

(1) shuttle company who would be in the office waiting for (2) repairs or waiting to be programed or installed.

(3) Q: Can you give me your best recollection of (4) typically what he would say to these customers when (5) they were in his office or in the business waiting for (6) the repairs to be returned?

(7) A: I do remember him saying — distinctly (8) remember him saying to one of the customers, who I (9) believe owned a tow truck company, "Whatever you do (10) don't do any business with him." Then he would go on (11) about how he would steal, if he had any frequencies, (12) he would steal them or — that manner of conversation.

(13) Q: Did he ever, at any time during any of (14) these conversations, make a statement that was (15) accusing James Kay of committing any type of crime?

(16) A: Well, the misrepresenting of the (17) contracts, the way in which he obtained frequencies (18) and licenses, they would always use the word steal.

(19) Q: They never used the word trick?

(20) A: I believe that — the general gist of the (21) conversation might be trickery.

(22) Q: The specific word that they would use was (23) steal?

(24) A: Steal.

(25) Q: When you say "they," you mean Harold Pick

Page 56

(1) and who else?

(2) A: His mother and his father.

(3) Q: Have you ever heard the name Dorothy (4) Brinkley?

(5) A: It is familiar. I don't recall.

(6) Q: Have you ever heard Harold Pick mention (7) the name Dorothy Brinkley?

(8) A: I believe so.

(9) Q: Do you recall in what context?

(10) A: Not directly, no.

(11) Q: During the time period that you worked (12) for CCS, Harold Pick, did you ever witness Ann Pick (13) talking to any customers in which the name James Kay (14) was mentioned?

(15) A: Directly, I don't recall.

(16) Q: During the time period that you worked at (17) CCS, did you ever witness Gerard Pick speaking to (18) customers directly about James Kay?

(19) A: No.

(20) Q: During the time period that you worked at (21) CCS, did Gerard Pick ever talk to you about James Kay?

(22) A: Yes.

(23) Q: When did he do that?

(24) A: Early in the employment, during — it was (25) in December. I went to their home for a dinner and

Page 56

(1) the subject came up, and he was not kind but he was (2) much more civilized in his approach. He just (3) discussed what went on and what he felt was wrong.

(4) Q: Who else was present at that dinner?

(5) A: Harold and his mother and my two (6) children.

(7) Q: How old are your two children?

(8) A: 12 and 9. At that time, they would be 11 (9) and 8.

(10) Q: While you were working at CCS did you (11) ever witness Harold Pick talking to Larry about James (12) Kay?

(13) A: Uh-huh, yes.

(14) Q: What was the subject matter of that (15) conversation, or what did he say specifically about (16) Mr. Kay, if you recall?

(17) A: I don't recall specifics but it was along (18) the same line. This was a predominant theme, as I (19) said, on a daily basis.

(20) MR. NAMAZI: What is Larry's last name?

(21) MR. COHEN: Hirsch.

(22) Q: During the time period that you worked (23) for Harold Pick, did he ever tell you that he had (24) filed a personal bankruptcy?

(25) A: I believe so, yes.

Page 57

(1) Q: Did he ever tell you there was any (2) dispute about the equipment that he or CCS owned?

(3) A: I don't know about dispute. I know that (4) he wanted to take equipment that was in some places (5) and get it off the mountaintop so that it would not (6) come under the bankruptcy.

(7) Q: Did you ever assist him in moving any (8) equipment during that time period?

(9) A: No, I did not.

(10) Q: Do you know whether he went up to any (11) mountaintop and removed equipment?

(12) A: That, I don't know.

(13) Q: Did he ever tell you that he had done so?

(14) A: No, he did not.

(15) Q: Did you ever talk to anyone else who told (16) you that Harold Pick had gone up to a mountaintop and (17) removed equipment?

(18) A: Not at that time.

(19) Q: During the time period that you worked at (20) CCS, at any time, did Frank

De Marzo ever come to the (21) Century Boulevard office —

(22) A: Many times.

(23) Q: — and meet with Harold Pick?

(24) A: Yes, many times.

(25) Q: Were you present when they met?

Page 58

(1) A: Yes.

(2) Q: Did the subject of James Kay ever come up (3) during the course of these meetings?

(4) A: If it did, it was briefly. Usually he (5) would go into the main office. I might be asking a (6) question and then I would leave.

(7) Q: So you have no individual recollection of (8) any conversations between Frank De Marzo and Harold (9) Pick that occurred while you were working at CCS in (10) which the name James Kay was mentioned?

