

In The Matter Of:

Before the FCC - ~~Very Confidential~~
In Re: Application of Liberty Cable Co., Inc.

Bruce McKinnon
June 5, 1996

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

In re: Application of : WT Docket No.
: 96-41

Liberty Cable Co., Inc. :

CONFIDENTIAL

Wednesday, June 5, 1996

Washington, D.C.

The telephonic deposition of BRUCE MCKINNON, called for examination by counsel for the

Federal Communications Commission in the above-entitled matter, pursuant to notice, in the offices of the Federal Communications Commission, 2025 M Street, N.W., Fifth Floor Conference Room, Washington, D.C., convened at 5:27 p.m., before David A. Kasdan, RPR, a notary public in and for the District of Columbia, when were present on behalf of the parties:

APPEARANCES:

On behalf of the Applicant:

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On behalf of the Federal Communications

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EXHIBITS

None.

PROCEEDINGS

Whereupon,

[1] BRUCE MCKINNON

[2] was called for examination by counsel for the
[3] Federal Communications Commission and, after having
[4] been duly sworn by the notary public, was examined
[5] and testified as follows:

[6] EXAMINATION BY COUNSEL FOR THE
[7] FEDERAL COMMUNICATIONS COMMISSION
[8] (By telephone.)

[9] BY MR. WEBER:

[10] Q: Good evening. I'm Joseph Weber and I'm
[11] representing the chief of the Wireless
[12] Telecommunications Bureau in this matter. Please
[13] state your name for the record.

[14] A: Full name is Bruce F. McKinnon,
[15] M-C-K-I-N-N-O-N.

[16] Q: And briefly what is your educational
[17] background.

[18] A: I'm a graduate of the most prestigious
[19] high school in the nation, Boston Latin School, and
[20] Harvard College and Harvard Business School.

[1] Q: How are you employed?

[2] A: Director of administration in a law firm
[3] in Boston, Chute, Hall & Stewart.

[4] Q: Prior to this job, was there a time when
[5] you were employed with Liberty Cable?

[6] A: Yes. I was with Liberty Cable about
[7] two-and-a-half years.

[8] Q: And what was the year span? From what
[9] year to what year?

[10] A: '91 to '93.

[11] Q: What was your job title with Liberty?

[12] A: I was Executive Vice President and Chief
[13] Operating Officer.

[14] Q: Could you explain for us what your duties
[15] and responsibilities were.

[16] A: I was responsible for the day-to-day
[17] operations, answering the phones, installation of
[18] cable, activating new buildings, processing of
[19] bills, the more tactical things.

[20] Q: Were you in any way involved with the
[21] application process for microwave paths for Liberty
[22] Cable?

[1] A: I had the engineering consultant, Stern
[2] Communications, and eventually the engineer,
[3] Behrooz Nourain. Reported through me--reported to
[4] me with their responsibilities.

[5] Q: Did you instruct them to report to you?

[6] A: We were a rather small outfit at the time.
[7] It was probably about a dozen to 15 of us, and I
[8] was responsible to make sure that the installations
[9] went properly.

[10] Q: But as to Mr. Stern, did you instruct him
[11] to report as to his process of applying for FCC
[12] licenses? Did you instruct him to report to you?

[13] A: Only in the most general sense that we had
[14] done a cite survey and an application had been
[15] processed from his shop and had been sent forward;
[16] in the most general sense of knowing when we had,
[17] in general, when we had filed and, in general, when
[18] we had received clearance to go ahead.

[19] Q: Why don't we start with Mr. Stern's
[20] involvement with Liberty Cable at first. What was
[21] your understanding of the process of how an FCC
[22] application or how authority was applied for a

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[1] particular path? Do you understand my question?
 [2] **A:** Yes, I do. Giving myself a minute to
 [3] think.
 [4] **MR. BEGLEITER:** I will object on
 [5] foundation grounds.
 [6] It's okay to answer, Mr. McKinnon.
 [7] **THE WITNESS:** Am I clear to go ahead?
 [8] **MR. BEGLEITER:** Yes.
 [9] **THE WITNESS:** My general understanding is
 [10] that we did a couple of things. We did a physical
 [11] line of sight survey to make sure, from an
 [12] engineering point of view, that a hub could feed a
 [13] spoke.
 [14] Also had a frequency check and a frequency
 [15] coordination, and we mailed that information off to
 [16] Comsearch. Comsearch then did whatever they did to
 [17] check the neighboring frequencies and that type of
 [18] thing, and then it rotated through Pepper &
 [19] Corazzini on the legal side after the technical
 [20] analysis had been done.
 [21] Then it went into the FCC for approval. I
 [22] guess they made some public notices and public

