

1 had made some telephone calls, you could have figured out
2 which -- which path was being authorized to which STAs.

3 A Telephone calls to who?

4 Q To Pepper & Corazzini, for example.

5 A Yes, they should know because, again, the filing
6 number was part of the work that they had done.

7 Q Okay. But that wasn't done.

8 A That wasn't done, no.

9 Q Now, Mr. Nourain, you did, however, in this
10 period, '94, '95, activate paths. Is that correct?

11 A Yes.

12 Q Okay. Can you tell me, did you think when you
13 activated the paths that you had authority to activate the
14 paths?

15 A Would you repeat that?

16 MR. HOLT: Objection. Leading.

17 MR. BEGLEITER: It's not a leading question. I
18 asked him did he think.

19 JUDGE SIPPEL: I'm going overrule the objection.
20 Go ahead.

21 BY MR. BEGLEITER:

22 Q Did you think when you were activating a path in
23 '94 and '95 that you did not have authority to activate that
24 path?

25 A I did not know I did not have authority to --

1 Q Okay. Back in '94 and '95 --

2 A Yes.

3 Q -- I'll put it in the positive -- did you think
4 whenever you activated a path that you had authority?

5 A I always think when I activate the path that I
6 have authority, yes.

7 Q Right. And now we know that that's not the case.

8 A That's absolutely right.

9 Q And can you tell us why you thought you had
10 authority?

11 A Because of all the STAs I was receiving for all
12 these transmitters routinely.

13 Q You were receiving you said these STAs routinely?

14 A I would receive STAs routinely. There are a
15 number of STAs -- I mean, routinely. Let's define
16 routinely. I didn't get it every day. But whenever -- the
17 STAs would come often and for various transmitters.

18 Q Okay.

19 JUDGE SIPPEL: Well, hold on just a second. First
20 of all, I want to get -- I guess this is -- the Reporter,
21 you have this. But it's ST -- it's T as in Thomas. It's
22 not --

23 MR. BEGLEITER: Sam, Thomas, Albert.

24 JUDGE SIPPEL: Correct. Now, the question I have,
25 you said that because you were getting all these STAs, you

1 made the assumption that you had authorization. What --
2 what were you doing when these STAs came in to you? I mean,
3 how did you handle those STAs to come to the conclusion that
4 you had the authorization?

5 THE WITNESS: Well, my -- my conclusion wasn't
6 because of the STA. I was going through a certain time
7 frame. After I concluded the technical part of the
8 applications, I knew that from there I would -- it would
9 take a certain time for the application to be filed and then
10 filing the STA with the application. And then a few days
11 after that, we would get the -- we'd get the authorization -
12 - I mean, we would get the STA -- authorization against that
13 STA. And then it would be a certain time lapse. And based
14 on that, I would have just turned on the path.

15 JUDGE SIPPEL: So you were looking for a date that
16 would be on the STA? Is that what you were looking for or
17 for a date where?

18 THE WITNESS: No. What --

19 JUDGE SIPPEL: What date are you looking for?

20 THE WITNESS: I was looking for the -- the date
21 that I completed the COMSEARCH study until the date that I
22 activated the path. There was a certain time that I was
23 waiting for that. And that was the time that my associate
24 was going through that process of filing and obtaining the
25 STAs.

1 JUDGE SIPPEL: Well, was there anything that would
2 stop you from activating a path when that date was reached?
3 Anything? I mean, would you just go ahead -- you had the
4 date and that was all you needed?

5 THE WITNESS: Yes. Yes, but I also knew that it's
6 going to take -- take maybe one month or two months before
7 we get the authorization or unless -- it depends on if we
8 were expedited the path to be clear. At that time, it would
9 have been narrowed to let's say three or four weeks. And I
10 knew that I should wait for a certain time that I was told
11 it was going to take this process to take place.

12 So at that point, when the -- most of the systems
13 that I turned on was long after the technical process was
14 completed. And we were getting these STAs coming in. And I
15 would see that. And then I would turn on the path based on
16 those times that I was judging from the time that I had the
17 technical information and the time that the system would
18 have been activated.

