

Rec'd 10/9/98 @ 1:20 p.m.
J. Peter Bragg

ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION

In Re Applications of:)
HICKS BROADCASTING OF INDIANA, LLC)
Order to Show Cause Why the)
License for FM Radio Station)
WRBR (FM), South Bend, Indiana,)
Should Not Be Revoked;)
AND)
PATHFINDER COMMUNICATIONS CORP.)
Order to Show Cause Why the)
License for FM Radio Station)
WBYT (FM), Elkart, Indiana)
Should Not Be Revoked;)

MM DOCKET No.: 98-66

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VOLUME 2

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Pages: 23 through 73
Place: Washington, D.C.
Date: October 6, 1998

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, NW, Suite 600
Washington, D.C.
(202) 628-4888

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of:) MM DOCKET No.: 98-66
)
HICKS BROADCASTING OF INDIANA, LLC)
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Order to Show Cause Why the)
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WRBR (FM), South Bend, Indiana,)
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PATHFINDER COMMUNICATIONS CORP.)
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Order to Show Cause Why the)
License for FM Radio Station)
WBYT (FM), Elkart, Indiana)
Should Not Be Revoked;)
)
)

Court Rm. 1, Rm. 227
FCC Building
2000 L Street, N.W.
Washington, D.C.

Tuesday,
October 6, 1998

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The parties met, pursuant to the notice of the
Judge, at 9:00 a.m.

BEFORE: HON. JOSEPH CHACHKIN
Administrative Law Judge

APPEARANCES:

On behalf of Mass Media Bureau:

JAMES SHOOK, Esq.
ROY W. BOYCE, Esq.
KATHRYN S. BERTHOT, Esq.
Federal Communications Commission
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(202) 418-1454

On Behalf of Hicks Broadcasting:

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(202) 371-6062

On Behalf of Niles Broadcasting:

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CRISPIN & BRENNER, PLLC
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Appearances Continued

On Behalf of Pathfinder:

MICHAEL J. GUZMAN, Esq.
ALLEN GARDNER, Esq.
Latham & Watkins
1001 Pennsylvania Avenue, NW
Suite 1300
Washington, D.C. 20004-2505
(202) 637-2200

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E X H I B I T SIDENTIFIEDRECEIVEDREJECTEDMass Media Bureau:

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Mass Media Bureau Exhibits Cont.:

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Hearing Began: 9:00 a.m.

Hearing Ended: 9:52 p.m.

P R O C E E D I N G S

1
2 JUDGE: Let's go on the record. By order released
3 May 18, 1998, the Commission designated for hearing, the
4 applications of Hicks Broadcasting -- I shouldn't say
5 "designated the applications" -- directed orders to show
6 cause why the license for FM Radio Station WRBR FM, South
7 Bend, Indiana, which was licensed as Hicks Broadcasting of
8 Indiana.

9 And also directed an order to show cause by
10 licensed FM Radio Station WBYP FM, Elcott, Indiana, which is
11 licensed to Pathfinder Communications, Corp. should not be
12 revoked.

13 The Commission also designated for hearing, the
14 applications of Michiana Telecasting Corp., which proposing
15 to sign an application to Pathfinder Communications, Corp.
16 The latter applications have been dismissed, so the hearing
17 only concerns the orders to show cause directly against
18 Hicks Broadcasting and Pathfinder Communications.

19 May I have the transcript on behalf of the parties
20 that we have for Hicks Broadcasting of Indiana, LLC.

21 MR. HALL: Your Honor, Douglas Hall and Eric
22 Werner on behalf of Hicks Broadcasting, dba.

23 MR. GUZMAN: Your Honor, Mike Guzman and my
24 colleague, Allen Gardner, of Latham & Watkins on behalf of
25 Pathfinder.

1 THE JUDGE: On behalf of Niles Broadcasting
2 Company. Let the record reflect there's no response. On
3 behalf of the Mass Media Bureau.

4 MR. SHOOK: James Shook, Roy Boyce and
5 Kathryn Berthot.

6 THE JUDGE: And all we're going to do today is go
7 over the documents. I received a call on Saturday
8 requesting that the date for taking testimony be moved to --
9 at least for a week or two -- I guess, we'll discuss the
10 specific dates, because of Mr. Hicks' prostate surgery. I
11 shouldn't say "surgery" but "treatment."

12 MR. GUZMAN: That's correct, Your Honor.

13 THE JUDGE: All right, is the Bureau ready to
14 proceed with the documents?

15 MR. SHOOK: We are, Your Honor.

16 THE JUDGE: Okay.

17 MR. SHOOK: Your Honor, what we propose to do this
18 morning is simply identify and have marked the Bureau
19 exhibits that have been previously exchanged with the
20 parties and given to Your Honor. And this morning, two sets
21 have been given to the Court Reporter.

22 THE JUDGE: You don't propose to offer them?

23 MR. SHOOK: Not at this point, Your Honor. We
24 will do that -- we will do that during the course of witness
25 testimony.

