

[1] **Q:** Does any one of you have a majority
 [2] interest in the stock of the corporation?
 [3] **A:** No.
 [4] **Q:** So it's divided equally among the three of
 [5] you?
 [6] **A:** Yes.
 [7] **MR. SPITZER:** Roughly.
 [8] **THE WITNESS:** Approximately.
 [9] **BY MR. BECKNER:**
 [10] **Q:** As an operational matter, is it your
 [11] understanding that any one of you has, by virtue of
 [12] any agreement or stock ownership, the right to
 [13] dictate the operation of the corporation even if
 [14] the other two of your relatives disagree?
 [15] **A:** Is there a written agreement that provides
 [16] for someone to make decisions? Not that I know of.
 [17] **Q:** And as far as you know, there is not any
 [18] kind of bylaws or anything in the corporate charter
 [19] that has that kind of provision?
 [20] **A:** No.
 [21] **Q:** So would it be correct to say that the
 [22] three of you run the company by consensus?

[1] **A:** Well, it's really a question of what
 [2] issues are coming up at a specific time. I work on
 [3] a lot of marketing issues relative to builders in
 [4] New York City. Then we have our weekly staff
 [5] meeting that I attend and ancillary discussions
 [6] with Peter Price, if he brings up a specific issue
 [7] to be discussed.
 [8] **Q:** I take it that Peter Price is the person
 [9] who has the day-to-day operating responsibility for
 [10] Liberty Cable?
 [11] **A:** Yes.
 [12] **Q:** Now, you mentioned marketing issues.
 [13] Would you be involved because of your position and
 [14] your family's position in the real estate industry
 [15] in New York and elsewhere? You know other people
 [16] in that industry, I assume?
 [17] **A:** Yes.
 [18] **Q:** And does your marketing effort involve
 [19] using your knowledge of other people to interest
 [20] them in Liberty Cable's service?
 [21] **A:** Yes.
 [22] **Q:** Aside from the general oversight that you

[1] **A:** My cousin isn't involved in the running of
 [2] the company.
 [3] **Q:** He gives you and your brother--
 [4] **A:** My brother and I are involved in the
 [5] business. He is not involved in the business.
 [6] He's a passive partner.
 [7] **Q:** Now, are you involved in other businesses
 [8] besides Liberty Cable, as either an owner or
 [9] manager of some sort?
 [10] **A:** Yes.
 [11] **Q:** In a general way can you describe what
 [12] those other businesses are and what is involved.
 [13] **A:** Milford Management Corp, which manages my
 [14] family residential real estate assets. And I'm in
 [15] charge of our insurance division at Douglas Elliman
 [16] who provides property and casualty insurance to
 [17] buildings and what have you, and across the
 [18] country.
 [19] I also have titles in numerous operating
 [20] businesses that we have, but in general the ones
 [21] that take most of my time is the real estate
 [22] business and insurance business.

[1] obtained of the business' operations as a result of
 [2] the weekly meetings, are there any particular kinds
 [3] of issues other than the marketing that you have
 [4] already involved which typically are brought to
 [5] your attention?
 [6] **A:** No. It's a question of whether Peter
 [7] surfaces anything to us that he feels he needs to
 [8] make a decision on that he doesn't want to make a
 [9] decision on. If our people need help in something,
 [10] we are always available for them to ask. So if
 [11] they want to surface something, they surface it.
 [12] **Q:** Are there any particular guidelines that
 [13] you have given Peter as to the kinds of decisions
 [14] that you want to be involved in directly as opposed
 [15] to simply having him do it as your delegate?
 [16] **A:** No.
 [17] **Q:** So, just speaking hypothetically, for
 [18] example, the decision to provide service to a new
 [19] building in New York is not something that must be
 [20] personally approved by you before it's commenced?
 [21] **A:** Well, it would be discussed--that would
 [22] usually be discussed at the staff meeting on a

[1] **Q:** That was what I was going to ask. In
 [2] terms of a typical business day, those two
 [3] businesses you identified are the ones that you
 [4] devote most of your attention to?
 [5] **A:** Yes.
 [6] Also, I think I have a position at a
 [7] brokerage, real estate brokerage operation.
 [8] Whether I have a corporate title, I don't really
 [9] recall.
 [10] (Robert Petit enters the room.)
 [11] **BY MR. BECKNER:**
 [12] **Q:** Mr. Milstein, how much of your time do you
 [13] spend on Liberty Cable matters, if any?
 [14] **MR. SPITZER:** Roughly?
 [15] **MR. BECKNER:** This is an approximation, of
 [16] course.
 [17] **THE WITNESS:** I would say ten and 20
 [18] percent of my time.
 [19] **BY MR. BECKNER:**
 [20] **Q:** Can you tell me the kinds of things that
 [21] you do when you are working on Liberty Cable
 [22] matters.

[1] weekly basis.
 [2] **Q:** So perhaps implying a degree of formality
 [3] that doesn't exist in terms of what has to be
 [4] approved by you and what doesn't?
 [5] **A:** Well, usually it's not that fast a
 [6] process, so there is time between weekly meetings
 [7] when these things can be discussed, and generally
 [8] on their face they are obvious whether a building
 [9] should be served or shouldn't be served.
 [10] **Q:** Now, at the weekly meetings, are these the
 [11] ones that are held on Thursday?
 [12] **A:** Yes.
 [13] **MR. SPITZER:** By and large.
 [14] **THE WITNESS:** Usually on Thursday.
 [15] **BY MR. BECKNER:**
 [16] **Q:** Is there a particular format to the
 [17] meeting? And by that what I mean, for example, is
 [18] does each department head give and you Mr. Price
 [19] and the other senior management persons in
 [20] attendance a kind of quick rundown on what's been
 [21] happening in their area in the past week?
 [22] **A:** Well, usually we go around the room.

Page 19

[1] looking at it?
[2] **A:** It refreshes that I looked at it and had
[3] requested what was provided in the document.
[4] **Q:** So you wanted some backup for the cost
[5] information given here?
[6] **A:** I wanted to understand what the components
[7] were.
[8] **Q:** Do you recognize any of the handwriting on
[9] this document as being yours?
[10] **A:** Yes.
[11] **Q:** Can you just tell me which.
[12] **A:** "Tony O, please itemize the cost," and
[13] that's my signature. That's an initial.
[14] **Q:** I see. And then there is also "CC:HPM."
[15] Did you write that?
[16] **A:** No.
[17] **Q:** Somebody else wrote that?
[18] **A:** Yes.
[19] **Q:** Now, I would like you to just take a look
[20] at what's been marked as Exhibit 2 which does
[21] purport to be a copy of a memorandum directed to
[22] your attention from Mr. Nourain.

Page 20

[1] Do you recall receiving this memorandum
[2] from Mr. Nourain?
[3] **A:** Not particularly. Not until seeing it
[4] now.
[5] **Q:** The handwriting that's near the bottom of
[6] the document that appears to say "Edward okay," and
[7] there is a date there.
[8] Is that your handwriting or someone
[9] else's?
[10] **A:** No, that's not my handwriting.
[11] **Q:** Does Exhibit 2 appear to be a response to
[12] the question that you handwrote on the original of
[13] Exhibit 1?
[14] **A:** Yes.
[15] **Q:** Now, was it typically your practice to
[16] inquire of Liberty's staff for this kind of
[17] information with respect to a new project, or did
[18] you just do it occasionally?
[19] **A:** It depends if I had a piece of paper in
[20] front of me or we had a discussion related to topic
[21] on construction costs--yeah, construction costs.
[22] **Q:** So would it be correct to say that you

Page 21

[1] occasionally asked for this information but not all
[2] the time for every building?
[3] **A:** I would say that's true.
[4] **Q:** Is there any particular thing that you
[5] remember about the two buildings mentioned on these
[6] memoranda--that's 211 East 51st Street and 220 East
[7] 52nd Street--is there anything that you can
[8] remember that caused you to ask for a breakdown of
[9] these costs?
[10] **A:** No. Just the total \$30,000.
[11] **Q:** Did that strike you as high?
[12] **A:** Probably.
[13] **Q:** The Exhibit 1 mentions that the service to
[14] east--I'm sorry--the service to 220 East 52nd
[15] Street can be extended via cable run from 211 East
[16] 51st Street.
[17] Would that be a fact you would use in your
[18] decision as to whether or not \$30,000 was too much
[19] to spend on providing a signal to 211 East 51st?
[20] **A:** I don't know that that was part of the
[21] thought at the time.
[22] **Q:** Looking at Edward Milstein Exhibit 2,

Page 22

[1] those costs that are itemized there are the costs
[2] of erecting a microwave receiving facility on top
[3] of the building; is that correct?
[4] **A:** Correct.
[5] **Q:** Those are not the costs of putting wiring
[6] inside the building and other?
[7] **A:** No. I think that includes wiring inside
[8] the building.
[9] **Q:** That includes the distribution network
[10] inside the building?
[11] **A:** I don't know what the construction
[12] estimate is.
[13] **Q:** Might be that or it might be the actual
[14] labor involved in putting up the dish?
[15] **A:** It could be.
[16] **MR. SPITZER:** So your recollection isn't
[17] one way or the other?
[18] **THE WITNESS:** Right.
[19] **BY MR. BECKNER:**
[20] **Q:** That's fine. When you chose to ask for
[21] information like this that's presented in Exhibits
[22] 1 and 2, did you use that information or ask

Page 23

[1] someone else to use that information to determine
[2] some sort of profitability or return on investment
[3] analysis?
[4] **A:** Would you repeat the question.
[5] **MR. BECKNER:** Read it back, please.
[6] (Whereupon, the Court Reporter read back
[7] the previous question.)
[8] **THE WITNESS:** Not per se. I might have
[9] done a cost analysis in my mind.
[10] **BY MR. BECKNER:**
[11] **Q:** Mr. Milstein, I'm going to show you a
[12] document that's previously been marked as Exhibit 3
[13] in Ms. Ceccarelli's deposition. And just for the
[14] record, it is three memoranda that are just
[15] collected together from Ms. Ceccarelli, and the
[16] production numbers are 10205, 10206, 10188 through
[17] 10190.
[18] I would just like you to just take a look
[19] at this document.
[20] (Document handed to the witness, and
[21] witness reviews document.)
[22] **A:** Okay.

Page 24

[1] **Q:** I'm not going to ask you about them in
[2] detail. The question that I do want to ask is
[3] whether or not--let me go at it this way.
[4] Can you tell me generally either on the
[5] basis of your memory or on the basis of having had
[6] your memory refreshed by looking at these
[7] documents, what the issue was that was being
[8] discussed regarding service at 114 East 72nd
[9] Street?
[10] **A:** My brother wanted Bertina to analyze the
[11] economics in doing the installation of the
[12] building, so these were her responses.
[13] **Q:** Do you remember or do you know any
[14] particular reason why he was interested in having
[15] her do this analysis?
[16] **A:** I think he felt it was necessary for her
[17] to understand the economics of what she was
[18] recommending, and for us to understand what the
[19] economics were fully.
[20] **Q:** Was there anything in particular that you
[21] recall about 114 East 72nd Street that made this
[22] kind of analysis something that you wanted to have

Page 13

[1] Q: And each manager gives that kind of a
[2] report?
[3] A: Yes.
[4] Q: Are there any written documents or reports
[5] that are regularly handed out at these weekly
[6] meetings?
[7] A: Yes.
[8] Q: And could you tell me what they are.
[9] A: Marketing report, residential marketing
[10] report for commercial, an operations report, a
[11] customer service report. I think that's it.
[12] Q: Let me ask two parts of the question.
[13] Have these weekly meetings been held on a regular
[14] basis, as far as you know, since 1992?
[15] A: I don't recall back to 1992, but I know
[16] that they have been going on for the last couple of
[17] years, last few years.
[18] Q: 1994, 1995?
[19] A: Yes.
[20] Q: And this practice of getting a combination
[21] of written and oral reports from the department
[22] heads at the meetings, that also dates back the

Page 14

[1] same number of years, as far as you know?
[2] A: Yes.
[3] Q: I'm going to show you what was marked as
[4] Exhibit 7 to Mr. Ontiveros' deposition, and these
[5] exhibits are all bound in a book and every page in
[6] the book is numbered, so I'm just going to refer to
[7] pages 15 through 61, and I would like you to look
[8] over it. I'm not going to ask you in detail about
[9] it.
[10] MR. SPITZER: For the record, since we do
[11] not have--and just so the record is clear, would
[12] you indicate the Bates numbers, the first and last
[13] numbers.
[14] MR. BECKNER: 15467 on the first page, and
[15] the last page Bates number is 15513.
[16] And I will note also for the record, to
[17] avoid the feeling I'm trying to confuse the
[18] witness, this is a combination of several reports
[19] from several dates.
[20] THE WITNESS: Our reports are not usually
[21] 40 pages long.
[22] BY MR. BECKNER:

Page 15

[1] Q: I simply want to ask you, if you look at,
[2] for example, the top pages which the first page of
[3] exhibit begins technical operations report April 4,
[4] 1996, and there appear to be 13 pages of that
[5] report, is this an example of one of what you call
[6] "operation reports" that you said was presented at
[7] the weekly meeting?
[8] A: Yes.
[9] MR. SPITZER: To state the obvious, in the
[10] redacted form.
[11] MR. BECKNER: Yes. Again, I note for the
[12] record that parts have been marked out by counsel
[13] because they're not relevant to this case.
[14] BY MR. BECKNER:
[15] Q: And this was prepared by Mr. Ontiveros; is
[16] that correct?
[17] A: Yes.
[18] Q: As I said, I'm not going to ask you about
[19] the details of it.
[20] A: I just want to see what goes on for 45
[21] pages. There is more than one version.
[22] MR. SPITZER: There are four separate

Page 16

[1] reports with different dates.
[2] BY MR. BECKNER:
[3] Q: The oldest of them is October 6, 1994. A
[4] new report is prepared for each weekly meeting; is
[5] that correct?
[6] A: An updated report.
[7] Q: Updated version?
[8] A: Yes.
[9] Q: Do you know whose idea it was to have
[10] these weekly meetings with senior management and
[11] the staff?
[12] A: No.
[13] Q: Didn't necessarily originate when Peter
[14] Price came to work for the company?
[15] A: No. I don't know who originated the idea.
[16] Q: And you don't recall whether or not such
[17] meetings were held before Peter Price came to work
[18] for the company?
[19] A: I don't recall.
[20] Q: Do you remember a person named Bruce
[21] McKennon?
[22] A: Yes.