19 JUDGE SIPPEL: But was there specific
20 documentation that had to be in that file before you would
21 activate the paths?

22 THE WITNESS: No. Since we were not getting the
23 license, everything else would have been providing --
24 obtaining the STAs. And that's what I was -- I was under
25 the assumption that all these STAs were granted.

1 JUDGE SIPPEL: But you didn't have them in your
2 hand.

3 THE WITNESS: I might have had them as part of the
4 ones that routinely came in and was filed. Like if I turned
5 on the particular receiver which would come on at a certain
6 transmitter, the STA would routinely come in. And then
7 based on that, we would probably -- that was the document
8 that I had because I knew we would not have the license.

9 JUDGE SIPPEL: All right. But the STA -- well, I
10 don't want to get into a long discussion here. But the
11 STA -- if you had the STA in hand, that would give you
12 justification to turn on a path, right -- to activate a
13 path?

14 THE WITNESS: Yes, that's correct.

15 JUDGE SIPPEL: I mean, even if the license were
16 still pending --

17 THE WITNESS: That's correct.

18 JUDGE SIPPEL: -- the STA would be like a -- I
19 mean, that would be enough. That's all you would need and
20 you could turn the switch.

21 THE WITNESS: If I had that, yes.

22 JUDGE SIPPEL: All right. So what about the
23 situations where you didn't have that?

24 THE WITNESS: Well, that's the whole thing. I did
25 not -- I did not pay attention to those STAs. I was looking

1 for the time that I was -- I was completing the technical
2 information.

3 JUDGE SIPPEL: You just looked at the date that
4 you completed your job and then you looked at the calendar
5 and then you made your decision.

6 THE WITNESS: Based on what I was told, that it's
7 going to take a certain time to get the process of --
8 COMSEARCH is going to take time for filing. And the STA
9 which would be file -- my assumption was the STA would be
10 filed with the applications. And a few days after that, you
11 will get the authority to turn the path on.

12 JUDGE SIPPEL: All right. Well, counsel's going
13 to lead you through that, I'm sure. But I want to know, am
14 I correct, is this -- I'm trying to understand physically
15 what is happening in your office when all of this is going
16 on. You got one date that you know that you submitted all
17 the technical information. And you've done a calculation as
18 to how long it should take to both file an application and
19 to get authorization. Isn't that correct? Isn't that what
20 you said?

21 THE WITNESS: That's basically.

22 JUDGE SIPPEL: So you really -- the main thing
23 that you were concerned about was the date that you had
24 submitted your data and the date on the calendar --

25 THE WITNESS: That's correct.

1 JUDGE SIPPEL: -- which would be the estimate as
2 to when you would have your authorization.

3 THE WITNESS: That's correct. In addition to
4 that, I -- I -- I had -- I referred -- obtaining the
5 application -- the filing and the STA to Pepper & Corazzini
6 because they were instructed to apply for that.

7 MR. BEGLEITER: I think that Your Honor has done a
8 good job of getting this information out. But I'll just ask
9 a few questions.

10 BY MR. BEGLEITER:

11 Q When you would complete your technical
12 information, would you keep a record or a log as to when you
13 completed that information?

14 A Yes. The copy of the -- the COMSEARCH --
15 technical information which I gave to COMSEARCH and they
16 faxed that to me for corrections.

17 Q Okay.

18 A At that -- and I would get that. The upper right-
19 hand side had the dates that that was completed.

20 Q Let's go through your assumptions then. After you
21 finished your technical part of the job, what did you assume
22 Pepper & Corazzini was going to do?

23 A I thought Pepper & Corazzini would file the --
24 obtain the data -- or information from COMSEARCH who will
25 file the application and apply for the STA.

1 Q Okay. And did you -- did you have any assumption
2 as to what the time period would be between the filing for
3 the license and the filing for the STA?

4 A They were supposed to file them both at the same
5 time.

6 Q Okay. Did you have any understanding as to -- in
7 '94 and '95 as to how much after the STA was filed it would
8 be granted?

