouch again asked the board to consider selling KMLM(TV) and acquiring a station in a larger market. Both Espinoza and Duff objected, with Duff asserting that the station was receiving adequate support and meeting the needs of the community. Nevertheless, and despite the fact that money was being committed for the purchase of a studio for the recently-acquired Portland station (see ¶ 88, *infra*), there was no consideration given to setting aside funds for the construction of a studio for KMLM(TV). MMB Ex. 230.

75. Notwithstanding Duff's and Espinoza's objections to Crouch's proposal to sell KMLM(TV), they collectively signed some six months later an action by written consent to authorize Crouch to negotiate the sale of the station. MMB Ex. 256. Duff relates that NMTV had the opportunity to go into a bigger market and found a buyer that was willing to continue broadcasting TBN programming. Tr. 1882-1883. Although negotiations with the prospective buyer, Prime Time Christian Broadcasting, Inc. (Prime Time), waxed and waned during the ensuing months, Duff eventually reached an agreement to sell the station in December 1990, with the sale closing following Commission approval in early 1991. MMB Ex. 348 MMB Ex. 358; TBF Ex. 101, Tab R, p. 136. Once Prime Time became the licensee, the "Praise the Lord" newsletter no longer listed KMLM(TV) among the TBN and CET stations. Compare MMB Ex. 341, p. 3 with MMB Ex. 349, p. 5.

76. The sales price for KMLM(TV) was \$650,000, more than \$100,000 below NMTV's construction costs. MMB Ex. 257, p. 7; MMB Ex. 277; Tr. 2863. Duff, who negotiated the sales price, did not know whether the sales price reflected the station's fair market value. Tr. 2222, 2224. Prime Time did not pay cash. Rather, Prime Time was to pay NMTV in installments with money derived from contributions from viewers in the Odessa area. Tr. 2067-2068. During the period NMTV was attempting to sell the station, it did not solicit or consider offers from a commercial non-religious buyer. Tr. 3045. In fact, the only entities considered as buyers were those that would continue broadcasting TBN programming. Tr. 2224-2226, 3035-3036.

77. During the time NMTV held the license for KMLM(TV), Duff and Miller supervised the station's management. Basically, as she did for TBN's stations Duff directed matters involving personnel, EEO, political broadcasting rules and public files. MMB Ex. 241; MMB Ex. 259 MMB Ex. 262; MMB Ex. 268; MMB Ex. 284; MMB Ex. 308; MMB Ex. 345; Glendale Ex. 105; Glendale Ex. 107; Tr. 1400, 1895, 1905, 2072, 2131, 2848-2849. As he did for TBN's stations, Miller oversaw engineering activities, including the transfer of equipment from TBN to the Odessa

¹⁸ Crouch's ambivalent attitude toward the Odessa station is revealed by the absence of references to it in TBN's "Praise the Lord" newsletters. Whereas TBN had in the past proudly proclaimed each acquisition, the newsletters say nothing about Odessa until October 1987 when the grant of the Odessa application is included in the "list of miracles." Further, Crouch

himself said nothing in the newsletters about Odessa until January 1988 when he stated: "We are building 42 in Midland/Odessa, Texas. We are waiting for FCC approval for Channel 24 in Portland." (Italics in original) MMB Ex. 160, p. 10; MMB Ex. 175, p. 2.

station. MMB Ex 313; MMB Ex 328; MMB Ex. 335; MMB Ex. 340; Glendale Ex. 108; Glendale Ex. 135; Glendale Ex. 137; Glendale Ex. 151; Glendale Ex. 155; Glendale Ex. 158; Glendale Ex. 210, p. 29, 86, 102-103. TBN's finance department processed the station's payroll and purchases. MMB Ex. 125; MMB Ex. 229; MMB Ex. 313. Duff and Miller were salaried TBN employees during all relevant periods. They performed their NMTV-related activities during their normal TBN workdays. Neither of their salaries was affected by the work they did for NMTV. Glendale Ex. 210, pp. 29-30; Tr. 1786-1788.

78. From April 1991 through and including April 1993, KMLM(TV) was operated by Prime Time. Prime Time and TBN had an affiliation agreement which provided that TBN would retain a certain percentage of the money received by KMLM(TV) viewers; the remainder would be paid to Prime Time. Although it appears that TBN received money pursuant to the affiliation agreement, there is no evidence that NMTV received any money from Prime Time. Tr. 2228, 3042.

79. During this period, Prime Time also had affiliation agreements with TBN with respect to low power stations licensed to Prime Time in Alamogordo, Carlsbad and Hobbs, New Mexico. Glendale Ex. 214; Glendale Ex. 215. Pursuant to the affiliation agreements, TBN received revenue from all locations, some of which TBN credited to Prime Time. Prime Time executed notes to TBN with respect to loans made by TBN to Prime Time for the low power stations. By the end of 1992, Prime Time's indebtedness to TBN on the notes, including interest, totalled more than \$210,000. Jt. Ex. 1, pp. 30-31.

80. By early 1993, it became apparent to Crouch that Prime Time could not repay its debt to NMTV. Tr. 2980-2983. On April 20, 1993, 13 days after release of the HDO in this proceeding, the NMTV board with Crouch abstaining,¹⁹ voted to forgive Prime Time's debt of \$650,000. TBF Ex. 105, Tab L; MMB Ex. 412. Without the debt to NMTV, Prime Time could expand its operations by building translators that would extend coverage of its principal station in Roswell, New Mexico, and KMLM(TV) in Odessa. Tr. 2980-2983. Like KMLM(TV), Prime Time's Roswell station was also a TBN affiliate. Crouch understood that, at least financially NMTV's action benefitted TBN but not NMTV. Tr. 3046-3048. In this connection, NMTV made no effort to recover the station's physical assets being held as security by NMTV and to sell them independently. Such action would have forced the station off the air and deprived TBN of an outlet for its programming. Tr. 3046-3049.

Portland, Oregon

81. Shortly after the Commission granted NMTV's application to acquire the Odessa station, Duff was made aware of an available construction permit for channel 24 in Portland, Oregon. TBF Ex. 101, p. 34. On October 9, 1987, May sent a proposal to acquire the station for NMTV, which he described as being affiliated with TBN. MMB Ex., 161; Tr. 1753, 2741-2742. On October 21, 1987, NMTV's three directors signed an action by written consent authorizing Crouch to execute all contracts necessary to

acquire the station and to execute all loan and financing agreements necessary to pay for the station. MMB Ex., 163. NMTV, rather than TBN, sought to acquire the station because TBN had its full complement of stations. Tr. 1754-1755. Nonetheless, it was understood from the outset that the Portland station would broadcast TBN programming. Tr. 4365.

82. By letter dated November 13, 1987, May, on behalf of NMTV, agreed to a sales price of \$520,000 for the Portland station. MMB Ex. 166. On November 20, 1987, Crouch and Duff held a special meeting of NMTV's board. Among other things, they authorized spending up to \$520,000 to acquire the Portland construction permit, and \$4,000 per month to lease tower space for the Portland station. MMB Ex. 170. A TBN board meeting of the same day makes no mention of any impending loan to NMTV. MMB Ex. 169. During November 1987, TBN's financial records showed that NMTV had cash and capital assets of less than \$290,000, while its liabilities exceeded \$600,000. Jt. Ex. 1, p. 16; MMB Ex 156. Nonetheless, none of the NMTV directors felt any concern about acquiring the Portland station while the company was in debt because each understood that TBN would provide whatever funds were necessary to buy and build the station. Tr., 1763, 2742, 4269-4270.

83. On December 17, 1987, Crouch signed the asset purchase agreement for the Portland station on behalf of NMTV. TBF Ex. 101, Tab T, p. 25. That night he announced the signing on TBN. TBF Ex. 106, pp. 10-11. On December 18, 1987, May filed the application to assign the construction permit for channel 24, Portland, to NMTV. TBF Ex. 101, Tab T.

84. May copied the information contained in NMTV's portion of the assignment application for the Portland permit from the comparable portion of NMTV's application for Odessa. Thus, the application repeated the omissions of the Odessa application and failed to list TBN employees Hickey and Phillip Crouch as officers of NMTV.²⁰ Like the Odessa application, the Portland application is silent about Duff's role at TBN. Tr. 3596-3598. May advised Duff and Crouch that NMTV was entitled to apply for the Portland station under May's interpretation of the Commission's multiple ownership rules. Tr. 3208. Crouch signed the Portland application. Like in the case of the Odessa application, he claimed he reviewed it in a cursory manner. Tr. 2749-2750.

85. As did the NMTV application for Odessa, the NMTV application for Portland incorrectly reports that the company has, and had during its entire history, only three directors and officers; namely, Crouch, Duff and Espinoza. The application discloses Crouch's television holdings but submits that because two of NMTV's three directors are minorities, NMTV qualifies as a minority controlled company and Crouch can therefore have an interest in a 14th television station pursuant to Section 73.3555(d)(1) of the Commission's Rules. Although the application references translator applications filed by TTI in which it had been stated that Duff was then a director of TBN and reveals that both Crouch and Duff had interest in two CET stations and the NMTV station in Odessa, the application

¹⁹ Crouch abstained on the advice of counsel because this case had been set for hearing. Tr. 3045.

²⁰ On June 24, 1987, the TBN ownership report did state that Hickey and Phillip Crouch were NMTV officers as well as TBN

officers. TBF Ex. 101, Tab R, pp. 39-57. In addition, TBN's 1988 ownership report, submitted on July 15, 1988, listed Phillip Crouch as an officer of NMTV, TBN and the various Trinity-named licensees. MMB Ex. 205.

provides no information about Duff's or NMTV's relationship with TBN, nor does it refer to NMTV's July 1987 low power filings (see ¶ 100, *infra*). MMB Ex. 174, pp. 10-14.

86. Crouch wasted no time in informing TBN's supporters about the Portland application. In the January 1988 "Praise the Lord" newsletter, he wrote: "We are waiting for FCC approval for Channel 24 in Portland." MMB Ex. 175, p. 2. Likewise, in February 1988, Crouch told supporters: "[J]ust a few days ago, we signed the final contract for Channel 24, Portland, Oregon. Portland will be operated by National Minority TV, an affiliated corporation of which I am President... [a supporter writes that she] can't wait till TBN is on the air in her home in PORTLAND!"²¹ MMB Ex. 181, p. 1. Apparently, Crouch's information generated responses, for, on January 18, 1988, Duff wrote to a job seeker that, since the application had just been filed, consideration of personnel for the station was premature. She signed the letter on TBN stationery as assistant to the president. MMB Ex. 177, p. 2. Duff believes in hindsight that sending the letter on TBN stationery was a mistake. Tr. 1791.

87. During the pendency of the Portland application, Duff and May negotiated a lease for space on a tower for the station's antenna. Because the tower owner apparently was concerned about additional competition he originally sought the right to cancel the lease in the event NMTV dropped its religious format or became a for profit corporation. Duff proposed that the tower owner only have the right to raise the rent a specified percentage. TBF Ex. 105, Tab T, p. 2. Ultimately, Duff's position prevailed. TBF Ex. 105, Tab U, pp. 3-4. According to May, the change in lease terms was important because it "protected the integrity of NMTV's right to cancel its program affiliation with TBN." TBF Ex. 105, p. 19. Even though Crouch was heavily involved in the negotiation of the tower antenna lease, there is no evidence that anyone other than Duff or May knew of the provision or that NMTV ever had any plans to drop TBN programming or become a for profit corporation. MMB Ex. 238, p. 1; Tr. 2840-2842.

