

1 1991 through 1996. These include the IRS Form 1040,
2 Schedule C, and also Forms 1099 that he received from James
3 A. Kay and/or companies operated by James Kay.

4 We introduce these and at the time we move for
5 their introduction, they will be subject to the same
6 stipulation to similar Bureau exhibits. We would ask that
7 from the public record, Mr. Sobel's social security number
8 be excised. We will take care of that at the break.

9 Finally, Exhibit 6 being offered is a copy of a
10 petition for Writ of Mandamus to govern various attachments
11 that was submitted by Mr. Sobel to the United States Court
12 of Appeals for the District of Columbia Circuit in September
13 of 1996.

14 JUDGE FRYSIAK: All right, Exhibits 1 through 6
15 may be marked.

16 (The documents referred to
17 were marked for identification
18 as SBL Exhibits 1, 2, 3, 4, 5,
19 and 6.)

20 MR. KELLER: I would just move --

21 JUDGE FRYSIAK: Are you offering them at the same
22 time?

23 MR. KELLER: I would like to move for submission
24 of all of them subject to objections the Bureau may have.

25 JUDGE FRYSIAK: Any objections to Exhibit 1?

1 MR. SCHAUBLE: Your Honor, on one, I guess I would
2 inquire of counsel for Sobel, I have not necessarily an
3 objection, but a question of the relevancy. I would inquire
4 of counsel for Sobel what the purpose of this exhibit would
5 be.

6 JUDGE FRYSIAK: Subject to cross-examination, I
7 will receive it.

8 (The document referred to,
9 having been previously marked
10 for identification as SBL
11 Exhibit 1, was received into
12 evidence.)

13 JUDGE FRYSIAK: How about Exhibit 2?

14 MR. SCHAUBLE: The same, Your Honor. Subject to
15 cross-examination.

16 JUDGE FRYSIAK: All right, I will receive Exhibit
17 2.

18 (The document referred to,
19 having been previously marked
20 for identification as SBL
21 Exhibit 2, was received into
22 evidence.)

23 JUDGE FRYSIAK: Three?

24 MR. SCHAUBLE: No objection to three.

25 JUDGE FRYSIAK: Received.

1 (The document referred to,
2 having been previously marked
3 for identification as SBL
4 Exhibit 3, was received into
5 evidence.)

6 JUDGE FRYSIAK: How about four?

7 MR. SCHAUBLE: Exhibit 4, subject to cross-
8 examination.

9 JUDGE FRYSIAK: All right, received.

10 (The document referred to,
11 having been previously marked
12 for identification as SBL
13 Exhibit 4, was received into
14 evidence.)

15 JUDGE FRYSIAK: How about Exhibit 5?

16 MR. SCHAUBLE: No objection.

17 JUDGE FRYSIAK: Received.

18 (The document referred to,
19 having been previously marked
20 for identification as SBL
21 Exhibit 5, was received into
22 evidence.)

23 JUDGE FRYSIAK: How about Exhibit 6?

24 MR. SCHAUBLE: Exhibit 6, Your Honor, I object on
25 the basis of relevance. This is a pleading that was filed

1 in September of 1996, and it appears, Your Honor, that this
2 is a predesignation pleading. It appears to go into matters
3 which Your Honor already ruled are not relevant in your
4 memorandum of April 17, 1997, FCC 97 M-57, where Sobel
5 propounded interrogatories on the Bureau concerning contact
6 between the Bureau and Mr. Sobel or his representatives in
7 the 1996 time frame. Your Honor ruled that those matters
8 are not relevant to the designated issues, and I believe
9 this matter is not relevant and object on the basis of
10 relevance.

11 MR. KELLER: May I be heard on that?

12 JUDGE FRYSIK: I will receive it subject to you
13 connecting it with the case.

14 (The document referred to,
15 having been previously marked
16 for identification as SBL
17 Exhibit 6, was received into
18 evidence.)

19 MR. KELLER: I would also like to note at this
20 point in the record, however, at the time you made your
21 ruling, that was prior to there having been a
22 misrepresentation issue in this case.