9 A It would be within a few days, a week -- a week or
10 so.

11 Q Okay. Now, you now know that your assumptions
12 were incorrect.

13 A That's correct.

14 Q You've already testified that you learned about
15 the -- the unauthorized service in -- sometime in April of
16 '96 -- of '95?

17 A The latter part of '95.

18 Q Okay. And do you remember how you learned of
19 this?

20 A I had internal documents faxed to me which -- what
21 I recall indicated that there was some problem with some
22 paths that Time Warner. And that was how.

23 Q Were you able to figure out from this document
24 that there was a problem with the certain paths?

25 A Yes. There were some paths -- there was some

1 information in there which will indicate that there were
2 some paths which were -- and --

3 Q Did you speak to any of your supervisors about
4 this?

5 A I spoke with Tony Ontiveros after I got that. And
6 then after that, Tony told me that we would need to go talk
7 to Peter Price and Edward Milstein.

8 Q Now, what was your reaction on learning that there
9 were unauthorized paths?

10 A I was extremely surprised at first. Then angry
11 afterwards.

12 Q What were you angry about?

13 A Because we're not supposed to turn on any
14 unauthorized paths. And my anger was that Pepper &
15 Corazzini haven't done their job.

16 Q Okay. And tell me, sir, did you contact Pepper &
17 Corazzini?

18 A Yes. I investigated first about those paths to
19 find out how the technical part of those paths, what are the
20 dates of those. And then after that, I called Pepper &
21 Corazzini to find out what's going on.

22 Q Okay. And did you -- who did you speak to at
23 Pepper & Corazzini?

24 A Mike Lehmkuhl.

25 Q Did you inform Mr. Lehmkuhl that any paths were

1 being serviced without authorization?

2 A I don't think the conversation was along that.
3 The conversation was more of why he didn't do his job of
4 obtaining the STA for these paths.

5 Q And, sir, I'd like you to look at the thicker
6 volume. And go to the very last exhibit, Exhibit 34.

7 A Page 34?

8 Q Exhibit 34.

9 JUDGE SIPPEL: Tab -- it's Tab 34.

10 MR. BEGLEITER: Tab 34.

11 MR. WEBER: I think to make the record clear, we
12 should on the record also say -- instead of just kind of the
13 thinner volume, the thicker volume.

14 MR. BEGLEITER: Okay.

15 MR. WEBER: I know you're doing it for the
16 Witness' ease. But I think at the end to have a clear
17 record, make sure we're calling them with the, you know,
18 TW/CV Exhibit 34, as well.

19 MR. BEGLEITER: I stand corrected, Mr. Weber. I
20 will do that.

21 JUDGE SIPPEL: That's well taken.

22 MR. BEGLEITER: TW/CV. I think I'll do it both
23 ways. The Witness will understand better thin and thick.

24 MR. WEBER: I understand that.

25 MR. BEGLEITER: But for the record, I'll say

1 TW/CV.

2 BY MR. BEGLEITER:

3 Q Okay. Number 34. Mr. Nourain, did you actually
4 receive this document on or about April 28th, 1995?

5 A Yes.

6 Q Okay. And does this -- you mentioned a few -- in a
7 few answers ago about a telephone conversation you had with
8 Mr. Lehmkuhl.

9 A Yes.

10 Q Was your telephone conversation prior to or after
11 you received this exhibit?

12 A It was before that.

13 Q Okay. And did this -- did this exhibit -- did it
14 follow up on that -- on that telephone conversation?

15 A Yes. Because after our conversation, I asked him
16 to just give me some kind of a report what is going on.

17 Q Okay. Is there any doubt in your mind that by
18 April 28th, 1995, you knew that there was -- that there was
19 premature -- that there was unauthorized activation?

20 A Could you repeat that again?

21 Q Is there any doubt in your mind that by April
22 28th, 1995, you were aware that there was unauthorized
23 transmissions?

