1 BY MR. EISEN:

2 Q Who assigned the Rainbow applications to you, Mr.

3 Gordon?

4 A The chief of the Television Branch, Clay

5 Pendarvis.

6 Q Did you ever tell Mr. Pendarvis that Ms. Polivy

7 believed that the contacts that she had had with you were

8 not ex parte violations?

9 MR. COLE: Objection.

10 MR. IRAOLA: Objection, Your Honor.

11 MR. EISEN: Your Honor, you just said that if I

12 had any testimony --

13 JUDGE CHACHKIN: I will overrule that objection.

14 THE WITNESS: Could you please repeat the

15 question?

16 BY MR. EISEN:

17 Q The question is did you ever tell Mr. Pendarvis

18 that Ms. Polivy believed that her contacts with you were not

19 ex parte violations?

20 A Yes.

21 Q Did he agree with Ms. Polivy?

22 MR. COLE: Objection.

23 JUDGE CHACHKIN: Sustained. His agreement is

24 totally irrelevant.

25 //

1 BY MR. EISEN:

2 Q Do you recall being interviewed by the Inspector

3 General in this proceeding regarding these alleged ex parte

4 contacts?

5 A Yes, I do.

6 Q And you submitted to such an interview?

7 A Yes, I did.

8 Q And that interview was under oath?

9 A Yes, it was.

10 Q Do you recall saying to any person after that

11 interview that you had "just gotten me a bureau chief --

12 MR. COLE: Objection.

13 MR. IRAOLA: Objection.

14 JUDGE CHACHKIN: Sustained.

15 BY MR. EISEN:

16 Q When you told Ms. Polivy about the result of the

17 June 18, 1993 letter, she asked you for a meeting; is that

18 correct?

19 A That is correct.

20 Q Did she say who she would like to have the meeting

21 with?

22 A She asked under whose signature the letter was. I

23 told her it was Barbara Kreisman, Chief of the Video

24 Services Division. And she stated she wanted to have a

25 meeting with Barbara, and she asked me to schedule it.

1 Q Did she tell you why she was requesting a meeting?
2 A Yes.
3 Q What did she say?
4 A She said she disagreed with the outcome and she
5 wanted to discuss it with Barbara.
6 Q And did you have any response to her request for a
7 meeting?
8 A Yes.
9 Q What was that?
10 A I told her that I didn't have the authority to
11 make -- schedule appointments for Ms. Kreisman, and that she
12 would have to call her herself.
13 Q Did you raise any questions with Ms. Polivy at
14 that time about the propriety of the meeting with Ms.
15 Kreisman?
16 A No, I did not.
17 Q By the way, are you sure it was June 18, 1993,
18 that you had the discussion with Ms. Polivy where you told
19 her of the results of the application and this meeting?
20 A Yes.
21 Q Why are you so sure?
22 A The date that is stamped on the letter is June
23 18th, and I did not call either attorney until that date
24 stamp was there and Barbara had signed the letter.
25 Q Did you also call counsel for Press Broadcasting

1 Company?

2 A Yes.

3 Q On June 18, 1993?

4 A Yes.

5 Q Other than Ms. Polivy, were you ever contacted by

6 any other Rainbow Broadcasting Company -- well, strike that.

7 Were you ever contacted prior to July 1, 1993 by

8 any Rainbow Broadcasting Company principal of --

9 MR. IRAOLA: Objection, Your Honor.

10 JUDGE CHACHKIN: Let me finish the question.

11 MR. IRAOLA: Forgive me, Your Honor. I thought

12 that was the question.

13 MR. EISEN: That was the question.

14 BY MR. EISEN:

15 Q Were you ever contacted --

16 MR. IRAOLA: Objection.

17 JUDGE CHACHKIN: Overruled.

18 THE WITNESS: I don't remember.

19 BY MR. EISEN:

20 Q What do you mean you don't remember. Do you

21 recall Joseph Rey ever contacting you prior to July 1, 1993,

22 about these applications?

