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November 25, 1997

Return Receipt Requested

Peter K. Shonerd
Heritage Reporting Corporation
1220 L Street, N.W.
Suite 600
Washington, DC 20005

Dear Mr. Shonerd:

Enclosed are the original exhibits of Gerard A Turro to be included in the record of the proceeding before the Federal Communications Commission in its MM Docket No. 97-122 for which you were the reporter yesterday during its admissions session.

Consistent with the Judge's order, pages two and three of Turro Exhibit No. 8 have been withdrawn. Please also withdraw and discard those pages from the copy of Mr. Turro's case exhibits already in your possession.

In the event there are any questions, please communicate with the undersigned.

Very truly yours,

Charles R. Naftalin

Enclosures

Case No. Official Exhibit No.

Disposition: Identified _____
Rejected _____ Received _____
IN THE MATTER OF:

Date: Witness: Reporter:

No. Pages:

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In re	)	
	)	
GERARD A. TURRO	)	MM Docket No. 97-122
	)	
For Renewal of License	)	File Nos. BRFT-970129YC
For FM Translator Stations	)	BRFT-970129YD
W276AQ(FM), Fort Lee, NJ, and	)	
W232AL(FM), Pomona, NY	)	
	)	
MONTICELLO MOUNTAINTOP	)	
BROADCASTING, INC.	)	
	)	
Order to Show Cause Why the	)	
Construction Permit for FM Radio	)	
Station WJUX(FM), Monticello, NY,	)	
Should Not Be Revoked	)	

To: Honorable Arthur I. Steinberg
Administrative Law Judge

DIRECT CASE EXHIBITS OF GERARD A. TURRO

GERARD A. TURRO

Alan Y. Naftalin
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1150 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 467-5700

His Attorneys

November 10, 1997

DIRECT CASE EXHIBITS OF GERARD A. TURRO

Exhibit

T1. Statement of Gerard A. Turro

T2. Statement of Herman E. Hurst and attachments thereto (including video tape)

T3. Statement of Paul A. Einreinhofer and attachment thereto

T4. Statement of William H. Owen

T5. Statement of David Charles Lynch

T6. Statement of Chuck Garland

T7. Statement of John E. Hidle

T8. Letter of Bill Gaghan to Charles Naftalin and enclosures

T9. Letter of Telos Systems

T10. Letter of BEXT, Inc.

T11. Letter of Energy Onix Broadcast Equipment Co., Inc.

T12. Fax of Musicam USA

T13. Letter of Steven R. Rothman, Member of Congress

T14. Letter of William "Pat" Schuber, Bergen County Executive

T15. 1997 Resolution of Bergen County Board of Chosen Freeholders

T16. Letter of Clair Insala Poulos, Chairperson, Share Our Strength

T17. Letter of Michael A. Licameli, Councilman, Borough of Dumont

T18. First Set of Interrogatories of Gerard A. Turro to Mass Media Bureau

T19. Mass Media Bureau's Answers to Interrogatories of Gerard A. Turro

T20. Mass Media Bureau's Supplemental Answers to Interrogatories of Gerard A. Turro

T21. Mass Media Bureau's Second Supplemental Answers to Interrogatories of Gerard A. Turro

T22. Interrogatories of Gerard A. Turro to Serge Loginow, Jr. and the Mass Media Bureau

T23. Gerard A. Turro's Request to the Mass Media Bureau for Admissions of Fact and Genuineness of Documents

T24. Mass Media Bureau's Third Supplemental Answers to Interrogatories of Gerard A. Turro

T25. Answers of Serge Loginow, Jr. and Mass Media Bureau to Interrogatories of Gerard A. Turro

T26. Response of Mass Media Bureau to Gerard A. Turro's Request for Admissions of Fact and Genuineness of Documents

T27. Supplemental Response of Mass Media Bureau to Gerard A. Turro's Request for Admissions of Fact and Genuineness of Documents

T28. TC-8 Remote Control System Instruction Manual

T29. Photograph

T30. Audio tapes of Jukebox Radio

In compliance with Order, FCC 97M-90 (released May 22, 1997), each exhibit in Mr. Turro's direct case has the prefix "T" preceding the exhibit number on each tab to indicate that Mr. Turro is sponsoring the exhibit. Also, each exhibit has been serially number, separately paginated and assembled in a binder. Each exhibit which is longer than one page has been separately paginated, and each attachment to each exhibit which is longer than one page has been separately paginated. In some cases, page numbers have been inserted by hand. One page exhibits and attachments are not paginated. As appropriate, counsel has retained the originals of all exhibits, and copies of them have been served upon the Presiding Judge and the parties and filed with the Commission's Secretary.