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[1] postings for neighboring folks on adjacent
 [2] frequencies. And then after that they would return
 [3] to us by mail their authorizations.
 [4] **Q:** And by they would return the
 [5] authorizations, who is the "they" you are referring
 [6] to?
 [7] **A:** The FCC would give their licenses or
 [8] authorizations—I forget the exact phrase—and it
 [9] would, if memory serves me right, would usually
 [10] flow through Pepper & Corazzini to us. It was
 [11] either sent back to us or would flow through Pepper
 [12] & Corazzini. I'm a little vague on which way it
 [13] would go.
 [14] **Q:** And you would await activating a system
 [15] until you received this authorization?
 [16] **A:** Yes.
 [17] **Q:** And you understood that the authorization
 [18] was necessary to activate a system?
 [19] **A:** Not only did I understand, I thought we
 [20] were an embryonic company that we needed to be as
 [21] pure as snow and made sure we didn't proceed until
 [22] we had that done.

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[1] **Q:** Did you convey this feeling to anybody
 [2] else at Liberty Cable?
 [3] **A:** I thought that was well understood.
 [4] Certainly Stewart and I had one conversation about
 [5] that where he was anxious about his reputation that
 [6] everything would be above board, and I said I
 [7] agree. I think we will be subject to a high degree
 [8] of scrutiny, and we will do everything by the
 [9] letter and spirit of the law.
 [10] **Q:** Was there any process put into place to
 [11] verify the fact that there was an authorization
 [12] prior to activating a system during this period
 [13] where we are talking about while you were still
 [14] dealing with Mr. Stern?
 [15] **A:** If I understand the question, Mr. Weber, I
 [16] think we were to wait until we actually got the
 [17] license from the FCC.
 [18] **Q:** Now there came a time that Mr. Stern no
 [19] longer did consulting engineering or engineering
 [20] consulting work for Liberty, correct?
 [21] **A:** Right. We engaged him to be our
 [22] headhunter, if you will, to do a personnel search,

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[1] and he helped screen down a pool of candidates, and
 [2] he strongly recommended the engineer that we hired,
 [3] Behrooz Nourain.
 [4] **Q:** Did you play any role in the hiring of
 [5] Mr. Nourain?
 [6] **A:** I interviewed him, and I hired him for our
 [7] company based strongly on Mr. Stern's high
 [8] recommendation. We have lots of applicants that
 [9] were winnowed down. I happen to know one of the
 [10] handful of final candidates, and I thought using
 [11] that as a reference point the strongest candidate
 [12] out of the pool was Behrooz Nourain.
 [13] **Q:** Did Mr. Nourain assume all the duties and
 [14] responsibilities that Mr. Stern was doing upon
 [15] Mr. Stern's departure when Mr. Stern ceased doing
 [16] duties for Liberty Cable?
 [17] **A:** Yes. That's the quick answer. The more
 [18] general answer was that he specifically hired
 [19] Behrooz because we reached a critical mass where we
 [20] frankly needed to have some of that knowledge in
 [21] house, and Stern was expensive to do that. And we
 [22] thought the time had come to establish our own

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[1] engineer, our engineering group.
 [2] **Q:** Upon Mr. Nourain's commencement of work
 [3] for Liberty Cable, did you have an opportunity to
 [4] discuss with him what his duties and
 [5] responsibilities would be?
 [6] **A:** Yes. My understanding was pretty clear.
 [7] We were going to use microwave technology to move
 [8] video signals, and that we needed a clear line of
 [9] sight that would be viable in a Manhattan area. We
 [10] had enough experience and enough general knowledge
 [11] to know that these frequencies were—that those
 [12] frequencies were—struggling for my words
 [13] here—that many were actively used and we wanted to
 [14] be able to make sure that we were crystal clear in
 [15] the picture we delivered, and that the path, the
 [16] individual paths, required a great deal of
 [17] annotation and documentation to do them. Sure,
 [18] Behrooz and I talked about that.
 [19] **Q:** Was there any discussion with Mr. Nourain
 [20] about having to await FCC authorization prior to
 [21] activating a path?
 [22] **A:** Yes. Stern was very alert to that. I was