Page 17

[1] Q: He was Executive Vice President? Was that
[2] his title?
[3] A: I don't know what his exact title is.
[4] Q: In the chain of command, he was directly
[5] underneath Mr. Price; is that correct?
[6] A: I honestly don't recall where he was. He
[7] was probably under Peter and over Tony.
[8] Q: Do you remember whether or not, when
[9] Mr. McKennon was working for Liberty, you had these
[10] weekly meetings? Do you remember him being at
[11] them?
[12] A: I really don't recall.
[13] MR. BECKNER: This is an exhibit that
[14] hasn't been marked before, so you need to mark
[15] this.
[16] (Edward Milstein Exhibits
[17] No. 1 and 2 were marked for
[18] identification.)
[19] (Documents handed to the witness, and
[20] witness reviews document.)
[21] (Counsel confers with the witness.)
[22] BY MR. BECKNER:

Page 18

[1] Q: You have been handed two documents, each
[2] of which has been marked as an exhibit to your
[3] deposition. Exhibit 1, for the record, is a
[4] one-page memorandum with production number 886.
[5] Exhibit Number 2 to your deposition is a one-page
[6] memorandum with production number 885.
[7] Directing your attention first to
[8] Exhibit 1, do you recall seeing a copy of this
[9] memorandum before today, sir?
[10] A: No.
[11] Q: Do you recall being involved in the
[12] subject that is discussed in Exhibit 1?
[13] MR. SPITZER: You mean the subject
[14] generically or the subject as it relates to this
[15] particular building?
[16] MR. BECKNER: 211 East 51st Street
[17] building and the questions of costs of providing
[18] signal to that building.
[19] THE WITNESS: Until I saw it, I wouldn't
[20] recall it.
[21] BY MR. BECKNER:
[22] Q: Does this refresh your recollection,

[1] gotten?
[2] **MR. SPITZER:** Was there anything now that
[3] you recall about the building, or are you asking
[4] specifically was there something before seeing
[5] these memos today that the witness recalled? I'm
[6] not sure if you care.
[7] **BY MR. BECKNER:**
[8] **Q:** Do you recall anything about 114 East 72nd
[9] Street, either independent of what you're looking
[10] at here or refreshed by what you have seen here,
[11] that led to a desire to have Ms. Ceccarelli do this
[12] analysis?
[13] **A:** Well, I think my brother wanted the
[14] analysis because it was a 42-unit apartment
[15] building that wanted all the premiums, and he
[16] wanted to know the economics of how it was going to
[17] sort out.
[18] **Q:** Was it the building's desire to have all
[19] the premium services that made it a little unusual
[20] in your practice, or was it the size of the
[21] building itself that made it unusual?
[22] **A:** It was a combination of the two.

[1] **Q:** If you look at the third memorandum, the
[2] one dated July 15 and has production number 10188
[3] at the bottom, Ms. Ceccarelli writes, (reading) I
[4] think this can still work based on your 25 percent
[5] ROC requirement.
[6] Does that ROC mean return on capital?
[7] **A:** Probably.
[8] **Q:** Were you aware of any particular
[9] requirement that either you or your brother had as
[10] a target for any capital investment?
[11] **A:** I recall it more to be a 20-percent return
[12] on capital in general, but it's very possible that
[13] we would shoot for 25 percent.
[14] **Q:** But again, I don't want to belabor this,
[15] but this particular kind of analysis that we have
[16] here for 114 East 72nd Street was not performed
[17] every time Liberty installed service in a building?
[18] **A:** No.
[19] **MR. SPITZER:** That you're aware of?
[20] **THE WITNESS:** That I'm aware of, no, it
[21] was not prepared every time there was an analysis.
[22] **BY MR. BECKNER:**

[1] **Q:** There had to be something that was unusual
[2] about the building that would precipitate someone's
[3] desire to do an analysis?
[4] **A:** Yes.
[5] **Q:** I'm going to show you what was previously
[6] marked here as Exhibit 4 to Mr. Berkman's
[7] deposition.
[8] (Document handed to the witness.)
[9] **Q:** And again for the record, that is a
[10] document that has production number 12516. The
[11] first page appears to run consecutively through
[12] 12522 on the last page.
[13] Mr. Milstein, I'm going to ask you about
[14] this document generally, not about the specifics of
[15] it, so--
[16] **A:** The document is more than one page?
[17] **Q:** Yes.
[18] **MR. SPITZER:** It continues.
[19] **BY MR. BECKNER:**
[20] **Q:** The exhibit is a memorandum and a contract
[21] that's attached to it.
[22] **A:** Okay.

[1] **Q:** In the book, the last page of the exhibit
[2] is stamped 0024.
[3] **A:** All right.
[4] **Q:** The memorandum that is the first page of
[5] the exhibit, do you recognize that as the type of
[6] memorandum that Mr. Berkman sent out on more than
[7] one occasion?
[8] **A:** Yes.
[9] **Q:** Was this memorandum one that Mr. Berkman
[10] customarily sent out every time a new contract was
[11] concluded with that building as far as you know?
[12] **MR. SPITZER:** Can you explain customarily
[13] or every time? You said customarily sent out every
[14] time.
[15] **BY MR. BECKNER:**
[16] **Q:** Was it customary for Mr. Berkman to send
[17] out this kind of memorandum when a new building was
[18] signed up with Liberty Cable?
[19] **A:** Page one, yes.
[20] **Q:** If you know, what was the purpose of him
[21] sending out this memorandum?
[22] **A:** I think it was to notify that a contract

[1] had been signed and to let the different parts of
[2] the operation know it.
[3] **Q:** Do you know if there was a particular
[4] reason it was addressed to Tony Ontiveros and
[5] Behrooz Nourain with cc's to the other individuals
[6] at the bottom?
[7] **A:** In order to tell them that we were going
[8] to be serving this building sometime in the future
[9] so they should know it.
[10] **Q:** And was the intent, as far as you know,
[11] that they should begin the process of ordering
[12] equipment and obtaining licenses if licenses were
[13] necessary to serve the building identified in the
[14] memorandum?
[15] **A:** Typically, I would have thought that we
[16] would have already started that process prior to
[17] this being sent out.
[18] **Q:** Now, I think you already told me when you
[19] were talking about the Thursday staff meeting that
[20] Tony Ontiveros was one of the regular attendees at
[21] these meetings.
[22] **A:** He was.

[1] **Q:** Did Mr. Nourain attend those meetings as
[2] well?
[3] **A:** No, he did not.
[4] **Q:** Can you just identify for me some of the
[5] people who were on the cc list here. Obviously you
[6] know who you are, and Howard, Peter Price.
[7] Mike Bell, who is he?
[8] **A:** Mike is someone who works in the
[9] accounting department of my family business, and he
[10] was attending generally--he hasn't attended
[11] recently, but he used to attend the staff meetings
[12] for accounting updates.
[13] **Q:** Was Mike responsible for setting up the
[14] billing for a new building that was signed on?
[15] **A:** That responsibility was between Mike and
[16] Kevin, another person on the list, two down from
[17] Mike.
[18] **Q:** That would be Kevin Buckley?
[19] **A:** Correct.
[20] **Q:** And who is Janet Hartley?
[21] **A:** Human resources.
[22] **Q:** And we talked about Bertina Ceccarelli.

[1] Who was Lubian Beckner?
 [2] **A:** Lubian, for a period of time, was in
 [3] charge of customer service.
 [4] **Q:** Would that have been the case in 1994, the
 [5] date of this particular memorandum?
 [6] **A:** Probably, yes. Although it seems longer
 [7] ago that he left.
 [8] **Q:** I want to ask you a few questions about
 [9] the contract that's behind the memorandum. Again
 [10] not necessarily about this specific contract, but
 [11] the contracts generally.
 [12] **A:** That was never transmitted to me when I
 [13] got Andy's--when this was transmitted, I never
 [14] received the contract. I only received the cover
 [15] page.
 [16] **Q:** I take it that Mr. Price was the person
 [17] who had authority to sign contracts with buildings
 [18] on behalf of Liberty Cable?
 [19] **A:** Yes, he was, or is. Or was.
 [20] **Q:** If you know, was it the case that there
 [21] were minor variations in these contracts that were
 [22] signed with buildings for Liberty Cable?

[1] **A:** Yes.
 [2] **Q:** One of the items I want to ask you about
 [3] generally, this particular contract we are looking
 [4] at here on paragraph four is the paragraph called
 [5] "installation," and it provides that the operator,
 [6] meaning Liberty, shall install the system within
 [7] 120 days.
 [8] Occasionally that provision was changed.
 [9] **MR. SPITZER:** Is that a question or a
 [10] statement?
 [11] **MR. BECKNER:** That's a statement.
 [12] **BY MR. BECKNER:**
 [13] **Q:** Occasionally that provision was changed.
 [14] The question I want to ask you is whether or not in
 [15] when the 120-day provision was changed, was that
 [16] something you wanted to know about in advance
 [17] before it was agreed to?
 [18] **A:** I don't recall.
 [19] **MR. BECKNER:** What I don't want to do is
 [20] take the witness through every one of these
 [21] contracts.
 [22] **MR. SPITZER:** I appreciate that. We both

[1] **A:** Yes.
 [2] **Q:** They were substantially the same but not
 [3] identical?
 [4] **A:** Yes.
 [5] **Q:** Were either you or your brother, as a
 [6] routine practice, involved in approving any
 [7] variations in the contract from the standard form?
 [8] **A:** It all depended on whether Andy surfaced
 [9] it as an issue that he thought warranted
 [10] discussion.
 [11] **Q:** I see.
 [12] **A:** We did not see contracts and just look at
 [13] them and decide there was an issue that we didn't
 [14] agree with and then call Andy.
 [15] **Q:** So it was Andy Berkman we are talking
 [16] about?
 [17] **A:** Yes, it is.
 [18] **Q:** So it was his job to identify significant
 [19] issues that might warrant your attention?
 [20] **A:** Yes.
 [21] **Q:** Did either you or your brother give
 [22] Mr. Berkman any kind of instructions or guidelines

[1] understand that you haven't laid the foundation
 [2] that the witness saw a sufficient number of these
 [3] contracts to know where the variations may be or
 [4] may not be. So ask the questions, and if an issue
 [5] arises, we will deal with it.
 [6] **MR. BECKNER:** The question was whether or
 [7] not they changed from the standard 120 days was
 [8] something that he would want to know about before
 [9] it was agreed to.
 [10] **MR. SPITZER:** That's why I will let him
 [11] answer the question.
 [12] **MR. BECKNER:** I'm not quizzing him on the
 [13] contents of every contract, most of which are not
 [14] in front of him.
 [15] **BY MR. BECKNER:**
 [16] **Q:** Of the senior management people at Liberty
 [17] Cable--and by that I mean yourself, your brother,
 [18] and Peter Price--was there any one person who was
 [19] really responsible for how the business worked?
 [20] That is, how the various individuals working for
 [21] Liberty Cable interacted with each other and
 [22] cooperated to accomplish the company's business

[1] as to the kinds of things that you would be
 [2] interested in seeing in a proposed contract?
 [3] **A:** On occasion, an issue came up that he
 [4] discussed, we would talk about what it was and
 [5] whether or not it was something that was acceptable
 [6] or nonacceptable.
 [7] **Q:** Now, did you work with Mr. Berkman on
 [8] other Milstein family business other than Liberty
 [9] Cable?
 [10] **A:** Sure.
 [11] **Q:** And you worked with him for a number of
 [12] years?
 [13] **A:** Yes.
 [14] **Q:** Would that also be true of your brother?
 [15] **MR. SPITZER:** You mean Howard's having
 [16] worked with Andy prior to Liberty issues?
 [17] **MR. BECKNER:** Yes.
 [18] **THE WITNESS:** I would assume so, yes.
 [19] **BY MR. BECKNER:**
 [20] **Q:** So there was a working relationship that
 [21] had existed over some time between you and
 [22] Mr. Berkman?