(11) A: No, I don't recall.

(12) Q: Again, allow me to ask the question. (13) Sometimes they are very long but I'm trying to make (14) sure you clearly understand what I'm asking you.

(15) A: I apologize.

(16) Q: No need to apologize. Let's take a break (17) for a minute here.

(18) (Recess taken.)

(19) BY MR. COHEN:

(20) Q: Mr. Smith, do you know whether Ann Pick (21) ever spoke to you about James Kay?

(22) A: Yes, she did.

(23) Q: At any time during her conversations with (24) you, did she ever mention that James Kay was a suspect (25) in a murder?

Page 59

(1) A: Yes, she did.

(2) Q: Did she tell you who he had — did she (3) tell you who had been murdered?

(4) A: The name I don't recall, but it was a (5) female employee.

(6) Q: When did that conversation occur?

(7) A: I would say six to eight weeks prior to (8) my leaving.

(9) Q: Do you recall specifically what she said?

(10) A: It was something along the line that (11) there was a woman employee who had left his employment (12) and had taken some records with her, that these (13) records were going to be used like blackmail, so Jim (14) either killed her or had her killed.

(15) Q: Did she tell you how she knew this (16) information?

(17) A: No, not directly. This — I know that (18) the conversation took place, Harold was there and he (19) mentioned that he had some friends who were on the (20) sheriff's department or one of the police departments, (21) and there was a, quote-unquote, "ongoing (22) investigation," and they had no absolute evidence to (23) say that it was Jim that they could bring him to court (24) on but they pretty much felt that it was him who did (25) it.

Page 60

(1) Q: When you say they pretty much felt, (2) you're saying that the Picks told you the police (3) pretty much felt that it was Mr. Kay that was involved (4) in the murder?

(5) A: Yes.

(6) Q: Did they mention the names of any of (7) these police people?

(8) A: I know Harold had several friends on both (9) the LAPD and the Santa Monica Police Department who (10) were personal friends.

(11) Q: Do you know the names of these people?

(12) A: I met one of them, but I don't recall his (13) name.

(14) Q: At any time prior to that conversation (15) where Ann Pick mentioned the murder, had you ever (16) heard that before?

(17) A: No, I don't recall hearing that.

(18) Q: Did Gerard Pick ever raise that topic (19) with you at any point?

(20) A: No.

(21) Q: Did Harold, separately from the time your (22) conversation occurred with his mother, ever mention to (23) you that Mr. Kay was involved with the murder of a (24) former employee?

(25) A: Not that I recall, and that is something

Page 61

(1) I would recall.

(2) Q: Do you recall any time when Ann Pick ever (3) mentioned to anyone else in your presence the same (4) topic?

(5) A: I don't recall if there was anyone (6) present at that time in the office.

(7) Q: So it was just this one time that you (8) heard Ann Pick say it, otherwise you never heard her (9) say it after that?

(10) A: Yes, and Harold was there and kind of (11) elaborated about the police, and that is all I recall.

(12) Q: Was there anyone else present, other than (13) the three of you?

(14) A: I don't recall. I don't think so.

(15) Q: Earlier we discussed the topic of jamming (16) and you had defined what jamming was; do you recall (17) that?

(18) A: Yes.

(19) Q: Did you ever see Harold Pick ever jam (20) anyone?

(21) A: Yes.

(22) Q: How do you know that Harold Pick was (23) jamming someone?

(24) A: He told me.

(25) Q: Did you see the equipment he was using to

Page 62

(1) do the jamming?

(2) A: Yes, I did.

(3) Q: Where was that equipment located?

(4) A: On the bench at his workbench.

(5) Q: That is on the Century Boulevard address?

(6) A: Yes.

(7) Q: Did he tell you who he was jamming?

(8) A: Yes.

(9) Q: Who was he jamming?

(10) A: James Kay's system, 800 megahertz (11) trunking system.

(12) Q: Did he tell you why he was doing that?

(13) A: Because he hated James Kay.

(14) Q: How many times did you see him jamming (15) James Kay?

(16) A: Just this once.

(17) Q: At any other time did you ever see him (18) jamming anyone else?

(19) A: No.

(20) Q: Do you know what pieces of equipment he (21) was using to accomplish the jamming?