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[1] very alert to that. And Behrooz, with his history
 [2] in the industry, was very alert to that. Both of
 [3] those gentleman were professional engineers, and
 [4] they were very attuned to the timing of this.
 [5] **Q:** Can you recall any specific discussions
 [6] you had with Mr. Nourain regarding awaiting FCC
 [7] authority?
 [8] **A:** I can't recall a day and a date, our
 [9] frequency of conversation, but I can say that when
 [10] we would plan a construction project, certainly one
 [11] of the critical path success factors, and it was
 [12] always the second to last thing before activation,
 [13] was did we receive FCC approval. That was always
 [14] part of our construction planning.
 [15] **Q:** And to your knowledge Mr. Nourain was
 [16] aware of this?
 [17] **A:** Frankly, I think he was acutely aware of
 [18] it.
 [19] **Q:** Now, did there come a time while you were
 [20] still a affiliated with Liberty Cable that you
 [21] learned that any paths were activated without prior
 [22] authority?

[1] A: Would you restate that question?
[2] Q: Yes.
[3] While you were still employed by Liberty
[4] Cable, did there come a time where you had learned
[5] that Liberty had activated a path without prior
[6] authority from the FCC?
[7] A: To my knowledge, we never activated a path
[8] without a license from the FCC.
[9] Q: Since you have left Liberty Cable, have
[10] you since learned that Liberty activated paths
[11] without prior FCC authority?
[12] A: No. I frankly have virtually no contact
[13] with the folks at Liberty. I moved out of state,
[14] changed professions. I'm no longer in the
[15] industry. And it's not even a social topic for me
[16] anymore.
[17] Q: Had the attorneys with Constantine &
[18] Partners discussed with you the Hearing Designation
[19] Order or the current proceeding before the Federal
[20] Communications Commission regarding Liberty Cable?
[21] A: Bob Begleiter visited me Monday afternoon,
[22] June 3rd. We met for maybe 30, 40 minutes here in

[1] my office in Boston, and frankly asked me half a
[2] dozen quick questions, and that was about it.
[3] Q: While you were employed with Liberty
[4] Cable, did you have any dealings with the law firm
[5] of Pepper & Corazzini?
[6] A: A little bit. More during our first
[7] handful of applications, and not much after that.
[8] Q: Can you recall which attorneys at the firm
[9] you did deal with?
[10] A: Initially I dealt with Todd Parriott, and
[11] I believe he left the firm, and then a couple of
[12] times with Jennifer Richter.
[13] Q: Can you recall if they were ever
[14] instructed to notify Liberty upon FCC issuance of
[15] any licenses?
[16] A: There is a little history here. The
[17] first-I don't know the exact number, but the first
[18] handful of licenses took excruciatingly long to be
[19] approved, and Todd, in particular, used to tell me,
[20] well, we expect it now, we expect it then, but it
[21] didn't particularly work out. His timing and his
[22] estimates didn't work out.

[1] And Jennifer, a couple of times when we
[2] would ask about a particular site or a particular
[3] project, would try to give me a heads up, but I
[4] remember that after a while this fell into kind of
[5] a routine that I'm not sure the turnaround, but 30
[6] or 60 days later after the first we had some real
[7] hurdles in the beginning, but after the first half,
[8] a dozen or so, my memory is this turned into a
[9] pretty consistent 60-day turnaround time.
[10] MR. BEGLEITER: To the extent Mr. McKinnon
[11] related conversations you had with Mr. Parriott and
[12] Ms. Richter, to the extent his statement now
[13] conveys advice given to him by Mr. Parriott or
[14] Ms. Richter, I'm going to object on the grounds of
[15] attorney/client privilege and asserting the
[16] attorney/client privilege as to that.
[17] BY MR. WEBER:
[18] Q: Mr. McKinnon, did you understand what
[19] Mr. Begleiter was speaking about? If I ask you
[20] questions about Pepper & Corazzini, Mr. Begleiter
[21] will object if you answer by revealing any advice
[22] or counsel given by these attorneys. However, you