23 A As I have just said, I don't remember.

24 Q Well, does that mean that you were not or that you

25 just have no recollection?

1 MR. IRAOLA: Your Honor, I am going to object to
2 the question because it has nothing to do with whether or
3 not there was a discussion about an ex parte application of
4 the rules.
5 JUDGE CHACHKIN: Overruled.
6 THE WITNESS: Could you please repeat the
7 question?
8 BY MR. EISEN:
9 Q Do you have a recollection of Joseph Rey ever
10 telephoning or contacting you prior to July 1, 1993, about
11 the application?
12 MR. COLE: Objection. Asked and answered at least
13 twice already.
14 JUDGE CHACHKIN: He hasn't answered the question.
15 THE WITNESS: I don't remember.
16 BY MR. EISEN:
17 Q And by saying, by testifying that you don't
18 remember that simply means that you have no recollection one
19 way or the other?
20 A Right.
21 Q Do you recall ever meeting Mr. Rey personally
22 prior to July 1, 1993?
23 A No.
24 Q Did you keep a telephone log of these contacts
25 from Ms. Polivy?

1 A No.

2 Q Would you have kept a telephone log of any contact

3 with Mr. Rey?

4 A No.

5 Q Did you keep a diary of your contacts?

6 A No.

7 Q And in your several discussions with Ms. Polivy

8 did you ever tell her why you believed the RBC proceeding

9 was restricted?

10 A Yes, I did.

11 Q What did you tell her?

12 A I told her I believed that it was restricted

13 because Press Broadcasting was opposing the application.

14 Q When did it become a restricted proceeding, in

15 your opinion?

16 A Press had opposed the January of '91 fifth

17 extension request right after it was granted, I believe, and

18 it immediately filed a petition for reconsideration of the

19 fifth extension request. So at that point, and I believe

20 that would have been before the sixth extension request was

21 filed, I believe. So at that point I believe that it became

22 a restricted proceeding.

23 Q All right, I'm sorry. I don't mean to -- at what

24 point? When the original informal objection was filed, did

25 it become restricted at that point?

1 A I don't know whether it would have become
2 restricted either at the original objection or when that
3 reconsideration was filed.
4 Q What was the basis for your conclusion that it did
5 become a restricted proceeding?
6 MR. IRAOLA: Objection, Your Honor.
7 MR. COLE: Objection.
8 MR. EISEN: Your Honor, I am simply asking --
9 JUDGE CHACHKIN: I will overrule the objections.
10 THE WITNESS: I believed it was a restricted
11 proceeding because of Press's opposition to the
12 applications.
13 BY MR. EISEN:
14 Q Did you check the FCC rules and regulations to
15 reach that decision?
16 MR. IRAOLA: Objection, Your Honor.
17 JUDGE CHACHKIN: I will sustain the objection.
18 BY MR. EISEN:
19 Q And did Ms. Polivy during the course of the
20 discussions you said you had with her explain why she
21 believed her contacts with you were not wrongful?
22 A I don't remember.
23 Q Well, you testified, did you not, that you told
24 her you believed that the contacts were prohibited; is that
25 correct?

1 A Correct.

2 Q And you terminated the discussion because of that?

3 A Right.

4 Q And now is it your testimony that Ms. Polivy never

5 indicated to you during those discussions why she believed

6 you were wrong?

7 A That's not what I said.

8 Q Well, perhaps you can explain what you said.

9 A She stated that she believed that the informal

10 objections filed by Press did not make this a restricted

11 proceeding. I don't remember anything more detailed than

12 that.

13 Q Okay. Did you ever have occasion to check to see

14 whether her theory was correct?