(22) A: Yes, he was using, I believe it was a (23) Motorola power amplifier that he just repaired that (24) was feeding the outside antenna, and as an exciter he (25) used a Motorola hand-held trunking radio. I don't

Page 63

(1) know, he was using a hand-held as an exciter to (2) drive —

(3) Q: What do you mean an exciter?

(4) A: Well, just the low power to bring up — (5) you have to drive the power amplifier. You have to (6) have sufficient power to bring the power amplifier up (7) to its rated output power so you have to have the (8) specific input for it. He was using the hand-held to (9) achieve that. So, like, 3 or 4 watts input so he (10) could get 30 or 40 watts output.

(11) MR. COHEN: Off the record for just a moment.

(12) (Recess taken.)

(13) BY MR. COHEN:

(14) Q: Have you ever heard the name Mia (15) Davidson?

(16) A: No.

(17) Q: Have you heard of a company called R & S (18) Exterminators?

(19) A: I have heard of them.

(20) Q: Have you ever heard the company called (21) King Video Cable?

(22) A: It is vaguely familiar.

(23) Q: Do you know whether Harold Pick ever (24) communicated with anyone at King Video?

(25) A: No, I wouldn't know that.

Page 64

(1) Q: Have you very heard of Kurt Fybel?

(2) A: No.

(3) Q: Have you ever heard of Annie Verdries?

(4) A: No.

(5) Q: Have you ever heard of Dale Kane?

(6) A: No.

(7) Q: Have you ever heard of Dale Buckley?

(8) A: Yes.

(9) Q: How do you know Dale Buckley?

(10) A: That is a name I heard many times in this (11) industry.

(12) Q: Do you know whether Harold Pick had any (13) communication with Dale Buckley during the time you (14) were affiliated with CCS?

(15) A: I don't recall of any.

(16) Q: Have you ever heard of Stuart Hirsch?

(17) A: No.

(18) Q: During the time period that you were an (19) employee at CCS, were there ever any meetings held at (20) the company facility?

(21) A: At the facility, no.

(22) Q: No meetings held there at all with (23) anybody as far as lawsuits were concerned?

(24) A: That I know of.

(25) Q: Have you ever heard of Roy Jensen?

Page 65

(1) A: Yes.

(2) Q: How do you know Roy Jensen?

(3) A: Roy Jensen I worked with previously when (4) I was working for James Kay back in late '91 or early (5) '92, or '90/'91, or whatever it was. I believe he (6) was the service manager or general manager at that (7) time.

(8) Q: During the time period that you worked at (9) CCS, do you know whether Harold Pick contacted Roy (10) Jensen?

(11) A: Yes, he called him once because I just (12) wanted to say "Hi" to him.

(13) Q: You called him personally?

[14] A: No, I don't remember, to tell you the [15] truth.
[16] Q: Did Harold call Roy Jensen or did —
[17] A: The phone call was initiated at our [18] office, so it was either he called him or myself, I [19] don't recall.
[20] Q: Was James Kay discussed during the course [21] of that conversation with Mr. Jensen?
[22] A: I don't recall.
[23] Q: Have you ever heard of John Bryant?
[24] A: It is a familiar name.
[25] Q: Do you know if Harold Pick had any

Page 66

[1] contact with John Bryant during the time you were [2] under his employ?
[3] A: I don't know.
[4] Q: Have you ever heard of Fullerton School [5] District?
[6] A: Yes.
[7] Q: Do you know if Harold had any contact [8] with Fullerton School District during the time that [9] you were affiliated with CCS?
[10] A: I don't believe so.
[11] Q: Do you know if anyone else did?
[12] A: I believe Frank was doing some business [13] with them.
[14] Q: And what business was Mr. De Marzo doing [15] with the Fullerton School District?
[16] A: Exactly what it would be I don't know, [17] selling radios, repair of radios, I don't recall.
[18] Q: Did Mr. De Marzo at any time discuss the [19] Fullerton School District with you?
[20] A: I remember him mentioning it, but the [21] exact context I don't recall.
[22] Q: Did you ever accompany him on any [23] business matters to a Fullerton School District [24] location?
[25] A: No, I did not.

Page 67

[1] Q: Have you ever heard the name Eddie [2] Cooper?
[3] A: No.
[4] Q: Have you ever heard of the name Cornella [5] Dray?
[6] A: No.
[7] Q: Have you ever heard the name Jim Doering?
[8] A: That is vaguely familiar.
[9] Q: Do you know whether the time period that [10] you were in the employ of Harold Pick that he had any [11] communications with Jim Doering?
[12] A: I don't recall.