[1] can talk in generalities about your discussions
[2] with them, and that's all I'm really asking for.
[3] Do you understand?
[4] A: I understand what he said and I will try
[5] to be helpful and forthcoming in my answers.
[6] Q: Thank you.
[7] During this 60-day turnaround, was there
[8] ever any pressure from within the company at
[9] Liberty in order to get the paths granted quicker
[10] so that the service could be provided?
[11] A: No. Frankly, we are in an embryonic stage
[12] getting our suppliers in line, getting our
[13] equipment delivered, clearing trade references and
[14] all those other types of things. It fell into a
[15] reasonable routine for us, and we began to schedule
[16] around that. We told our customers that, and it
[17] made some sense for us. We did things
[18] methodically, kind of in a disciplined way.
[19] Q: And your customers understood? In other
[20] words, there was never any pressure from the
[21] buildings awaiting service to get the service
[22] quicker?

[1] A: No, not at all. That really wasn't an
[2] issue.
[3] MR. WEBER: Thank you, Mr. McKinnon.
[4] That's all the questions I have.
[5] THE WITNESS: Thank you, Mr. Weber.
[6] EXAMINATION BY COUNSEL FOR
[7] TIME WARNER CABLE OF NEWYORK CITY
[8] BY MR. BECKNER:
[9] Q: My name is Bruce Beckner, and I'm
[10] representing Time Warner Cable of New York City in
[11] this proceeding, and I'm going to ask you a few
[12] questions. And I will try to keep it as short as I
[13] can. I know your time is limited.
[14] Aside from your work at Liberty Cable, do
[15] you have any other work experience in what I'm
[16] going to broadly define as the cable television
[17] industry or cable TV, MDS, SMATV?
[18] A: Yes, sir. A quick stretch of my
[19] background. I joined the cable TV industry in May
[20] of 1982 as a general manager with Intercontinental
[21] Cablevision.
[22] I joined the corporate staff of Cox

[1] Communication in January of 1984.
[2] I was the operations manager of Cox
[3] Oklahoma City in 1985.
[4] 1986, '87, '88, I was the general manager
[5] for the Warner Cable Division here in Boston called
[6] the Medford Complex.
[7] In 1989, I was the general manager for
[8] wireless cable of New York. The parent company is
[9] referred to as Microband.
[10] So I have a little bit of a broad brush
[11] experience with cable TV, MDS, microwave and all
[12] those other alternative technologies.
[13] Q: I asked my secretary this morning to fax a
[14] document to you, a one-page document. It's a copy
[15] of a memorandum addressed to you from Peter Price.
[16] Did you receive that, sir?
[17] A: Yes, I have that, sir.
[18] Q: This is going to be a little awkward since
[19] you are there and we are here, but I'm going to
[20] hand around a page of this document. What I would
[21] like to ask you to do, just so we could have on the
[22] record that this is identified and I'm going to ask

[1] the Court Reporter to mark a copy of it-

[2] **MR. KEAM:** This was marked this morning.

[3] **BY MR. BECKNER:**

[4] **Q:** Just so we know positively we are looking

[5] at the same thing, if you read the very top of the

[6] page and very bottom, there are some numbers and so

[7] on. Just read that out loud to us so we know we

[8] have the same thing.

[9] **A:** The very top line is 06/05/96, 10:02, and

[10] a phone number (202) 265-5706.

[11] **Q:** That's my fax machine. We will stipulate

[12] that's not part of the document.

[13] Beneath that.

[14] **A:** The guts of the document are it's a Peter

[15] Price memo to Bruce McKinnon, subject: FCC licenses

[16] and procedures.

[17] **Q:** Fine. Do you have any recollection of

[18] having received this memorandum on or about the

[19] date February 26th, 1992?

[20] **A:** I have a general recollection, yes.

[21] **Q:** Did you do anything in response to this

[22] memorandum? And if so, what?

[1] **A:** My recollection is that the point of this

[2] memorandum is what Peter was directing me to do was

[3] to spend less of my time involved in the FCC

[4] licensing procedure and monitoring the different

[5] milestones, and to spend more of my time concerned

[6] with the installation of the actual facilities in

[7] Manhattan.

[8] And my general memory is that I wanted to

[9] move these applications along and I thought I could

[10] be helpful.

[11] **Q:** Do you recall whether or not you discussed

[12] this memo with Mr. Price after he sent it to you?