15 MR. IRAOLA: Objection.

16 MR. COLE: Objection, Your Honor.

17 JUDGE CHACHKIN: Sustained.

18 BY MR. EISEN:

19 Q Did you make any written reports to anyone about

20 these alleged ex parte contacts --

21 MR. IRAOLA: Objection, Your Honor.

22 MR. COLE: Objection.

23 MR. EISEN: Your Honor, if this witness --

24 JUDGE CHACHKIN: Overruled.

25 THE WITNESS: Please repeat the question.

1 BY MR. EISEN:

2 Q Did you make any written report to anyone about

3 these alleged ex parte contacts that you said you had with

4 Ms. Polivy?

5 A No.

6 Q Were you aware of any requirement to do so?

7 MR. IRAOLA: Objection, Your Honor.

8 JUDGE CHACHKIN: Overruled.

9 THE WITNESS: No, I was not.

10 BY MR. EISEN:

11 Q Are you familiar with Section 1.1207 -- I'm sorry,

12 1.1212 of the Commission's rules and regulations?

13 MR. IRAOLA: Objection, Your Honor.

14 Your Honor, if I could, Your Honor's order, as I

15 read it, stated clearly the questioning of Commission

16 employees would be strictly limited to their communications

17 and contacts with Rainbow. The questioning regarding

18 internal communications between and among Commission

19 employees will not be permitted.

20 JUDGE CHACHKIN: This has nothing to do with

21 internal communication. This relates --

22 MR. IRAOLA: Your Honor.

23 JUDGE CHACHKIN: -- to the question of the

24 credibility of the witness.

25 MR. IRAOLA: If I may, Your Honor. My argument to

1 you would be that when he is alluding to the -- the Court is
2 aware there is a rule that provides for Commission
3 employees, if they are aware of the rule, and if they
4 believe there has been an ex parte contact, to make a
5 written report of that to their superior.
6 I understand that to mean an internal
7 communication between a Commission employee. That's my
8 objection, and, Your Honor, that is what he is getting at.
9 JUDGE CHACHKIN: I will overrule the objection.
10 MR. IRAOLA: Very well, Your Honor.
11 THE WITNESS: Please repeat the question.
12 BY MR. EISEN:
13 Q Were you aware of a requirement in the
14 Commission's rules -- were you aware of Section 1.1212 of
15 the Commission's rules?
16 A If Section 1.1212 is the rule that involves
17 employees filing reports after an ex parte communication,
18 no, I was not aware of that rule.
19 Q Did there ever come a time that you became aware
20 of that rule?
21 A Yes.
22 Q When was that?
23 A I became aware of it after the disposition of the
24 applications.
25 Q Did you do anything about that rule after you

1 learned about it? Did you take any action after you learned
2 about that rule?
3 A This was -- by the time I learned about the rule
4 the case was already out of the Commission's hands.
5 Q Let me show you a copy of what has been admitted
6 into evidence as Joint Exhibit No. 4.
7 MR. EISEN: May I approach the witness, Your
8 Honor?
9 JUDGE CHACHKIN: Yes.
10 MR. EISEN: Take a quick look at that, please.
11 (Witness reviews document.)
12 BY MR. EISEN:
13 Q Have you had a chance to look at that?
14 A Yes.
15 Q Ever seen that letter before?
16 A Yes.
17 Q Do you recall when you first saw it?
18 A I don't remember.
19 Q Do you recall whether you saw it before June 18,
20 1993?
21 A I don't remember.
22 Q Do you recall ever discussing the contents of that
23 letter with Ms. Polivy during the calls that she initiated
24 to you?
25 A I don't remember.

1 Q Did you also draft the Mass Media Bureau's letter
2 which granted RBC's petition for reconsideration?
3 MR. IRAOLA: Objection, Your Honor.
4 What's the relevance of that?
5 JUDGE CHACHKIN: I will overrule the objection.
6 We will see where he goes with that.
7 THE WITNESS: Yes, I did.
8 BY MR. EISEN:
9 Q And was your action in drafting the response
10 granting the petition for reconsideration an outgrowth of
11 the July 1, 1993 meeting that you attended?
12 MR. COLE: Objection. It doesn't go to the ex
13 parte issue at all.
14 MR. EISEN: The meeting is specifically covered by
15 the issue.
16 JUDGE CHACHKIN: Well, if you want to go into the
17 meeting, you certainly can. But I don't see the fact that
18 something was granted -- something was done as a result of
19 that meeting has any bearing on the issue, and I will
20 sustain the objection to that question.
21 BY MR. EISEN:
22 Q Can you explain the process used to draft the
23 letter granting RBC's petition for reconsideration?
24 MR. IRAOLA: Objection, Your Honor.
25 MR. COLE: Objection.