88. The Commission granted the application to assign the construction permit for channel 24 in Portland on October 27, 1988. TBF Ex. 101, p. 35; Tr. 3527. The transaction was closed on December 19, 1988. MMB Ex. 231; MMB Ex. 353, p. 5, n.6. Crouch informed the TBN and affiliated corporations' boards of the Commission's action at TBN's 1989 annual meeting. MMB Ex. 236, p. 2. In the meantime, NMTV held a board meeting to discuss, among other things, what NMTV should offer for a building Duff had identified as a possible studio site for the new Portland station. After Duff reported that the asking price was \$650,000, Crouch proposed offering only \$400,000. Neither Duff nor Espinoza seconded Crouch's motion. Duff thereupon proposed offering no more than \$500,000. Espinoza voted in favor; Crouch did not. MMB Ex. 230; TBF Ex. 101, p. 5. Ultimately, NMTV paid \$425,000 for the building. MMB Ex. 233.

89. Construction of the Portland station began no later than April 1989. MMB Ex. 249; MMB Ex. 251. As had been the case with the Odessa station, TBN personnel and procedures were used to oversee construction of the station, and TBN made equipment and money available for construction expenses on an as-needed basis. MMB Ex.

234; MMB Ex. 251; MMB Ex. 252; MMB Ex. 266; MMB Ex. 276; MMB Ex. 281; Glendale Ex. 210, pp. 34-35, 125-126; Tr. 1420-1421, 1869-1870. Once again, TBN's administrative and engineering personnel were made available at no charge to NMTV. Tr. 1409.

90. NMTV's Portland station began broadcasting on November 16, 1989. Glendale Ex. 216, p. 11; MMB Ex. 353, p. 5, n.6. On December 4, 1989, Duff and Crouch, on behalf of NMTV and TBN, respectively, signed a program affiliation agreement for NMTV's Portland station. MMB Ex. 283. The terms of the agreement were virtually identical with the terms of the NMTV/TBN Odessa affiliation agreement. As far as Crouch understood, however, it was a standard TBN affiliation agreement. Tr. 2880-2881. With the exception of three local programs, the first of which began airing in 1992, NMTV's Portland station has aired only TBN programming, and TBN's programming department prepares the Portland station's quarterly issues-programs list. TBF Ex. 109, p. 14; Glendale Ex. 113; Tr. 4404-4406, 4424. Beginning with the January 1990 edition the "Praise the Lord" newsletter listed the Portland station (Station KTDZ(TV), later KNMT-TV) among the TBN owned and operated stations and the CET stations. MMB Ex. 291, p. 5.

91. During the construction and operation of NMTV's Portland station, Duff, and to a lesser extent, Miller, supervised station management. In this regard, Duff, with Crouch's concurrence, hired the station manager, James McClellan (McClellan), and she has regularly monitored and instructed McClellan as to non-engineering matters. TBF Ex. 109, pp. 10-11; MMB Ex. 345; MMB Ex. 357; MMB Ex. 359; Glendale Ex. 111; Glendale Ex. 112; Glendale Ex. 117; Glendale Ex. 118; Glendale Ex. 119. At the time he was hired, McClellan was a TBN employee and air personality. TBF Ex. 109, pp. 3-4, 6-9; MMB Ex. 288. Miller apparently recommended the hiring of the station's chief engineer, Mark Fountain (Fountain), and subsequently provided advice and oversight regarding engineering questions. MMB Ex. 273; MMB Ex. 289; MMB Ex. 292; MMB Ex. 298; MMB Ex. 310; MMB Ex. 397; Glendale Ex. 153; Glendale Ex. 154; Glendale Ex. 156, p. 1; Glendale Ex. 161; Glendale Ex. 164; Glendale Ex. 166; Glendale Ex. 169; Glendale Ex. 170; Glendale Ex. 177; Glendale Ex. 179; Tr. 1407, 1910-1911. Miller even recommended that Fountain receive a bonus for his efforts to get the Portland station on the air. Glendale Ex. 156, p. 1. Fountain, like McClellan, was a TBN employee at the time of his hiring by NMTV. Tr. 1407-1408. TBN's accounting department has processed the station's payroll, collections and expenditures. MMB Ex. 125; TBF Ex. 109, p. 12; Tr. 2335-2336.

Wilmington/Philadelphia

92. As noted *above*, May first explored in March 1987 the possibility of acquiring for NMTV a television station licensed to Wilmington, Delaware (Station WTGI, Channel 61). MMB Ex. 137. Subsequently, Duff and/or Crouch considered acquiring, in the name of NMTV, a station in Hammond, Indiana, and, later, Concord, California. MMB Ex. 300; MMB Ex. 315. However, nothing came of those plans. Tr. 2379-2380. In the meantime, TBN increased its

²¹ Crouch was so excited about the prospect of broadcasting in Portland that he twice announced that the application had been

granted before the grant actually occurred. MMB Ex. 206, p. 1; MMB Ex. 213, p. 3.

audience reach by selling TBA's Albuquerque station and acquiring a construction permit for a station in the Atlanta area. MMB Ex. 197; MMB Ex. 291, pp. 1-2.

93. Interest in acquiring Channel 61, Wilmington, for NMTV resumed in the late summer or autumn of 1990. TBF Ex. 121, pp. 41-42. After receiving word that the station was still available, Crouch sent Dale Osborn (Osborn), station manager for TBN's Canton, Ohio, television station, to the Wilmington/Philadelphia area to inspect the station's equipment and ascertain the station's coverage. Osborn reported his findings to Duff and Miller in November 1990. MMB Ex. 331; MMB Ex. 333. Osborn's salary was unaffected by the work he performed on behalf of NMTV. Tr. 2921.

94. After Miller reviewed Osborn's report and worked up a rough estimate of the station's worth, Duff arranged a line of credit for NMTV in the amount of \$3.6 million from the bank used by both TBN and NMTV. MMB Ex. 334; Tr. 2118. As security for the line of credit, Duff agreed to deposit \$3.6 million in cash in the bank. MMB Ex. 334, p. 2. It was understood that the cash would come from TBN. Tr. 2119, 2922. Phillip Aguilar, who had replaced Espinoza as NMTV's third director, was informed of the possible purchase of a station in Wilmington but did not know the source of the purchase money. TBF Ex. 107, pp. 145-149.

95. At NMTV's 1991 annual meeting, Crouch reported that he would appear at the bankruptcy proceeding concerning the Wilmington station's license in order to submit a bid for the station and its equipment. MMB Ex. 338. Apparently, he did so and submitted the winning bid, for, on March 13, 1991, Crouch and Allan Brown, TBN's head of finance, signed, on behalf of NMTV, a check for \$400,000 to cover the deposit for the Wilmington station. TBF Ex. 121, pp. 54-55; Tr. 2329. At the time Brown signed the NMTV check, he was not an officer of NMTV. TBF Ex. 101, Tab R, p. 95; MMB Ex. 355; MMB Ex. 396, p. 2. On March 9, 1991, May & Dunne filed the application to assign the license of Station WTGI(TV), Wilmington, to NMTV. TBF Ex. 101, Tab R, pp. 89-145.

96. The information in NMTV's portion of the application differs somewhat from the information contained in the Odessa and Portland applications. For example, NMTV twice gave as its address the address of its station in Portland, rather than the California address previously used. Compare, TBF Ex. 101, Tab R, pp. 93, 142, with TBF Ex. 101, Tab Q, p. 22, and TBF Ex. 101, Tab T, p. 53. This time, the NMTV application correctly listed its officers and directors and noted that officers Matthew Crouch and Charlene Williams were officers but not directors of the same companies as Crouch. However, the application did not reveal that Duff, Matthew Crouch and Charlene Williams were employees of TBN. TBF Ex. 101, Tab R, pp. 95, 135.

97. Crouch devoted most of his portion of the May 1991 "Praise the Lord" newsletter to the possibility of acquiring the Wilmington station. Therein, he stated: "we signed the agreement and deposited the down payment for FULL POWER CHANNEL 61 serving the great Wilmington, Delaware -- Philadelphia, Pennsylvania area! Praise the Lord! This will be, God willing, and the FCC approving, a

National Minority TV station (of which I am President) working in full affiliation with your TBN." MMB Ex. 349, p. 1. After additional exhortations, Crouch closed with a request for funds for TBN so that "WE [WILL] HAVE ENOUGH TO PAY FOR CHANNEL 61!" MMB Ex. 349, p. 2. By September, TBN had received \$37,000 in contributions for the purchase of the station; NMTV had received none. TBF Ex. 121, pp. 15, 48.

98. On May 10, 1991, a petition to deny was filed by Dan Borowicz against the assignment of the Wilmington station to NMTV. Among other things, the petition alleged that TBN and/or Crouch controlled NMTV. MMB Ex. 374, p. 1. On May 23, 1991, NMTV filed its opposition. Therein, it was first revealed to the Commission that Duff was "Assistant to the President" of Trinity Broadcasting Network, a title which means what it says -- she holds virtually the second highest management office in the Network's hierarchy." MMB Ex. 353, p. 20. In addition, the opposition argued that NMTV's board of directors need only have legal, not actual working control over NMTV's stations to qualify for the minority-controlled exception to the multiple ownership rules.²² MMB Ex. 353, p. 12-23. The opposition did not reveal that TBN personnel handled all of NMTV's income and expenses and that the only programming NMTV's stations had ever aired was TBN programming.

99. While the Wilmington application and petition to deny were pending, Crouch had Miller analyze the Wilmington station's potential coverage.²³ MMB Ex. 362; MMB Ex. 363. Apparently, the reports satisfied Crouch, for, on August 14, 1991, TBN's board voted to lend NMTV \$3.6 million. MMB Ex. 367. On August 2, 1991, Duff executed a promissory note to TBN prepared by Juggert in the amount of \$4 million, which represented the entirety of the sums made available to NMTV by TBN for the purchase of the Wilmington station. MMB Ex. 368; Tr. 2147. This note was the first ever executed by NMTV with respect to money given or loaned to it by TBN. *Jt. Ex. 1*, p. 26. Duff's action was subsequently ratified in an action by written consent of NMTV's board. MMB Ex. 369.

100. On September 13, 1991, the Commission directed a letter of inquiry to NMTV in order to determine *inter alia*, whether TBN and/or Crouch controlled NMTV. May forwarded the letter to Crouch and Duff that same day. Glendale Ex. 196. Aguilar subsequently learned of the Commission's letter via a conference call. TBF Ex. 107, p. 210. NMTV responded to the Commission's letter on September 24, 1991. TBF Ex. 121. As discussed in paragraph 14, *supra*, Duff's affidavit (TBF Ex. 121, pp. 18-20), provided for the first time, information on Duff's responsibilities at TBN. Before the Commission could act on the allegations made in the Borowicz petition to deny, NMTV dismissed its application to acquire Station WTGI(TV), Wilmington, Delaware. MMB Ex. 377; MMB Ex. 379; TBF Ex. 105, Tab L, p. 1; MMB Ex. 387, p. 13.

Low Power Filings

101. On June 25, 1987, Duff, as a vice president of NMTV, signed certifications for four low power television construction permit applications. May filed the applications on July 2, 1987. The applications were the first group of

²² NMTV expanded on this argument in its November 18, 1991, Request for Declaratory Ruling. Glendale Ex. 216, pp. 15-18.

²³ Subsequently, Miller traveled to the station to inspect the studio and transmitter site. MMB Ex. 371.

such applications filed by NMTV since 1981. The markets sought were Fresno, California; Waldorf, Maryland; Douglasville, Georgia; and San Diego, California. MMB Ex. 149; Tr. 2195-2196. There was no discussion of the applications at the June 22, 1987, special meeting of NMTV's board of directors. MMB Ex. 147.

102. In each application, NMTV claimed a minority preference but not a diversity preference. NMTV also certified that it was financially qualified to construct and operate the proposed facilities. Although NMTV filed an application for a low power operation, it proposed an unattended operation with fewer than 5 full-time employees. Miller, TBN's chief engineer, certified the applications' technical information. MMB Ex. 149, pp. 6-7, 9-10. Although Espinoza testified that Duff told him about the Fresno application, neither Crouch nor Espinoza appear to have been involved in the process of choosing the markets sought or deciding to file the applications. Tr. 4385-4386. Moreover, Crouch acknowledges that he may not even have known about the Fresno filing. MMB Ex. 147; Tr. 2728-2731.