[13] Q: Have you ever heard the name Philip [14] Gigliotti?
[15] A: That is a very familiar name.
[16] Q: How do you know the name Gigliotti?
[17] A: I just -- it is just a familiar name, I [18] have heard it, I can't say in what context, but I [19] have heard the name before.
[20] Q: Do you know whether during the time [21] period you were employed at CCS, or affiliated with [22] CCS, whether Harold Pick had any contact with Harold [23] Gigliotti?
[24] A: I couldn't say for sure.
[25] Q: Have you ever heard of the name Chris

Page 68

[1] Killian?
[2] A: No.
[3] Q: Have you ever heard of the name Ray [4] Laskowitz?
[5] A: No.
[6] Q: Have you ever heard of the name of a [7] company called Procom?
[8] A: I've heard of Procom.
[9] Q: Do you know if whether during the time [10] period you were affiliated with CCS that Harold Pick [11] had any communications with a company called Procom?
[12] A: I don't believe so, no.
[13] Q: Have you ever heard of anyone named Rick [14] Lewis?
[15] A: No.
[16] Q: Have you ever heard of anyone named Mike [17] Ritter?
[18] A: No.
[19] Q: Have you ever heard of Jim Zoulek?
[20] A: No.
[21] Q: Mr. Smith, during the time period that [22] you were working at CCS, did CCS have any type of [23] regular book-keeper?
[24] A: Initially no. Gerard took care of it, [25] but he did such a horrible job that Ann insisted upon

Page 69

[1] bringing in a bookkeeper and accountant, the same [2] person.
[3] Q: Do you remember the name of that [4] bookkeeper?
[5] A: I don't recall her name.
[6] Q: Now, at any point after you left your [7] affiliation with CCS, did you ever speak with Harold [8] Pick again?
[9] A: No.
[10] Q: At any time after you left your [11] affiliation with CCS, did you ever speak with Ann Pick [12] again?

[13] A: No.
[14] Q: Same question for Gerard Pick.
[15] A: No.
[16] Q: Have you been contacted by anyone since [17] you left CCS, claiming that they represented Ann Pick, [18] Harold Pick or Gerard Pick?
[19] A: No.
[20] Q: During the time period from 1993 to the [21] present, has anyone ever mentioned to you the legal [22] actions between James Kay and Harold Pick, or Ann [23] Pick, or Gerard Pick, or Frank De Marzo, other than [24] Harold Pick, Ann Pick, and Frank De Marzo?
[25] A: Yes, it is common knowledge in the

Page 70

[1] industry.
[2] Q: Who else have you talked to about this?
[3] A: I never speak in detail of it. I was [4] asked questions by Mark Abrams who's one of the owners [5] of Raycom. It was just basically acknowledgment that [6] there was things going on. Everyone in the industry [7] knows.
[8] Q: Did Mr. Abrams ask you anything specific [9] beyond whether you were aware that there was something [10] going on?
[11] A: No, he basically appeared somewhat [12] indifferent to the details.
[13] Q: Is there anyone else other than Mark [14] Abrams that you can recall?
[15] A: Other than -- as far as names go, no. It [16] is not a major topic of conversation, it is just [17] something that crops up when people start talking [18] about the politics of the business.
[19] Q: This is a question that may be repeating [20] a previous one but I want to make sure I've asked it. [21] Do you recall the names of any specific individuals, [22] other than the employees of CCS, to which Harold Pick [23] discussed James Kay?
[24] A: Yes.
[25] Q: Who?

Page 71

[1] A: There was a man who comes in and out of [2] the shop quite often by the name of Dave Wolpa. [3] W-o-l-p-a, I believe.
[4] Q: Were you present when Harold Pick spoke [5] to Mr. Wolpa about James Kay?
[6] A: Yes.
[7] Q: What did he say about James Kay?
[8] A: Mr. Wolpa was up to speed, as it was, on [9] the status of the lawsuits, and he would just [10] acknowledge a depo-

sition they went to or something (11) like that.

(12) Q: Did he ever — Harold Pick ever comment (13) about the character of Jim Kay to Dave Wolpa?

(14) A: I couldn't say for sure in my presence.

(15) Q: That's fine. Mr. Smith, do you recall, (16) as you sit here today, the names of any specific (17) individuals, other than the people who were previously (18) affiliated with CCS, to which Ann Pick spoke about the (19) character of James Kay?

(20) A: Other than the employees?

(21) Q: Other than the employees.