23 MR. SCHAUBLE: Your Honor, I would also note that
24 that is correct, however, the misrepresentation relates to
25 an affidavit that was filed in January, 1995, and this

1 relates to matters that took place well after the filing of
2 those affidavits.

3 JUDGE FRYSIAK: All right. What's next?

4 MR. SCHAUBLE: Your Honor, I believe we are ready
5 for testimony from Mr. Sobel.

6 JUDGE FRYSIAK: Mr. Sobel, step forward please.

7 Whereupon,

8 MARC DAVID SOBEL

9 having been first duly sworn, was called as a
10 witness herein and was examined and testified as follows:

11 JUDGE FRYSIAK: Please have a seat and for the
12 record, please state your full name and address.

13 THE WITNESS: Marc David Sobel, S-O-B-E-L. 207
14 West Los Angeles Avenue, Suite 179, Moore Park, California
15 93021.

16 JUDGE FRYSIAK: All right. Mr. Keller, he does
17 not have your exhibits in front of him.

18 MR. SCHAUBLE: I have an extra copy.

19 JUDGE FRYSIAK: All right. Mr. Schauble?

20 DIRECT EXAMINATION

21 BY MR. SCHAUBLE:

22 Q Good morning, Mr. Sobel.

23 A Good morning.

24 Q Are you under any medication or medical condition
25 that would prevent you from recalling facts or testifying

1 truthfully today?

2 A No.

3 Q You graduated from high school, correct, Mr.
4 Sobel?

5 A Yes.

6 Q You attended Cal State University, North Ridge for
7 one and a half years?

8 A Approximately.

9 Q You have been involved professionally in the radio
10 field for about 20 years, correct?

11 A Right.

12 Q You have operated land mobile stations in the 450
13 to 470 megahertz range since the 1980s, correct?

14 A 1978.

15 Q You are also an equipment dealer?

16 A Yes.

17 Q Do you install and repair radio equipment?

18 A Yes.

19 Q Do you work as a consultant to help other
20 companies design radio systems?

21 A Yes.

22 Q You have also held land mobile licenses in the 800
23 megahertz range since the early 1990s, correct?

24 A Correct.

25 Q Mr. Sobel, could you please direct your attention

1 to WTB Exhibits 5 through 18? My question to you is, do you
2 recognize these as copies of licenses for stations you hold
3 in the 800 megahertz range?

4 MR. KELLER: Your Honor, if I may, in preparation
5 for the hearing over the weekend, I had Mr. Sobel take these
6 exhibits and compare them against his files and we are
7 prepared to stipulate that these are current and accurate
8 copies of the licenses subject to the Management Agreement.

9 MR. SCHAUBLE: That is satisfactory with me, Your
10 Honor.

11 JUDGE FRYSIAK: All right. The stipulation is so
12 noted on the record.

13 BY MR. SCHAUBLE:

14 Q Mr. Sobel, these are licenses for conventional 800
15 megahertz SMR stations?

16 A Correct.

17 Q Could you explain generally how such stations
18 operate technically?

19 A Could you maybe define that a little bit? I could
20 spend an hour on it, if you want.

21 Q Could you explain what a repeater is?

22 A A repeater is a device of electronic equipment
23 that we place in between or within the range of mobile
24 radios, walkie talkies, or handhelds, to enhance the
25 coverage or the range of the radios' performance. A

1 repeater essentially is an echo device that simultaneously
2 receives and retransmits signals.

3 Q Would it be correct, Mr. Sobel, that with respect
4 to these stations you have a mobile unit that transmits up
5 to a base repeater station which rebroadcasts a signal so it
6 can be received by another mobile unit?

7 A Yes.

8 JUDGE FRYSIK: Is all this simultaneous or
9 sequential?

10 THE WITNESS: Yes, simultaneous.

11 BY MR. SCHAUBLE:

12 Q What is the approximate range of an 800 megahertz
13 repeater?

14 A It depends on its location above terrain.

15 Q If a repeater is located high up on a mountaintop,
16 would be the typical average range for an 800 megahertz
17 station?