1 JUDGE CHACHKIN: Sustained.

2 BY MR. EISEN:

3 Q Have you at anytime had a chance to review the

4 sworn statements of other FCC staff persons with knowledge

5 about this ex parte issue?

6 Q Objection, Your Honor.

7 BY MR. EISEN:

8 Q In particularly, Clay Pendarvis, Barbara Kreisman

9 and Mr. Stewart?

10 JUDGE CHACHKIN: How is that relevant?

11 MR. EISEN: It's relevant, Your Honor, because

12 Mr. Gordon has testified in a manner which is importantly at

13 odds with those.

14 JUDGE CHACHKIN: And I repeat, it's not at odds

15 because they were not present at the telephone conversation

16 between this witness and Ms. Polivy.

17 MR. EISEN: But it's extrinsic evidence that goes

18 to the witness' credibility.

19 JUDGE CHACHKIN: I disagree with that. The fact

20 that they may or may have believed, had a different belief

21 to the ex parte rules has no bearing on the conversation

22 that he had with Ms. Polivy.

23 I will sustain the objection.

24 Now, if you have testimony as to the conversation

25 he had with Ms. Polivy, you certainly can put it in.

1 BY MR. EISEN:

2 Q Did you ever reference, in the time span that Ms.

3 Polivy contacted you about the Rainbow application, either

4 Sections 73.1204 or 1206 of the rules -- sorry -- 1.1204 and

5 1.1206 of the rules?

6 MR. COLE: Objection as to form.

7 When you say "reference" --

8 MR. EISEN: Yes.

9 MR. COLE: -- are you saying did you refer during

10 the conversations to those sections, is that your question?

11 MR. EISEN: No, that wasn't my question.

12 MR. COLE: I'm sorry.

13 MR. EISEN: Let me try to rephrase the question,

14 please.

15 BY MR. EISEN:

16 Q Between the first contact from Ms. Polivy and June

17 18, 1993, did you ever look at Sections 1.1204 or 1.1206 of

18 the Commission's rules?

19 MR. COLE: Objection, Your Honor.

20 MR. IRAOLA: Objection, Your Honor.

21 Your Honor, he could have looked at pink

22 elephants. It doesn't really matter what he based his

23 decision on to make a judgment that he thought these were ex

24 parte communications.

25 JUDGE CHACHKIN: Mr. Eisen, how is that relevant?

1 MR. EISEN: The witness says that he discussed ex
2 parte communications and the prohibitions of the contacts
3 that Ms. Polivy made, purely in the context of these
4 discussions with Ms. Polivy that he gave his opinions that
5 these were -- this was a restricted proceeding, and that
6 those contacts, once they went into the merits as he said,
7 were improper.
8 JUDGE CHACHKIN: I will overrule the objection.
9 BY MR. EISEN:
10 Q Do you remember the question, Mr. Gordon?
11 A No, I don't.
12 Q The question was that between the first contact
13 with Ms. Polivy and June 18, 1993, did you refer to Sections
14 1.1204 or 1.1206 of the Commission's rules?
15 A I don't remember.
16 Q You don't remember one way or the other?
17 A Right.
18 JUDGE CHACHKIN: When you say you don't remember,
19 you have said it a number of times, that means you have no
20 recollection whether you did or didn't?
21 THE WITNESS: Right.
22 BY MR. EISEN:
23 Q And I want to get back on one more question and
24 maybe we can wind this up.
25 Am I correct you have no recollection with regard