103. At the time the NMTV low power applications were filed, Duff was in charge of low power operations for TBN. MMB Ex. 107, p. 2. She was assisted by Miller, TBN's chief engineer, George Sebastian (Sebastian), a TBN volunteer, and Kevin Fisher (Fisher), a TBN contract engineer. MMB Ex. 171; Tr. 1774-1775, 1869, 2747, 3466-3468. It appears that the communities chosen by Duff did not receive over-the-air programming from TBN. Tr. 1744-1745. It was understood that the new NMTV low power stations would carry TBN programming. Tr. 3097-3104.

104. Of the low power applications filed by NMTV in July 1987, only the Fresno application was granted. When the grant occurred on June 23, 1988, Duff informed Crouch and TBN's engineering department, which then immediately took steps to get the station built. MMB Ex. 200; MMB Ex. 208; Tr. 1816, 1851, 2452-2454, 2789. On November 17, 1988, low power Station K56DZ signed on and began broadcasting TBN programming. MMB Ex. 226. The station has continued to broadcast TBN programming, and NMTV has never had employees at the Fresno station. TBN's engineering department oversees all maintenance of the station. MMB Ex. 228; MMB Ex. 346.

105. May subsequently filed construction permit applications for translator or low power stations for NMTV on June 24, 1988; March 31, 1989; December 8, 1989; May 3, 1991; February 14, 1992; and April 2, 1993. TBF Ex. 105, Tab K. When translator, as opposed to low power, operations were proposed, the NMTV application would certify that it had written authority to rebroadcast KTBN-TV, Santa Ana, California, TBN's flagship station. MMB Ex. 201, p. 8; MMB Ex. 247, p. 5; MMB Ex. 285, p. 51; MMB Ex. 387, p. 5. In any event, it was understood that the stations would broadcast TBN programming. Tr. 2450, 2969-2971, 4327. In virtually every case, the markets chosen were those not yet receiving TBN programming over the air. MMB Ex. 406; Tr. 2182. When the stations signed on, Crouch was informed so that he could then tell TBN's viewers. MMB Ex. 226; MMB Ex. 311; MMB Ex. 319; MMB Ex. 336; MMB Ex. 350; Glendale Ex. 200. Each station has continually broadcast TBN programming. MMB Ex. 341, p. 6.

106. During this period, Duff directed TBN's low power/translator operations and oversaw the process by which markets were chosen for NMTV. MMB Ex. 309; Tr. 2790-2792, 2897. Duff was assisted by Sebastian, TBN's low

power director or coordinator; Sebastian's successor, George Horvath (Horvath); Fisher, TBN's contract engineer; the law firm of May & Dunne; Miller, TBN's chief engineer; and the rest of TBN's engineering department. MMB Ex. 202; MMB Ex. 208; MMB Ex. 218; MMB Ex. 246; MMB Ex. 248; MMB Ex. 255; MMB Ex. 295; MMB Ex. 390; MMB Ex. 403; MMB Ex. 406; MMB Ex. 410; MMB Ex. 411; Glendale Ex. 134; Glendale Ex. 139; Glendale Ex. 210, pp. 70, 117-118, 131-132; Tr. 14121, 1868-1869, 2851-2852, 3447-3449, 3466-3468. On at least one occasion, Juggert also provided assistance. MMB Ex. 392. Routinely, when an application was granted, TBN's engineering department endeavored to have the station built as quickly as possible and oversaw its technical operation. MMB Ex. 391; Tr. 1816, 2452-2454. None of the low power/translator stations had any employees. All were serviced by contract engineers. MMB Ex. 353, p. 10, n.9; MMB Ex. 360; MMB Ex. 361. The record does not clearly show whether those persons were paid by TBN or by NMTV. In any event, the contract engineers were monitored by TBN employees. MMB Ex. 410.

107. Money generated by NMTV's low power/translator stations is handled by TBN's accounting department. MMB Ex. 125; Tr. 2313. However, neither the minutes of NMTV's annual meetings nor the financial statements reveal how funds are allocated to NMTV or whether funds generated by NMTV's low power and translator stations are subject to an affiliation agreement. MMB Ex. 237; MMB Ex. 257; MMB Ex. 293; MMB Ex. 322; MMB Ex. 338; MMB Ex. 364; MMB Ex. 386. In any event, there is no indication that anyone from NMTV's board has ever questioned why NMTV generated no low power revenue in 1988, 1989 and 1990, despite having operating stations in Fresno (1988), Salt Lake City (1990), Columbus (1990), and Charlotte (1990). MMB Ex. 226; MMB Ex. 311; MMB Ex. 319; MMB Ex. 336; Jt. Ex. 1, pp. 21-23.

Espinoza, Aguilar, Hill and Ramirez

108. For most of its history, TTI/NMTV has had one "outside" director, that is, a director who was not also an employee of TBN. More recently, with the election of Hill, the corporation has two "outside" directors. In this connection, NMTV's by-laws authorize up to 10 directors. When asked to explain the failure to add more "outside" directors, Crouch stated: "It just didn't come up I guess." Tr. 2417. He denied that the intent in limiting the number of "outside" directors was to maintain control of NMTV. Tr. 2415-2418. Crouch also asserted that he envisioned a day when NMTV would be self sufficient and cut loose from TBN although, hopefully, remain as an affiliate of TBN. Tr. 2418. He admitted, however, there has never been a plan in existence reflecting when NMTV was supposed to break away from TBN. Tr. 2846.

109. As discussed above, the first outside director was Phillip David Espinoza. During his tenure as a TTI/NMTV board member, Espinoza usually attended the annual meetings of TTI (when that board met in conjunction with the board meetings of other TBN owned and operated corporations) and the annual meetings of NMTV. MMB Ex. 47; MMB Ex. 55; MMB Ex. 70; MMB Ex. 91; MMB Ex. 101; MMB Ex. 124; MMB Ex. 176; MMB Ex. 237; MMB Ex. 293. When NMTV began to have special meetings that were held solely to discuss NMTV business, Espinoza attended when he could. He claimed he voiced his opinion even if it was contrary to Crouch's express views. MMB Ex. 128; MMB Ex. 147; MMB Ex. 170; MMB Ex. 230; MMB

Ex. 300; MMB Ex. 315; TBF Ex. 106, pp. 9-10. However, in those instances where Espinoza and Crouch disagreed, Crouch's position eventually prevailed. For example, although Espinoza wanted to build the Odessa full power television station and broadcast local programming as soon as possible, Crouch's view that the station must be sold and that network (TBN) programming should air was the course of action NMTV followed. MMB Ex. 147; MMB Ex. 230; MMB Ex., 256; Tr. 4230-4232, 4235, 4365-4366.

110. During the time Espinoza was TTI/NMTV's chief financial officer, he never had better than a vague understanding about TTI/NMTV's financial condition, and he never questioned the information appearing in TTI/NMTV's financial statements. Tr. 4149-4152, 4160-4164, 4227-4229, 4275, 4297, 4331-4338, 4346-4347. He simply knew that, whatever the project, money would come from TBN. Tr. 4269-4270, 4276-4277, 4302-4303, 4330, 4362, 4383-4384. When the NMTV board decided to sell KMLM(TV), Odessa, Espinoza did not know how the proposed sales price was determined or whether the proposed sales price approximated the station's fair market value. Tr. 4378-4379.

111. Espinoza never knew the identify of the corporation's attorneys, consultants or accountants, and he believed Juggert was TTI/NMTV's attorney. Tr. 4200, 4319-4320, 4325-4326, 4327. May & Dunne never copied Espinoza on correspondence relating to TTI/NMTV sent to Crouch or Duff, and he did not receive copies of documents filed by TTI/NMTV with the Commission. Tr. 3111-3115, 4197-4198, 4287-4293. In addition, Espinoza never questioned the need or propriety of having TBN employees as TTI/NMTV officers, and he never had anything more than a vague idea as to what the TBN employee/NMTV officers were supposed to do. Tr. 4250-4252, 4263, 4279-4280, 4274. Except for one meeting, neither the board minutes nor any other document suggests that Espinoza ever initiated any action or proposal for TTI/NMTV or that he had any role in the preparation of TTI/NMTV applications. MMB Ex. 147, p. 2; TBF x. 106, p. 5; Tr. 4232, 4237. Indeed, there were instances when Espinoza did not even know that applications were to be filed. Tr. 4387-4388. Because he always viewed himself as a novice with respect to broadcasting, he merely reacted to whatever Crouch and/or Duff proposed. Tr. 4307-4308. Espinoza never performed the duties of chief financial officer. Tr. 2306, 4179-4180, 4183-4184. Essentially, what Espinoza understood was that TTI/NMTV was separate from TBN only in that TTI/NMTV could take advantage of certain Commission policies pertaining to minority ownership; otherwise, TTI/NMTV was simply another vehicle for TBN programming. TBF Ex. 106, pp. 6-8; Tr. 4140, 4142-4143, 4145, 4169-4170, 4172-4173, 4258, 4294-4295, 4343-4345, 4365.

112. On July 23, 1990, Espinoza wrote to Crouch to submit his resignation as a board member of NMTV. TBF Ex. 106, pp. 15-16 and Tab A; Tr. 4395-4396. Shortly thereafter, Duff called Phillip Russell Aguilar to inquire whether he would be interested in joining NMTV as a director. TBF Ex. 121, p. 61. Crouch and Duff selected Aguilar, in part, because of his proximity to TBN's offices. Crouch did not think about asking a minority from either the Odessa or Portland communities to join NMTV's board of directors. Tr. 2914-2916. Aguilar understood he was asked to join the board because of his minority status and because he could provide a unique perspective in light of his background and work. TBF Ex. 107, pp. 188-189.

113. Aguilar had heard of NMTV. He was a friend of McClellan, who was manager of NMTV's Portland station. Aguilar believed that NMTV was an extension of the TBN network. TBF Ex. 107, pp. 26-27.

114. At the time, Aguilar was pastor of the Set Free Church in Anaheim, California, and president of Set Free Christian Fellowship, Inc. (Set Free). Among other things, Set Free endeavors to rehabilitate persons with alcohol and/or drug problems. In August 1985, TBN and Set Free had entered into an agreement whereby TBN made available at no cost to Set Free a home in Anaheim which would provide temporary shelter for homeless individuals. MMB Ex. 97; MMB Ex. 100, pp. 2-3; MMB Ex. 102, p. 3. The agreement has since been renewed annually. TBF Ex. 107, p. 40; MMB Ex. 154; MMB Ex. 209. In addition, TBN had made available to Set Free property in Texas and Illinois. TBF Ex. 107, p. 42; TBF Ex. 121, pp. 64-5; Tr. 3025-3027. Beginning in 1987, Set Free sent persons to work at TBN as telephone prayer partners and to pick up food and clothing for distribution to the needy in exchange for a \$5,000 per month payment from TBN. TBF Ex. 121, p. 64. Aguilar also knew Duff and Crouch from his appearances on KTBN-TV, TBN's flagship station. TBF Ex. 107, pp. 35-36.

115. On August 15, 1990, Crouch and Duff accepted Espinoza's resignation and elected Aguilar as NMTV's third director. Aguilar was also elected vice president; Duff was elected secretary/treasurer. MMB Ex. 318. Because Aguilar is Hispanic, NMTV continued to have minorities as two of its three board members.