18 A In our area, in southern California, a repeater
19 could travel 50 to 75 miles very easily.

20 Q These 800 megahertz stations are used by
21 customers, correct?

22 A Customers and myself.

23 Q What kind of usage are these stations used for by
24 customers?

25 A Generally it is business. Business tow trucks,

1 taxi cabs, ambulance companies, construction people,
2 security.

3 Q The companies use these stations to meet their
4 communications needs in various ways, correct?

5 A Correct.

6 Q Mr. Sobel, you have known James Kay for about 20
7 years. Correct?

8 A Approximately.

9 Q You first met him when you were working at Sandy's
10 Electronics, and Mr. Kay was a customer there?

11 A Yes.

12 Q Around that time the two of you both became
13 interested in citizens band radio?

14 A I don't know if he was at that moment, but I was.

15 Q Shortly after you met Mr. Kay, he helped you with
16 repairing TV sets?

17 A As a customer, he was in the television repair
18 business. I had a problem with a personal TV and I asked
19 for his help.

20 Q Over the time the two of you became friends,
21 correct?

22 A Correct.

23 Q Would it be correct to say you have been friends
24 from the 1970s to the present?

25 A Yes.

1 Q Sometime in the middle 1980s, Mr. Kay took over
2 ownership of a building where you renting for one of your
3 450 megahertz stations. Correct?

4 A Correct.

5 Q Sometime in the mid to late 1980s, you began
6 helping maintain and service Mr. Kay's repeaters. Correct?

7 A Correct.

8 Q You have maintained and repaired equipment for Mr.
9 Kay from that time until the present, correct?

10 A Correct.

11 Q Since the late 1980s, you helped Mr. Kay on
12 occasion by contacting a customer or potential customer of
13 his on his behalf. Right?

14 A As a contractor, yes.

15 Q This is something that might happen a couple times
16 a month?

17 A It depends on the time frame, but that's right.

18 Q You would also, on occasion, contact someone on
19 his behalf who was operating a station to see if they were
20 still operating that station?

21 A Correct.

22 Q If they were not operating, you would help Mr. Kay
23 to get that license canceled?

24 A Correct.

25 Q If they were operating, you would try and convince

1 the operator to change over to Mr. Kay's system?

2 A Right.

3 Q At some point in the early 1990s, you became
4 interested in holding 800 megahertz licenses yourself.
5 Correct?

6 A Correct.

7 Q You knew at that time that Mr. Kay already held
8 800 megahertz licenses. Correct?

9 A Right.

10 Q You asked Mr. Kay if he would help you get
11 involved with 800 megahertz licenses. Correct?

12 A Yes.

13 Q Mr. Kay agreed to help you. Correct?

14 A Yes.

15 Q Now, Mr. Sobel, please direct your attention to
16 WTB Exhibit 1, and my question for you is, do you recognize
17 these as applications filed in your name for 800 megahertz
18 stations?

19 A Yes.

20 Q In terms of how these applications were prepared,
21 Mr. Sobel, is it correct that Mr. Kay would do the research
22 needed to determine what frequencies would be available for
23 you to apply for?

24 A Yes.

25 Q He would then suggest which frequencies for you to

1 apply for?

2 A Yes.

3 Q He would then review with you who else was on
4 channel, where the repeater would be located, and the need
5 for the repeater?

6 A Yes.

7 Q Mr. Kay would then prepare the application?

8 A Most of the time.

9 Q Were there any times in which you prepared the
10 applications for the 800 megahertz stations personally?

11 A Yes.

12 Q Do you remember any particular instance in doing
13 so?

14 A When I did it, I did it at his office. I don't
15 remember exactly which ones.

16 JUDGE FRYSIK: Would it be all of them were done
17 in his office?

18 THE WITNESS: He had the specialized software to
19 do it, so yes.

20 BY MR. SCHAUBLE:

21 Q That was software Mr. Kay had available on his
22 computer to prepare these applications. Correct?

23 A Yes.

24 Q The computer had the information necessary to fill
25 out and prepare the application. Correct?

1 A Yes.

2 Q Do you remember the name of the program?

3 A It is put out by Slattery software.

4 Q After the application was prepared, you would then
5 review the application?

6 A Of course.

7 Q Do you remember editing the applications a couple
8 of times when Mr. Kay misspelled your name?

9 A Yes, most people do.

10 Q Those are the only types of edits you remember
11 making to the application?

12 A Specifically, yes.

13 Q Mr. Sobel, if I could direct your attention to
14 page five of Exhibit 1. The page is labeled at the top,
15 "Notice to Individuals Required by Privacy Act of 1974." Do
16 you see about three quarters of the way down the page, there
17 is certain writing which is written upside down on this
18 copy?