[1] purposes?
 [2] **MR. SPITZER:** Do you want to limit that in
 [3] terms of time or particular subject matter?
 [4] **MR. BECKNER:** Well, if time helps him, I
 [5] will be happen to specify the years 1994 and 1995.
 [6] Subject matter, I really would prefer not to limit
 [7] it because what I'm talking about is sort of the
 [8] overall procedures how the business works in terms
 [9] of how people send memos to each other and who is
 [10] supposed to talk to whom and that kind of thing.
 [11] **MR. SPITZER:** If you could answer it.
 [12] **THE WITNESS:** Generally the business
 [13] reported to Peter, and Peter reported to us.
 [14] **BY MR. BECKNER:**
 [15] **Q:** So I take it that as far as you were
 [16] concerned--when you say "us," you mean you and your
 [17] brother?
 [18] **A:** That's correct.
 [19] **Q:** As far as you and your brother were
 [20] concerned, the hands-on aspect of the management of
 [21] the business was Mr. Price's responsibility?
 [22] **A:** Well, Peter was the person that everything

Page 37

[1] flowed through, but we kept our hands in by having
[2] the weekly meeting and getting updates from the
[3] people directly in addition to getting the
[4] computer.

[5] **Q:** Well, for example, if an employee wasn't
[6] performing satisfactorily, was it Peter's
[7] responsibility to do something about that, either
[8] to speak to the employee and inform him or her
[9] that-

[10] **MR. SPITZER:** Again, you want to limit it
[11] to the type of employee?

[12] **THE WITNESS:** It depends on who the
[13] employee was.

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

[15] **Q:** Let's talk about-again, I'm not
[16] suggesting that any of these people were, in fact,
[17] performing unsatisfactorily, but as a matter of
[18] policy, if it was a department head, a person in
[19] the position of Ms. Ceccarelli and Mr. Ontiveros,
[20] or people who were the Customer Service Managers at
[21] different times, those people, if they weren't
[22] performing satisfactorily, was it Mr. Price's job,

Page 38

[1] in effect, to evaluate them and tell them they need
[2] to improve their performance?

[3] **A:** Yes. Usually Peter would tell us that he
[4] felt that they were underperforming, and whether he
[5] did something or he would make his recommendation,
[6] then he would go and do it.

[7] **Q:** In terms of the compensation that was paid
[8] employees if they were at the management
[9] level-that is, the department heads and
[10] Ms. Ceccarelli and people like Mr. Ontiveros-were
[11] they paid in the combination of salary and bonus?
[12] And again the time I'm talking about is 1994, 1995.

[13] **A:** Yes.

[14] **Q:** Were the salary levels and the bonus
[15] amounts something that were approved by you and
[16] your brother?

[17] **A:** Yes.

[18] **Q:** So Mr. Price would make a recommendation
[19] and you would either approve it or change it?

[20] **A:** Yes.

[21] **Q:** Prior to April of 1995, were you aware of
[22] any dissatisfaction with Mr. Nourain's performance

Page 39

[1] by anyone at Liberty?

[2] **A:** I don't recall.

[3] **Q:** Same question with respect to Tony
[4] Ontiveros.

[5] **A:** I don't remember any specifics of that,
[6] no.

[7] **Q:** Was it your understanding that in order
[8] for Liberty to operate microwave paths to send its
[9] signal to a particular building that it had to have
[10] a license from the FCC?

[11] **A:** Yes.

[12] **Q:** And was that always your understanding
[13] from the beginning of when Liberty began to use
[14] those microwave paths?

[15] **A:** In order to use a microwave path, yes, we
[16] needed a new license.

[17] **MR. SPITZER:** You had not imposed the time
[18] frame initially and I began to object. I don't
[19] think anybody is born with any innate knowledge of
[20] FCC requirements for licensing, but maybe Mr. Weber
[21] was or Mr. Petit.

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

Page 40

[1] **Q:** When the company first decided to use
[2] microwave links to distribute its programming in
[3] New York City, to your knowledge, was there some
[4] sort of arrangement set up with legal counsel to
[5] assist the company in doing that?

[6] **A:** Repeat the question.

[7] **MR. BECKNER:** Read it back.

[8] (Whereupon, the Court Reporter read back
[9] the previous question.)

[10] **THE WITNESS:** I'm sure there was. I don't
[11] recall the arrangements.

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

[13] **Q:** Were you involved in making those
[14] arrangements?

[15] **A:** No.

[16] **Q:** Thereafter, up until, let's say, April
[17] 1995, were you involved in whatever arrangements
[18] existed with legal counsel to obtain the licenses
[19] to operate microwave links?

[20] **A:** Generally not.

[21] **Q:** Did you have any involvement at all?

[22] **A:** Not that I recall.

Page 41

[1] **Q:** In your mind, from the period 1993 through
[2] first quarter of 1995, who at Liberty was
[3] responsible for seeing that the requisite licenses
[4] were obtained for Liberty's microwave?

[5] **A:** Peter Price.

[6] **Q:** And whatever the details were of carrying
[7] out that responsibility, they were, in your mind,
[8] the job of Peter Price to handle?

[9] **A:** Yeah.

[10] **Q:** Now, did there come a time when you became
[11] aware of the fact that Liberty had some microwave
[12] paths in operation for which it would not have FCC
[13] licenses or other grants of authority?

[14] **A:** Yes.

[15] **Q:** When did you have that awareness?

[16] **MR. SPITZER:** The first time he had the
[17] awareness?

[18] **THE WITNESS:** When Time Warner made the
[19] filing with the FCC.

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

[21] **Q:** Did someone bring this filing to your
[22] attention?

Page 42

[1] **A:** I became aware of it in some conversation
[2] either I was part of or I overheard.

[3] **Q:** When you became aware of this filing by
[4] Time Warner, what action, if any, did you take?

[5] **MR. SPITZER:** Became aware of filing or
[6] became aware of the specific piece of information
[7] you have been referring to?

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

[9] **Q:** Became aware of the claim in the filing
[10] that Liberty had unlicensed activated microwave
[11] paths.

[12] **A:** I don't know that I did anything
[13] personally. My brother instituted immediately an
[14] internal investigation to look into the claims in
[15] the filing, and we did an in-depth analysis of it,
[16] and that's how I became aware of it.

[17] **Q:** Was there any one person among the senior
[18] management of Liberty who was responsible for?
[19] Supervising the analysis as you call it?

[20] **A:** No. We hired outside counsel to do the
[21] investigation.

[22] **Q:** I see. Was that the Constantine firm?

Page 43

(1) A: Yes.
(2) Q: Mr. Milstein, I'm going to show you what
(3) was previously marked as Exhibit Number 9 to
(4) Mr. Price's deposition.
(5) MR. BECKNER: Just for the record, it's
(6) not a document that was produced in the production.
(7) It's an affidavit of Mr. Constantine filed as part
(8) of the Liberty pleading with the FCC.
(9) BY MR. BECKNER:
(10) Q: Mr. Milstein, I'm going to direct your
(11) attention only to the first three pages of the
(12) exhibit, which was Mr. Constantine's affidavit.
(13) A: Do you want me to read it?
(14) Q: Yes. Take a look at it. I'm going to ask
(15) you a couple of questions about what it says.
(16) (Document handed to the witness, and
(17) witness reviews document.)
(18) A: Okay.
(19) Q: First thing I want to ask you is: Do you
(20) recall having seen this affidavit before today
(21) either signed and executed as it is now or in some
(22) sort of draft form?

Page 44

(1) A: Not really.
(2) Q: I want to direct your attention to
(3) paragraph three of the affidavit, which is on the
(4) first page which states, in part, (reading) in late
(5) April 1995, Liberty's chairman, Howard Milstein,
(6) became aware that Liberty was providing service to
(7) customers in two buildings in New York City
(8) utilizing microwave paths and had pending but not
(9) yet granted applications before the FCC.
(10) To your knowledge, did anybody at Liberty,
(11) including Howard Milstein, know that Liberty was
(12) operating unlicensed microwave paths before they
(13) were informed of the allegation raised by Time
(14) Warner that Liberty was, in fact, operating such
(15) unlicensed paths?
(16) A: I'm sure that the person who activated the
(17) path should have known, but other than that, no.
(18) Q: My question was not directed to what
(19) people should have known but whether as far as you
(20) know whether anybody actually knew that they had an
(21) activated path that was unlicensed before Time
(22) Warner made the claims that it made in the

Page 45

(1) pleading--
(2) A: At that time, no.
(3) Q: The reason that I ask this is the
(4) affidavit here states in late April 1995, Liberty's
(5) chairman became aware, and as a matter of record,
(6) the Time Warner pleading was filed with the FCC on
(7) or about May 3rd, and it's certainly possible
(8) somebody would slip a few days and move from May
(9) 3rd back to April. And I want to clarify that, as
(10) far as you know, nobody knew anything about this at
(11) Liberty until Time Warner raised the issue in the
(12) pleading.
(13) A: Not that I know of, no.
(14) MR. BECKNER: Let's take a short
(15) five-minute break.
(16) (Brief recess from 10:10 a.m. to 10:20
(17) a.m.)
(18) (Ms. Power enters the room.)
(19) MR. BECKNER: Back on the record.
(20) BY MR. BECKNER:
(21) Q: Let me show the witness what has been
(22) previously marked as Exhibit 30 to Mr. Foy's

Page 46

(1) deposition. It's a copy of a two-page letter from
(2) Mr. Barr and Mr. Rivera to Michael Hayden from the
(3) FCC.
(4) Do you recall having seen a copy of this
(5) letter before today, Mr. Milstein?
(6) A: Not really, no.
(7) Q: Do you remember whether or not you were
(8) aware that this letter had been sent to Liberty's
(9) legal counsel in June 1995?
(10) A: Not really.
(11) Q: There is certain information requested of
(12) Liberty on the second page of the letter.
(13) Were you aware of the fact that a response
(14) to this request was being prepared in June of 1995?
(15) A: I was probably aware that there was a
(16) response being prepared.
(17) Q: Did you have anything to do with the
(18) preparation of the response yourself?
(19) A: Not that I recall, no.
(20) Q: Since you have the book there, I would
(21) like you to turn to the next exhibit, which is Foy
(22) Exhibit 31. It's a rather large exhibit, and you

Page 47

(1) could look at whatever parts of it you choose. The
(2) only question I was going to ask you is whether or
(3) not you recall having seen the document just prior
(4) to today.
(5) MR. SPITZER: Begins on page 109 and
(6) continued through 151.
(7) THE WITNESS: I don't recall specifically
(8) that I saw it, but I probably did at some point.
(9) BY MR. BECKNER:
(10) Q: If you would turn to what's page eight of
(11) the letter and it's got stamp number 116 in the
(12) lower right, there is a table there.
(13) Were you involved at all in the
(14) preparation or review of this table of information
(15) that's reproduced at page eight and top of page
(16) nine of the letter to Mr. Hayden?
(17) A: Not that I recall, no.
(18) Q: Do you know who was involved in compiling
(19) the information that's set forth here?
(20) A: I could make a guess, but I don't
(21) specifically know.
(22) Q: I'm not asking you to guess.