Witnesses to be called as part of Mr. Turro's direct case

1. Serge Loginow Jr., concerning all possible aspects of his inspections, observations, monitoring and/or testing of any facilities or transmissions related to the operations of Jukebox Radio, or any other information gathered by, or known to, Mr. Loginow in connection with those facilities, and the stations at issue in this proceeding, and all conclusions, communications or reports related thereto. By designating him as a direct witness, Mr. Turro reserves the right to

call Mr. Loginow as a direct witness in order to avoid being limited to the scope of his direct testimony, as necessary.

2. Howard Warshaw, as an adverse witness, concerning his communications with, and/or instructions to, witnesses in this proceeding, including but not limited to Vincent Luna and William Gaghan and the consulting engineers of Universal Broadcasting of New York, Inc., and the efforts of Universal Broadcasting to have the FCC take action against Mr. Turro.

In addition, Mr. Turro intends to bring a TC-8 remote control unit, and a large sketch depicting the stations at issue, to the hearing for purposes of demonstration, and also plans to offer evidence recorded on video and audio tape. Accordingly, we will need access to electric outlets and space sufficient to permit convenient use of a television and VCR and a portable tape player.

Witnesses Mr. Turro intends to cross-examine

Presently, Mr. Turro intends to cross-examine the following witnesses:

Jules Cohen
Wilson La Follette
Vincent D. Luna
William Gaghan
Serge Loginow, Jr.

TURRO EXHIBIT NO. 1

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In re	)	
	)	
GERARD A. TURRO	)	MM Docket No. 97-122
	)	
For Renewal of License	)	File Nos. BRFT-970129YC
For FM Translator Stations	)	BRFT-970129YD
W276AQ(FM), Fort Lee, NJ, and	)	
W232AL(FM), Pomona, NY	)	
	)	
MONTICELLO MOUNTAINTOP	)	
BROADCASTING, INC.	)	
	)	
Order to Show Cause Why the	)	
Construction Permit for FM Radio	)	
Station WJUX(FM), Monticello, NY,	)	
Should Not Be Revoked	)	

To: Honorable Arthur I. Steinberg
Administrative Law Judge

Case No. 97-122 Official Exhibit No. T-1
Designation: Identified ✓
Letters ✓ Received ✓
IN THE MATTER OF:
Turro 11-24-97 Shamud
Date: Witness: Reporter:
No. Pages:

Cert. T's sent.

STATEMENT OF GERARD A. TURRO

Gerard A. Turro, having been duly sworn, under penalty of perjury, states:

I am the licensee of FM translator stations W276AQ(FM), Fort Lee, New Jersey ("Fort Lee translator") and W232AL(FM), Pomona, New York ("Pomona translator"). I am the sole shareholder of FM 103.1, Inc. ("FM 103.1") which is a for-profit corporation which produces radio music programming, under a format called, and doing business as, "Jukebox Radio." Jukebox Radio produces music programming predominately of the 1940s and 1950s along with news, weather and public service programming. I founded and developed Jukebox Radio. I am familiar with the proceedings which have taken place in the above-captioned matter.

I was born in Englewood, Bergen County, New Jersey, on January 23, 1955. I attended college at Montclair State College, in Montclair, New Jersey, and have lived in the New Jersey--New York city area for most of my life. I consider the Bergen County area to be my home. During the course of my professional life, I have been the operator or chief engineer at thirteen different radio stations operating in the New York metropolitan area over the course of approximately 24 years. I am skilled and experienced in the technical aspects of radio broadcasting, and predominantly in FM radio broadcasting.