19 A Yes, I see it.

20 Q I believe the writing states, "All stations to
21 use," and there are certain admission designators there. Do
22 you see that?

23 A Yes.

24 Q Do you know whose handwriting that is?

25 A I believe it is James Kay's.

1 Q You are familiar with Mr. Kay's handwriting,
2 correct?

3 A Yes.

4 Q Similarly, on page eight of WTB Exhibit 1 --
5 JUDGE FRYSIAK: Page eight?

6 MR. SCHAUBLE: Yes.

7 BY MR. SCHAUBLE:

8 Q Do you see again about three quarters of the way
9 down, there is certain handwriting which reads, "All
10 stations to use," and then certain admission designators are
11 contained there?

12 A Yes.

13 Q Is that also Mr. Kay's handwriting?

14 A Yes.

15 Q Please turn to page 10 of Exhibit 1. About three
16 quarters of the way down the page, do you see again
17 language, "All stations to use," followed by certain
18 admission designators?

19 A Yes.

20 Q That is also Mr. Kay's handwriting?

21 A Yes.

22 Q On page 12 of Exhibit 1. Do you see "All
23 stations to use," followed by certain admission designators?

24 A Yes.

25 Q That is Mr. Kay's handwriting?

1 A Yes.

2 Q Please turn to page 14 of Exhibit 1. About three
3 quarters of the way down the page, you see, "All stations to
4 use," followed by certain admissions designators?

5 A Yes.

6 Q That is Mr. Kay's handwriting?

7 A Yes.

8 Q Page 16, about three quarters of the way down the
9 page, the language, "All stations to use," followed by
10 certain admission designators. Do you see that, Mr. Sobel?

11 A Yes.

12 Q That is Mr. Kay's handwriting?

13 A Yes.

14 Q Please turn to page 19. Do you see about three
15 quarters of the way down the page, "All stations to use,"
16 followed by certain admission designators?

17 A Yes.

18 Q That is Mr. Kay's handwriting?

19 A Yes.

20 Q Please turn to page 21 of Exhibit 1. About three
21 quarters of the way down the page, "All stations to use,"
22 followed by certain admission designators. Is that Mr.
23 Kay's handwriting?

24 A Yes.

25 Q Please turn to page 24 of Exhibit 1. Do you see,

1 "All stations to use," followed by certain admission
2 designators?

3 A Yes.

4 Q Is that Mr. Kay's handwriting?

5 A Yes.

6 Q These applications propose various transmitter
7 sites. Correct, Mr. Sobel?

8 A Correct.

9 Q Please turn to WTB Exhibit 9. That is the license
10 for WNXL 471.

11 A Yes.

12 Q That station uses the site at Hollywood Hills.
13 Correct?

14 A Correct.

15 Q You lease that site from Louella McNeal. Correct?

16 A Correct.

17 Q That is also a site you use for one of your 470
18 megahertz stations?

19 A Correct.

20 Q You have had a lease on that property for three to
21 four years?

22 A Correct.

23 Q In turn, you sublease that property to James Kay.

24 Correct?

25 A Correct.

1 JUDGE FRYSIAK: What is the time period for the
2 sublease?

3 MR. SCHAUBLE: I'm sorry, Your Honor?

4 JUDGE FRYSIAK: What is the time period for the
5 sublease?

6 BY MR. SCHAUBLE:

7 Q Mr. Sobel, how long have you had that sublease
8 with Mr. Kay in effect?

9 A Approximately three to four years to current.

10 Q Is that during the same time period you have a
11 lease for that property?

12 A No, I leased it first for my own equipment, and at
13 a later date, Mr. Kay sublet from me.

14 Q How long after you entered into the original lease
15 did you enter into the sublease with Mr. Kay?

16 A It might have been a year.

17 Q Mr. Sobel, please turn to WTB Exhibit 5. This is
18 the license for KRU 576, correct?

19 A Correct.

20 Q Do you see there are transmitter sites listed at
21 Mount Lukens and Santiago Peak?

22 A Correct.

23 Q Is the station operating from both of those sites?

24 A Today?

25 Q During the period during which you held the

1 license for this station, did it operate from both of those
2 sites?