Page 48

(1) I would like you to page forward in the
(2) exhibit to stamp number 0127. It's entitled
(3) "Declaration Under Penalty of Perjury." It's the
(4) declaration of Behrooz Nourain.
(5) Do you recall--
(6) MR. SPITZER: It's a multi-page document?
(7) MR. BECKNER: Yes, sir. Goes from 0127 to
(8) 0129.
(9) BY MR. BECKNER:
(10) Q: Do you recall having seen a copy of this
(11) declaration before today?
(12) A: Yes, vaguely.
(13) Q: Excuse me?
(14) A: Yes, vaguely.
(15) Q: Do you recall whether or not you were
(16) surprised at anything that Mr. Nourain said in this
(17) declaration at the time that you read it or saw it?
(18) A: I don't recall my reaction to it. I mean,
(19) I read thousands of documents, so...
(20) Q: Once Liberty's internal investigation had
(21) determined that it was, in fact, operating some
(22) unlicensed microwave paths, what reaction did you

[1] have to learning that information?
[2] **A:** I was reasonably outraged.
[3] **Q:** Have you come to a conclusion now as to
[4] the identity of the person or persons responsible
[5] for that situation?
[6] **MR. SPITZER:** That situation referring to
[7] the unlicensed operation?
[8] **MR. BECKNER:** Yes.
[9] **THE WITNESS:** A combination of people.
[10] **BY MR. BECKNER:**
[11] **Q:** What's your conclusion as to what's in
[12] that combination?
[13] **A:** Peter Price, Behrooz, possibly Tony
[14] Ontiveros.
[15] **Q:** What is it that you think that Mr. Price
[16] should have done that he didn't do or did that he
[17] shouldn't have done with respect to that?
[18] **A:** I think we had an inadequate system to
[19] monitor whether or not we had a license prior to
[20] turning on service.
[21] **Q:** Then, in your mind, the people who were
[22] responsible for the inadequacy of the system would

[1] be Price, Ontiveros and Nourain; is that correct?
[2] **A:** Generally Peter and Behrooz and Tony is
[3] somewhere in between, so...
[4] **Q:** At any time have you personally spoken
[5] with Mr. Nourain about his view of why things
[6] happened the way they happened with respect to the
[7] unlicensed operation of microwave paths?
[8] **A:** I may have had a subsequent conversation
[9] with him subsequent to finding out about it, but I
[10] don't recall what the substance of it was.
[11] **Q:** Do you recall from those conversations
[12] whether or not your understanding from Mr. Nourain
[13] was that he agreed with you that he was at least,
[14] in part, responsible for the fact that unlicensed
[15] paths have been made operational?
[16] **A:** I don't recall.
[17] **Q:** Same question with respect to Mr. Price.
[18] Did you have occasion to discuss with Mr. Price
[19] your view that he was, in part, responsible for
[20] Liberty having operated paths without a license?
[21] **A:** Probably.
[22] **Q:** Did he agree or disagree with your

[1] conclusion?
[2] **A:** I think he felt that he had not supervised
[3] the process properly.
[4] **Q:** Did either Mr. Price or Mr. Nourain
[5] express a view to you that there were other parties
[6] whom they believed also were responsible for
[7] Liberty's unlicensed operation of microwave paths?
[8] **A:** I don't recall.
[9] **Q:** Do you recall them mentioning the law firm
[10] of Pepper & Corazzini as being in some way
[11] responsible?
[12] **A:** Yes.
[13] **Q:** Was that a conclusion that you agreed with
[14] or disagreed with?
[15] **A:** I can't say that I had enough information
[16] to make that judgment.
[17] **Q:** I'm going to show you what's been marked
[18] as Price Exhibits 2 and 3.
[19] **MR. BECKNER:** For the record, Price
[20] Exhibit 2 is two-page memorandum with production
[21] numbers 1702 and 15703, and Price Exhibit 3 is a
[22] table with production numbers 15704 through 15712.

[1] And also for the record, Price Exhibit 3
[2] has some of the information redacted from it, and
[3] Price Exhibit 2. I apologize.
[4] (Documents handed to the witness, and
[5] witness reviews documents.)
[6] **THE WITNESS:** Okay.
[7] **BY MR. BECKNER:**
[8] **Q:** The first question I have for you is
[9] whether or not you recall seeing Price Exhibit 2
[10] before today, or a copy of it.
[11] **A:** Yeah, I remember seeing it.
[12] **Q:** Do you remember seeing Price Exhibit 3 or
[13] a copy of it before today?
[14] **A:** Yes.
[15] **Q:** What was the context in which you saw
[16] Price Exhibit 2? And by that, was it discussed at
[17] a meeting or was it something that was sent to you?
[18] **A:** No, it was sent to me. And I'm not sure I
[19] completely read it at the time.
[20] **Q:** Same question with respect to Price
[21] Exhibit 3. Was it something that was simply sent
[22] to you, or was it discussed?

[1] **A:** I don't know that it was discussed. I
[2] think I saw it in formation when Peter was trying
[3] to put it together. I don't really know that it
[4] was Peter putting it together. I think I saw it at
[5] some point.
[6] **Q:** Perhaps in a draft form, slightly
[7] different than the form you are looking at right
[8] now?
[9] **A:** I really don't recall.
[10] **Q:** I want to draw your attention to the first
[11] page of Price Exhibit 3. At the top of the page
[12] there are three buildings listed for which there is
[13] no license application date or STA application
[14] date.
[15] Do you know now as you sit here today that
[16] there were, in fact, some microwave paths that
[17] Liberty was operating for which an application had
[18] not even been filed?
[19] **MR. SPITZER:** As of...
[20] **MR. BECKNER:** Knowledge today as of a
[21] prior date.
[22] **THE WITNESS:** Yes.

[1] **BY MR. BECKNER:**
[2] **Q:** Do you have again, as of today, any
[3] understanding or belief as to what the
[4] circumstances were that led to that situation?
[5] **A:** Not really.
[6] **Q:** Do you know what an STA is?
[7] **A:** Temporary--as I understand it, it's a
[8] temporary authority.
[9] **Q:** Is that something that you have learned
[10] after the controversy about unlicensed operations
[11] has come up, or did you know that before April
[12] 1995?
[13] **A:** I may have known it before April '95.
[14] **Q:** Mr. Milstein, you are looking at a copy
[15] now of what has previously been marked as
[16] Exhibit 29 to Mr. Foy's deposition, and for the
[17] record it's a one-page memorandum with production
[18] number 5803, and then attached to it is another
[19] one-page memorandum with production number 5804.
[20] **A:** Okay.
[21] **Q:** Do you recall having seen either of the
[22] memoranda that make up Foy Exhibit 29 before today?

[1] A: Yeah.
 [2] Q: Do you remember seeing both of them?
 [3] A: Yeah.
 [4] Q: Okay. Was the decision to suspend billing
 [5] for the buildings that are identified on the first
 [6] page of Foy Exhibit 29 something that you
 [7] participated in?
 [8] A: I don't recall.
 [9] Q: Might have been something that was
 [10] discussed in the Thursday meeting, maybe?
 [11] A: Very well could have been.
 [12] Q: But you don't have a specific recollection
 [13] of that?
 [14] A: No, I don't.
 [15] Q: As a result of the fact that Liberty was
 [16] operating microwave paths without a license, was
 [17] anyone terminated as an employee of Liberty, to
 [18] your knowledge?
 [19] A: Not that I know of.
 [20] Q: Was anyone deprived of a bonus that they
 [21] otherwise would have received?
 [22] A: I think Behrooz was.

[1] Q: Was anyone not given a salary increase
 [2] that they otherwise would have received?
 [3] A: I don't recall.
 [4] Q: Did anyone have his or her salary reduced
 [5] as a result of the unlicensed operation of
 [6] microwave paths?
 [7] A: I don't recall, no.
 [8] Q: There is now, and has been since the
 [9] middle of 1995, a different set of procedures for
 [10] handling license applications and activations of
 [11] microwave paths at Liberty; is that correct?
 [12] A: That's correct.
 [13] Q: In the new procedures that had been set
 [14] up, do you have any particular involvement in those
 [15] procedures? Are you in that loop, as it were?
 [16] A: No. The person in charge is Andy Berkman.
 [17] MR. BECKNER: I don't think I have
 [18] anything further. Thank you, sir.
 [19] **EXAMINATION BY COUNSEL FOR THE**
 [20] **FEDERAL COMMUNICATIONS COMMISSION**
 [21] **BY MR. WEBER:**
 [22] Q: Good morning, Mr. Milstein. I'm Joseph

[1] Weber, and I represent the Chief of the Wireless
 [2] Telecommunications Bureau in this proceeding.
 [3] A: Good morning.
 [4] Q: Mr. Beckner had questioned you this
 [5] morning whether or not you played any part of a
 [6] decision to reduce or to change the time in the
 [7] contracts you have with buildings or change the
 [8] provision where it specifies how long it will take
 [9] before service is provided to the building, and you
 [10] couldn't recall if you were a part of that
 [11] decision.
 [12] Do you know who would have been a part to
 [13] make the decision to change the time frame in the
 [14] contract?
 [15] A: Well, it would either have been generally
 [16] discussed at a staff meeting, or Andy Berkman would
 [17] have probably had a conversation with Peter Price,
 [18] and it could have been both.
 [19] Q: Were you involved in the decision to
 [20] retain Pepper & Corazzini to represent Liberty
 [21] Cable?
 [22] A: No.

[1] Q: Who was involved in that decision?
 [2] A: I think that really goes back to
 [3] originally when we filed with the FCC and even
 [4] utilizing the 18 gigahertz wavelength, which goes
 [5] back a long time and could well have been Todd
 [6] Stern, deceased.
 [7] Q: Did you have any discussions with any of
 [8] the attorneys at Pepper & Corazzini regarding the
 [9] licensing problem?
 [10] MR. SPITZER: In what time frame?
 [11] BY MR. WEBER:
 [12] Q: Once you learned of the time frame, say,
 [13] in April of '95.
 [14] MR. SPITZER: Subsequent to?
 [15] MR. WEBER: Yes.
 [16] THE WITNESS: I may have been a party to a
 [17] conversation.
 [18] BY MR. WEBER:
 [19] Q: You don't recall any specific
 [20] conversation?
 [21] A: No.
 [22] Q: Do you recall whether or not they had any

[1] conclusions as to why the problems occurred?
 [2] A: No, I don't recall.
 [3] Q: You stated that you may have heard from
 [4] either Mr. Nourain or Mr. Price that Pepper &
 [5] Corazzini might have been, in part, to blame.
 [6] Were any discussions had with them
 [7] regarding that?
 [8] A: Not specific--not one-to-one discussions.
 [9] It may have been as part of a group discussion
 [10] where someone was pointing a finger at someone else
 [11] at the time.
 [12] Q: Have you had any discussions with your
 [13] brother or with Mr. Price regarding whether or not
 [14] Pepper & Corazzini should continue to be filing the
 [15] applications?
 [16] A: No, I haven't.
 [17] Q: Mr. Beckner had shown you a document in
 [18] which it was stating that billing was being
 [19] suspended for certain buildings.
 [20] Why was billing being suspended for these
 [21] buildings?
 [22] A: Well, I think at the time we concluded

[1] since we had no license and we wanted to maintain
 [2] delivery of the signal, that it was in the best
 [3] interest of ourselves and the customers to continue
 [4] to deliver the service, but we didn't feel we had
 [5] the right to deliver service without a license and
 [6] collect money for it, and so we suspended the
 [7] billing.
 [8] Q: Was any part of the reason to suspend
 [9] billing to try to make the problem better with the
 [10] FCC?
 [11] A: It may have been. I don't recall. I
 [12] think that relative to the FCC one of the lawyers
 [13] had sent a letter offering for us to turn off
 [14] service, and in lieu of the FCC saying to us, well,
 [15] turn it off, we felt if you didn't say turn it off,
 [16] we would suspend billing until such time as we got
 [17] the licenses in order.
 [18] Q: During the time period of '94 through '95,
 [19] is it true that Liberty had connected certain
 [20] noncommonly owned buildings with hard-wire coaxial
 [21] cable?
 [22] A: Yes.

[1] Q: Did there come a time where you became
[2] aware that the legalities of connecting noncommonly
[3] owned buildings with hard-wire coaxial cable was
[4] being questioned?
[5] A: Yes.
[6] Q: And how did you learn this?
[7] A: The suit was filed by Time Warner, either
[8] a suit or complaint with the Cable Commission in
[9] New York.
[10] Q: At that time, did you suspend attempting
[11] to hard-wire additional noncommonly owned
[12] buildings?
[13] A: I don't recall. I think that as part of
[14] that proceeding there was a cease-and-desist order,
[15] as I recall. So whatever was stated, we did.
[16] Q: Prior to Time Warner filing a suit, had
[17] you received any advice from counsel regarding the
[18] legalities of hard-wiring noncommonly owned
[19] buildings?
[20] MR. SPITZER: Let me clarify. Are you
[21] referring to Mr. Milstein's reference to filing a
[22] suit or lodging a complaint which triggered his

[1] awareness?
[2] MR. WEBER: Yes.
[3] BY MR. WEBER:
[4] Q: The question is whether you received any
[5] advice from lawyers regarding hard-wiring
[6] noncommonly owned buildings.
[7] A: I don't recall.
[8] Q: The problems that you learned of operating
[9] microwave facilities without a license, did you
[10] consider that a serious problem?
[11] A: Yes.
[12] Q: Now, other than the actions taken to put
[13] in place a compliance officer to review that it
[14] doesn't happen again, what else, if anything, was
[15] done?
[16] First, let's break this down into two
[17] different groups.
[18] What, if anything, was done in terms of
[19] punishment to anybody responsible?
[20] A: Well, from our perspective, we really
[21] looked to Peter as the most responsible person
[22] because he was the person who originally had gotten

[1] licenses when we started the business. And his
[2] punishment was my brother verbally dressed him down
[3] that this was an outrage, how could he allow it,
[4] why didn't we have a system in place.
[5] Q: Were there any discussions between you and
[6] your brother about letting Peter go?
[7] A: Yes.
[8] Q: I take it, obviously, you decided not to.
[9] Can you tell us why you decided not to let him go?
[10] A: Well, I don't know that I could give you
[11] the exact answer. I would say it was because of a
[12] combination of people involved, and we never said
[13] to him, this is something that's your job. And it
[14] was a difficult issue to conclude on.
[15] Q: Now, other than having this compliance
[16] officer put in place, were any actions taken to
[17] assure that this does not occur again?
[18] A: Well, I can't say that I witnessed
[19] discussions that have gone on with all of our
[20] people, but to my knowledge a detailed discussion
[21] of these issues has been talked about with all of
[22] the people involved, and they are all aware of the