[13] **A:** I don't have a recollection that I did. I

[14] assume I did, but I don't have a recollection of

[15] that and a memory.

[16] **Q:** Do you know of any reason why he would

[17] have put this in a written form to you as opposed

[18] to just simply telling you orally?

[19] **A:** Frankly, I think the thrust of this memo

[20] was leave the expertise on engineering and FCC

[21] licenses to Stern. I was a little concerned

[22] because Stern is very expensive talent for this

[1] type of thing. We weren't as much concerned at

[2] that point with the expense of Stern as we were

[3] getting it right at the building site level, and

[4] that's what I decided to focus on. And you could

[5] see the precursor of that in the memo where it says

[6] blah, blah, blah, we could bring the function into

[7] Liberty as an Engineering Department

[8] responsibility.

[9] At that point we were relying upon a

[10] relatively expensive consultant, and I was to give

[11] that consultant his address and worry about what

[12] was happening at the site level in Manhattan.

[13] **Q:** Prior to your getting this memorandum, did

[14] you have any kind of a signoff procedure in place

[15] where, before someone turned on a microwave path,

[16] you personally had to give them the okay to do

[17] that?

[18] **A:** We were dealing with such a relatively

[19] small number of buildings at this time. We knew

[20] when we got a permit from the FCC, got a license

[21] from the FCC. Frankly, it was kind of a big deal

[22] when it came through. We didn't get to the signoff

[1] procedures until much farther down the road, more

[2] towards the end of '92 than this time here.

[3] **Q:** Well, I will get to that in a second, but

[4] in the early part of '92, I take it that the group

[5] of people that was Liberty was small enough that

[6] when a license came back from the FCC everybody

[7] just knew about it. Is that what you're saying?

[8] **A:** That's correct.

[9] **Q:** Now, in the answer to the two questions

[10] back, you said you got to a signoff, I think, later

[11] in 1992. Tell us how that worked, please.

[12] **A:** We had a greater volume of buildings. And

[13] what we would do, I believe, is Thursday mornings

[14] we had our weekly construction meeting, and all of

[15] the principal people involved in the activation of

[16] a building would come together, in-home installers,

[17] the engineer people who did the microwave on the

[18] roof, and just different management people

[19] responsible for that. And we would meet and one of

[20] the key signoffs were, did we have the FCC license

[21] and/or when was it coming.

[22] **Q:** Was there a particular person who was

[1] responsible for supplying that information to the

[2] group at the meeting?

[3] **A:** About the status of the FCC license?

[4] **Q:** Yes, sir.

[5] **A:** We looked towards Stern's group. We

[6] looked later on towards Behrooz Nourain.

[7] **Q:** Do you recall at any time when you were

[8] employed by Liberty asking any lawyer at Pepper &

[9] Corazzini to set up a procedure for Liberty for the

[10] handling of applications, a procedure that would

[11] involve Liberty personnel and Pepper & Corazzini

[12] personnel as well?

[13] **A:** Could you read the question.

[14] (Whereupon, the Court Reporter read back

[15] the previous question.)

[16] **MR. BEGLEITER:** I ask you not to reveal

[17] any confidential communications. You may answer

[18] the question.

[19] **THE WITNESS:** I do not remember having any

[20] type of procedure like that with Pepper &

[21] Corazzini.

[22] **BY MR. BECKNER:**

[1] **Q:** And I take it that this memorandum that

[2] you have in front of you from Mr. Price, you did

[3] not understand that to be a request from him to you

[4] to have such a procedure set up with the lawyers at

[5] Pepper & Corazzini?

[6] **A:** My general recollection of this memo in

[7] this time is that I was a little concerned that

[8] Stern and his team of people were very expensive

[9] way to do business, and the direction I felt I got

[10] was let them do their thing, it may be expensive,

[11] but as we gain momentum down the road, we will have

[12] an Engineering Department.

[13] My memory of this was much more about

[14] Stern and his terrific technical reputation to rely

[15] on him.

[16] **Q:** Do you remember what month it was you left

[17] Liberty in 1993, or what time of the year?

[18] **A:** It was May of '93, and I'm going to say

[19] around the first of May '93.

[20] **Q:** I wasn't going to ask you time and day. I

[21] was looking for the month, but thank you.