3 A I believe it was only at Mount Lukens, but I'm not
4 sure on Santiago whether or not -- it was constructed a
5 while ago.

6 Q You are not sure whether it ever operated from
7 Santiago Peak?

8 A I don't have the records. I am trying to be
9 accurate here. I don't know.

10 Q Mount Lukens would be the primary site for this
11 station. Correct?

12 A Correct.

13 Q Santiago Peak would be a secondary site that would
14 not necessarily have to be constructed under the
15 Commission's rules. Correct?

16 A Correct. That's why I'm not sure if it's there.

17 Q Please turn to WTB Exhibit 6. Mr. Sobel, is it
18 correct that Santiago Peak was the primary site for this
19 station?

20 A Yes.

21 Q To your knowledge, was the Sierra Peak site ever
22 constructed?

23 A No, it was not.

24 Q Please turn to WTB Exhibit 7. Was Snow Peak the
25 primary site for WPCA 891?

1 A Yes.

2 Q Were the sites at Heaps Peak and Santiago Peak
3 ever constructed?

4 A I'm not sure. I think Santiago might have been.

5 Q Please turn to WTB Exhibit 8. Is it correct that
6 Heaps Peak was the primary site for WPDB 603?

7 A Yes.

8 Q That site is constructed and operating?

9 A I believe so, yes.

10 Q Was the Santiago Peak site ever constructed for
11 that station?

12 A It may have been, yes.

13 Q But you are not certain?

14 A I'm not certain on the secondary site.

15 Q Please turn to WTB Exhibit 9. Would it be correct
16 that Hollywood Hills would be the primary site for WNXL 471?

17 A Yes.

18 Q That site is constructed and operating?

19 A I believe so.

20 Q Mount Lukens is the secondary site?

21 A Yes.

22 Q Was the Mount Lukens site ever constructed for
23 this station?

24 A It may have been.

25 Q Please turn to WTB Exhibit 11. Would it be

1 correct that Santiago Peak would be the primary site for
2 this station?

3 A Yes.

4 Q Please turn to WTB Exhibit 12. Is it correct that
5 Mount Wilson is the primary transmitter site for WPFH 460?

6 A Yes.

7 Q Mount Lukens and Sunset Peak sites would be
8 secondary sites?

9 A Yes.

10 Q Were the Mount Lukens or Sunset Peak sites ever
11 constructed?

12 A They may have been, yes.

13 Q Do you know?

14 A Offhand, not here right now, no.

15 Q Please turn to WTB Exhibit 13. Would it be
16 correct that Santiago Peak would be the primary site for
17 WNPY 680?

18 A Yes.

19 Q Sunset Peak would be a secondary site?

20 A Yes.

21 Q Was the Sunset Peak site ever constructed for this
22 station?

23 A I don't believe so.

24 Q Please turn to WTB Exhibit 14. Would it be
25 correct that Mount Lukens would be the primary site for

1 WPAD 685?

2 A Yes.

3 Q Santiago Peak would be the secondary site?

4 A Yes.

5 Q Was the Santiago Peak site ever constructed for
6 this station?

7 A I don't know.

8 Q Please turn to WTB Exhibit 15. Would it be
9 correct that Mount Lukens is the primary transmitter site
10 for WNWB 334?

11 A Yes.

12 Q Santiago Peak would be the secondary site?

13 A Yes.

14 Q Was the Santiago Peak site ever constructed for
15 this station?

16 A I don't know.

17 Q Mr. Sobel, please turn to WTB Exhibit 16. Would
18 it be correct that Santiago Peak would be the primary site
19 for WPCG 780?