1 to the merits that you say Ms. Polivy discussed with you in
2 the telephone conversations?
3 A As I have said, all of this occurred more than
4 three years ago. I don't remember a lot of the details
5 here. And as I have said, I don't remember.
6 Q And all you do remember to stand for the
7 proposition that you did try to discuss the merits was that
8 you terminated the telephone discussion; is that correct?
9 A I remember that she tried -- that she started to
10 discuss the merits, and I remember that once she did I cut
11 her off.
12 Q But you can't recall what the merits were that she
13 tried to discuss?
14 A Right.
15 Q And are you certain that you called Ms. Polivy on
16 June 18, 1993, to discuss the Barbara Kreisman letter as
17 opposed to June 25, 1993?
18 A Yes.
19 Q But you kept no diaries, no calendars?
20 A That's correct.
21 Q No contemporaneous notes. You have an independent
22 recollection of calling her on that date?
23 A That is correct.
24 MR. EISEN: Your Honor, thank you. That's all I
25 have.

1 JUDGE CHACHKIN: Mr. Silberman.

2 MR. SILBERMAN: I just have one question.

3 REBUTTAL CROSS-EXAMINATION

4 BY MR. SILBERMAN:

5 Q Are you certain in your mind today, based on your

6 memory, that you told Margot Polivy at least three times

7 that you considered the Rainbow proceeding to be restricted

8 and that you could not discuss the merits?

9 A Yes, I am certain.

10 MR. SILBERMAN: Thank you.

11 JUDGE CHACHKIN: Any redirect?

12 MR. COLE: No redirect, Your Honor.

13 JUDGE CHACHKIN: You are excused. Thank you, Mr.

14 Gordon.

15 THE WITNESS: Thank you.

16 (Witness excused.)

17 JUDGE CHACHKIN: Mr. Cole?

18 MR. COLE: Your Honor, Mr. Gordon is our only live

19 witness, and I have four exhibits that I previously

20 disclosed to the other parties that I would like to have

21 marked and offer into evidence at this time.

22 And I believe they start at Press No. 19.

23 JUDGE CHACHKIN: Is it 19 or 18?

24 MS. POLIVY: These are not things, Mr. Cole, that

25 you have given us an opportunity to look at before, are

1 they?