[22] **A:** End of April, first of May. It was in

[1] that time frame.
 [2] **Q:** As of that time when you left, can you
 [3] just describe for us, based on your knowledge, what
 [4] the procedure was that was in place for handling
 [5] FCC license applications and for assuring that any
 [6] microwave path that Liberty turned on would have
 [7] authorization to turn that path on and use it.
 [8] **MR. BEGLEITER:** It's a compound question,
 [9] Mr. Beckner.
 [10] Answer it, if you can.
 [11] **BY MR. BECKNER:**
 [12] **Q:** If you got a problem with the fact that
 [13] has two parts, I will split it up.
 [14] **A:** Why don't you split it up.
 [15] **Q:** First, prior to your leaving the
 [16] employment with Liberty Cable, what was the
 [17] procedure that was in place, to your knowledge,
 [18] with respect to the handling of FCC license
 [19] applications for new microwave paths at Liberty?
 [20] **A:** When we identified a very interested
 [21] potential client building, we would go through our
 [22] site survey and rudimentary frequency coordination.

[1] If it made some reasonable sense we had a clear
 [2] path and could feed it in a hub-and-spoke fashion,
 [3] we would forward that information on to Comsearch.
 [4] We got into this routine and found out
 [5] that the faster we surveyed buildings, the quicker
 [6] the information got into the technical pipeline
 [7] with Comsearch. We found that usually the sales
 [8] cycle would drag on a little bit longer than the
 [9] optimistic folks would feel at the building or in
 [10] our sales department. In most times we felt we had
 [11] a good couple of months, several months, lead time,
 [12] two, three months lead time before, in fact, it
 [13] turned out that we had to activate the building.
 [14] We were--it made our planning for
 [15] equipment purchases and everything else reasonable.
 [16] Getting the FCC licenses with the exception at the
 [17] very beginning wasn't a major issue for us.
 [18] **Q:** Have you finished your answer? I don't
 [19] want to interrupt you.
 [20] **A:** No, that's fine.
 [21] **Q:** Okay. Once a path had been identified and
 [22] a request for frequency coordination had been made

[1] of Comsearch, do you know what further involvement
 [2] Liberty people had with the application process, if
 [3] any? And again, I'm referring to the time
 [4] immediately before your departure from Liberty
 [5] Cable.
 [6] **A:** Sure.
 [7] **Q:** What else did they do?
 [8] **A:** We would do the physical site survey
 [9] through the AG-UH-SIS (phonetic) and things like
 [10] that. Liberty had no more involvement after the
 [11] information was forwarded to Comsearch. It was
 [12] Comsearch, Pepper & Corazzini and the FCC after
 [13] that.
 [14] **Q:** Do you know whether or not anybody at
 [15] Liberty signed any application for such a path?
 [16] **A:** I would be the person that would sign
 [17] those.
 [18] **Q:** Okay. So I take it you did sign those
 [19] applications?
 [20] **A:** Yes, sir.
 [21] **Q:** And that was your practice right up until
 [22] your departure from Liberty?

[1] **A:** Yes, sir.
 [2] **Q:** And did that application come up from
 [3] Pepper & Corazzini for you to sign? Is that how it
 [4] worked?
 [5] **A:** Yes, I believe so, because I remember,
 [6] too, we had to put some checks with that, and that
 [7] eventually we went to an account system or
 [8] on-account system for money for the applications.
 [9] **Q:** And so the application would come to you
 [10] for your signature from Pepper & Corazzini and you
 [11] would sign it. Would you then send it back to
 [12] Pepper & Corazzini for filing?
 [13] **A:** I believe so, but I don't remember whether
 [14] we sent it to the law firm or directly to the FCC.
 [15] I don't remember which.
 [16] **Q:** In any event, what you received and signed
 [17] was the complete application as far as you recall?
 [18] **A:** Yes, sir.
 [19] **Q:** Now, I will ask the second half of the
 [20] question that Mr. Begleiter objected to, and that
 [21] is--again, we are referring to this time
 [22] immediately prior to your departure--what kind of