For many years, it has been my dream to provide an FM radio service to Bergen County, where I grew up, where I live with my wife and son, and where I have many life-long friends. There are no commercial FM frequencies allocated to any communities in Bergen County, although, ironically, frequency modulated radio was invented here. In my view, the New York market stations dominate the airwaves around Bergen County, and provide very little service designed for the needs of Bergen County residents because of its small population compared to the market as a whole. I have had a dream to fill a radio niche for Bergen County.

In the past, I have approached the Federal Communications Commission ("FCC") seeking to establish an FM service in Bergen County. By letter dated January 30, 1991, I asked the FCC for an informal declaratory ruling that it would be permissible for a commercial FM translator licensee to purchase broadcast time on the primary FM station that originates the programming rebroadcast by the translator. I specifically asked for such a ruling given the following conditions:

1. The translator would be operating outside of the originating station's primary contour.
2. The primary station would not reimburse the translator licensee for air-time pursuant

to the Commission's Rules. At no time would the primary station be financially supporting the translator licensee.

3. Any airtime purchased on the primary station by the translator licensee would abide by the Commission's Rules regarding purchase of brokered airtime.

4. Advertising may be sold for broadcast during such brokered airtime to support this programming.

Roy J. Stewart, the Chief of the FCC's Mass Media Bureau ("Bureau"), informed my counsel in a letter dated November 19, 1991, that the arrangement described in my letter between an FM translator licensee and the primary station it rebroadcasts would be consistent with the FCC's Rules and policies so long as the following requirements were observed: the time brokerage contract would be kept at the primary station and made available for Commission inspection upon request per Section 73.3613(d) of the Commission's rules; there would be a bona fide, arms-length transaction between the primary station and the translator; the licensee of the translator station would pay the primary station a rate charge comparable to the amount charged other purchasers of brokered airtime, or an amount consistent with such charges in the local broadcast community; and at no time would the translator station receive financial support, directly or indirectly, from the primary station to cover the costs associated with the operation and maintenance of the translator station. Mr. Stewart's November 19, 1991 is another exhibit.

After receiving this decision by the Bureau, I started looking for opportunities to form such an arrangement to bring FM programming to Bergen County. Sometime in 1994, I am unable to remember exactly when, a gentleman named Larry Fishman called me on the telephone. I had never talked to him before; apparently he had heard of me somewhere, and he asked me a number of questions about how to start up a new FM station. He told me that he had

a permit to build a new FM station to serve Monticello, New York. I have little memory as to the timing or sequence of events, but Mr. Fishman came into contact with Wesley Weis, a man with whom I have had a number of contacts with, both business and personal, over many years and who is a friend of mine. Although I had no significant involvement that I can recall, Mr. Weis entered into an agreement with Mr. Fishman to acquire the construction permit, and eventually he did acquire it.

I discussed with Mr. Weis an arrangement consistent with the one Mr. Stewart of the Bureau had stated in the November 19, 1991 letter would be permissible under the FCC's Rules. We agreed that Jukebox Radio would pay Mr. Weis' corporation, Monticello Mountaintop Broadcasting, Inc. ("MMBI"), monthly payments in return for which MMBI would provide airtime on the Monticello station to be programmed by Jukebox Radio, and that the Monticello station's signal would be rebroadcast by the Fort Lee and Pomona translators.[1] To the best of my recollection, MMBI put the Monticello station on the air late in October, 1994, and at approximately the same time, we entered into a Network Affiliation Agreement to memorialize the terms of our understanding.

As of October, 1994, I was the sole licensee of the Fort Lee translator. However, Mr. Weis and I jointly were the licensees of the Pomona translator. We understood that it would be illegal for the Pomona translator to rebroadcast the signal of the Monticello station so long as it was commonly owned by Mr. Weis. Therefore, we entered into an understanding by which we

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[1]At the time that Mr. Weis' company, MMBI, acquired the construction permit from Mr. Fishman, it had the call sign of WXTM, Monticello, New York. Subsequently, MMBI changed that call sign to WJUX. I will refer to this station as the "Monticello station" during my Statement for clarity.

would seek the FCC's authority for me to become the sole licensee of the Pomona translator, and in return for which Mr. Weis would become the sole licensee of W244AS, Oakhurst, New Jersey, another translator which I owned. We filed applications with the FCC to that effect, and in January of 1995, the FCC granted its consent and Mr. Weis relinquished all ownership in the Pomona translator.