24 A There's no doubt in my mind.

25 Q Okay. And in your conversation with Mr. Lehmkuhl,

1 you discussed his -- what you believed was his failure to
2 ask for STAs?

3 A That is correct.

4 Q Because you had -- did you expect him -- you had
5 expected him and the firm of Pepper & Corazzini to be
6 regularly apply for STAs?

7 A That's correct. Because some of those paths that
8 I saw wasn't authorized was -- my technical information
9 called that to be on September of 1994. Six months before
10 that I did some of those studies.

11 Q In the second paragraph, Mr. Lehmkuhl makes
12 reference to an emission designator problem.

13 A Yes.

14 Q Can you -- could you explain to the Judge what the
15 emission designator problem was?

16 A Yes. That's -- as we discussed on -- when the --
17 we should probably refer to that because I want to go -- the
18 emission designator is that numbers that the manufacturer is
19 being assigned by the FCC as a part of that data sheet.

20 JUDGE SIPPEL: The equipment specification?

21 THE WITNESS: That's correct. That's the one.

22 BY MR. BEGLEITER:

23 Q And in March of 1995, did Liberty -- did Liberty's
24 applications have incorrect emission designators on them?

25 A Yes.

1 Q Okay. And as a result, had the FCC taken any
2 action with regard to those applications?

3 A Apparently they didn't grant them.

4 Q Okay. Now, did Mr. Lehmkuhl agree to ask for STAs
5 on April 28th?

6 A I told him before that to -- after my conversation
7 with him on a phone conversation that he should go apply for
8 it, yes.

9 Q Okay. And did he?

10 A Yes.

11 Q Okay. Now, a few moments ago, when I asked you
12 who you spoke to at Liberty concerning this -- your -- your
13 discovery that there were premature activations, you
14 indicated, did you not, that you spoke to Tony Ontiveros,
15 Peter Price and Edward Milstein?

16 A Yes.

17 Q Okay. Can you tell me what their reactions were
18 when you told them -- when you discussed it?

19 A They were just as surprised as I was.

20 Q Okay. Did anybody at Liberty ever ask you to
21 activate a building without authorization?

22 A I don't need anybody at Liberty to tell me. I
23 know that I shouldn't turn the building on without
24 authorization. But to answer your question, no.

25 Q Okay. Was there anything in it for you personally

1 to activate a building without authorization?

2 A No, sir.

3 Q In retrospect, Mr. Nourain, was this a mistake?

4 A Yes, it was a mistake.

5 Q Mr. Nourain, I'd like you to turn to the thinner
6 volume which is the Liberty/Bureau Exhibit 1, okay?

7 A I'm sorry. Which page is it?

8 JUDGE SIPPEL: I think that's the -- the Liberty
9 Exhibits are in that book to your left. These are -- the
10 Time Warner and the Cablevision exhibits are in this bigger
11 book to your right.

12 THE WITNESS: I see.

13 BY MR. BEGLEITER:

14 Q Okay. Look at the first exhibit. You've seen
15 this before, Mr. Nourain, haven't you? You've seen this
16 before today?

17 A I'm sorry. You have to repeat that. I'm not
18 following.

19 Q Okay. Exhibit 1 in the Liberty/Bureau hearing
20 which is the first exhibit in the thinner volume.

21 A Okay. The one that says "Price 17"?

22 Q Right. It also says Exhibit 1, would be to the
23 right of that.

24 A Oh, yes, sir. Yes.

25 Q Okay. A lot of tabs. Now, you've seen this

1 before today.