2 JUDGE CHACHKIN: Eighteen is the next document.

3 MR. COLE: These are matters that --

4 JUDGE CHACHKIN: Oh, wait a minute. There is a

5 Press 18. Yes, there is.

6 MR. COLE: These are --

7 JUDGE CHACHKIN: Nineteen is the next number.

8 MR. COLE: Thank you, Your Honor.

9 These are the deposition transcripts from Mr.

10 Stewart, Ms. Kreisman and Mr. Pendarvis.

11 JUDGE CHACHKIN: All right, 19 is the next number.

12 Which one is going to be 19?

13 MR. COLE: I will make Mr. Stewart No. 19.

14 JUDGE CHACHKIN: Would you describe the exhibit?

15 MR. COLE: It is a 51-page document with an

16 unnumbered unpaginated cover page entitled "Press

17 Broadcasting Company Hearing Exhibit, Transcript of

18 Deposition of Roy J. Stewart Conducted May 23, 1996." And it

19 consists of the entirety of Mr. Stewart's deposition which

20 was attended by all counsel, or counsel for all parties,

21 including RBC, RBL, Press and the Separate Trial Staff. In

22 addition, Mr. Stewart was represented at the deposition by

23 Mr. Dzidzic.

24 And I am offering it in its entirety -- well,

25 first, let me provide the reporter with two copies, and all

1 counsel with one copy, and ask that this be marked for
2 identification as Press Exhibit No. 19.
3 JUDGE CHACHKIN: The document described will be so
4 marked.
5 MR. COLE: Thank you, Your Honor.
6 (The document referred to was
7 marked for identification as
8 Press Exhibit No. 19.)
9 MR. COLE: And I am offering it for the purpose of
10 providing the testimony of participants -- Mr. Stewart
11 participated at the July 1, 1993 meeting, and who is
12 examined with respect to the communications, the ex parte
13 communications at that meeting, and for purposes of
14 completeness of the record that we are compiling here I
15 think it is appropriate to have this in the record, both his
16 testimony, his deposition, and those of Ms. Kreisman and Mr.
17 Pendarvis, and I am offering it for that purpose.
18 JUDGE CHACHKIN: Any objection?
19 MS. POLIVY: Yes, objection.
20 JUDGE CHACHKIN: On what ground?
21 MS. POLIVY: We would like to cross-examine those
22 people if we are going to have their testimony. There has
23 been testimony since those depositions were taken, that we
24 ought to be able to have live witnesses and ask them about
25 it. You can't just put in --

1 JUDGE CHACHKIN: Well, I thought there was --
2 MS. POLIVY: There was no agreement. We said we
3 would not agree.
4 JUDGE CHACHKIN: Well, that is not my impression
5 when this was mentioned. It was my understanding that there
6 was no objection to these depositions --
7 MS. POLIVY: That was not so, Your Honor.
8 JUDGE CHACHKIN: -- coming in since everyone had a
9 chance to examine these witnesses.
10 However, if there is an objection --
11 MS. POLIVY: Yes, sir.
12 JUDGE CHACHKIN: -- and I must say I am surprised.
13 But if there is an objection, the exhibit will be rejected.
14 If you want these witnesses to testify, let them come in
15 orally and testify.
16 MR. COLE: Thank you, Your Honor.
17 Your Honor, just for the record let me say that I
18 am surprised as well because my recollection of our last
19 session where I specifically disclosed my intention to offer
20 these into evidence was that there was a representation by
21 the Rainbow contingent that they would not object to these
22 coming in.
23 MS. POLIVY: Your Honor, let me set the record
24 straight.
25 Counsel for the Separate Trial Staff asked us to

1 stipulate to portions of that, and we declined to do so. We
2 told them we wanted a live witness if we were going to have
3 that in the record. And Mr. Silberman said that we were
4 unwilling to stipulate. That is in the record of the last
5 proceeding.
6 MR. SILBERMAN: You are confusing two things, I
7 think, counsel.
8 MS. POLIVY: Oh, you're asking about -- I'm sorry.
9 MR. SILBERMAN: One is we were going to --
10 MS. POLIVY: Portions of --
11 MR. SILBERMAN: -- offer a portion of an affidavit
12 that Mr. Stewart had --
13 MS. POLIVY: I'm sorry. You are correct.
14 MR. SILBERMAN: -- executed years ago, and it
15 originally had been offered by Rainbow, and they had
16 requested Mr. Stewart for cross-examination. And we have
17 since then sent a letter to counsel and to Your Honor in
18 which we say we believe we are not going to present that,
19 and we have not offered Mr. Stewart for testimony.
20 I think that is different than deposition
21 testimony of the -- I think it's three Bureau people.
22 MS. POLIVY: The principle is the same, Your
23 Honor.
24 JUDGE CHACHKIN: Well, my recollection is this was
25 specifically brought up at the last session that Mr. Cole

1 intended to put in his rebuttal witnesses -- rebuttal
2 evidence, and there was no objection made at that time, and
3 no indication that an objection would be made to the
4 deposition testimony of these witnesses.
5 Now, if you can point out to me anywhere --
6 MS. POLIVY: Your Honor.
7 JUDGE CHACHKIN: -- where any statement was made
8 at that time that there was going to be any objection or
9 that you wanted to cross-examine any of these witnesses you
10 will find that the record will reflect there was no such
11 statement made by you, Mr. Eisen, at that time. In fact,
12 just the opposite. There was an indication that it would be
13 a very quick session since there would be no objection to
14 depositions.
15 So I think I am proper in saying it is a surprise
16 to announce now without any prior notice to the parties --
17 we have had what, a week, two weeks ago, in which you could
18 have indicated since you knew what the rebuttal was going to
19 consist of, that you would object to the admission of the
20 deposition testimony. This is the first time today where
21 there has been any indication. I don't think that's proper.
22 I think if you had objections, that you knew what the
23 rebuttal consisted of, you should have indicated your
24 objection and perhaps then something would have been done to
25 bring these witnesses here.