Approximately in late October, 1994, I adjusted the receiving equipment at the Fort Lee translator to start receiving the signal of the Monticello station, which transmits on 99.7 MHz. I believe that I had my counsel inform the FCC of that change in primary station for the Fort Lee translator. The Pomona translator did not retransmit the signal of the Monticello station at that time. The receiving antennas of the Fort Lee translator were able to receive the signal of the Monticello station directly off the air, or "directly through space," with no difficulty. Based on my experience as a radio station engineer, I felt confident that the translator at Fort Lee would receive a satisfactory signal from an FM station serving Monticello, New York, on 99.7 MHz, transmitting a monaural signal at five or six kilowatts effective radiated power. I was confident because I knew of two stereo FM stations quite distant from Fort Lee with much weaker signals that could be received at the translator site. I was able to receive the signal of a station serving Elleville, New York, on 99.3 MHz, which transmitted in stereo at only about 100 watts effective radiated power. Also, at the Fort Lee translator I was able to receive a satisfactory signal from an FM station serving Middletown, New York, which also transmitted in stereo and licensed for about 1,800 watts. Based upon the ability to hear those stations over the air at the Fort Lee translator site, I was sure that a more powerful monaural signal from Monticello would be sufficient to be received and translated.

The Fort Lee translator's equipment is located at the Mediterranean Towers, a 26 story building in Fort Lee, New Jersey. I have access to the roof of that building for antennas. In fact, some of the Fort Lee translator's transmission and receiving antennas had been located on that roof for a long time prior to October, 1994. A good signal from the Monticello station could be received on the roof of that building then, and now, a fact which was made known to the Commission in the statement of my consulting engineer, Herman E. Hurst, which was attached to my July 27, 1995 letter to Norman Goldstein, a copy of which is Exhibit No. 8 in the Bureau's direct case. In another exhibit in my direct case, Mr. Hurst further demonstrates that the Monticello station's signal may be received off the air, or "directly through space," by the Fort Lee translator.

From about late October 1994, until early in 1995, Jukebox Radio started providing programming to the Monticello station, although to the best of my recollection, it aired little or no commercial advertising until after the first of the year in 1995. During approximately the last two months of 1994, I worked hard to develop a viable commercial service, sell advertising in Bergen County and Sullivan County and work out the numerous details of starting a commercial business and a new commercial radio service.

I personally installed network equipment at the Monticello station which would be able to receive the Jukebox Radio programming feed from our Dumont studio. Although I assisted Mr. Weis is a general sort of way in starting up the Monticello station, I did not personally build the Monticello station facilities, nor did I or Jukebox Radio pay for any of the costs of constructing the Monticello station or any of its facilities, including its main studio in Ferndale, New York. I visited the Monticello station transmitter site and main studio a number of times to install, repair

and maintain Jukebox Radio network equipment, but I never paid for Monticello station equipment. For the first several months, I acted as "Chief Operator" for the Monticello station to assist Mr. Weis, but I was never paid and it took up very little of my time. I have very little memory of any of my activities as "Chief Operator" other than some general discussions about the technical details of constructing the station and getting it on the air and briefly providing some assistance is supervising such construction. In fact, Mr. Weis is very knowledgeable about radio and needed little help from me. Sometime in the spring or early summer of 1995, Mr. Weis hired a new Chief Operator and I have not acted in that capacity or held that title ever since.

I have never exercised control over the operations of the Monticello station or MMBI and I have never held any financial control or responsibility of any kind for the Monticello station or MMBI. If I ever needed anything in connection with the Monticello station as part of the Jukebox Radio network operations, I would ask Mr. Weis, Mr. Blabey or Ms. Montana for assistance.

I do know that from the time that the Monticello station went on the air, it had a working main studio located in Ferndale, New York. I became familiar with it from my efforts to install network equipment there. Based upon my personal knowledge, I know that from the Monticello station main studio building an operator has been able to take control of the Monticello transmitter and, among other functions, be able to originate programming from that main studio. Although I do not know the exact dates, there were one or two occasions when the program line from Dumont went out of commission and personnel in Ferndale originated programming from the Monticello station main studio by playing Jukebox Radio audio tapes on the equipment there. From its early days, an operator located in the Monticello station main studio had the technical

capability to control the transmitter remotely and to originate programming. In my experience, it is common for a station to use telephonic remote control of transmitters.