2 A Yes, that's correct.

3 Q Okay. And you were questioned about this in your
4 deposition, weren't you?

5 A Questioned about this in the deposition?

6 Q Right.

7 A Yes.

8 Q Okay. Mr. Nourain, on or about February 24th,
9 1995, do you recall seeing this particular exhibit?

10 A No.

11 Q Okay. Are you saying, Mr. Nourain, that you never
12 got the exhibit?

13 A No, I'm not saying that because my name is on it.

14 Q Okay. Had you -- had you gotten inventories from
15 Pepper & Corazzini prior to February 1995?

16 A At some time, I would get that, yes, before.

17 Q Tell me, did you pay attention to those
18 inventories?

19 A Not -- not really.

20 Q Why not?

21 A Because those inventories was nothing but the
22 inventory of the licenses which we had already obtained from
23 the FCC. To me, those are the inventory that Pepper &
24 Corazzini mostly will put together to keep track of it
25 themselves because they didn't get the license. I would get

1 the license. And then they send those inventories to me to
2 check with my licenses. And if it's -- if they wanted, then
3 I would send them back a copy of the license.

4 Q Let's make that clear to the Judge. So when a
5 license would come from the FCC, it wouldn't go to Pepper &
6 Corazzini.

7 A No.

8 Q It would go to you.

9 A That's correct.

10 Q And how about STAs?

11 A The STAs would come to me after it was granted.
12 But the only difference between the license and STA was that
13 Pepper & Corazzini had to have the copy of that STA that
14 they filed. But they never had a copy of the license. I
15 had to give them the license.

16 Q Okay. And it was up to you to give it to them --
17 it was up to you to give Pepper & Corazzini the copy of the
18 license?

19 A Well, it wasn't required. But if they asked for
20 it, I would give it to them.

21 Q Okay. All right. Now, going back to the
22 inventory, do you have any recollection of ever discussing
23 this inventory with Michael Lehmkuhl?

24 A No, I didn't -- I didn't know about this.

25 Q Did you discuss it with anybody?

1 A No. As I said -- I testified, I didn't even --
2 didn't even see this -- this prior to I guess last summer.
3 So I didn't talk to anybody about that.

4 Q All right. Mr. -- Mr. Nourain, let me ask you a
5 few other questions. Did you inform Pepper & Corazzini
6 before you went to activate a building that you were going
7 to do that?

8 A No.

9 Q Okay. Did your procedures change after April
10 1995?

11 A Oh, yes.

12 Q You remained a Liberty employee from April '95
13 until the early part of this year, is that right?

14 A I was --

15 Q Early part of last year.

16 A Until March '96.

17 Q So approximately 11 months from this discovery,
18 you remained a Liberty employee.

19 A That's correct.

20 Q Did the procedures for licensing and activating
21 buildings change?

22 A Yes. It changed -- it changed dramatically, yes.

23 Q Okay. Can you just tell me -- tell the Court how
24 it's changed?

25 A Yes. Well, one thing is that I got more involved

1 on that. And I had Pepper & Corazzini for the first time
2 put together the daily or weekly report of all the status of
3 the licenses and the STAs. And in addition to that,
4 internally we put together the procedures to follow -- to
5 track how the licensing process would go. And we had Andrew
6 Berkman as an internal counsel get involved.

7 Q He's a lawyer.

8 A As a lawyer -- got involved into making sure that
9 everybody has been tracked. And he got involved with Pepper
10 & Corazzini, as well.

11 Q Does Mr. Berkman have to sign off before a
12 building is activated?

13 A Yes.

14 MR. BEGLEITER: Mr. Nourain, thank you.

15 JUDGE SIPPEL: All right. Who wants to go first,
16 Mr. Holt or Mr. Beckner? Mr. Weber.

17 MR. BECKNER: Your Honor, before I begin my
18 substantive examination, I'm not sure whether or not we'd be
19 changing this procedure about the documents. At one point,
20 you mentioned about voir diring this Witness with respect to
21 the document production. What's your current thinking on
22 whether we should do that or not?

23 JUDGE SIPPEL: Well, if Mr. Weber's got some
24 specific -- if he had some questions, if you wanted to voir
25 dire this Witness on these new -- you know, this new

1 development with respect to finding documents, then you can
2 do that now or you can do it at the end. It doesn't --

3 MR. WEBER: I think I'd prefer to do it at the end
4 --

5 JUDGE SIPPEL: All right.

6 MR. WEBER: -- and just see if it becomes
7 necessary from the questioning from the other counsel.

8 JUDGE SIPPEL: Okay. That will be -- that will
9 move it along a little faster. Go ahead, Mr. Beckner.

10 CROSS EXAMINATION

11 BY MR. BECKNER:

12 Q Mr. Nourain, at the beginning of your direct
13 testimony in response to Mr. Begleiter's questions, you
14 mentioned Joseph Stern.