[1] procedure did you have in place, if any, to make
 [2] sure that when Liberty turned on a new microwave
 [3] path that it had an authorization from the FCC to
 [4] do that?
 [5] **A:** You mentioned a procedure. We turned on a
 [6] handful of buildings each month with a small group
 [7] of people. We were operating in the two dozen
 [8] range. We knew when we had a license. It was not
 [9] a lot of paperwork to shuffle through there. We
 [10] knew when we had a license, and my memory is we
 [11] signed off on those licenses.
 [12] **Q:** When you say signed off on those licenses,
 [13] can you just tell me what you mean.
 [14] **A:** I believe it was sent back to us that I
 [15] would sign for Liberty Cable, that the FCC
 [16] approved, and I believe I signed them. I'm unclear
 [17] whether I signed the application or the final
 [18] licenses, but I know we used to file away the final
 [19] licenses.
 [20] **Q:** And was the fact that you had just
 [21] received licenses, was that something that was
 [22] always discussed at the Thursday meetings you

[1] mentioned?
 [2] **A:** Oh, sure. It was a big deal. We didn't
 [3] get licenses all that often. It was a medium to
 [4] major event.
 [5] **Q:** And it was the understanding of the
 [6] technical people working for Liberty at that time
 [7] that they had to have a license, there had to be a
 [8] license or other authorization before they could
 [9] activate a path?
 [10] **A:** Yes, sir.
 [11] As I said before, it was clear in all of
 [12] our minds--Behrooz, Stern's group, myself, and
 [13] others--that we wanted to be crystal clear that we
 [14] had received proper authorization.
 [15] **Q:** Okay. And I take it that during the time
 [16] you were at Liberty it was not the case that
 [17] someone would assume after the passage of a certain
 [18] number of months following the filing of an
 [19] application that a license had been granted without
 [20] actually seeing one or knowing that one was
 [21] granted?
 [22] **MR. BEGLEITER:** I will object, but answer

[1] if you can, Mr. McKinnon.
[2] **THE WITNESS:** No, we didn't assume before
[3] we activated something. We realized that this was
[4] a serious license procedure, and we made every
[5] effort to follow it.

[6] **BY MR. BECKNER:**

[7] **Q:** One final question with respect to the law
[8] firm of Pepper & Corazzini.

[9] Do you know who was in charge of the
[10] Liberty account at Pepper & Corazzini during the
[11] time that you were working at Liberty? Was it
[12] Mr. Parriott, or was it someone else? Since you're
[13] now employed by a law firm, you know what I mean by
[14] in charge of the account.

[15] **A:** Umm-hmm. I'm smiling, actually. I know
[16] that Todd Parriott would refer to somebody that I
[17] can't recall who I assumed was the billing partner.
[18] I don't remember.

[19] **Q:** And I take it whoever that person was, you
[20] didn't have any dealings with him or her?

[21] **A:** No, I don't remember anyone. Day to
[22] day-again, the calls I had with Todd Parriott were

[1] with him and even a smaller number of calls with
[2] Jennifer Richter. And yes, I do work for a law
[3] firm, and I guess there was a building part of it
[4] somewhere in the background, but I don't remember
[5] it.

[6] **MR. BECKNER:** Okay. I don't think I have
[7] anything further.

[8] **MR. BEGLEITER:** Thank you very much. We
[9] have no questions.

[10] **MR. BECKNER:** Do you wish to read or sign?

[11] **THE WITNESS:** I will waive.

[12] (Whereupon, at 6:00 p.m., the taking of
[13] the deposition was concluded.)

[14] (Signature waived.)

[15]
[16]
[17]
[18]
[19]
[20]
[21]
[22]

[1] CERTIFICATE OF NOTARY PUBLIC

[2]
[3] I, David A. Kasdan, RPR, the officer
[4] before whom the foregoing deposition was taken, do
[5] hereby testify that the witness whose testimony
[6] appears in the foregoing deposition was duly sworn
[7] by me; that the testimony of said witness was taken
[8] by me stenographically and thereafter reduced to
[9] typewriting under my direction; that said
[10] deposition is a true record of the testimony given
[11] by said witness; that I am neither counsel for,
[12] related to, nor employed by any of the parties to
[13] the action in which this deposition was taken; and
[14] further, that I am not a relative or employee of
[15] any attorney or counsel employed by the parties
[16] hereto nor financially or otherwise interested in
[17] the outcome of this action.

[18]
[19] DAVID A. KASDAN
Notary Public in and for
The District of Columbia

[20]
[21] My commission expires: October 1, 1999
[22]

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Lawyer's Notes