I leased a 56 Kpbs landline from the telephone company to carry the Jukebox Radio programming feed from our Dumont studio to the Monticello station. About ten months later, I established a second such line to the Monticello station as a backup in case the first line was interrupted because we had experienced service outages due to failures of the landline.

Shortly after Jukebox Radio initiated regular commercial operations in early 1995, the FCC granted its authority for Mr. Weis to relinquish his ownership in the Pomona translator. Shortly thereafter, that translator also started to rebroadcast the signal of the Monticello station, and I believe that the FCC was so informed. The Pomona translator retransmits that signal on 94.3 MHz.

At this point, I will describe the technical operations of the Jukebox Radio network, although my consulting engineer, Herman E. Hurst, will provide significant additional testimony on this subject in his exhibit to my direct case. With few exceptions, programming is originated in the Dumont studio. It is transmitted live, or taped, through the landlines to the Monticello station main studio or to its transmitter. There, network equipment processes the programming feed, and the programming is broadcast by the Monticello station on its authorized frequency of 99.7 MHz. At this point, it may be received directly off the air, or "directly through space," by either the Fort Lee or the Pomona translator, processed and retransmitted by both of them.

The Pomona translator is about 49 miles from the Monticello station transmission site. Because of their elevations, they are in line of sight of each other. Therefore, the Pomona translator receives an extremely good signal from the Monticello station.

The Fort Lee translator is about 60 miles from the Monticello station, considerably more distant than is the Pomona translator. It receives a weaker signal than the Pomona station, but a signal which is sufficient to permit that station to rebroadcast a good quality signal. This is the case especially because the Monticello station transmits a monaural FM signal, rather than a stereo signal. It is well recognized that a monaural signal may be received satisfactorily at significantly lower signal levels than a stereo signal. The propigation characteristics of the monaural signal benefit the Jukebox Radio network and do not significantly reduce programming quality because most of our music programming is based upon old recordings which were mono, not stereo, anyway.

In addition, I have installed audio processing equipment for the Jukebox Radio Network in the Dumont studio and at the Fort Lee and Pomona translators. Such audio processing equipment enhances audio reception and significantly reduces extraneous noise and static and helps each translator rebroadcast an improved signal. However, because each set of audio processing equipment is separate and different from the others, the perceived audio quality heard over the air on 103.1 MHz from the Fort Lee translator would be different depending upon whether the programming was being received from the Monticello station or from the Pomona translator.

The passage of the Jukebox Radio programming over the landlines and through the two translators, and their audio processing equipment, causes a brief delay between the live programming in the Dumont studio and the programming heard on the air from the Fort Lee translator on 103.1 MHz. Some Jukebox Radio employees have told me that they find this delay annoying. I have never maintained any equipment which would cause such a delay artificially.

Since at least October, 1994, I have maintained two different sets of remote control equipment at the Dumont studio. One set allows me to control the Monticello station transmitter remotely via a data path on the landline connection, and is in addition to the remote control available by telephone, and the other set allows me to control the Fort Lee translator remotely. I have never had remote control capability for the Pomona translator. Over time, I have had several different receive antennas for the Fort Lee translator, two transmitters, one main and one auxiliary, and two different transmitting antennas, again one main and one auxiliary. The remote control unit in the Dumont studio allows me to switch among those receive and transmit facilities remotely, and to turn on and off both transmitters. Therefore, from Dumont, I am able to switch among the different transmitters and transmit antennas, and to switch among the different antennas which receive the signals of the Monticello station (99.7 MHz) or the Pomona translator (94.3 MHz).

These remote control facilities do not permit power adjustments to be made to the transmitter output. They only permit a transmitter to be turned on or off. Among the exhibits to my direct case are letters from the transmitter manufacturers establishing this fact. This means that it has always been impossible to make transmitter output power adjustments with the remote control equipment at the Dumont studio. There have never been remote transmitter power meters for the Fort Lee translator at the Dumont studio.