116. At the August 15, 1990, meeting, Crouch and Duff gave Aguilar a general description of the purposes of NMTV and told him that he would be expected to attend board meetings and provide input into the business affairs of the corporation. Tr. 2314; 2912. Aguilar learned that NMTV owned two full power television stations and at least one low power television station in Fresno. TBF Ex. 107, p. 48. Duff also told him about NMTV's low power stations under construction and about five pending low power applications. TBF Ex. 107, pp. 214-215.

117. During his tenure as an NMTV director, Aguilar attended only 50% of the NMTV board meetings. For those meetings he did not attend, he either gave Crouch a proxy or subsequently provided his consent to the board's action. MMB Ex. 318; MMB Ex. 327; MMB Ex. 338; MMB Ex. 348; MMB Ex. 358; MMB Ex. 386; MMB Ex. 394; MMB Ex. 405.

118. With one exception, the minutes reflect that Aguilar did not initiate any proposal that affected NMTV's programming, employment or finances. (MMB Ex. 358). Aguilar was apparently ignorant of much of what NMTV was doing. He did not know that NMTV's Portland station had an affiliation agreement with TBN, and he did not know how many hours of TBN programming the Portland or Odessa station broadcast during a typical week. Further, he did not know how many hours per week NMTV's stations were on the air. TBF Ex. 107, pp. 99, 104, 197. While Aguilar voiced opinions as to programming he wanted broadcast in Portland, no such programs were ever developed. TBF Ex. 107, pp. 132-134. As far as Aguilar knew, May was NMTV's attorney and Juggert was both NMTV's attorney and TBN's attorney. TBF Ex. 107, pp., 35-37, 86-87. Aguilar did not know who NMTV's consulting engineers were, and he did not know how many employees worked at the Odessa and Portland stations. TBF Ex. 107, pp. 88-89. Although he knew that NMTV had

received loans from TBN to finance the acquisition of the Odessa and Portland stations, Aguilar had never seen the resolution authorizing TBN as NMTV's accounting agent (MMB Ex. 125), and he did not know whether its provisions were in effect when he was a director of NMTV. He also did not know what happened to money received by TBN from viewers of the Odessa and Portland stations. TBF Ex. 107, pp. 60-61, 92-95. Although he looked at NMTV financial statements, he did not know how much money NMTV owed TBN. TBF Ex. 107, p. 160. Aguilar did not know how NMTV chose its low power markets. TBF Ex. 107, pp. 194-195. Finally, although he proposed to go to Portland and visit the station "to review its operations," Aguilar never did so. MMB Ex. 394; TBF Ex. 107, pp., 116-119; Tr. 4438-4439.

119. Shortly after the Commission sent the letter of inquiry to NMTV in September 1991 (see ¶ 99, *supra*), Crouch learned that May & Dunne had concerns about Aguilar's reliability as a director sufficient to recommend adding another minority to NMTV's board.²⁴ MMB Ex. 376; Tr. 3135-3136. Consequently, on October 2, 1991, the NMTV board elected Edward Victor Hill, an African-American and pastor of the Mount Zion Missionary Baptist Church, as its fourth board member. MMB Ex. 377; TBF Ex. 102, p. 1; Tr. 1919. The minutes reflect that Hill was to recommend new areas of service to minorities for the corporation. MMB Ex. 377. Immediately prior to or shortly after his election to NMTV's board, Hill received a packet of information about NMTV, its board, on-going projects and a financial statement. TBF Ex. 102, p. 14; Glendale Ex. 75; Tr. 2019.

120. Hill had long been a member of the TBN "family." He had had a half-hour weekly program on TBN since at least 1986 and had appeared on TBN telethons and at TBN rallies to raise money not only for his own show but also for TBN special projects. MMB Ex. 113, p. 3; TBF Ex. 102, p. 9; Tr. 1918-1919, 2439. In return, TBN periodically gave Hill money for various charitable projects involving his church in south central Los Angeles. MMB Ex. 89, p. 2; TBF Ex. 102, pp. 11-12. In addition, TBN paid Hill honoraria ranging from \$3,000 to \$20,000 per year. TBF Ex. 102, p. 11. Hill considers himself a close friend of both Crouch and Crouch's wife, Janice. Tr. 1919.

121. Hill proved to be a more active board member than Espinoza or Aguilar. For instance, shortly after he became an NMTV board member, Hill suggested that NMTV retain a minority attorney to review its relationship with TBN, thus leading to the hiring of Tyrone Brown. TBF Ex., 102, p. 20; Tr. 2369. Moreover, at the first annual NMTV board meeting that he attended, Hill urged that the corporation seek to acquire additional full and low power stations and, specifically, a low power station in the Los Angeles area. MMB Ex. 386, p. 2; TBF Ex. 102, pp. 18-19. Hill also suggested a seven year schedule for NMTV to pay off its debt. MMB Ex. 386, p. 2. Finally, in October 1992, Hill persuaded Crouch to recommend having NMTV lend \$1.5 million to a company in which Hill was an officer and director.²⁵ MMB Ex. 404; MMB Ex. 405; TBF Ex. 102, pp. 21-22; Tr. 1973-1975. Hill has attended, or participated via

telephone at, most of the board meetings held by NMTV during his tenure. MMB Ex. 377; MMB Ex. 386; MMB Ex. 394; MMB Ex. 405; MMB Ex. 412.

122. Notwithstanding his advocacy and efforts, Hill had little impact on the operations of NMTV. During Hill's time on NMTV's board of directors, NMTV has made no attempt to acquire a full power station, and it has not tried to sever its ties with Crouch and TBN, other than by starting to repay its debt. Tr. 2025-2027, 2876. Likewise, NMTV has not attempted to buy existing low power permits or stations as Hill wished; it has merely sought to obtain low power authorizations only by filing applications for new construction permits. Tr. 2032, 2587-2588. TBN, not NMTV, has purchased low power permits or stations available for sale. MMB Ex. 70, p. 5; MMB Ex. 87; MMB Ex. 91, pp. 2, 6; Tr. 2607, 2624, 2632. Although Hill did suggest that a particular person be asked to serve on NMTV's Portland station's advisory board, there is no evidence that Hill has had any input into NMTV's programming or employment. TBF Ex. 102, p. 20-21. While NMTV now has a note and schedule to pay off its debt to TBN, nearly a year passed from when NMTV's board first discussed paying back TBN to the time it actually began doing so. MMB Ex. 396; Glendale Ex. 93; Jt. Ex. 1, p. 19. Finally, while Hill, like his fellow directors, voted to forgive Prime Time's debt to NMTV, there is no indication that he has ever pressed TBN to forgive NMTV's debt which arose from the construction and operation of the Odessa station. Tr. 1981.

123. Moreover, like Aguilar, Hill seemed to be quite ignorant of how NMTV operated. In this regard, Hill mistakenly thought McClellan, the Portland station manager, was a director of NMTV. Tr. 1920. He did not know how many low power stations NMTV owned or what programming they were broadcasting. Tr. 1925, 2029-2030. He did not know how many directors NMTV could have Tr. 1928. He did not know whether Crouch and/or Duff received any income from NMTV Tr. 1935-1936. He thinks Miller, TBN's head of engineering, is an employee of NMTV. Tr. 1939. Hill does not know how many hours per day NMTV's Portland station is on the air, and he mistakenly believes that the only TBN programming regularly carried by that station is the nightly three hour "Praise the Lord" program. Tr. 1946. Hill has no knowledge of McClellan's salary and mistakenly believes NMTV has between 40 to 50 employees. Tr. 1955-1958. He had no knowledge of the Portland station's revenue, expenses or audience share for 1992 or 1993. Tr. 1961-1962. Hill did not know how much money NMTV owed to TBN. Tr. 1979-1980, 2002, 2017. He did not know what Duff's role was at TBN or with how many corporations other than NMTV she was involved. Tr. 2020-2021. He did not know that the only programming broadcast on NMTV's low power stations was TBN programming. MMB Ex. 341, p. 6; Tr. 2043-2045.

124. In late 1992 or early 1993, Juggert and Crouch became increasingly concerned about the possible negative effect on TBN and NMTV from adverse publicity concerning Aguilar's 1977 felony conviction for child assault. Tr. 3769-3771. Following a "frank" discussion with Crouch,

²⁴ Among other things, May & Dunne was concerned about Aguilar's failure to attend NMTV board meetings and its inability to obtain reliable information from Aguilar about his prior criminal conviction for child assault, which had generated

adverse publicity. MMB Ex. 355; MMB Ex. 376.

²⁵ For various reasons, the loan was never made. Glendale Ex. 218; Tr. 1975, 1978-1979, 3749-3752.

Aguilar submitted his resignation from NMTV's board. TBF Ex. 107, p. 180; TBF Ex. 107, Tab A, p. 87; Tr. 3772, 3774. To maintain the present level of minority involvement and to keep a Hispanic present on its board, Duff asked Armando Ramirez to replace Aguilar as its fourth director.²⁶ MMB Ex. 412; TBF Ex. 103, pp. 1, 8. At the time, Ramirez was a TBN program host and full-time pastor of El Siloe Presbyterian Church in east Los Angeles. TBF Ex. 103, p. 1.

125. Ramirez and Duff had known each other for a number of years. From 1979 to 1982, Ramirez was a volunteer assisting with the hosting and production of the *Spanish Praise the Lord* program at TBN. He also hosted *Reporte Publico* at TBN, where his supervisor was Duff. TBF Ex. 103, p. 5. After a ten year hiatus from TBN, Ramirez returned in 1992 to host a program on TBN, *Our Town*, and has since created a second program which is broadcast on CET's station in Houston. TBF Ex. 103, pp. 6-7; Tr. 4011-4012. Ramirez joined the NMTV board because of his friendship with Duff. TBF Ex. 103, p. 8. For hosting *Our Town*, Ramirez receives about \$250 per month. Tr. 4011. His liaison for the program broadcast in Houston is Duff. Tr. 4034-4035. Duff is Ramirez' second level supervisor for the *Our Town* program. Tr. 4030-4032.

126. Immediately upon his election to the NMTV board, Ramirez, along with fellow directors Duff and Hill, voted to relieve Prime Time of its debt to NMTV. MMB Ex. 412. At the time, Ramirez did not know whether Prime Time's station in Odessa was a full power or a low power station, and he did not know the original amount of the debt, or how long it had been outstanding. Tr. 4066-4067. Ramirez also did not know the condition of NMTV's finances. Tr. 4070-4071. Ramirez understood that if Prime Time's debt were not forgiven, Prime Time would go bankrupt and TBN programming would no longer be carried by the Odessa station. Tr. 4116. Ramirez was shown no documents concerning Prime Time's financial situation or repayment efforts, and he did not consider foreclosing on the loan or proposing a revised payment schedule. Tr. 4117-4118, 4072. It was not discussed with Ramirez how forgiving Prime Time's debt would help NMTV or whether action short of forgiving the debt was the better course. Tr. 4119-4122. Ramirez did not receive an agenda prior to the vote to know what was going to be discussed at the meeting. Tr. 4109-4110. Ramirez inferred that Prime Time was an affiliate of TBN, but did not know that Prime Time owed more than \$200,000 to TBN. Jt. Ex. 1, p. 31; Tr. 4072-4075.

127. Subsequently, Ramirez participated at one other NMTV board meeting to determine whether NMTV should waive the attorney-client privilege relative to certain documents involving communications between NMTV/TBN and May. TBF Ex. 103, p. 9; Tr. 4039-4040. The meeting occurred in Duff's office and she, Ramirez and Hickey were there, while Crouch, Hill and May participated by telephone. Tr. 4075-4076. Ramirez was aware that May & Dunne represented both TBN and NMTV. Tr. 4077. The main item on the agenda was a possible conflict of interest. Tr. 4078. Before the meeting, Ramirez received orally an agenda of what was going to be discussed. Tr. 4110.