20 A Yes.

21 Q Heaps Peak would be the secondary site?

22 A Yes.

23 Q To your knowledge, was the Heaps Peak site ever
24 constructed for this station?

25 A No, I don't know.

1 Q Please turn to WTB Exhibit 17. Would it be
2 correct that Heaps Peak would be the primary and only
3 transmitter site for this station?

4 A Yes.

5 Q Please turn to WTB Exhibit 18. Would it be
6 correct that Santiago Peak would be the primary site for
7 WNZS 492?

8 A Yes.

9 Q Mount Lukens is the secondary site?

10 A Yes.

11 Q Was the Mount Lukens site ever constructed?

12 A I believe it was.

13 Q Except for the Hollywood Hills site, of these
14 various transmitter sites we have been talking about, it was
15 James Kay who made the arrangements with the property owners
16 to make sure these 800 megahertz stations could operate from
17 these sites. Correct?

18 A That's what I asked him to do. That was our
19 arrangement.

20 Q Mr. Kay owns the site Oak Mountain. Correct?

21 A Yes.

22 Q Excepting the Hollywood Hills site, for the sites
23 used in connection with these stations, Mr. Kay has leases
24 with the property owners for those sites. Correct?

25 MR. KELLER: Can we have what you mean by these

1 stations? Are you talking about the primary locations you
2 just listed through?

3 MR. SCHAUBLE: Any locations for which sites have
4 been constructed for these stations. As a matter of fact,
5 let me --

6 MR. KELLER: What I am asking, what do you mean by
7 these stations? I assume you are talking about the primary
8 sites, but I just want to make the record clear.

9 MR. SCHAUBLE: Both the primary stations and any
10 secondary stations which were constructed under these
11 licenses.

12 THE WITNESS: Can you restate your question?

13 BY MR. SCHAUBLE:

14 Q As a matter of fact, when we refer to these
15 stations generally as the Management Agreement stations
16 because these are the stations that are subject to the
17 Management Agreement between Mr. Sobel and Mr. Kay.

18 JUDGE FRYSIK: Do you understand that?

19 THE WITNESS: Yes.

20 BY MR. SCHAUBLE:

21 Q The question was, that except for the Hollywood
22 Hills site, Mr. Kay has leases with the property owners for
23 the various transmitter sites the Management Agreement
24 stations used. Correct, Mr. Sobel?

25 A I believe so, yes.

1 Q Mr. Sobel, please turn to WTB Exhibit 2. Can you
2 explain what these documents are, Mr. Sobel?

3 A This is a form provided by NABER. NABER is the
4 frequency coordinator for the frequencies that I applied
5 for. It gives some basic information as to who I am, my
6 phone number, and the type of application that I have
7 requested along with my name and address and person to
8 contact.

9 Q Just for the record, could you explain what a
10 frequency coordinator is?

11 A The FCC requires a non-agency group to coordinate
12 frequencies. Their purpose is to follow the regulations and
13 make sure there is spectrum available on the given
14 frequency. There are a whole bunch of guidelines for how
15 many radios can be used in a given area and they keep the
16 database and have access to the FCC database.

17 Q In general, an application is submitted to the
18 frequency coordinator before it is filed with the FCC.
19 Correct?

20 A That's correct.

21 Q Mr. Sobel, referring to each page of the
22 documents, they have a number nine, applicant licensee
23 signature. On each of the documents, do you see the
24 signature below there on each page?

25 A Yes.

1 Q Is that your signature on each of these pages?

2 A Yes.

3 Q You see there is other handwriting on each of
4 these forms?

5 A Yes.

6 Q That other handwriting is that of James Kay?

7 A Yes.

8 Q Just for background, Mr. Sobel, you filed
9 applications with respect to your 450 and 470 megahertz
10 stations. Correct?

11 A Yes.

12 Q Those are also sent to a frequency coordinator
13 before they are filed with the FCC?

14 A Yes.

15 Q Now, Mr. Sobel, there came a time when some of
16 your applications were returned by the FCC. Correct?

17 A Yes.

18 Q Please turn to WTB Exhibit 19. My first question
19 is, there is the signature on page three of the document.
20 Is that your signature?

21 A Yes.

22 Q This is a letter responding to an application
23 return notice issued by the Commission with respect to one
24 of your applications?

25 A Yes.