In addition, I have maintained the ability to provide audio programming directly from the Dumont studio to the Fort Lee translator so that I am able to insert 30 second announcements and to place emergency messages on the air. To the best of my knowledge, during the entire time that the Fort Lee translator has rebroadcast the Monticello station, this direct programming

capability has never been used except for the provision of emergency messages. While I cannot accurately remember how many times we have used this emergency message capability, I am confident that it has been no more than five times. I have never maintained records of emergency messages. Of course, Jukebox Radio has aired emergency messages more than five times, but such messages have almost always been placed on the live program feed from the Dumont studio to be transmitted by the Monticello station and picked up off the air and retransmitted by the Pomona and Fort Lee translators. The use of a direct connection to the Fort Lee translator has been used rarely because there have been very few times when an emergency has occurred at the same time that the Dumont studio-to-Monticello station program feed has been out of commission.

Jukebox Radio has a cooperative understanding with the Bergen County Office of Emergency Management by which we broadcast emergency announcements to the public, as necessary, as its broadcast outlet. While I do not remember the exact dates and times of the messages, and I have no records of them, I remember that several times since 1994, we have broadcast emergency messages in cooperation with the Bergen County Office of Emergency Management. I have maintained the technical capability to originate emergency messages at the Fort Lee translator to support our understanding with the Bergen County Office of Emergency Management, although the technical ability to do so has changed over time. I am a life-long resident of Bergen County and being able to assist in health and safety matters is very important to me. I take this responsibility very seriously.

At the time that the Fort Lee translator started to retransmit the Monticello station, I used microwave radio station WMG-499 between the Dumont studio and the Fort Lee translator to

transmit remote control functions. I also maintained a low quality 8 kHz circuit which could have been used to carry spoken emergency messages. That 8 kHz circuit has never been used. Moreover, the audio quality of music programming sent over such a circuit would be severely degraded.

Between October of 1994 and early July, 1995, when WMG-499 was deactivated pursuant to an FCC letter, I used it for two purposes, as a remote control connection and for its ability to place emergency messages on the Fort Lee translator. I kept WMG-499 live all the time so that it could provide constant telemetry between the Fort Lee translator and the Dumont studio, and because it was the kind of unit that could be damaged by being turned on and off repeatedly. I maintained two channels on this microwave path, a narrow data channel for telemetry, *i.e.* remote control of the Fort Lee translator, and a second path for audio in the event that an emergency required its use. I placed the Jukebox Radio feed on the audio path so that WMG-499 could be monitored and identified easily by third parties wishing to know the source of the signal. I did this because the New York area has severe frequency congestion. For the entire time that the Monticello station has broadcast Jukebox Radio programming, I have never caused that audio path to provide programming to the Fort Lee translator transmitters, unless there was an emergency. Those transmitters were set to rebroadcast the signal of the Pomona translator or the Monticello station.

In effect, I had two ways to take control of the Fort Lee translator audio transmission from the Dumont studio in the event of an emergency. The primary way was to use the telemetry which was carried on the telemetry path on the microwave. The second way was a failsafe. If telemetry on WMG-499's microwave path was interrupted, the remote control unit at the Fort

Lee translator was programmed to home immediately to the WMG-499 audio path. I maintained this arrangement so that, if all else failed, I could still get emergency messages on the air to alert Bergen County residents by cutting off the telemetry. However, if the microwave receiver at the Fort Lee translator lost the 951 microwave MHz input completely, the receiver was programmed to squelch, thereby closing a relay or switch which would force the Fort Lee translator to receive the off-air signal from the Pomona translator or the Monticello station.

When the FCC directed me to deactivate WMG-499, I arranged to have a 9600 baud circuit connected between the Dumont studio remote control unit and the Fort Lee translator to carry the remote control telemetry which had been available on the microwave. This circuit was and is entirely inadequate to carry the Jukebox Radio programming material.

It also should be noted that direct provision of emergency messages from the Dumont studio to the Fort Lee translator has been necessary no more than five times because emergency announcements have been placed on the Jukebox Radio programming feed sent live to the Monticello station, and then rebroadcast by the Pomona and Fort Lee translators. This is why we used a direct connection very few times, and only when there has been an interruption in the program lines between the Dumont studio and the Monticello station at the same time as an emergency.