128. Ramirez understands that Duff functions as executive officer of NMTV. TBF Ex. 103, p. 10. He has received and read a copy of NMTV's articles and bylaws. Tr. 4013-3014. As far as Ramirez knows the board has not considered adding directors, nor has it considered adding a director from Portland. Tr. 4023-4025. Ramirez understands that the officers of NMTV are Duff, Crouch, Hickey and Brown, although he does not know what Hickey and Brown do. Tr. 4033, 4046. Ramirez thinks NMTV can own 12 to 14 full power commercial television stations, but he understands that so long as Crouch is on the board, NMTV may be limited to its current holdings. Tr. 4111-4113. Ramirez thinks NMTV has about 10 low power stations and that the programming comes from TBN and perhaps some local programming. Tr. 4113.

129. Ramirez does not know what engineering services TBN provides to NMTV, and he does not know whether NMTV employs an independent auditor, or the identity of the consulting engineers. Tr. 4053-4054. Ramirez knows now but did not know during his deposition how many employees NMTV has. Tr., 4054. Ramirez does not know about the billing arrangements between NMTV and litigation counsel. Tr. 4055. As far as Ramirez knows, Juggert is not a lawyer for NMTV. Tr. 4056. Ramirez is aware that TBN is providing accounting services for NMTV and that the agreement to provide business services (MMB Ex. 337) is in effect. Tr. 4081-4084. Ramirez does not know whether NMTV has local (California) counsel, or whether NMTV has an engineer other than Miller. Tr. 4104-4105.

130. Ramirez acknowledges that neither he nor his fellow directors have considered whether to carry programming other than TBN on the Portland station. Tr. 4088-4089. He does not know how many hours per day the Portland station operates, although he does know that the Portland station has originated some programming. Tr. 4092. Further, although he is aware of the production agreement involving the Joy program (MMB Ex. 383), and that McClellan is NMTV's Portland station manager, he does not know whether McClellan receives any compensation for the production of Joy or how many hours per week McClellan devotes to producing Joy. Tr. 4093-4095. Ramirez does not know with respect to the program logs for Portland which portions are prepared by TBN and which by NMTV. Tr. 4101.

May's Treatment of NMTV

131. May's practice in billing TBN was to send one bill per month which included line items for each of the various TBN companies. With the next bill after the billing of NMTV's application to acquire the Odessa station in 1987, May included the first entry for NMTV.²⁷ May continued to include NMTV as an entry on TBN's bill until the summer of 1992, following petitions to deny directed against NMTV's application to obtain a television station in Wilmington, Delaware, and TBF's application in the instant proceeding. TBF Ex. 105, Tab D; Tr. 3298. May did not prepare a separate retainer letter for NMTV, and the rate charged was the same rate charged to all the other companies listed on TBN's bill. TBF Ex. 105, p. 6. Likewise, when May's billing rate changed in 1989, the rate charged was the same for TBN, NMTV and CET. MMB

²⁶ Sometime between 1980, when Duff first asked Ramirez to join TTI's board of directors, and 1993, Ramirez became a citizen of the United States.

²⁷ May's June 12, 1986, statement included an entry for TTI. However, May did not recall what service he performed. MMB Ex. 105; Tr. 3318.

Ex. 239; Tr. 3320-3321. May claims that he added NMTV to TBN's bill with Duff's knowledge and assent. He also claims that he sent NMTV's bill to TBN because he knew TBN was providing accounting services for NMTV. Tr. 2844, 3327-3329.

132. Roughly contemporaneous with the filing of the applications to assign the Odessa and Portland permits to NMTV, May claims he discussed with Duff and Crouch that he had a potential conflict of interest in representing both TBN and NMTV. According to May, the potential conflict arose because loans were going to be made by TBN to NMTV. Tr. 3058-3060, 3067. May maintains that, despite the potential conflict, Duff and Crouch gave him permission to continue to represent both TBN and NMTV. Tr. 3574-3582. May never had a discussion with Espinoza about the existence of a potential conflict. Tr. 3061. Neither May's effort to bring the potential conflict to Duff's and Crouch's attention nor their response to him was ever reduced to writing. Unlike his understanding of the potential for conflict between TBN and NMTV, May regards all of the Trinity-named companies as basically the same client despite the existence of separate corporations. Tr. 3295-3296.

TBN and NMTV Formalize Their Relationship

133. At some point before the filing of NMTV's application to acquire the Odessa station, May requested that TBN formalize its arrangement with TTI/NMTV regarding TBN's handling of funds. However, he did not explain why it was necessary or prudent to do so. Tr. 3714, 3873. As a result, the TTI board expressly authorized TBN's accounting department to handle TTI funds and bills. MMB Ex., 125; Tr. 2313. Initially, TBN provided accounting services free of charge. Tr. 1424, 2331. On January 22, 1991, Duff prepared and executed, on NMTV's behalf, an agreement for the provision of business services whereby NMTV obligated itself to pay \$422.50 per month for four years for TBN's bookkeeping and accounting services. MMB Ex. 337. Those accounting services include preparation of NMTV's tax returns and financial statements, the latter of which are now segregated from TBN's. MMB Ex., 257; MMB Ex. 272; MMB Ex. 322; MMB Ex. 325; MMB Ex. 364; MMB Ex. 398; Tr. 2109, 2871, 2918-2919, 2977. TBN has never charged NMTV for engineering services. Tr. 2330, 2332.

134. Following NMTV's filing of the Odessa application, May advised Duff that NMTV should hold its annual meetings separate from the annual meetings of TBN and its affiliated corporations. TBF Ex. 105, p. 19; Tr. 2684-2685. Again, there is no evidence that May provided any explanation.²⁸ Thus, beginning in 1988 and continuing through 1992, NMTV has conducted its annual meetings outside of the group meetings of TBN and the other Trinity-named corporations. MMB Ex. 176; MMB Ex. 237; MMB Ex. 293; MMB Ex. 338; MMB Ex. 386.

135. Notwithstanding the advice concerning financial documentation and annual meetings, there is no indication that May ever advised NMTV to separate itself fully from TBN or develop a plan to do so. Tr. 2876, 4270. In this regard, from 1985 to the present, TBN and NMTV have had common assistant secretaries, each of whom is a TBN

employee. In addition, NMTV's annual meetings, while separate, occur at the same time and at the same location as TBN's annual group meetings. MMB Ex. 91; MMB Ex. 101; MMB Ex. 124; MMB Ex. 176; MMB Ex. 205; MMB Ex. 236; MMB Ex. 237; MMB Ex. 293; MMB Ex. 294; MMB Ex. 338; MMB Ex. 339; MMB Ex. 385; MMB Ex. 386. Likewise, TBN and NMTV continued to share consultants, including May's firm and engineer Fisher.²⁹ MMB Ex. 406; Tr. 3056. Finally, Juggert (TBN's lawyer and one of its directors, but not a director of NMTV) has regularly attended NMTV board meetings, has taken the minutes and has kept the TTI/NMTV minute book. Tr. 3706, 3723.

Present Ownership Interests of TBN and NMTV

136. As noted, NMTV sold its Odessa station in April 1991. MMB Ex. 358. Shortly thereafter, TBN filed an application to assign the license of its Greensboro television station. Following the sale of the Greensboro station in December 1991, TBN and NMTV, together, have held licenses for 12 commercial television stations. MMB Ex. 402; TBF Ex. 105, Tab L, p. 1, n.5.

Financial Situation of TBN and NMTV

137. The most recent financial statements for TBN and NMTV are those for calendar year 1990. The TBN statement shows a fund balance of \$114 million and cash and cash equivalents of \$15 million. TBN's total liabilities were slightly less than \$12 million. MMB Ex. 365, pp. 2-3. NMTV's statement reflects a total fund balance of \$643 thousand. Also, current assets totalled \$108 thousand while current liabilities totalled less than \$9 thousand. MMB Ex. 364, p. 2.

2. TBF Qualifying Issue

138. TBF is a Florida non-stock non profit corporation. TBF was incorporated in 1979 at the behest of Crouch. MMB Ex. 416; TBF Ex. 36, Tab A. TBF has held the license for Station WHFT(TV) since 1980. MMB Ex. 3; MMB Ex. 25, p. 2; TBF Ex. 36, p. 1.

139. Crouch has served continuously as TBF's president. Since 1985, TBF's three directors have been Crouch; Crouch's wife, Janice; and Juggert. During that same period, these individuals were the sole directors of TBN. MMB Ex. 91; MMB Ex. 101; MMB Ex. 124; MMB Ex. 236; MMB Ex. 294; MMB Ex. 339; MMB Ex. 385; MMB Ex. 4097; TBF Ex. 36, p. 1; TBF Ex. 104, p. 1. Although at various times, TBF's board of directors consisted of individuals who were not also directors of TBN, TBF has always been considered and treated as an "owned and operated company" of TBN. MMB Ex. 25; MMB Ex. 39; MMB Ex. 55, p. 1; MMB Ex. 104 p. 4; MMB Ex. 127, p. 4; MMB Ex. 225, p. 3; MMB Ex. 291, p. 3; MMB Ex. 341, p. 6; Tr. 3849. In this regard, TBF's annual board meeting has always been held jointly with the annual meeting of TBN's board, and TBF has always been included in TBN's financial statements. MMB Ex. 3; MMB Ex. 48; MMB Ex. 50; MMB Ex. 55; MMB Ex. 61; MMB Ex. 70; MMB Ex. 86; MMB Ex. 91; MMB Ex. 93; MMB Ex. 101; MMB Ex. 110; MMB Ex. 124; MMB Ex. 156; MMB Ex. 211; MMB Ex.

²⁸ According to Duff, NMTV began to hold separate annual meetings because of a consensus of its board. No documentation concerning this consensus or any related discussion appears to exist. Tr. 1783.

²⁹ In this regard, Crouch and Duff claimed that Miller was a consultant to NMTV. Tr. 1408; 2854. Miller used a number of different titles depending on the Trinity-related company for which he was providing services. MMB Ex.378.

236; MMB Ex. 260; MMB Ex. 294; MMB Ex. 323; MMB Ex. 339; MMB Ex. 365; MMB Ex. 385; MMB Ex. 407. TBF's bylaws have always contained special provisions which protect Crouch's role as president. MMB/TBF Jt. Ex. 1.

140. Since the formation of the law firm of May, Dunne & Gay in 1983, Colby May has served as TBF's chief FCC counsel. TBF Ex. 105, pp. 2-3. May receives payment from TBN for the services he provides to TBF. TBF Ex. 105, Tab D. May views TBF as part of the Trinity organization. He also views TBF and TBN as one client. Tr. 3295-3296, 3334-3336.

141. TBF and TBN use virtually the same supervisory personnel. In this regard, Miller, TBN's vice president for engineering, supervises the chief engineer of WHFT(TV). Glendale Ex. 210, pp. 11, 29, 138-140; Glendale Ex. 151. Likewise, TBN personnel are involved in the preparation of all TBF tax returns, and the TBN director of finance supervises the WHFT(TV) station manager. MMB Ex. 317; Tr. 2871, 2911, 2918-2919. TBN personnel also oversee TBF's ascertainment, programming and personnel. TBF Ex. 32, pp. 7-9; TBF Ex. 33, p. 25; TBF Ex. 34, pp. 1, 3; Tr. 2448-2450.

3. Renewal Expectancy

Relevant Time Period

142. The relevant time period for purposes of determining TBF's entitlement to a renewal expectancy is from February 1, 1987, the beginning of the most recent license term, to December 27, 1991, the date that Glendale filed its captioned application.³⁰ Hereafter, this period will be referred to as the "renewal period."