[1] gravity of the situation, and that they are to do
[2] nothing to jeopardize the business as it is, and
[3] that before they do anything, they have to check
[4] with three other people before they could ever turn
[5] anything on.
[6] MR. WEBER: Thank you. That's all the
[7] questions I have.
[8] (Whereupon, at 10:50 a.m., the taking of
[9] the deposition was concluded.)
[10] (Signature not waived.)
[11]
[12]
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[22]

[1] CERTIFICATE OF DEPONENT
[2] I have read the foregoing 64 pages, which
[3] contain the correct transcript of the answers made
[4] by me to the questions therein recorded.
[5]
[6] EDWARD MILSTEIN
[7]
[8]
[9]
[10]
[11]
[12]
[13] Subscribed and sworn to before me this ____
[14] day of _____, 1996.
[15]
[16]
[17] Notary Public, in and for
[18] the District of Columbia
[19] My commission expires: _____
[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 the action.
[18]
[19] DAVID A. KASDAN
[20] Notary Public in and for
[21] The District of Columbia
[22] My commission expires: October 1, 1999

Lawyer's Notes

\$

\$30,000 21:10, 18

0

0024 28:2
0127 48:2, 7
0129 48:8

1

1 17:17; 18:3, 8, 12; 20:13;
21:13; 22:22
10188 23:16; 26:2
10190 23:17
10205 23:16
10206 23:16
109 47:5
10:10 45:16
10:20 45:16
10:50 64:8
114 24:8, 21; 25:8; 26:16
116 47:11
120 34:7; 35:7
120-day 34:15
12516 27:10
12522 27:12
13 15:4
15 14:7; 26:2
151 47:6
15467 14:14
15513 14:15
15703 51:21
15704 51:22
15712 51:22
1702 51:21
18 58:4
1992 13:14, 15
1993 41:1
1994 13:18; 16:3; 31:4;
36:5; 38:12
1995 13:18; 36:5; 38:12,
21; 40:17; 41:2; 44:5; 45:4;
46:9, 14; 54:12; 56:9
1996 15:4

2

2 17:17; 18:5; 19:20;
20:11; 21:22; 22:22;
51:18, 20; 52:3, 9, 16
20 9:17
20-percent 26:11
211 18:16; 21:6, 15, 19
220 21:6, 14
25 26:4, 13
29 54:16, 22; 55:6

3

3 23:12; 51:18, 21; 52:1,
12, 21; 53:11
30 45:22
31 46:22
3rd 45:7, 9

4

4 15:3; 27:6
40 14:21
42-unit 25:14
45 15:20

5

51st 18:16; 21:6, 16, 19
52nd 21:7, 14
5803 54:18
5804 54:19

6

6 16:3
61 14:7

7

7 14:4
72nd 24:8, 21; 25:8;
26:16

8

885 18:6
886 18:4

9

9 43:3
94 60:18
95 54:13; 58:13; 60:18

A

a.m 45:16, 17; 64:8
about--again 37:15
acceptable 33:5
accomplish 35:22
accounting 30:9, 12
across 8:17
action 42:4
actions 62:12; 63:16
activated 42:10; 44:16,
21
activations 56:10
actual 22:13

actually 44:20
addition 6:16; 37:3
additional 61:11
addressed 29:4
advance 34:16
advice 61:17; 62:5
affidavit 43:7, 12, 20;
44:3; 45:4
Again 15:11; 26:14; 27:9;
31:9; 37:10; 38:12; 54:2;
62:14; 63:17
ago 31:7
agree 32:14; 50:22
agreed 34:17; 35:9;
50:13; 51:13
agreement 7:12, 15
allegation 44:13
allow 63:3
already 11:4; 29:16, 18
Although 31:6
always 11:10; 39:12
among 7:4; 42:17
amounts 38:15
analysis 23:3, 9; 24:15,
22; 25:12, 14; 26:15, 21;
27:3; 42:15, 19
analyze 24:10
ancillary 10:5
Andy 32:8, 14, 15; 33:16;
56:16; 57:16
Andy's--when 31:13
anybody 6:11; 39:19;
44:10, 20; 62:19
anyone 39:1; 55:17, 20;
56:1, 4
apartment 25:14
apologize 52:3
appear 15:4; 20:11
appears 20:6; 27:11
application 53:13, 13, 17
applications 44:9; 56:10;
59:15
appreciate 34:22
approve 38:19
approved 11:20; 12:4;
38:15
approving 32:6
Approximately 7:8
approximation 9:15
April 15:3; 38:21; 40:16;
44:5; 45:4, 9; 54:11, 13;
58:13
area 12:21
arises 35:5
around 12:22
arrangement 40:4
arrangements 40:11, 14,
17
Aside 10:22
aspect 36:20
assets 8:14
assist 40:5
assume 5:22; 10:16;

33:18
assure 63:17
attached 27:21; 54:18
attempting 61:10
attend 10:5; 30:1, 11
attendance 12:20
attended 30:10
attendees 29:20
attending 30:10
attention 9:4; 11:5; 18:7;
19:22; 32:19; 41:22;
43:11; 44:2; 53:10
attorneys 58:8
audio 5:15
authority 31:17; 41:13;
54:8
available 11:10
avoid 14:17
aware 26:8, 19, 20; 38:21;
41:11; 42:1, 3, 5, 6, 9, 16;
44:6; 45:5; 46:8, 13, 15;
61:2; 63:22
awareness 41:15, 17;
62:1

B

back 13:15, 22; 23:5, 6;
40:7, 8; 45:9, 19; 58:2, 5
backup 19:4
Barr 46:2
based 26:4
basis 12:1; 13:14; 24:5, 5
Bates 14:12, 15
became 41:10; 42:1, 3, 5,
6, 9, 16; 44:6; 45:5; 61:1
BECKNER 4:10, 16; 7:9;
9:11, 15, 19; 12:15; 14:14,
22; 15:11, 14; 16:2; 17:13,
22; 18:16, 21; 22:19; 23:5,
10; 25:7; 26:22; 27:19;
28:15; 31:1; 33:17, 19;
34:11, 12, 19; 35:6, 12, 15;
36:4, 14; 37:14; 39:22;
40:7, 12; 41:20; 42:8; 43:5,
9; 45:14, 19, 20; 47:9;
48:7, 9; 49:8, 10; 51:19;
52:7; 53:20; 54:1; 56:17;
57:4; 59:17
began 39:13, 18
begin 29:11
beginning 39:13
begins 15:3; 47:5
behalf 31:18
behind 31:9
Behrooz 29:5; 48:4;
49:13; 50:2; 55:22
belabor 26:14
belief 5:6; 54:3
believed 51:6
Bell 30:7
Berkman 28:6, 9, 16;
32:15, 22; 33:7, 22; 56:16;
57:16

Berkman's 27:6
Bertina 24:10; 30:22
besides 8:8
best 5:5; 60:2
better 60:9
billing 30:14; 55:4; 59:18,
20; 60:7, 9, 16
blame 59:5
bonus 38:11, 14; 55:20
book 14:5, 6; 28:1; 46:20
born 39:19
both 34:22; 55:2; 57:18
bottom 20:5; 26:3; 29:6
bound 14:5
break 6:6, 9, 10; 45:15;
62:16
breakdown 21:8
Brief 45:16
bring 41:21
brings 10:6
brokerage 9:7, 7
brother 6:21, 22; 8:3, 4;
24:10; 25:13; 26:9; 32:5,
21; 33:14; 35:17; 36:17,
19; 38:16; 42:13; 59:13;
63:2, 6
brought 11:4
Bruce 4:16; 16:20
Buckley 30:18
builders 10:3
building 11:19; 12:8;
18:15, 17, 18; 21:2; 22:3,
6, 8, 10; 24:12; 25:3, 15,
21; 26:17; 27:2; 28:11, 17;
29:8, 13; 30:14; 39:9; 57:9
building's 25:18
buildings 8:17; 21:5;
31:17, 22; 44:7; 53:12;
55:5; 57:7; 59:19, 21;
60:20; 61:3, 12, 19; 62:6
Bureau 57:2
business 8:5, 5, 22, 22;
9:2; 11:1; 30:9; 33:8;
35:19, 22; 36:8, 12, 21;
63:1; 64:2
businesses 8:7, 12, 20;
9:3
bylaws 7:18

C

Cable 4:5, 9, 17; 6:1, 17,
18; 8:8; 9:13, 21; 10:10;
21:15; 28:18; 31:18, 22;
33:9; 35:21; 57:21; 60:21;
61:3, 8
Cable's 10:20
Cable--and 35:17
call 15:5; 32:14; 42:19
called 4:4; 34:4
came 16:14, 17; 33:3
can 5:19; 8:11; 9:20; 12:7;
19:11; 21:7, 15; 24:4; 26:4;
28:12; 30:4; 63:9

capacity 6:1
capital 26:6, 10, 12
care 25:6
carrying 41:6
case 15:13; 31:4, 20
casualty 8:16
caused 21:8
cc 30:5
cc's 29:5
CC:HPM 19:14
cease-and-desist 61:14
Ceccarelli 23:15; 25:11;
26:3; 30:22; 37:19; 38:10
Ceccarelli's 23:13
certain 46:11; 59:19;
60:19
certainly 45:7
chain 17:4
chairman 44:5; 45:5
change 38:19; 57:6, 7, 13
changed 34:8, 13, 15;
35:7
charge 8:15; 31:3; 56:16
charter 7:18
check 64:3
Chief 57:1
choose 5:15; 47:1
chose 22:20
circumstances 54:4
City 4:5, 9, 17; 10:4; 40:3;
44:7
claim 42:9
claims 42:14; 44:22
clarify 45:9; 61:20
clear 6:14; 14:11
Co-chairman 6:3, 16
coaxial 60:20; 61:3
collect 60:6
collected 23:15
combination 13:20;
14:18; 25:22; 38:11; 49:9,
12; 63:12
coming 10:2
command 17:4
commenced 11:20
commercial 13:10
COMMISSION 56:20;
61:8
COMMUNICATIONS
56:20
company 7:22; 8:2;
16:14, 18; 40:1, 5
company's 35:22
compensation 38:7
compiling 47:18
complaint 61:8, 22
completely 52:19
compliance 62:13; 63:15
components 19:6
computer 37:4
concerned 36:20
concerned-when 36:16

conclude 63:14
concluded 28:11; 59:22;
64:9
conclusion 49:3, 11;
51:1, 13
conclusions 59:1
confer 5:21; 6:4, 6
confers 17:21
confuse 14:17
conjunction 6:20
connected 60:19
connecting 61:2
consecutively 27:11
consensus 7:22
consider 62:10
Constantine 42:22; 43:7
Constantine's 43:12
construction 20:21, 21;
22:11
contents 35:13
context 52:15
continue 59:14; 60:3
continued 47:6
continues 27:18
contract 27:20; 28:10,
22; 31:9, 10, 14; 32:7;
33:2; 34:3; 35:13; 57:14
contracts 31:11, 17, 21;
32:12; 34:21; 35:3; 57:7
controversy 54:10
conversation 42:1; 50:8;
57:17; 58:17, 20
conversations 50:11
cooperated 35:22
copy 18:8; 19:21; 46:1, 4;
48:10; 52:10, 13; 54:14
Corazzini 51:10; 57:20;
58:8; 59:5, 14
Corp 8:13
corporate 7:18; 9:8
corporation 7:2, 13
cost 19:4, 12; 23:9
costs 18:17; 20:21; 21:9;
22:1, 1, 5
costs--yeah 20:21
couldn't 57:10
counsel 4:4, 8; 15:12;
17:21; 40:4, 18; 42:20;
46:9; 56:19; 61:17
country 8:18
couple 13:16; 43:15
course 9:16
Court 5:4, 18; 23:6; 40:8
cousin 6:22; 8:1
cover 31:14
customarily 28:10, 12,
13
customary 28:16
customer 13:11; 31:3;
37:20
customers 44:7; 60:3