This arrangement of the translators, the remote control functions and the WMG-499 microwave was in place during the first half of 1995, including the April 13 and 14, 1995, and the May 15, 1995, inspections conducted by Serge Loginow, Jr. I will describe my knowledge concerning those inspections now.

In mid-April, 1995, I attended the annual convention of the National Association of

Broadcasters in Las Vegas, Nevada. As has always been my practice, I called into the office regularly while I was out of town. During one such call, and I do not remember the details of it, I learned from someone that an FCC inspector was looking at the Monticello station and maybe Jukebox Radio too. I recall calling the Monticello station studio and speaking to Mr. Loginow. Although we spoke for a brief time, he seemed to be in a mildly agitated state and asked to test the Monticello station transmitter by turning it on and off. As I explained to him, not long before, the Monticello station antenna had been struck by lightning, and although it had never ceased operations, it was damaged and it was operating at reduced power. I learned later that Mr. Blabey, the General Manager of the Monticello station, arranged to have an experienced engineer at the transmitter to turn it on and off.

I have no other specific recollection of Mr. Loginow's inspections in April of 1995. Recently in this proceeding, I have learned that Vincent Luna and William Gaghan suggest that I called into Jukebox Radio and directed Mr. Luna to conduct a "deception" of Mr. Loginow by having Mr. Luna, Mr. Gaghan and William Owen take actions in the Dumont studio. This is false. I have never attempted to deceive an FCC inspector, either by my own actions or by asking someone else to act deceptively. I have read the August 9, 1995 Statement of Mr. Luna and the August 10, 1995 Statement of Mr. Gaghan, and each of their October 23, 1997 statements in connection with them. To put it nicely, Mr. Luna and Mr. Gaghan are very mistaken to suggest that I arranged a deception of Mr. Loginow or anyone else. I will explain why what they try to describe could not have happened as they suggest.

Recently, in this proceeding I have learned that Mr. Blabey, the Monticello station General Manager, arranged to have George Spika at the Monticello station transmitter to turn it

on and off at the direction of Mr. Loginow, and that such testing took place. Mr. Loginow went out somewhere, used his cellular telephone to call the Monticello station transmitter site, and instructed Mr. Spika to "kill" the transmitter, which Mr. Spika did. Mr. Loginow monitored the signals the Fort Lee and Pomona translators to observe the results when the Monticello station transmitter was shut down. As Mr. Loginow has stated, the Jukebox Radio program transmissions from the two translators promptly stopped and were replaced by "white noise." Clearly, that test demonstrated what has always been the case, that the Fort Lee and Pomona translators receive the Jukebox Radio programming off the air (or "directly through space") from the Monticello station, and not in any other way.

Mr. Loginow has testified that when the Monticello station transmitter was turned off, both translators immediately stopped rebroadcasting Jukebox Radio programming. Mr. Loginow's statement that he heard "white noise" when the Monticello station transmitter was turned off is very important. By hearing white noise, Mr. Loginow established that the Fort Lee and Pomona translators were receiving the Monticello station signal and when its transmitter was shut down, the two translators remained tuned in and rebroadcast the empty carrier of the Monticello station. Empty carrier produces "white noise." If, as Mr. Luna and Mr. Gaghan suggest, Mr. Loginow had been deceived by turning down the programming volume from the Dumont studio, then Mr. Loginow would have heard quiet, and not white noise.

The purported "deception" described by Mr. Luna and Mr. Gaghan could not have possibly had any effect on Mr. Loginow's testing in April 1995. It would have been impossible for me to have "deceived" Mr. Loginow, or otherwise interfered with his inspections or testing for the following additional reasons.

(1) Mr. Spika was using the only telephone line at the Monticello station transmission site to talk to Mr. Loginow, so he could not have been talking to me or to anyone else. In addition, while Mr. Spika and Mr. Loginow talked on that telephone, remote control by telephone could not have been used because the only telephone line to the transmitter site was tied up.

(2) If I had been on the telephone with Mr. Luna, as he suggests, then I could not have been on the telephone with Mr. Spika simultaneously.