Community Ascertainment

143. TBF made a continuous effort during the renewal period to ascertain the needs, interests and concerns of Miami and adjacent south Florida communities. TBF ascertained needs by having its Public Affairs Director interview at least 25 community leaders³¹ by telephone every three months. TBF Ex. 32, p. 12; TBF Ex. 33, pp. 1-2. In addition, TBF's Public Affairs Director read local daily newspapers of general circulation (*Miami Herald* and *Fort Lauderdale Sun Sentinel*) and weekly magazines (*Time* and *U.S. News & World Report*). The Public Affairs Director also viewed and listened to other stations' coverage of local events, and reviewed the monthly agenda of the Miami City Commission to obtain insight into the area's most pressing problems. TBF Ex. 32, pp. 12-13; TBF Ex. 33, pp. 3-4; TBF Ex. 33, Tab B.

144. Once every three months, TBF interviewed at least one community leader from each of the following 19 categories: agriculture; business; charities; civic; neighborhood, or fraternal organizations; consumer services; culture; education; environment; government; labor; military; minority or ethnic; elderly, women's; professions; youth; public safety; health and welfare; recreation; and religion. TBF asked community leaders to identify what they thought were the

three most significant problems and needs in the service area. TBF recorded the responses on a Community Leader Sample form. TBF Ex. 33, pp. 4-6 and Tabs C and D. In addition, TBF asked some, but not all, of the persons who called the station's "Prayer Line" to identify three problems. TBF recorded the responses on an ascertainment form. TBF Ex. 32, p. 12; TBF Ex. 33, pp. 3-4; TBF Ex. 33, Tab B.

145. During each calendar quarter, TBF's Public Affairs Director kept running count of the problems and needs mentioned by all the sources reviewed. TBF Ex. 33, p. 13; TBF/Glendale Jt. Ex. 2. Twice each quarter, a written report of these problems and needs was prepared. TBF sent the reports to TBN's Public Affairs Department in California. TBF Ex. 34, p. 3. Within days after the calendar quarter ended, TBN's Public Affairs Department sent to TBF a network "Problems/Programs" list for the preceding quarter, which listed programs that were responsive to the top ten issues ascertained by TBN network stations. In the meantime, TBF's Public Affairs Director began preparing a second report (Final Report), which included a list of the top five problems ascertained that quarter as well as some, but not all, of the local programs which had addressed those problems. Upon receipt of the TBN "Problems/Programs" list, TBF's Public Affairs Director took information concerning programs which were responsive to Miami area problems and incorporated them into TBF's "Final Report" for the quarter. TBF then placed the Final Report in the WHFT(TV) public file. TBF Ex. 33, pp. 6-9.

146. For part of the license term, TBF's Public Affairs Director worked with WHFT(TV)'s Production Manager to book guests on the station's community service oriented programs. At other times, the station's Public Affairs Director not only conducted the community leader interviews but also booked the guests who discussed the issues. TBF Ex. 32, p. 13. In booking guests, TBF's Public Affairs Director concentrated on ensuring that the top five problems received coverage. TBF Ex. 33, p. 14.

147. In addition to conducting ascertainment interviews, TBF's Public Affairs Director researched topics for discussions on WHFT(TV)'s public affairs programs. In determining topics and scheduling guests, WHFT(TV)'s public Affairs Director received input and final approval from TBN. TBF Ex., 33, pp. 14-15; TBF Ex. 34, pp. 1-2; TBF Ex. 34, pp. 4-5.

Responsive Programming

148. During the renewal period, WHFT(TV) broadcast two regular scheduled locally produced public affairs programs and one locally produced program which included interviews with local clergy and community leaders as well as music. TBF designed these programs to address the problems and needs identified during the ascertainment process. In addition, WHFT(TV) broadcast general interest programs that regularly examined subjects of local or national interest. The programs are listed below.

³⁰ The Presiding Judge has ruled that the relevant period is the license term; however, he proposed to give little or no weight to activities occurring after Glendale filed its competing application. Tr. 389. Thus, as a practical matter, the relevant period ended with the filing of Glendale's application.

³¹ TBF's Public Affairs Director identified community leaders by reference to newspaper accounts, by noting who is being identified as a community leader by other media, and by research. TBF Ex. 33, pp. 4-5.

Local Programming

149. *Feedback* TBF broadcast this one half hour public affairs program between one and three times per week throughout the majority of the license term. From February 2, 1987, through March 30, 1987, *Feedback* was broadcast on Mondays at 9:30 a.m., Fridays at 2:30 a.m. and Saturdays at 2:30 a.m. From April 3, 1987, through May 25, 1987, *Feedback* was broadcast on Mondays at 9:30 a.m. and Fridays at 2:30 a.m. From June 8, 1987, through August 29, 1990, *Feedback* was broadcast on Mondays at 12:30 p.m. In addition, from January 27, 1988, through August 29, 1990, WHFT(TV) broadcast *Feedback* on Wednesdays at 5:00 a.m. From June 24, 1988, through February 22, 1989, WHFT(TV) also broadcast *Feedback* on Saturdays at 2:30 a.m. From July 5, 1989, through May 30, 1990, WHFT(TV) broadcast *Feedback* on Thursdays at 1:30 a.m. in addition to the Monday and Wednesday broadcasts. Between September 5, 1990, and March 20, 1991, and on April 10, 1991, the program aired only at 5:00 am. on Wednesdays. On June 7, 1991, WHFT(TV) broadcast a *Feedback* program at 12:00 noon. Beginning July 7, 1991, through December 29, 1991, WHFT(TV) broadcast *Feedback* on Wednesdays at 5:00 a.m., Thursdays at 11:30 a.m. and Saturdays at 8:30 a.m. TBF Ex. 32, pp. 22-24; TBF Ex. 33, pp. 10-12. TBF/Glendale Jt. Ex. 3, p. 1.

150. *Feedback* was a panel discussion and audience participation program produced by WHFT(TV). The host/moderator and guests discussed issues of importance to the people of Miami and surrounding communities and answered questions posed by the audience. Each program generally focused on a particular issue. TBF Ex. 32, p. 24; TBF Ex. 33, p. 12.

151. *Feedback* was produced in response to ascertained issues. TBF Ex. 32, p. 13. Issues covered included: aging (TBF Ex. 33, pp. 22-23, 62); AIDS (TBF Ex. 33, Tab H, pp. 48, 115, 140-141); alcohol and drug abuse (TBF Ex. 33, Tab H, pp. 79, 211, 234, 254, 269, 291; Tab HH, pp. 7, 32, 69-70, 129-130, 136, 159-160); child abuse (TBF Ex. 33, Tab H, p. 227); cost of living/poverty (TBF Ex. 33, Tab H, p. 249; Tab HH, pp. 79-80, 138, 165-166); crime/pornography (TBF Ex. 33, Tab H, pp., 7, 77, 120, 139, 161-162, 207-208, 230-232, 250-251, 265-267, 289; Tab HH, pp. 3-5, 47-48, 67, 126, 157); discrimination/minorities (TBF Ex. 33, Tab H, pp. 141, 187); education (TBF Ex. 33, Tab H, pp. 109, 255-256, 271, 293; Tab HH, pp. 13, 82); health care (TBF Ex. 33, Tab H, pp. 148, 237, 273-274; Tab HH, p. 16); the homeless (TBF Ex. 33, Tab HH, pp. 143); pollution and the environment (TBF Ex. 33, Tab H, pp. 151, 277, 295); transportation (TBF Ex. 33, Tab H, p. 86); unemployment (TBF Ex. 33, Tab HH, p. 164); and youth (TBF Ex. 33, Tab H, pp. 64, 87).

152. Participants in programs covering alcohol and drug abuse included the executive director of a half-way house for men and women with drug and alcohol problems; the supervisor of the perinatal addiction unit and special project coordinator of Broward County; doctors; the director of a residential drug and alcohol rehabilitation program; and the pastor of a regeneration program. TBF Ex. 5, p. 1; TBF Ex. 10; TBF Ex. 12; TBF Ex. 15; TBF Ex. 33, Tab H, p. 79. Guests discussing crime and the criminal justice system included local commanders of Crimestoppers; a Miami detective, two former leaders of rival Miami street gangs; the executive director of an organization that seeks to rehabilitate street gang leaders and members; the Broward County Sheriff and the Chief Judge of Broward County. TBF Ex. 17, p. 2; TBF Ex. 20, p. 2;

TBF Ex. 26; TBF Ex. 33, Tab H, pp. 139, 207-208. In a discussion focusing on pornography, participants included an ex-FBI agent and the executive director of the ACLU of Florida. TBF Ex. 33, Tab H, p. 230. In an episode which focused on AIDS, guests included a gynecologist, a representative of a company that distributes condoms, a registered nurse and a minister. TBF Ex. 33, p. 48.

153. *South Florida Public Report* WHFT(TV) broadcast this locally produced half hour program between March 27, 1991, and July 10, 1991. *South Florida Public Report* was broadcast on Saturdays at 8:30 a.m. and on Wednesdays at 5:30 a.m. The host interviewed one or two guests in connection with issues of importance to the people of Miami and surrounding communities. Each program was devoted to a particular issue. TBF Ex. 32, p. 24; TBF Ex. 33, p. 12.

154. *South Florida Public Report* was produced in response to ascertained issues. TBF Ex. 32, p. 13. Issues that were covered included: cost of living/inflation/economy (TBF Ex. 33, Tab HH, pp. 109, 112); crime (TBF Ex. 33, Tab HH, pp. 98, 126); drug and alcohol abuse (TBF Ex. 33, Tab HH, p. 100); education (TBF Ex. 33, Tab HH, pp. 106-107, 139); and the homeless (TBF Ex. 33, Tab HH, p. 112-113).

155. *Miami Praise the Lord* This two hour locally produced program airs at least once a week. One half hour of the show consists of music; the remainder contains interviews of guests. Some, but not all, of the interviews occur in connection with issues of importance to the people of Miami and surrounding communities. TBF Ex. 32, p. 25; TBF Ex. 33, p. 14. An average of three guests are interviewed per program. Guests are interviewed separately. TBF/Glendale Jt. Ex. 4, p. 3.

156. From February 2, 1987, to September 1990, *Miami Praise the Lord* was broadcast on Fridays at 11:30 a.m. Beginning in September 1990, a second *Miami Praise the Lord* was broadcast on Thursdays at 11:30 a.m. TBF Ex. 32, pp. 24-25.

157. Segments of *Miami Praise the Lord* were produced in response to ascertained issues. TBF Ex. 32, p. 13. Issues that were discussed included: abortion (TBF Ex. 33, Tab H, p. 224); singles/family (TBF Ex. 33, Tab H, p. 163); child abuse (TBF Ex. 33, Tab H, p. 226); crime (TBF Ex. 33, Tab H, pp. 50, 76, 101-102, 186, 265, 268, 289-2909; Tab HH, pp. 4, 44-47, 66, 157); discrimination/minorities (TBF Ex. 33, Tab H, pp. 35, 122, 140); drug and alcohol abuse (TBF Ex. 33, Tab H, pp. 54, 79, 120-121, 142, 159, 181-182, 209-210, 233, 253, 291; Tab HH, pp. 6-7, 30-31, 40, 68-69, 100, 129, 158-159); the economy (TBF Ex. 33, Tab H, p. 25); education (TBF Ex. 33, Tab H, pp. 124, 188-189, 213, 255, 270-271; Tab HH, pp. 13, 49, 81-82); growth/population (TBF Ex. 33, Tab H, p. 126); health care/AIDS (TBF Ex. 33, Tab H, pp. 8, 37, 48, 58, 74, 115, 148; Tab HH, p. 15); homelessness (TBF Ex. 33, Tab H, pp. 38; Tab HH, pp. 51-52, 85-86, 167-168); senior citizens/aging (TBF Ex. 33, Tab H, p. 61); inflation/cost of living/poverty (TBF Ex. 33, Tab H, pp. 100, 248; Tab HH, pp. 3, 40-42, 78-79, 165); pornography/obscenity (TBF Ex. 33, Tab H, pp. 296-297); transportation (TBF Ex. 33, Tab H, p. 62); youth/children (TBF Ex. 33, Tab H, pp. 14, 39, 63, 127-128, 196).