D

date 20:7; 31:5; 53:13, 14,
21
dated 26:2
dates 13:22; 14:19; 16:1
day 9:2
day-to-day 10:9
days 34:7; 35:7; 45:8
deal 35:5
deceased 58:6
decide 32:13
decided 40:1; 63:8, 9
decision 11:8, 9, 18;
21:18; 55:4; 57:6, 11, 13,
19; 58:1
decisions 7:16; 11:13
Declaration 48:3, 4, 11,
17
degree 12:2
delegate 11:15
deliver 60:4, 5
delivery 60:2
department 12:18;
13:21; 30:9; 37:18; 38:9
depended 32:8
depends 20:19; 37:12
deposition 4:22; 14:4;
18:3, 5; 23:13; 27:7; 43:4;
46:1; 54:16; 64:9
deprived 55:20
describe 8:11
desire 25:11, 18; 27:3
detail 14:8; 24:2
detailed 63:20
details 15:19; 41:6
determine 23:1
determined 48:21
devote 9:4
dictate 7:13
different 16:1; 29:1;
37:21; 53:7; 56:9; 62:17
difficult 63:14
direct 43:10; 44:2
directed 19:21; 44:18
Directing 18:7
directly 11:14; 17:4; 37:3
disagree 7:14; 50:22
disagreed 51:14
discuss 50:18
discussed 10:7; 11:22;
12:7; 18:12; 24:8; 33:4;
52:16, 22; 53:1; 55:10;
57:16
discussed--that 11:21
discussion 20:20; 32:10;
59:9; 63:20
discussions 10:5; 58:7;
59:6, 8, 12; 63:5, 19
dish 22:14
dissatisfaction 38:22

distribute 40:2
distribution 22:9
divided 7:4
division 8:15
document 17:20; 19:3, 9;
20:6; 23:12, 19, 20, 21;
27:8, 10, 14, 16; 43:6, 16,
17; 47:3; 48:6; 59:17
documents 13:4; 17:19;
18:1; 24:7; 48:19; 52:4, 5
done 23:9; 49:16, 17;
62:15, 18
Douglas 8:15
down 5:20; 30:16; 62:16;
63:2
draft 43:22; 53:6
draw 53:10
dressed 63:2
duly 4:6
during 6:5; 60:18

E

each 12:18; 13:1; 16:4;
18:1; 35:21; 36:9
East 18:16; 21:6, 6, 14,
15, 19; 24:8, 21; 25:8;
26:16
east--I'm 21:14
economics 24:11, 17,
19; 25:16
EDWARD 4:3, 13; 17:16;
20:6; 21:22
effect 38:1
effort 10:18
eight 47:10, 15
either 8:8; 24:4; 25:9;
26:9; 32:5, 21; 37:7; 38:19;
42:2; 43:21; 51:4; 54:21;
57:15; 59:4; 61:7
Elliman 8:15
else 19:17; 23:1; 59:10;
62:14
else's 20:9
elsewhere 10:15
employee 37:5, 8, 11, 13;
55:17
employees 38:8
enough 51:15
enters 9:10; 45:18
entitled 48:2
equally 7:4
equipment 29:12
erecting 22:2
estate 8:14, 21; 9:7;
10:14
estimate 22:12
evaluate 38:1
even 7:13; 53:18; 58:3
every 14:5; 21:2; 26:17,
21; 28:10, 13, 13; 34:20;
35:13
everything 36:22

exact 17:3; 63:11
exactly 5:19
examination 4:4, 8, 21;
6:5; 56:19
examined 4:6
example 11:18; 12:17;
15:2, 5; 37:5
Excuse 48:13
executed 43:21
Executive 17:1
Exhibit 14:4; 15:3; 17:13;
18:2, 3, 5, 8, 12; 19:20;
20:11, 13; 21:13, 22;
23:12; 27:6, 20; 28:1, 5;
43:3, 12; 45:22; 46:21, 22,
22; 48:2; 51:20, 21; 52:1,
3, 9, 12, 16, 21; 53:11;
54:16, 22; 55:6
exhibits 14:5; 17:16;
22:21; 51:18
exist 12:3
existed 33:21; 40:18
explain 5:12; 28:12
express 51:5
extended 21:15

F

face 12:8
facilities 62:9
facility 22:2
fact 21:17; 37:16; 41:11;
44:14; 46:13; 48:21;
50:14; 53:16; 55:15
family 8:14; 30:9; 33:8
family's 10:14
far 7:17; 13:14; 14:1;
28:11; 29:10; 36:15, 19;
44:19; 45:10
fast 12:5
FCC 39:10, 20; 41:12, 19;
43:8; 44:9; 45:6; 46:3;
58:3; 60:10, 12, 14
FEDERAL 56:20
feel 5:11; 60:4
feeling 14:17
feels 11:7
felt 24:16; 38:4; 51:2;
60:15
few 4:18; 13:17; 31:8;
45:8
filed 43:7; 45:6; 53:18;
58:3; 61:7
filing 41:19, 21; 42:3, 5, 9,
15; 59:14; 61:16, 21
Finally 5:21
finding 50:9
Fine 6:16; 22:20
finger 59:10
firm 42:22; 51:9
first 14:12, 14; 15:2; 18:7;
27:11; 28:4; 40:1; 41:2, 16;
43:11, 19; 44:4; 52:8;
53:10; 55:5; 62:16

five-minute 45:15
flowed 37:1
follows 4:7
form 15:10; 32:7; 43:22;
53:6, 7
formality 12:2
formally 4:15
format 12:16
formation 53:2
forth 47:19
forward 48:1
foundation 35:1
four 15:22; 34:4
Foy 46:21; 54:22; 55:6
Foy's 45:22; 54:16
frame 39:18; 57:13;
58:10, 12
free 5:11
front 20:20; 35:14
full 4:11
fully 24:19
further 56:18
future 29:8

G

general 8:11, 20; 10:22;
26:12
generally 12:7; 24:4;
27:14; 31:11; 34:3; 36:12;
40:20; 50:2; 57:15
generally--he 30:10
generically 18:14
gigahertz 58:4
given 11:13; 19:5; 56:1
gives 8:3; 13:1
goes 15:20; 48:7; 58:2, 4
Good 56:22; 57:3
granted 44:9
grants 41:13
gravity 64:1
group 59:9
groups 62:17
guess 47:20, 22
guidelines 11:12; 32:22

H

handed 13:5; 17:19;
18:1; 23:20; 27:8; 43:16;
52:4
handle 41:8
handling 56:10
hands 37:1
hands-on 36:20
handwriting 19:8; 20:5,
8, 10
handwrote 20:12
happen 36:5; 62:14
happened 50:6, 6
happening 12:21

hard-wire 60:20; 61:3, 11
hard-wiring 61:18; 62:5
Hartley 30:20
hasn't 6:14; 17:14; 30:10
have--and 14:11
haven't 35:1; 59:16
Hayden 46:2; 47:16
head 5:18; 12:18; 37:18
heads 13:22; 38:9
heard 59:3
held 12:11; 13:13; 16:17
help 11:9
helps 36:4
high 21:11
hired 42:20
honestly 17:6
Howard 30:6; 44:5, 11
Howard's 33:15
huh-uh 5:17
Human 30:21
hypothetically 11:17

I

idea 16:9, 15
identical 32:3
identification 17:18
identified 9:3; 29:13;
55:5
identify 30:4; 32:18
identity 49:4
immediately 42:13
implying 12:2
imposed 39:17
improve 38:2
in-depth 42:15
inadequacy 49:22
inadequate 49:18
includes 22:7, 9
including 44:11
increase 56:1
independent 25:9
indicate 14:12
individuals 29:5; 35:20
industry 10:14, 16
inform 37:8
information 19:5; 20:17;
21:1; 22:21, 22; 23:1; 42:6;
46:11; 47:14, 19; 49:1;
51:15; 52:2
informed 44:13
initial 19:13
initially 39:18
innate 39:19
inquire 20:16
inside 22:6, 7, 10
install 34:6
installation 24:11; 34:5
installed 26:17
instituted 42:13
instructions 32:22

insurance 8:15, 16, 22
intent 29:10
interacted 35:21
interest 7:2; 10:19; 60:3
interested 24:14; 33:2
internal 42:14; 48:20
into 4:20; 42:14; 62:16
introduced 4:14
investigation 42:14, 21;
48:20
investment 23:2; 26:10
involve 10:18
involved 8:1, 4, 5, 7, 12;
10:13; 11:4, 14; 18:11;
22:14; 32:6; 40:13, 17;
47:13, 18; 57:19; 58:1;
63:12, 22
involvement 40:21;
56:14
issue 10:6; 24:7; 32:9, 13;
33:3; 35:4; 45:11; 63:14
issues 10:2, 3, 12; 11:3;
32:19; 33:16; 63:21
itemize 19:12
itemized 22:1
items 34:2
itself 25:21

J

Janet 30:20
jeopardize 64:2
job 32:18; 37:22; 41:8;
63:13
Joseph 56:22
judgment 51:16
July 26:2
June 46:9, 14

K

kept 37:1
Kevin 30:16, 18
kind 5:18; 7:18, 19; 12:20;
13:1; 20:16; 24:22; 26:15;
28:17; 32:22; 36:10
kinds 9:20; 11:2, 13; 33:1
knew 44:20; 45:10
knowledge 5:5, 10:19;
39:19; 40:3; 44:10; 53:20;
55:18; 63:20
known 44:17, 19; 54:13
knows 5:19

L

labor 22:14
laid 35:1
large 12:13; 46:22
last 13:16, 17; 14:12, 15;
27:12; 28:1
late 44:4; 45:4

law 51:9
Lawrence 4:13
lawyer 5:22; 6:5
lawyers 60:12; 62:5
learn 61:6
learned 54:9; 58:12; 62:8
learning 49:1
least 50:13
led 25:11; 54:4
left 31:7
legal 40:4, 18; 46:9
legalities 61:2, 18
letter 46:1, 5, 8, 12; 47:11,
16; 60:13
letting 63:6
level--that 38:9
levels 38:14
Liberty 6:1, 17, 17; 8:8;
9:13, 21; 10:10, 20; 17:9;
26:17; 28:18; 31:18, 22;
33:8, 16; 34:6; 35:16, 21;
39:1, 8, 13; 41:2, 11;
42:10, 18; 43:8; 44:6, 10,
11, 14; 45:11; 46:12;
50:20; 53:17; 55:15, 17;
56:11; 57:20; 60:19
Liberty's 20:16; 41:4;
44:5; 45:4; 46:8; 48:20;
51:7
license 39:10, 16; 49:19;
50:20; 53:13; 55:16;
56:10; 60:1, 5; 62:9
licenses 29:12, 12;
40:18; 41:3, 13; 60:17;
63:1
licensing 39:20; 58:9
lieu 60:14
limit 36:2, 6; 37:10
links 40:2, 19
list 30:5, 16
listed 53:12
little 25:19
lodging 61:22
long 14:21; 57:8; 58:5
longer 31:6
look 14:7; 15:1; 19:19;
23:18; 26:1; 32:12; 42:14;
43:14; 47:1
looked 19:2; 62:21
looking 19:1; 21:22; 24:6;
25:9; 34:3; 53:7; 54:14
loop 56:15
lot 10:3
lower 47:12
Lubian 31:1, 2

M

maintain 60:1
majority 7:1
making 40:13
Management 8:13;
12:19; 16:10; 35:16;

36:20; 38:8; 42:18
manager 8:9; 13:1
Managers 37:20
manages 8:13
mark 17:14
marked 14:3; 15:12;
17:14, 17; 18:2; 19:20;
23:12; 27:6; 43:3; 45:22;
51:17; 54:15
marketing 10:3, 12, 18;
11:3; 13:9, 9
matter 7:10; 36:3, 6;
37:17; 45:5
matters 9:13, 22
may 6:6, 6; 35:3, 4; 45:7,
8; 50:8; 54:13; 58:16; 59:3,
9; 60:11
maybe 6:13; 39:20; 55:10
McKennon 16:21; 17:9
mean 5:19; 12:17; 18:13;
26:6; 33:15; 35:17; 36:16;
48:18
meaning 34:6
meeting 10:5; 11:22;
12:17; 15:7; 16:4; 29:19;
37:2; 52:17; 55:10; 57:16
meetings 11:2; 12:6, 10;
13:6, 13, 22; 16:10, 17;
17:10; 29:21; 30:1, 11
memoranda 23:14;
54:22
memoranda--that's 21:6
memorandum 18:4, 6, 9;
19:21; 20:1; 26:1; 27:20;
28:4, 6, 9, 17, 21; 29:14;
31:5, 9; 51:20; 54:17, 19
memory 24:5, 6
memos 25:5; 36:9
mentioned 10:12; 21:5
mentioning 51:9
mentions 21:13
Michael 46:2
microwave 22:2; 39:8,
14, 15; 40:2, 19; 41:4, 11;
42:10; 44:8, 12; 48:22;
50:7; 51:7; 53:16; 55:16;
56:6, 11; 62:9
middle 56:9
Might 22:13, 13; 23:8;
32:19; 55:9; 59:5
Mike 30:7, 8, 13, 15, 17
Milford 8:13
MILSTEIN 4:3, 13, 14;
9:12; 17:16; 21:22; 23:11;
27:13; 33:8; 43:2, 10; 44:5,
11; 46:5; 54:14; 56:22
Milstein's 61:21
mind 23:9; 41:1, 7; 49:21
minor 31:21
money 60:6
monitor 49:19
more 15:21; 26:11; 27:16;
28:6
morning 56:22; 57:3, 5

most 8:21; 9:4; 35:13;
62:21
move 45:8
much 9:12; 21:18
multi-page 48:6
must 11:19
myself 4:14