(3) The remote control equipment in the Dumont studio usually takes anywhere from about fifteen seconds to as much as two minutes to execute a shut down at the Monticello station transmitter, which is typical of such facilities. Therefore, it was not possible to have shut down the Monticello station transmitter by remote control exactly on command when Mr. Loginow said "kill it."

(4) While in Las Vegas, I had no way of knowing what Mr. Loginow was doing some 2,000 miles away in Bergen County.

(5) Presumably, Mr. Luna and Mr. Gaghan had no way of knowing of Mr. Loginow's actions either. Mr. Loginow has testified that he had no communications with Mr. Luna and Mr. Gaghan, and the two of them have not even indicated that they had knowledge of Mr. Loginow's location or activities.

(6) Mr. Luna has testified that the Monticello transmitter was shut down by pushing one button on the control unit in the Dumont studio. Mr. Luna is wrong. I have always had that remote control configured to require two buttons to be pushed simultaneously to turn off that transmitter in order to prevent accidental shut downs.

(7) Mr. Luna and Mr. Gaghan both state that Mr. Owen assisted them in the purported

"deception" but, as Mr. Owen makes clear in his Statement, he did not do so.

(8) Mr. Luna has testified that I purportedly directed him to turn down the volume on the Jukebox Radio programming feed to simulate a transmitter shut down. However, Mr. Loginow has testified that he heard "white noise" after Mr. Spika turned off the Monticello station transmitter, which means that the carrier signal from the Monticello station was cut off. As I explained earlier, reduced volume would have produced silence and not white noise.

Therefore, no matter what Mr. Luna and Mr. Gaghan may think that they may have done, it is impossible that it was a deception of anyone, including Mr. Loginow. There were many times that I called into the Dumont studio to help correct a technical problem while I was away because I am the only person who fully understands the technical operations. Maybe Mr. Luna and Mr. Gaghan are confused. Certainly, they have no detailed understanding of how the Jukebox Radio operations work. Neither of them had any significant technical or engineering knowledge in 1995 when they worked at Jukebox Radio. Anything they might have known about the technical operations of Jukebox would have been learned from me, and because they were not technical personnel and were not hired to perform significant technical duties, I never provided either of them with a complete understanding of the Jukebox Radio operations.

One other point should be made here. Mr. Luna and Mr. Gaghan have testified that when light No. 5 on the Fort Lee remote control unit was lit, it indicated that the microwave path was active. They are wrong. First of all, as I stated earlier, the microwave was turned on 24 hours a day to provide constant telemetry, even though the audio path was not feeding programming to the Fort Lee translator. During the period of time in 1995 that Mr. Gaghan and Mr. Luna testify about in their respective statements, light No. 5 on the Fort Lee translator control unit

indicated that the Pomona receiver was active at the Fort Lee translator, *i.e.* that the Fort Lee translator was receiving the signal of the Pomona translator off the air. Therefore, their testimony about light No. 5 is dead wrong. In addition, when light No. 1 was lit, it indicated that the main transmitter at the Fort Lee translator was active. If in the event of an emergency in 1995, the Fort Lee translator was using the microwave to receive Jukebox Radio programming, then light No. 6 would have been lit.

For the approximate period of time that Mr. Luna and Mr. Gaghan have testified about, the status lights on the TC-8 unit which provided remote control for the Fort Lee translator were configured as follows:

TC-8 STATUS LIGHTS

1. Main transmitter on air	5. Pomona translator on air
2. No function	6. Microwave on air
3. No function	7. Broadcast loop on air
4. Back up transmitter on air	8. Pomona audio failure

I personally installed and configured all of the remote control equipment, including the arrangement and configuration of the status lights. I arranged it so that the status lights in the left column showed transmitter functions and the status lights in the right column showed receiver functions. Any testimony by Mr. Luna or Mr. Gaghan which contradicts this is wrong.

Mr. Luna and Mr. Gaghan demonstrate several other misunderstandings of the operations of Jukebox Radio during the time they worked there from October 1994 to the summer of 1995.

1. Mr. Luna makes several statements about changes in over-the-air audio quality. Changes in such audio may be attributable to many factors, none of which would be improper.