1 But to just announce it today for the first time,
2 I think is just not something that is proper, frankly.
3 MR. COLE: Your Honor, if I might just for the
4 record, at pages 1001 and 1002 of the transcript, and this
5 is the transcript of the June 28 session, the final session
6 prior to today's session, I had disclosed to the parties and
7 to Your Honor my intentions with respect to rebuttal,
8 including specifically offering into evidence the deposition
9 transcripts of the Bureau staff members.
10 And at page 1002 you specifically said to counsel
11 for Rainbow, "Now, you are going to object to the deposition
12 of the Commission staff?"
13 And Ms. Polivy is reflected as responding, "No."
14 JUDGE CHACHKIN: Well, if that's the case, I may
15 reconsider my position. I don't think counsel can change
16 their mind without any reason.
17 MS. POLIVY: Your Honor, Your Honor, I --
18 JUDGE CHACHKIN: I haven't finished yet.
19 You had access to the depositions. You read the
20 depositions. You indicated at the time of the last session
21 you had no objection and you maintain that position since
22 you didn't inform counsel that you had changed your mind,
23 and now at this hearing session suddenly you take the
24 position that you object. You have had your chance.
25 MS. POLIVY: Your Honor.

1 JUDGE CHACHKIN: You could have objected.

2 MS. POLIVY: Your Honor, in view of the fact that

3 I said that I would not object, I will withdraw my

4 objection, but I will ask leave to call Mr. Stewart for

5 surrebuttal.

6 JUDGE CHACHKIN: As to what?

7 MS. POLIVY: Well, there is -- there is apparently

8 some discrepancy between his testimony and other witnesses'

9 testimony and I think --

10 JUDGE CHACHKIN: Where is the discrepancy?

11 MS. POLIVY: Well, with regard to Antoniette Cook,

12 there is an appearance of discrepancy, if not a discrepancy,

13 as to --

14 MR. SILBERMAN: That's not in the deposition

15 though.

16 JUDGE CHACHKIN: I understand there was no

17 discussion at all concerning Antoniette --

18 MR. SILBERMAN: There was no deposition

19 testimony -- excuse me, Your Honor.

20 See, I think you are getting confused here.

21 MS. POLIVY: Are you --

22 MR. SILBERMAN: No, I am just saying that I want

23 the record to be clear on that, because we had originally

24 wanted to put in portion of an affidavit of Roy Stewart, and

25 the deposition testimony of Roy Stewart and Clay Pendarvis

1 and Barbara Kreisman that only deals with communications
2 between Rainbow personnel, or Rainbow representatives and
3 Bureau personnel. And I don't believe the Cook/Stewart
4 conversation was asked at all in this.
5 MR. EISEN: Your Honor. First, I apologize.
6 There has been a discrepancy here of things we said at the
7 end of the last session that were just maybe not -- were
8 confusing, that should not have been said. I apologize for
9 that.
10 Could we go off the record for five minutes? Just
11 let us take a quick look at these depositions, and then we
12 will tell you what our position is?
13 JUDGE CHACHKIN: All right, we will go off the
14 record.
15 (Whereupon, a recess was taken.)
16 JUDGE CHACHKIN: Mr. Cole?
17 MR. COLE: Your Honor, it was my understanding
18 that -- oh, I'm sorry. During the break, Your Honor, we
19 have distributed to Your Honor, the reporter and to counsel
20 for the other parties two additional documents. One, which
21 is a 28-page document with an unnumbered unpaginated cover
22 page entitled "Press Broadcasting Hearing Exhibit,
23 Transcript of Deposition of Barbara A. Kreisman Conducted
24 May 23, 1996."
25 And I would request that that be identified for