(22) A: I don't recall.

(23) Q: Same question for Gerard Pick.

(24) A: I could say in his case, no.

(25) Q: During the time period that you were

Page 72

(1) affiliated with CCS, how often did Frank De Marzo come (2) to the Century Boulevard address of CCS?

(3) A: Two to three times a month.

(4) Q: What were the purposes for his coming, if (5) you know?

(6) A: Basically sometimes to have radios (7) programmed that he didn't have programming for, to pick (8) up radios, to sell radios to Harold, sometimes to buy (9) radios from Harold.

(10) Q: Did you ever, during the time period that (11) you were affiliated with CCS, ever have occasion to (12) pick up the mail for the company?

(13) A: No.

(14) Q: Was the mail delivered directly to the (15) address?

(16) A: The mail was delivered to the address for (17) McDermott Communications, which is essentially the same (18) address. It was separated as to what would go to (19) Harold and what would go to McDermott.

(20) Q: When the mail was separated, who (21) specifically was the mail directed to? Strike that (22) question.

(23) After the mail had been separated by the (24) McDermott people, who was the mail given to?

(25) A: It would either be given to Harold

Page 73

(1) directly or it would be — if he wasn't there and his (2) door was locked, the private office door, it would (3) just be laid out on the floor in front of the door.

(4) Q: Did you ever have occasion to look at (5) that mail?

(6) A: No.

(7) MR. COHEN: I have no further questions at this (8) time. Mr. Namazi?

(9) MR. NAMAZI: I have no questions.

(10) MR. COHEN: Mr. Smith, I want to thank you for (11) coming to the deposition. We are completed for the (12) day; however, we must advise you regarding the (13) handling of what is called the deposition transcript.

(14) Normally, if all parties are present, the (15) parties can agree to use a manner of handling the (16) deposition different than what is prescribed in the (17) Code of Civil Procedure. Unfortunately one of the (18) parties, Mr. De Marzo, is not here today so we have to (19) adhere to the Code of Civil Procedure. Consequently, (20) the court reporter will be compiling the deposition (21) transcript and will be notifying you that the (22) transcript is ready for you to review and sign. I (23) would like you at this time to provide — strike (24) that.

(25) Earlier on you indicated that you had an

Page 74

(1) address of 1006 East Fondale Street in Azusa (2) California?

(3) THE WITNESS: Yes.

(4) MR. COHEN: What's the ZIP code for that?

(5) THE WITNESS: 91702.

(6) MR. COHEN: If communications or letters (7) regarding this particular deposition transcript are (8) directed to that address, would you be receiving such (9) communications there?

(10) THE WITNESS: Yes, I would.

(11) MR. COHEN: So that it would be acceptable for (12) the court reporter to contact you at that address to (13) let you know the deposition transcript has been (14) prepared?

(15) THE WITNESS: Yes.

(16) (Discussion off the record.)

(17) THE WITNESS: (818) 332-6737. Also, you might (18) want to try (818) 339-9616. That is my (19) sister-in-law. She may get the message. She has (20) problems with English, so it may be difficult.

(21) MR. COHEN: That's it. Thank you very much.

Page 75

Page 76

STATE OF _____)

COUNTY OF _____) ss.

I, the undersigned, say that I have read the foregoing deposition, and I declare, under penalty of perjury under the laws of the State of California, that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this _____ day of _____ 1995 at _____ CHARLES EDWARD SMITH

Page 77

CERTIFICATE OF SERVICE

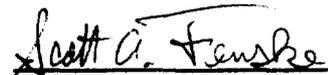
I hereby certify that a true and correct copy of the foregoing James A. Kay Jr.'s Supplemental Opposition to Wireless Telecommunications Bureau's Motion for Summary Decision as Supplemented by Motion for Leave to File Supplement and Supplement to Motion for Summary Decision and Order Revoking Licenses was hand-delivered on this 15th day of March, 1996 to the following:

The Honorable Richard L. Sippel
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Suite 220
Washington, D.C. 20554

Gary P. Schonman, Esquire
Federal Communications Commission
Hearing Branch
Mass Media Bureau
Suite 7212
2025 M Street, N.W.
Washington, D.C. 20554

and sent via first-class mail, postage prepaid on this 15th day of March, 1996 to:

W. Riley Hollingsworth, Esquire
Deputy Associates Bureau Chief
Wireless Telecommunications Bureau
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245



Scott A. Fenske

g:\saf\kay\opposlve.1