15 A Yes.

16 Q When you were hired by Joseph Stern, he already
17 had a license procedure in place to make sure that no path
18 was activated before it was authorized. Isn't that right?

19 MR. BEGLEITER: We have an objection. The Witness
20 didn't testify that he was hired by Mr. Stern.

21 JUDGE SIPPEL: No, but I believe that there is
22 testimony in the record.

23 MR. BEGLEITER: But just to be accurate, Your
24 Honor, I believe Mr. Nourain testified that he was
25 interviewed by Mr. Stern and Mr. Stern recommend his hiring.

1 JUDGE SIPPEL: No, I think Mr. Milstein testified
2 that he was hired by Mr. Stern this morning. But regardless
3 -- yes, I'm not so sure -- I know that Mr. Stern was
4 connected with Mr. Nourain's hiring. I know that came
5 through this morning. I'm not sure -- I don't have that
6 good of a recollection. But go ahead. You go at it. You
7 have cross examination. Go ahead, Mr. Beckner.

8 MR. BECKNER: If he wants to say he wasn't hired
9 by Mr. Stern, that's okay.

10 JUDGE SIPPEL: Go ahead.

11 BY MR. BECKNER:

12 Q When you -- well, we'll work right around this,
13 Mr. Nourain. When you went to work first for Liberty, there
14 was a man named Joseph Stern who was in charge of the
15 engineering, was there not?

16 A He was a consultant that was hired and, yes, he
17 was in charge of engineering and construction of the
18 network.

19 Q Okay. And did he not already have a licensing
20 procedure in place to make sure that no path was activated
21 before it was authorized?

22 A If he had, I don't recall.

23 Q You don't recall. I think you testified that he
24 never explained the licensing procedure to you in response
25 to Mr. Begleiter's question, is that right?

1 A Directly to me, no.

2 Q Excuse me?

3 A Yes, we had -- we hadn't discussion on the
4 licensing. Is that -- could you repeat the question again?

5 Q I think you testified in response to Mr.
6 Begleiter's question that Mr. Stern never explained the FCC
7 licensing process to you.

8 A No, he didn't. That's correct.

9 Q Okay. I'd like you to take a look at Time
10 Warner/Cablevision Exhibit 2 which is Tab 2 in the large
11 notebook.

12 A Number 2, yes.

13 Q This memorandum is addressed to you from Mr.
14 Stern. And it talks about "information transfer during our
15 meeting yesterday." I presume meaning April 28, 1992.

16 A Yes.

17 Q Do you recall there being such a meeting?

18 A Yes.

19 Q Okay. And you recall receiving this memorandum?

20 A Yes.

21 Q Okay. Now, Mr. Stern was deposed in this case,
22 also. And -- and he gives a somewhat different account of
23 the meeting than you did. And I want to read you his
24 account so that you can say whether or not you disagree with
25 him.

1 MR. BEGLEITER: Excuse me, Your Honor. I don't
2 have a copy of the Stern transcript with me. I thought we
3 were only going to be able to read from documents that were
4 in evidence.

5 MR. BECKNER: Well, Your Honor, I have no way of
6 anticipating precisely what the Witness is going to say.
7 I'm doing cross examination and I think I'm entitled to ask
8 him about a conversation that another witness has testified
9 about that he's brought up in his direct.

10 JUDGE SIPPEL: Well, if he can recall it, yes. I
11 mean, is there going to be a -- I'm sure we could get -- we
12 could probably get it stipulated into the record if you want
13 to show Mr. Begleiter the specific page of the Stern
14 transcript. I wouldn't think that's going to hold things
15 up.