N

name 4:11, 16
named 16:20
near 20:5
necessarily 16:13; 31:10
necessary 24:16; 29:13
need 11:9; 17:14; 38:1
needed 39:16
needs 11:7
network 22:9
New 4:5, 9, 17; 10:4, 15;
11:18, 19; 16:4; 20:17;
28:10, 17; 30:14; 39:16;
40:3; 44:7; 56:13; 61:9
next 46:21
nine 47:16
nobody 45:10
nodding 5:17
nonacceptable 33:6
noncommonly 60:20;
61:2, 11, 18; 62:6
not-let 24:3
notary 4:6
note 14:16; 15:11
nothing 64:2
notify 28:22
Nourain 19:22; 20:2;
29:5; 30:1; 48:4, 16; 50:1,
5, 12; 51:4; 59:4
Nourain's 38:22
number 14:1, 15; 18:4, 5,
6; 26:2; 27:10; 33:11; 35:2;
43:3; 47:11; 48:2; 54:18,
19
numbered 14:6
numbers 14:12, 13;
23:16; 51:21, 22
numerous 8:19

O

O 19:12
object 39:18
obtain 40:18
obtained 11:1; 41:4
obtaining 29:12
obvious 12:8; 15:9
Obviously 30:5; 63:8
occasion 28:7; 33:3;
50:18
occasionally 20:18;
21:1; 34:8, 13
occur 63:17

occurred 59:1
October 16:3
off 6:10; 60:13, 15, 15
offering 60:13
officer 62:13; 63:16
oldest 16:3
Once 5:2; 48:20; 58:12
one 6:17; 7:1, 11; 15:5,
21; 22:17; 26:2; 27:16;
28:7, 9, 19; 29:20; 34:2,
20; 35:18; 42:17; 60:12
one-page 18:4, 5; 54:17,
19
one-to-one 59:8
ones 8:20; 9:3; 12:11
only 31:14; 43:11; 47:2
Ontiveros 14:4; 15:15;
29:4, 20; 37:19; 39:4;
49:14; 50:1
Ontiveros--were 38:10
operate 39:8; 40:19
operated 50:20
operating 8:19; 10:9;
44:12, 14; 48:21; 53:17;
55:16; 62:8
operation 7:13; 9:7; 15:6;
29:2; 41:12; 49:7; 50:7;
51:7; 56:5
operational 7:10; 50:15
operations 11:1; 13:10;
15:3; 54:10
operator 34:5
opposed 5:17; 11:14
oral 13:21
order 29:7; 39:7, 15;
60:17; 61:14
ordering 29:11
original 20:12
originally 58:3; 62:22
originate 16:13
originated 16:15
otherwise 55:21; 56:2
ourselves 60:3
out 13:5; 15:12; 25:17;
28:6, 10, 13, 17, 21; 29:17;
41:7; 50:9
outrage 63:3
outraged 49:2
outside 42:20
over 14:8; 17:7; 33:21
overall 36:8
overheard 42:2
oversight 10:22
own 6:20
owned 60:20; 61:3, 11,
18; 62:6
owner 8:8
owners 6:17
ownership 7:12

P

page 14:5, 14, 15; 15:2;
27:11, 12, 16; 28:1, 4, 19;
31:15; 44:4; 46:12; 47:5,
10, 15, 15; 48:1; 53:11, 11,
55:6
pages 14:7, 21; 15:2, 4,
21; 43:11
paid 38:7, 11
paper 20:19
paragraph 34:4, 4; 44:3
part 21:20; 42:2; 43:7;
44:4; 50:14, 19; 57:5, 10,
12; 59:5, 9; 60:8; 61:13
participated 55:7
particular 11:2, 12;
12:16; 18:15; 21:4; 24:14,
20; 26:8, 15; 29:3; 31:5;
34:3; 36:3; 39:9; 56:14
particularly 20:3
parties 51:5
partner 8:6
parts 13:12; 15:12; 29:1;
47:1
party 58:16
passive 8:6
past 12:21
path 39:15; 44:17, 21
paths 39:8, 14; 41:12;
42:11; 44:8, 12, 15; 48:22;
50:7, 15, 20; 51:7; 53:16;
55:16; 56:6, 11
Penalty 48:3
pending 44:8
people 10:15, 19; 11:9;
30:5; 35:16; 36:9; 37:3, 16,
20, 21; 38:10; 44:19; 49:9,
21; 63:12, 20, 22; 64:4
Pepper 51:10; 57:20;
58:8; 59:4, 14
per 23:8
percent 9:18; 26:4, 13
performance 38:2, 22
performed 26:16
performing 37:6, 17, 22
perhaps 12:2; 53:6
period 31:2; 41:1; 60:18
Perjury 48:3
person 10:8; 16:20;
30:16; 31:16; 35:18;
36:22; 37:18; 42:17;
44:16; 49:4; 56:16; 62:21,
22
personally 11:20; 42:13;
50:4
persons 12:19; 49:4
perspective 62:20
Peter 10:6, 8; 11:6, 13;
16:13, 17; 17:7; 30:6;
35:18; 36:13, 13, 22; 38:3;
41:5, 8; 49:13; 50:2; 53:2,
4; 57:17; 62:21; 63:6
Peter's 37:6

Petit 9:10; 39:21
piece 20:19; 42:6
place 62:13; 63:4, 16
played 57:5
pleading 43:8; 45:1, 6, 12
please 4:11; 5:11; 19:12;
23:5
point 47:8; 53:5
pointing 59:10
policy 37:18
position 9:6; 10:13, 14;
37:19
possible 26:12; 45:7
possibly 49:13
Power 45:18
practice 13:20; 20:15;
25:20; 32:6
precipitate 27:2
prefer 36:6
preliminary 4:19
premium 25:19
premiums 25:15
preparation 46:18; 47:14
prepared 15:15; 16:4;
26:21; 46:14, 16
presented 15:6; 22:21
President 17:1
previous 23:7; 40:9
previously 23:12; 27:5;
43:3; 45:22; 54:15
Price 10:6, 8; 12:18;
16:14, 17; 17:5; 30:6;
31:16; 38:18; 41:5, 8;
49:13, 15; 50:1, 17, 18;
51:4, 18, 19, 21; 52:1, 3, 9,
12, 16, 20; 53:11; 57:17;
59:4, 13
Price's 36:21; 37:22; 43:4
Price--was 35:18
prior 29:16; 33:16; 38:21;
47:3; 49:19; 53:21; 61:16
privately 6:7
probably 17:7; 21:12;
26:7; 31:6; 46:15; 47:8;
50:21; 57:17
problem 58:9; 60:9;
62:10
problems 59:1; 62:8
procedures 36:8; 56:9,
13, 15
proceeding 4:18; 6:13;
57:2; 61:14
PROCEEDINGS 4:1
process 4:19; 12:6;
29:11, 16; 51:3
produced 43:6
production 18:4, 6;
23:16; 26:2; 27:10; 43:6;
51:20, 22; 54:17, 19
profitability 23:2
programming 40:2
project 20:17
properly 51:3

property 8:16
proposed 33:2
provide 11:18
provided 19:3; 57:9
provides 7:15; 8:16; 34:5
providing 18:17; 21:19;
44:6
provision 7:19; 34:8, 13,
15; 57:8
public 4:6
punishment 62:19; 63:2
purport 19:21
purpose 6:10; 28:20
purposes 36:1
put 5:9; 53:3; 62:12;
63:16
putting 22:5, 14; 53:4

Q

quarter 41:2
questioned 57:4; 61:4
quick 12:20
quizzing 35:12

R

raised 44:13; 45:11
rather 46:22
reaction 48:18, 22
Read 23:5, 6; 40:7, 8;
43:13; 48:17, 19; 52:19
reading 26:3; 44:4
real 8:14, 21; 9:7; 10:14
really 9:8; 10:1; 17:12;
35:19; 36:6; 44:1; 46:6, 10;
53:3, 9; 54:5; 58:2; 62:20
reason 6:9; 24:14; 29:4;
45:3; 60:8
reasonably 49:2
recall 9:9; 13:15; 16:16,
19; 17:6, 12; 18:8, 11, 20;
20:1; 24:21; 25:3, 8; 26:11;
34:18; 39:2; 40:11, 22;
43:20; 46:4, 19; 47:3, 7,
17; 48:5, 10, 15, 18; 50:10,
11, 16; 51:8, 9; 52:9; 53:9;
54:21; 55:8; 56:3, 7; 57:10;
58:19, 22; 59:2; 60:11;
61:13, 15; 62:7
recalled 25:5
received 31:14, 14;
55:21; 56:2; 61:17; 62:4
receiving 20:1; 22:2
recently 30:11
recess 45:16
recognize 19:8; 28:5
recollection 18:22;
22:16; 55:12
recommendation 38:5,
18
recommending 24:18
record 4:12, 15, 16; 5:14,

14; 6:10; 14:10, 11, 16;
15:12; 18:3; 23:14; 27:9;
43:5; 45:5, 19; 51:19; 52:1;
54:17
redacted 15:10; 52:2
reduce 57:6
reduced 56:4
refer 14:6
reference 61:21
referring 42:7; 49:6;
61:21
refresh 18:22
refreshed 24:6; 25:10
refreshes 19:2
regarding 24:8; 58:8;
59:7, 13; 61:17; 62:5
regular 13:13; 29:20
regularly 13:5
related 20:20
relates 18:14
relationship 33:20
relative 10:3; 60:12
relatives 7:14
relevant 15:13
remember 16:20; 17:8,
10; 21:5, 8; 24:13; 39:5;
46:7; 52:11, 12; 55:2
repeat 23:4; 40:6
rephrase 5:12
report 13:2, 9, 10, 10, 11;
15:3, 5; 16:4, 6
reported 36:13, 13
Reporter 5:4, 19; 23:6;
40:8
reports 13:4, 21; 14:18,
20; 15:6; 16:1
represent 4:17; 57:1, 20
representing 6:1
reproduced 47:15
request 46:14
requested 19:3; 46:11
required 5:4
requirement 26:5, 9
requirements 39:20
requisite 41:3
residential 8:14; 13:9
resources 30:21
respect 20:17; 39:3;
49:17; 50:6, 17; 52:20
response 20:11; 46:13,
16, 18
responses 24:12
responsibility 10:9;
30:15; 36:21; 37:7; 41:7
responsible 30:13;
35:19; 41:3; 42:18; 49:4,
22; 50:14, 19; 51:6, 11;
62:19, 21
result 11:1; 55:15; 56:5
retain 57:20
return 23:2; 26:6, 11
review 47:14; 62:13
reviews 17:20; 23:21;

43:17; 52:5
right 4:20; 5:8, 21; 6:4;
7:12; 22:18; 28:3; 47:12;
53:7; 60:5
Rivera 46:2
Robert 9:10
ROC 26:5, 6
room 9:10; 12:22; 45:18
Roughly 7:7; 9:14
routine 32:6
run 7:22; 21:15; 27:11
rundown 12:20
running 8:1

S

salary 38:11, 14; 56:1, 4
same 14:1; 32:2; 39:3;
50:17; 52:20
satisfactorily 37:6, 22
saw 18:19; 35:2; 47:8;
48:17; 52:15; 53:2, 4
saying 60:14
se 23:8
second 5:13; 46:12
seeing 18:8; 20:3; 25:4;
33:2; 41:3; 52:9, 11, 12;
55:2
seems 31:6
send 28:16; 36:9; 39:8
sending 28:21
senior 12:19; 16:10;
35:16; 42:17
sent 28:6, 10, 13; 29:17;
46:8; 52:17, 18, 21; 60:13
separate 15:22
serious 62:10
serve 29:13
served 12:9, 9
service 10:20; 11:18;
13:11; 21:13, 14; 24:8;
26:17; 31:3; 37:20; 44:6;
49:20; 57:9; 60:4, 5, 14
services 25:19
serving 29:8
set 40:4; 47:19; 56:9, 13
setting 30:13
several 14:18, 19
shall 34:6
shoot 26:13
short 45:14
shouldn't 12:9; 49:17
show 14:3; 23:11; 27:5;
43:2; 45:21; 51:17
shown 59:17
sign 31:17
signal 18:18; 21:19; 39:9;
60:2
signature 19:13; 64:10
signed 28:18; 29:1;
30:14; 31:22; 43:21
significant 32:18

similarly 6:8
simply 6:5, 9; 11:15;
15:1; 52:21
sit 53:15
situation 49:5, 6; 54:4;
64:1
size 25:20
slightly 53:6
slip 45:8
Somebody 19:17; 45:8
someone 7:16; 20:8;
23:1; 30:8; 41:21; 59:10,
10
someone's 27:2
something 5:10; 11:9,
11, 19; 24:22; 25:4; 27:1;
33:5; 34:16; 35:8; 37:7;
38:5, 15; 52:17, 21; 54:9;
55:6, 9; 63:13
sometime 29:8
somewhere 50:3
sorry--the 21:14
sort 8:9; 23:2; 25:17;
36:7; 40:4; 43:22
speak 5:11; 37:8
speaking 11:17
specific 10:2, 6; 31:10;
42:6; 55:12; 58:19
specific--not 59:8
specifically 25:4; 47:7,
21
specifics 27:14; 39:5
specifies 57:8
specify 36:5
spend 9:13; 21:19
Spitzer 5:22; 7:7; 9:14;
12:13; 14:10; 15:9, 22;
18:13; 22:16; 25:2; 26:19;
27:18; 28:12; 33:15; 34:9,
22; 35:10; 36:2, 11; 37:10;
39:17; 41:16; 42:5; 47:5;
48:6; 49:6; 53:19; 58:10,
14; 61:20
spoken 50:4
STA 53:13; 54:6
staff 10:4; 11:22; 16:11;
20:16; 29:19; 30:11; 57:16
stamp 47:11; 48:2
stamped 28:2
standard 32:7; 35:7
started 29:16; 63:1
state 4:11; 15:9
stated 59:3; 61:15
statement 34:10, 11
states 44:4; 45:4
stating 59:18
Stern 58:6
still 26:4
stock 7:2, 12
Street 18:16; 21:6, 15, 16;
24:9, 21; 25:9; 26:16
Street--is 21:7
strike 21:11

subject 18:12, 13, 14;
36:3, 6
subsequent 50:8, 9;
58:14
substance 4:20; 50:10
substantially 32:2
sufficient 35:2
suggesting 37:16
suit 61:7, 8, 16, 22
supervised 51:2
Supervising 42:19
supposed 36:10
sure 25:6; 33:10; 40:10;
44:16; 52:18
surface 11:11, 11
surfaced 32:8
surfaces 11:7
surprised 48:16
suspend 55:4; 60:8, 16;
61:10
suspended 59:19, 20;
60:6
sworn 4:6; 5:3
system 34:6; 49:18, 22;
63:4