158. In discussing the problems of the poor and homeless, WHFT(TV) has interviewed the associate pastor of a church with outreach programs for needy people; the executive director of a local organization which collects and distributes food and clothing to the homeless and needy; an

individual who distributes food to the homeless on Sundays; the president of a shelter program in downtown Miami; and a Miami policeman who disguised himself as a homeless person. TBF Ex. 2; TBF Ex. 6; TBF Ex. 7; TBF Ex. 14; TBF Ex. 30; TBF Ex. 33, Tab H, p. 38. In segments pertaining to drug and alcohol abuse, participants included persons in charge of rehabilitation facilities for men and women with drug and alcohol problems; the pastor of a ministry that deals with problems of addiction and provides literacy training for former drug abusers; and an information officer of the Florida Highway Patrol. TBF E. 5, p. 1; TBF E. 12; TBF Ex. 18; TBF Ex. 19; TBF Ex. 21; TBF Ex. 24. Segments discussing child abuse featured a victim of abuse (TBF Ex. 33, Tab H, p. 26); the founder of a home providing residential care for abused and neglected children (TBF Ex. 9); and a person associated with a facility that houses boys sent from the local courts (TBF Ex. 33, Tab H, p. 39). In a segment which discussed employment discrimination, the featured guest was the supervisory administrative judge for the EEOC. TBF Ex. 33, Tab H, p. 35.

159. In May 1991, the station produced a half-hour program entitled "Homeless" which focused on the lack of places in the Miami area for the homeless to find help. TBF Ex. 7, p. 5. The station did not broadcast news, traffic, weather or sports on a regular basis TBF Ex. 32, pp. 15-16.

TBN Network Programs

160. *Joy* was a general interest program broadcast by WHFT(TV) from Monday through Friday between 6 and 8 in the morning. From the beginning of the renewal period until the end of March 1990, the program was one hour in length. Thereafter, the program was a half hour. TBF/Glendale Jt. Ex. 3, p. 1. Program segments included music, cooking and discussions involving one or two guests. Some of the interviews consisted of discussions about problems and their solutions. Although the program was produced in southern California and focused on problems occurring there, the discussion covered the issue from both a local and a national perspective. TBF Ex. 32, pp. 27-28; TBF/Glendale Jt. Ex. 3, p. 2.

161. Issues that were covered included: AIDS (TBF Ex. 33, Tab H, pp. 32, 75, 99, 116); child abuse (TBF Ex. 33, Tab H, pp. 227-228); crime (TBF Ex. 33, Tab H, pp. 33-34, 52, 77-78, 102, 118-119, 139, 208, 232, 251-252, 267-268, 290; Tab HH, pp. 5, 67, 99, 127); discrimination/minorities (TBF Ex. 33, Tab H, p. 103-104, 124, 141, 188); drug and alcohol abuse (TBF Ex. 33, Tab H, pp. 6, 35, 54-55, 80, 106-108, 122, 142, 144, 159-161, 182, 212, 235, 269-270, 292; Tab HH, pp. 10-11, 32-36, 72-73, 106, 131-134, 160-162); education (TBF Ex. 33, Tab H, pp. 36, 57-58, 81, 15-147, 171-172, 190-191, 214-215, 256, 272, 294; Tab HH, pp. 13-15, 50, 142); growth/population (TBF Ex. 33, Tab H, p. 125); health care (TBF Ex. 233, Tab H, pp. 11, 13, 38, 59, 61, 85, 109-110, 149, 164-165, 192-195, 238-239, 274-275; Tab HH, p. 16); homelessness (TBF Ex. 33, Tab H, pp. 24, 39; Tab HH, pp. 52-54, 87, 143); inflation/cost of living/poverty (TBF Ex. 33, Tab H, pp. 100-101, 169, 184-185, 249-250; Tab HH, pp. 43, 80, 109-110, 139, 167); pollution and the environment (TBF Ex. 33, Tab H, pp. 215-216, 278, 295); senior citizens/aging (TBF Ex. 33, Tab H, pp. 62, 152-153); singles/family (TBF Ex. 33, Tab H, p. 163); transportation (TBF Ex. 33, Tab H, p. 126-127); unemployment (TBF Ex. 33, Tab H, p. 25); youth/children (TBF Ex. 33, Tab H, pp. 18-19, 39-41, 63, 65-66, 87, 89, 92, 130, 166, 168, 196-198).

162. *Praise the Lord* was a general interest program that varied between two and three hours in length that WHFT(TV) broadcast throughout the license term. The program was broadcast live Monday through Friday evenings and a taped program aired Sunday evening. The program included interviews, music and preaching. Guests were usually ministers; however, others were also interviewed. The amount of discussion of community issues varied from program to program and would cover both local (usually southern California) as well as national interests. TBF Ex. 34, p. 4; TBF/Glendale Jt. Ex. 3, p. 2.

163. Issues that were covered during the license term included: abortion (TBF Ex. 33, Tab H, P. 225-226); AIDS (TBF Ex. 33, Tab H, pp. 49, 116); child abuse (TBF Ex. 33, Tab H, p. 230); crime (TBF Ex. 33, Tab H, pp. 34, 51, 78, 102, 119, 162); discrimination/minorities (TBF Ex. 33, Tab H, p. 21, 35, 52-53, 104-105, 124); drug and alcohol abuse (TBF Ex. 33, Tab H, pp. 5-6, 68, 106-108, 143-144, 211, 235, 254, 293; Tab HH, pp. 8-10, 12, 33, 35, 37-39, 72, 77, 105, 130, 137, 161); education (TBF Ex. 33, Tab H, pp. 37, 81, 293-294; Tab HH, p. 83); health and health care (TBF Ex. 33, Tab H, pp. 59, 82, 85, 110, 150, 165, 193, 238-239, 274); homelessness (TBF Ex. 33, Tab HH, pp. 53, 86); inflation/cost of living/economy (TBF Ex. 33, Tab H, pp. 50, 162, 186; Tab HH, p. 111); and youth/children (TBF Ex. 33, Tab H, pp. 17, 19-20, 41, 64, 87-89, 91-93, 128, 130-132, 166-167, 197).

164. *Calling Dr. Whitaker* included discussions about the environment and the medical ramifications of alcohol and drug abuse. TBF Ex. 32, p. 29; TBF Ex. 33, Tab H, p. 277-278; Tab HH, pp. 8, 11. It also dealt with other health issues, such as nutrition and aging. TBF Ex. 34, p. 8; TBF Ex. 33, Tab H, pp. 10, 59-60, 84, 148-150, 165, 192, 239-240, 276-277. Typically, the program aired at 2:30 p.m. on Mondays and was repeated at 2:00 a.m. on Wednesdays or Thursdays. The program appeared on various dates between February 1987 and September 1990.

165. *A Call to Action* focused on contemporary legal issues. TBF Ex. 32, p. 29. Station WHFT(TV) began carrying this half hour program in September 1988 on Wednesdays at 12:30 p.m. and Thursdays at 1:30 a.m. TBF Ex. 33, Tab H, p. 145, 189-190. In October and December 1988, the program also appeared on Saturdays at 4:30 p.m. TBF Ex. 33, Tab H, pp. 169-170. In the 4th quarter of 1989, WHFT(TV) carried the program on a Wednesday at 12:30 a.m. TBF Ex. 33, Tab H, p. 257. In December of 1990, WHFT(TV) broadcast this program at least three times; on a Monday at 9:00 p.m.; on a Wednesday at 12:30 p.m.; and on a Friday at 1:30 a.m. TBF Ex. 33, Tab HH, p. 50. In January and March of 1991, WHFT(TV) carried the program on a Wednesday at 12:30 p.m. and repeated it one other time. TBF Ex. 33, Tab HH, pp. 83-84.

166. *Treasures Out of Darkness* treated issues such as spouse abuse and single parenthood, drug and alcohol dependency, crime, and the homeless. Station WHFT(TV) broadcast the program throughout 1991 on Saturdays at 2 a.m. TBF Ex. 32, p. 29; TBF Ex. 33, Tab HH, pp. 75, 77, 99, 103, 106, 114, 127-128, 134-135, 138, 158, 160-162.

167. *700 Club* discussed a variety of topics including: abortion (TBF Ex. 33, Tab H, p. 224-225); AIDS (TBF Ex. 33, Tab H, pp. 33, 48-49, 74, 117); child abuse (TBF Ex. 33, Tab H, p. 228); crime (TBF Ex. 33, Tab H, pp. 34, 51-52, 77, 140, 161, 186, 208, 252-253, 267; Tab HH, pp. 48, 99-100, 128, 158); discrimination/minorities (TBF Ex. 33, Tab H, pp. 53-54, 103-104, 123); drug and alcohol abuse (TBF Ex. 33, Tab H, pp. 56, 79-81, 121, 143-144,

160, 182-184, 212-213, 236-237, 270, 292; Tab HH, pp. 8-9, 35-37, 70-71, 73-76, 101-104, 131-133, 135-138, 162-164); education (TBF Ex. 33, Tab H, pp. 37, 56-57, 146, 170-171, 189-192, 214, 257, 272; Tab HH, pp. 15, 84, 107-108, 142); health care (TBF Ex. 33, Tab H, pp. 83, 86, 149-151, 193-194, 276; Tab HH, p. 16); inflation/cost of living/poverty (TBF Ex. 33, Tab H, pp. 50, 76-76, 250; Tab HH, pp. 42-43, 80, 110-111, 167); senior citizens/aging (TBF Ex. 33, Tab H, pp. 61, 152); singles/family (TBF Ex. 33, Tab H, p. 163-164); unemployment (TBF Ex. 33, Tab HH, p. 165); and youth (TBF Ex. 33, Tab H, p. 67-68, 88-89, 166-167). Programs ran for one hour on various Mondays through Thursdays at 3:00 p.m.

168. *The Docket and the Word* provided information concerning health issues. WHFT(TV) broadcast the program for one hour, typically at 7:30 a.m. on Mondays and/or at 2:30 p.m. on Wednesdays. TBF Ex. 33, Tab H, pp. 37, 60, 83-84, 99, 110, 164, 195.

169. *Why Wait* discussed issues concerning teenage sexuality. TBF Ex. 32, p. 29. Station WHFT(TV) began broadcasting the program in October 1987. Generally, the program was shown for one half hour at 5:00 p.m. on Sundays and at 2:00 a.m. on Fridays. TBF Ex. 33, Tab H, pp. 90-91. In the last quarter, 1988, the program aired at 2:00 p.m. on Fridays and at 1:00 p.m. on Saturdays. TBF Ex. 33, Tab H, p. 168.

170. *Get in Shape* is an exercise program, which also included advice on nutrition. WHFT(TV) carried the half hour program Mondays through Thursdays between 12:00 and 12:30 p.m. beginning in the first quarter of 1987 through the first quarter of 1989, except that in the second quarter of 1987, the program appeared between 9:00 a.m. and 9:30 a.m. TBF Ex. 33, Tab H, pp. 27, 42, 69, 94, 111, 133, 173, 199. In the second quarter of 1989, WHFT(TV) carried the program on Mondays and Wednesdays at 12:00 noon. TBF Ex. 33, Tab H, p. 217. In the fourth quarter of 1989, WHFT(TV) resumed broadcasting the program on Mondays through Thursdays at noon. TBF Ex. 33, Tab H, p. 258. In the first quarter of 1990, WHFT(TV) carried the program on Mondays, Wednesdays and Fridays at noon. TBF Ex. 33, Tab H, p. 279.

Children's Programming

171. TBF broadcast several children's programs. All of the programs were TBN network programs and were not locally produced. TBF Ex. 32, p. 16.