16 MR. BEGLEITER: Well, my only problem, Your Honor,
17 right now is that I don't have a copy of the Stern
18 transcript with me. And I -- I -- my recollection is
19 different from Mr. Beckner's recollection.

20 JUDGE SIPPEL: Well, somebody -- somebody has to
21 get the page of the transcript.

22 MR. BECKNER: I will read it and then Mr.
23 Begleiter can read it from the transcript and see if I've
24 read it correctly.

25 MR. BEGLEITER: There may be two entries, but go

1 ahead.

2 MR. BECKNER: Is that all right?

3 JUDGE SIPPEL: Well, you can redirect him on this.

4 MR. BEGLEITER: Well, the problem is I can't
5 because I don't have a copy of the transcript.

6 JUDGE SIPPEL: Well, Mr. Beckner will lend you his
7 when you're redirecting.

8 MR. BECKNER: Five dollars.

9 MR. BEGLEITER: He wants to charge me.

10 BY MR. BECKNER:

11 Q Okay. Now, Mr. Nourain --

12 A Yes.

13 Q Mr. Stern testified at a deposition in this case
14 as follows, and here's the question: "Now, when Mr. Nourain
15 came to work for Liberty, did you" -- meaning Mr. Stern --
16 "or someone else from STC explain how STC had been handling
17 the application process on behalf of Liberty when he was in
18 control of it?" And the answer Mr. Stern gave was, "Yes, I
19 did." And the next question is, "Did Mr. Nourain" -- and
20 then there's interruption -- "Well, did you do that
21 personally?" And Mr. Stern said, "Yes."

22 And the next question is, "Did Mr. Nourain
23 indicate to you any kind of confusion or uncertainty about
24 how the process worked?" And the answer he gave was, "No,
25 he said he understood the process completely; there was no

1 need to go into detail." Now, that's Mr. Stern's account of
2 a conversation that he said he had with you on the subject
3 of the FCC licensing process. And the only thing I'd like
4 you to tell us is whether or not you remember the
5 conversation the way Mr. Stern has described it.

6 A Well, when I talked with Mr. Stern, we talked
7 generally about a lot of things: engineering, my background
8 and the licensing. The only thing we were talking about
9 that -- that you need a license to turn the system on. And
10 he had already done some of the -- already obtained some of
11 the licenses for some of the paths that should be
12 constructed in the future. And as you see, on this memo as
13 well, it has nothing to do with the procedure. This memo
14 only tells me that information about what he has done, what
15 needs to be done.

16 And I don't deny what he says, but you cannot also
17 from his testimony say that what procedure -- what he means.
18 He only meant that he need to have a license and that's the
19 one that I already knew. You need to have a license to turn
20 on any wireless system. And he also told me that there is
21 Pepper & Corazzini there who are in charge of the --
22 obtaining the file. And there's COMSEARCH who does the
23 research.

24 When you do that interview, obviously you ask
25 those questions. The licensing, who is doing that. You

1 have an inside counsel; you have an outside. And that's
2 what the conversation was in the interview. And that's the
3 only thing I recall from my meeting with him originally at
4 the time. And as I said, to answer to this one, this was
5 just a memo.

6 That was April 29. It basically must have been
7 the last meeting we had because right after that he was
8 terminated. And I was taking over. And he was giving me
9 more of an inventory, an update on what's -- what in his
10 opinion was pending and what was coordinated, what was
11 licenses. That's all I can say about that question.

12 Q Okay. Well, let me just ask the question this
13 way. Did you ever recall telling Mr. Stern that you
14 understood the FCC licensing process?

15 A Did I ever do -- I'm sorry. You have to repeat
16 that again.

17 Q Did you ever recall telling Mr. Stern that you
18 understood the FCC licensing process and, therefore, there
19 was no need for him to explain it to you?

20 A We never had a very detailed discussion of that to
21 my recollection.

22 JUDGE SIPPEL: Well, be more specific about it.
23 He just quoted to you what Mr. Stern said. Was Mr. Stern
24 telling the truth? Why don't you read that one sentence
25 again where he says that -- that he, Mr. Nourain, knows