T

table 47:12, 14; 51:22
talk 33:4; 36:10; 37:15
talked 30:22; 63:21
talking 29:19; 32:15;
36:7; 38:12
target 26:10
technical 15:3
Telecommunications
57:2
temporary 54:8
Temporary--as 54:7
ten 9:17
terminated 55:17
terms 9:2; 12:3; 36:3, 8;
38:7; 62:18
testified 4:7
Thereafter 40:16
they're 15:13
third 26:1
thought 21:21; 29:15;
32:9
thousands 48:19
three 7:4, 22; 23:14;
43:11; 44:3; 53:12; 64:4
Thursday 12:11, 14;
29:19; 55:10
times 37:21
title 9:8; 17:2, 3
titles 8:19
today 18:9; 25:5; 43:20;
46:5; 47:4; 48:11; 52:10,
13; 53:15, 20; 54:2, 22
Todd 58:5
together 23:15; 53:3, 4

told 29:18
Tony 17:7; 19:12; 29:4,
20; 39:3; 49:13; 50:2
top 15:2; 22:2; 47:15;
53:11
topic 20:20
total 21:10
transmitted 31:12, 13
triggered 61:22
true 21:3; 33:14; 60:19
truthful 5:5
try 5:12; 60:9
trying 14:17; 53:2
turn 46:21; 47:10; 60:13,
15, 15; 64:4
turning 49:20
two 7:14; 9:2; 13:12; 18:1;
21:5; 25:22; 30:16; 44:7;
62:16
two-page 46:1; 51:20
type 28:5; 37:11
typical 9:2
typically 11:4; 20:15;
29:15

U

uncomfortable 6:11
under 17:7; 48:3
underneath 17:5
underperforming 38:4
unlicensed 42:10; 44:12,
15, 21; 48:22; 49:7; 50:7,
14; 51:7; 54:10; 56:5
unsatisfactorily 37:17
unusual 25:19, 21; 27:1
up 5:11; 10:2, 6; 22:14;
28:18; 30:13; 33:3; 40:4,
16; 54:11, 22; 56:14
updated 16:6, 7
updates 30:12; 37:2
use 21:17; 22:22; 23:1;
39:13, 15; 40:1
used 30:11
using 10:19
usually 11:22; 12:5, 14,
22; 14:20; 38:3
utilizing 44:8; 58:4

V

vaguely 48:12, 14
variations 31:21; 32:7;
35:3
various 35:20
verbally 63:2
version 15:21; 16:7
via 21:15
Vice 17:1
videotape 5:15
view 50:5, 19; 51:5
virtue 7:11

W

waived 64:10
Warner 4:5, 9, 17; 41:18;
42:4; 44:14, 22; 45:6, 11;
61:7, 16
warrant 32:19
warranted 32:9
wavelength 58:4
way 5:18; 8:11; 22:17;
24:3; 50:6; 51:10
Weber 39:20; 56:21;
57:1; 58:11, 15, 18; 62:2,
3; 64:6
week 12:21
weekly 10:4; 11:2; 12:1,
6, 10; 13:5, 13; 15:7; 16:4,
10; 17:10; 37:2
weren't 37:21
what's 12:20; 19:20;
47:10; 49:11, 11; 51:17
Whereupon 4:2; 23:6;
40:8; 64:8
whose 16:9
Wireless 57:1
wiring 22:5, 7
wish 6:7
within 34:6
without 50:20; 55:16;
60:5; 62:9
WITNESS 7:8; 9:17;
12:14; 14:18, 20; 17:19,
20, 21; 18:19; 22:18; 23:8,
20, 21; 25:5; 26:20; 27:8;
33:18; 34:20; 35:2; 36:12;
37:12; 40:10; 41:18;
43:16, 17; 45:21; 47:7;
49:9; 52:4, 5, 6; 53:22;
58:16
witnessed 63:18
work 10:2; 16:14, 17;
26:4; 33:7
worked 33:11, 16; 35:19
working 9:21; 17:9;
33:20; 35:20
works 30:8; 36:8
write 19:15
writes 26:3
written 5:14; 7:15; 13:4,
21
wrote 19:17

Y

Yeah 41:9; 52:11; 55:1, 3
years 13:17, 17; 14:1;
33:12; 36:5
York 4:5, 9, 17; 10:4, 15;
11:19; 40:3; 44:7; 61:9
yours 19:9

Lawyer's Notes

TWCV Ex. 47 FCC



575 Madison Avenue, New York, New York 10022
(212) 891-7777 Fax (212) 891-7214

Date: 8/14/95

FACSIMILE TRANSMISSION SET	
To:	<u>BENROOZ NOURAIN</u>
Company:	
Phone:	
Fax:	<u>735-5678</u>

From: Diane Pennington
Phone: 891-7784
Fax: 891-7214

Pages (including cover sheet): 9

Comments:

Federal Communications Commission	
Docket No. <u>96-41</u>	No. <u>47</u>
Presented by <u>TWCV</u>	
Disposition	<input checked="" type="checkbox"/> Received
	<input type="checkbox"/> Rejected
Reporter <u>SP</u>	
Date <u>1-28-97</u>	

UPDATE 8/14/95

FCC/CP 017586

A List
 ACTIVATED BUILDINGS WITH FLAWED LICENSES
 Submitted for FCC License and Special Temporary Authority

Building	Units	Contract Date	Path Coordination Date	License Application Date	STA Application Date
440 East 56th Street	93	03/02/94	07/03/95	07/17/95	07/24/95
35 East 85th Street	109	03/31/94	07/03/95	07/17/95	07/24/95
Hotel Wales	83	05/12/94	07/03/95	07/17/95	07/24/95
30 Waterside Plaza	334	06/07/94	02/16/95	02/21/95	05/04/95
Liberty Terrace	136	08/04/94	07/03/95	07/17/95	07/24/95
New York University (Res)	56	08/08/94	10/31/94	11/07/94	05/04/95
New York University (Green)	36	08/08/94	10/31/94	11/07/94	05/04/95
524 East 72 Street	57	09/03/94	10/31/94	11/07/94	05/04/95
767 Fifth Avenue	32	09/19/94	10/31/94	11/07/94	05/04/95
114 East 72nd Street	40	09/24/94	11/17/94	11/23/94	05/04/95
25 West 54th Street	45	10/03/94	11/17/94	11/23/94	05/04/95
433 East 56th Street	58	10/06/94	12/21/94	01/31/95	05/04/95
639 West End Avenue	53	10/13/94	12/21/94	12/22/94	05/04/95
16 West 16th Street	213	12/07/94	02/21/95	03/31/95	05/04/95
1775 York Avenue	80	01/14/95	02/16/95	02/21/95	05/04/95
200 East 32nd Street	111	01/19/95	03/21/95	03/23/95	05/04/95
2727 Palisade Avenue	97	02/03/95	03/21/95	03/24/95	05/19/95
6 East 44th Street	50	02/15/95	02/16/95	02/21/95	05/04/95
55 West End Avenue	335		12/21/94	12/22/94	05/04/95
TOTAL	2,018				

ALLS-14-95 MCH

FCC/CP 017587 (3)

B List
ACTIVATED BUILDINGS SERVED BY HARDWIRE
Submitted for FCC License and Special Temporary Authority

Building	Units	Contract Date	Path Coordination Date	License Application Date	STA Application Date
60 Sutton Place South	360	02/18/92	10/31/94	11/07/94	05/04/95
44 West 96th Street	25	01/06/93	10/31/94	11/07/94	05/04/95
150 West 57th Street	4 (sets)	03/22/93			
220 East 52nd Street	40	05/06/93	10/31/94	11/07/94	05/04/95
164 East 87th Street	46	09/28/93			
152 West 57th Street	160/23*	01/31/94	06/15/95	06/21/95	07/12/95
239 East 79th Street	200	02/10/94	10/31/94	11/07/94	05/04/95
525 East 86th Street	130	02/14/94	10/31/94	11/07/94	05/04/95
170 West End Avenue	139	03/06/94	10/31/94	11/07/94	05/04/95
425 East 58th Street	300	03/15/94	10/31/94	11/07/94	05/04/95
120 East End Avenue	42	03/31/94	10/31/94	11/07/94	07/12/95
Lincoln Harbor Yacht Club	150	04/01/95			
55 Central Park West	99	05/27/94	10/31/94	11/07/94	05/04/95
225 East 74th Street	70	12/20/94			
TOTAL	1,765				

* 160 sets for 23 clients

C List
NON-ACTIVATED BUILDINGS UNDER CONTRACT
Submitted for FCC License and Special Temporary Authority

FCC/CP 017588 (4)

Building	Units	Contract Date	Path Coordination Date	License Application Date	STA Application Date
REDACTED	350	10/20/94	07/10/95	07/12/95	07/25/95
	620	01/30/95	03/21/95	03/24/95	05/19/95
	158	02/03/95	03/21/95	03/23/95	05/04/95
	*230	10/24/94	03/21/95	03/24/95	05/19/95
	166	02/14/95	05/10/95	05/23/95	05/24/95
	175	02/27/95	05/10/95	05/23/95	07/12/95
	165	03/07/95	05/10/95	05/23/95	07/12/95
	420	03/10/95	05/10/95	05/23/95	07/12/95
REDACTED	298	03/20/95	05/10/95	05/23/95	07/12/95
	**27	01/26/95	05/10/95	05/23/95	07/14/95
	68	03/24/95	06/01/95	06/13/95	07/12/95
	450	04/06/95	05/10/95	05/23/95	07/12/95
	83	04/07/95	06/01/95	06/13/95	07/12/95
	80	04/24/95	06/15/95	06/21/95	07/12/95
	154	04/25/95	06/15/95	06/21/95	07/12/95
	414	04/28/95	06/15/95	06/21/95	07/12/95
	340	04/28/95	07/10/95	07/12/95	07/24/95
	360	05/06/95	07/10/95	07/12/95	07/24/95
REDACTED	432	06/06/95	No Microwave	---	---
	175	06/06/95	07/26/95	07/26/95	07/17/95
	144	06/12/95	07/14/95	07/19/95	07/25/95
	240	06/22/95	07/14/95	07/19/95	07/25/95
	60	06/28/95	08/03/95	---	---
	**228	06/07/95	07/26/95	07/26/95	07/27/95
TOTAL # OF UNITS	5,837				

- * Trader desks
- ** Sets
- *** Guest Rooms

0111-14-08 MON 47.04 03 03 03

Non-Activated Buildings Pending Contract

FCC/CP 017589 (5)

D List
NON-ACTIVATED BUILDINGS PENDING CONTRACT
Submitted for Path Coordination and FCC License

Address	Units	Contract Date	Path Coordination Date	License Application Date	STA Application Date
	169		7/26/95	7/26/95	
REDACTED	99		7/26/95	7/26/95	
	128		7/26/95	7/26/95	
	193		7/14/95	7/19/95	
	200		7/26/95	7/26/95	
	425		3/24/95	3/24/95	5/19/95
REDACTED	217		7/14/95	7/19/95	
	165		7/14/95	7/19/95	
	70		7/26/95	7/26/95	
	150		7/26/95	7/26/95	
	1635		7/26/95	7/26/95	
	190		7/26/95	7/26/95	
	166		7/26/95	7/26/95	
REDACTED	180		7/26/95	7/26/95	
	85		7/26/95	7/27/95	
	130		7/14/95	7/19/95	
	100		7/26/95	7/27/95	