172. *Kid's Praise the Lord* was broadcast by WHFT(TV) between 1987 through the end of 1991 on Saturdays between 9 to 9:30 in the morning. The show used singing, skits and puppetry to teach lessons. The lessons included being obedient to parents and respecting authority; problem solving through compromise; and sharing instead of being selfish. The puppets were of different races and ethnic groups in order to teach racial and ethnic harmony. TBF Ex. 32, pp. 16-17; TBF Ex. 33, Tab H, pp. 285, 303; Tab HH, pp. 25, 61, 88, 115.

173. *Joy Junction* was broadcast by WHFT(TV) on Saturdays throughout the license term between 10 and 10:30 in the morning. The show featured a western theme with a sheriff and a studio audience of children. The sheriff interacted with the studio audience and involved music, competition among the children and artwork. A theme or moral lesson ran through each program. TBF Ex. 32, p. 17; TBF Ex. 33, Tab H, pp. 285, 303; Tab HH, pp. 25, 61, 88, 116, 145, 170.

174. *Davey and Goliath* was a half hour show broadcast on WHFT(TV) on Saturday mornings throughout the license term. The hours of the show varied between 9 and 11:30 a.m. The adventures of the characters always involved a moral lesson about behavior or citizenship. TBF Ex. 32, p. 18; TBF Ex. 33, Tab H, pp. 285, 303; Tab HH, p. 25, 61, 88, 115, 145, 169.

175. *Gospel Bill Show* was a half hour show that WHFT(TV) broadcast on Saturdays, usually between 10:30 and 11 a.m. The show had a western flavor with the sheriff interacting with different townfolk. Each show had a moral lesson as the main theme. The show also featured a segment informing children about an animal that would be found at a zoo. TBF Ex. 32, p. 19; TBF Ex. 33, Tab H, pp. 285, 303; Tab HH, pp. 25, 61, 88, 115, 145, 169.

176. *Flying House* was a half hour show carried by WHFT(TV) on Fridays at 7 a.m. and Saturdays between 2:30 and 3 p.m. during 1990, and on Saturdays between noon and 12:30 p.m. during 1991. This animated show featured a professor who could take his house back in time. The children accompanying the professor would become eyewitnesses to the events described in the Bible and would learn about biblical geography and culture. TBF Ex. 32, p. 21; TBF Ex. 533, Tab H, pp. 285, 303; Tab HH, p. 25, 61, 89, 116, 146, 170.

177. *Quiley's Village* was a half hour program broadcast by WHFT(TV) during the late mornings or early afternoons on Saturdays in 1990 and 1991. The main character, a robot, interacted with children who had different adventures with him. The program featured music and songs and taught moral lessons. TBF Ex. 32, p. 21; TBF Ex. 33, Tab H, pp. 285, 303; Tab HH, pp. 25, 61, 89, 116, 146, 170.

178. *The Filling Station* was a half hour program broadcast by WHFT(TV) on Saturdays between 11 am. and noon from 1988 through the end of the license term. It was an animated variety show emphasizing moral conduct, good behavior and working together. TBF Ex. 32, pp. 21-22; TBF Ex. 33, Tab H, pp. 285, 303; Tab HH, pp. 25, 61, 89, 116, 146, 170.

Public Service Announcements

179. WHFT(TV) broadcast between 25 and 30 public service announcements (PSAs) per week, most of which originated with the Trinity Broadcasting Network. A few local PSAs were inserted by WHFT(TV); however, virtually all of these related to the station's outreach ministries; such as "His Hand Extended" or the station's "Prayer Line." TBF Ex. 32, p. 30; TBF/Glendale Jt. Ex. 3, pp. 1-2.

180. PSAs carried by WHFT(TV) covered matters pertaining to: alcohol and drug abuse (TBF Ex. 33, Tab H, pp. 42-43, 69, 94, 111, 133, 154-155, 174, 200, 218, 241, 158-159, 280, 299; Tab HH, pp. 19-20, 56-57, 90-91, 117-118, 148, 172); child abuse (TBF Ex. 38, p. 1; TBF Ex. 33, Tab H, pp. 42, 69, 94, 111, 133, 154, 173, 199, 217, 241, 258, 279, 298; Tab HH, pp. 19, 57, 90, 117, 147, 171); civic responsibility (TBF Ex. 38, p. 1); conservation (TBF Ex. 33, Tab H, pp. 42, 69, 94, 111, 133, 154, 173, 199, 217, 241, 258, 279, 298; Tab HH, pp. 19, 57, 90, 117, 147, 171); crime (TBF Ex. 33, Tab H, p. 42); discrimination (TBF Ex. 33, Tab H, p. 112, 133, 154, 173, 199, 217, 241, 258, 280, 298; Tab HH, pp. 19, 57, 90, 117, 137, 171); education (TBF Ex. 33, Tab H, pp. 43, 156, 174, 200, 218, 242, 259, 280, 299; Tab HH, pp. 20, 58, 91, 119, 149, 173); family relationship (TBF Ex. 38, p. 1; TBF Ex. 33, Tab H, pp. 43, 69, 94, 111, 134, 155, 175, 200, 218, 242, 259, 281, 299;

Tab HH, pp. 20, 58, 91, 119, 149, 173); the federal government (TBF Ex. 33, Tab H, pp. 220, 242, 259, 281, 300; Tab HH, pp. 21, 58, 91, 119, 149, 173); the handicapped (TBF Ex. 33, Tab H, pp. 112, 134, 155, 175, 200, 219, 244, 2262, 284, 302; Tab HH, pp. 23-24, 60, 94, 122, 152, 176); health and health care (TBF Ex. 38, p. 2; TBF Ex. 33, Tab H, pp. 43, 70, 95, 112, 134, 155-156, 175, 200, 219, 242-243, 259-260, 281-282, 300; Tab HH, pp. 21-22, 57-58, 91-92, 119-120, 149-150, 173-174); human relationships (TBF Ex. 38, p. 2; TBF Ex. 33, Tab H, pp. 43, 70, 95, 112, 135, 156, 176, 201, 219, 243, 260, 283, 300-301; Tab HH, pp. 22, 58, 92, 120, 150, 174); missing children (TBF Ex. 33, Tab H, pp. 44, 70, 95, 113, 135, 157, 176, 202, 220, 243, 260-261, 282, 301; Tab HH, pp. 22, 59, 93, 121, 151, 175); patriotism (TBF Ex. 38, p. 2; TBF Ex. 33, Tab H, pp. 44, 70, 696, 113, 135, 157, 176, 202, 220, 243-244, 261, 283, 301; Tab HH, pp. 22-23, 59, 93, 121, 151, 175); prevention of cruelty to animals (TBF Ex. 33, Tab H, pp. 44, 70, 96, 113, 135, 157, 177, 203, 244, 261, 283, 301; Tab HH, pp. 23, 59, 93, 121, 151, 175); public safety (TBF Ex. 38, pp. 2-3; TBF Ex. 33, Tab H, pp. 44, 70, 96, 113, 136, 177, 203, 220, 244, 261-262, 283, 302; Tab HH, pp. 23, 59, 93-94, 121, 122, 152, 176); senior citizens (TBF Ex. 38, p. 3; TBF Ex. 33, Tab H, pp. 45, 70, 96, 113, 136, 157, 177, 203, 221, 244, 262, 284, 302; Tab HH, pp. 23, 60, 94, 122, 152, 176); youth (TBF Ex. 48, p. 3; TBF Ex. 33, Tab H, pp. 45, 70, 96, 136, 177, 203, 222, 245, 262, 284, 302; Tab HH, pp. 24, 60, 94, 122, 152-153, 177). WHFT(TV) ran PSAs intermittently throughout the day. E.g., TBF Ex. 33, Tab HH, p. 169.

Community Witness Affidavits

181. In support of its renewal expectancy showing, WHFT(TV) furnished the affidavits of persons representing organizations in the Miami area. The affiants expressed their satisfaction with the way WHFT(TV) handled their areas of concern. The affiants represent the following organizations.

182. *Department of Human Resources, Metropolitan Dade County* The assistant director of the organization appreciated the way WHFT(TV) "solicited input from the whole range of organizations that are involved in providing assistance to Miami area residents... and emphasized the organizations, programs and resources in the community to help people who were needy..." TBF Ex. 1, p. 2.

183. *Issues of Life Church* The associate pastor lauded WHFT(TV) for allowing him to promote a "Marathon 15 km walk-a-thon" which raised funds to help the church's program to assist the poor and homeless. The church received "quite a few telephone calls from people who volunteered to help who said that they heard of our ministry on channel 45, or who wanted to donate because they heard about us on channel 45." TBF Ex. 2, p. 2.

184. *Sheridan House* This organization has two facilities for treating teenagers with family and social problems as well as a family counseling center and a social services center. The executive director has repeatedly appeared on various programs of WHFT(TV). His appearances have resulted in telephone calls from person needing assistance as well as those who wished to help. TBF Ex. 3.

185. *Graceworks Ministries, Inc.* This organization provides ministerial counseling to individuals and churches. The executive director states that appearances on WHFT(TV) led to an increase in the number of people who enrolled in his organization's classes. TBF Ex. 4.

186. *Riverside House* This entity is a 75-bed residential coeducational home which is a half-way house for men and women with alcohol and drug addiction problems. The executive director relates that appearances on WHFT(TV) resulted in calls from parents seeking help for their children and a call from a state agency asking about a referral. TBF Ex. 5.

187. *His House Children's Home* This home provides residential care for children who are abused or neglected. The president of the home attributes donations of goods and funds to his calls for assistance made over WHFT(TV). TBF Ex. 9.

188. *Perinatal Addiction Unit -Broward County* The unit runs a residential program for women addicted to drugs. The superior states that her appearances on WHFT(TV) resulted in calls from people in need as well as from people seeking to volunteer. TBF Ex. 10.

189. *Prison Fellowship, Inc.* This entity provides counseling to prison inmates. The South Florida director appeared once a year on WHFT(TV) to appeal for gifts and toys for the children of inmates. Every year he received "calls from hundreds of people who wanted to donate gifts for the project or who wanted to help distribute them." TBF Ex. 11.

190. *Turning Point* This organization operates a residential drug and alcohol rehabilitation program. The volunteer executive director appeared three times on WHFT(TV). After each program, he received calls from persons assisting addicts, and addicts sought out the organization for help. TBF Ex. 12.

191. *Miami Rescue Mission, Inc.* This organization runs a shelter in downtown Miami which provides temporary housing, food and clothing for the homeless. It shelters approximately 300 people per night and serves approximately 300,000 meals per year. The organization's president appeared approximately ten times on WHFT(TV). After each appearance, he received calls to help and the organization received "an upsurge" in donations and financial aid. TBF Ex. 14.

192. *Viet Nam Veterans Ministries* This organization provides counseling services to Viet Nam war veterans. An officer of the organization relates that, after appearing on WHFT(TV), he received 30 to 45 telephone calls from veterans or relatives of veterans who wanted help. TBF Ex. 15, p. 3.

193. *Ministerios Unidos Por Fe, Inc.* (Ministries United By Faith, Inc.) The pastor of the organization reports that it has received regular referrals from WHFT(TV)'s "Prayer Line." The organization serves inmates in the Dade County and federal correctional facilities. TBF Ex. 16.

194. *Crimestoppers* This international, community based organization uses the media to reenact unsolved crimes and to publicize telephone numbers that people can call to provide information about a crime. Local commanders appeared on WHFT(TV) and relate that calls reporting crimes and expressing support for the program were made. TBF Ex. 17; TBF Ex. 20.

195. *Glory of God Rehabilitation Center* This community based organization provides rehabilitation services and training to alcoholics and drug addicts throughout the Miami area. It receives referrals from Dade County court probation officers and a variety of churches. The director believes that his appearances on WHFT(TV) have helped the organization to grow and better fulfill its purpose.