1 MR. SHOOK: Mass Media Bureau Exhibit No. 2, is
2 Pathfinder's response to the Bureau's request for
3 admissions. It consists of twenty-seven pages.

4 THE JUDGE: That document will be marked for
5 identification as Mass Media Bureau Exhibit No. 2.

6 MR. SHOOK: Mass Media Bureau Exhibit No. 3, is
7 Mass Media Bureau's request for admissions of fact and
8 genuineness of documents, including Attachments; A, C, E and I
9 through M to Hicks Broadcasting of Indiana, LLC, and that
10 consists of one hundred ninety-two pages.

11 THE JUDGE: That document will be marked for
12 identification as Mass Media Bureau Exhibit No. 3.

13 MR. SHOOK: Your Honor, just for your information,
14 the parties had previously discussed not including in that
15 exhibit, attachments which duplicated attachments that had
16 already been apart of the request for admissions submitted
17 to Pathfinder.

18 Exhibit No. 4, is Hicks' response to the Mass
19 Media Bureau's request for admissions; it consists of twenty
20 pages.

21 THE JUDGE: That document will be marked for
22 identification as Mass Media Bureau Exhibit No. 5.

23 MR. SHOOK: That was "4" Your Honor.

24 THE JUDGE: Was that "4?"

25 MR. SHOOK: Yes, sir.

1 THE JUDGE: All right, then it's four. Go ahead.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 5, is a
3 four-page document that we understand to be, "WRBR FM Pro
4 Forma Financial Statement for 1991 and 1992."

5 THE JUDGE: The document described will be marked
6 for identification as Mass Media Bureau Exhibit No. 5.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 6, is a
8 four-page document entitled, "Confidential Memo to
9 John Booth."

10 THE JUDGE: That document is marked for
11 identification as Mass Media Bureau Exhibit No. 6.

12 MR. SHOOK: Mass Media Bureau Exhibit No. 7, is
13 the 1993 Annual Employment Report for WRBR FM, and consists
14 of two pages.

15 THE JUDGE: That document was marked for
16 identification as Mass Media Bureau Exhibit No. 7.

17 MR. SHOOK: Mass Media Bureau Exhibit No. 8, is
18 the 1993 Annual Employment Report for stations WTRC and
19 WLTA, and consists of two pages.

20 THE JUDGE: That document will be marked for
21 identification as Mass Media Bureau Exhibit No. 8.

22 MR. SHOOK: Mass Media Bureau Exhibit No. 9, is a
23 fax from Allen Campbell to Bob Watson dated June 1, 1993, it
24 consists of eight pages.

25 THE JUDGE: That document described is marked for

1 identification as Mass Media Bureau Exhibit No. 9.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 10, is
3 an invoice from Irwin, Campbell & Crowe to Federated Media
4 dated August 10, 1993, consisting of two pages.

5 THE JUDGE: The document described was marked for
6 identification as Mass Media Bureau Exhibit No. 10.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 11, an
8 appointment calendar page -- or pages -- for July 26 through
9 August 1, 1993, it is one page.

10 THE JUDGE: That document described was marked for
11 identification as Mass Media Bureau Exhibit No. 11.

12 MR. SHOOK: Mass Media Bureau Exhibit No. 12, is
13 an invoice from Irwin, Campbell & Crowe to Federated Media
14 dated September 9, 1993, it is two pages.

15 THE JUDGE: The document described is marked for
16 identification as Mass Media Bureau Exhibit No. 12.

17 MR. SHOOK: Mass Media Bureau Exhibit No. 13, is
18 an August 31, 1993 letter from Robert Watson to
19 David Foltyn, it is one page.

20 THE JUDGE: That document is marked for
21 identification as Mass Media Bureau Exhibit No. 13.

22 MR. SHOOK: Mass Media Bureau Exhibit No. 14, are
23 appointment calendar pages for August 30 through September
24 5, 1993, it is one page.

25 THE JUDGE: The document is marked for

1 identification as Mass Media Bureau Exhibit No. 14.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 15, is a
3 September 2, 1992 letter from David Hicks to John Booth, it
4 is one page.

5 THE JUDGE: The document is marked for
6 identification as Mass Media Bureau Exhibit No. 15.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 16, is a
8 memorandum from Kimberly Hudolin to the WRBR Working Group,
9 dated September 14, 1993, it is two pages.

10 THE JUDGE: The document is marked for
11 identification as Mass Media Bureau Exhibit No. 16.

12 MR. SHOOK: Mass Media Bureau Exhibit No. 17, is a
13 one page document, it is an invoice from Irwin, Campbell &
14 Crowe to Federated Media dated October 6, 1993

15 THE JUDGE: The document is marked for
16 identification as Mass Media Bureau Exhibit No. 17.

17 MR. SHOOK: Mass Media Bureau Exhibit No. 18, is a
18 invoice from Miller, Canfield, Paddock and Stone, P.L.C. to
19 David Hicks dated April 29, 1994, it was eight pages.

20 THE JUDGE: The document is marked for
21 identification as Mass Media Bureau Exhibit No. 18.

22 MR. SHOOK: Mass Media Bureau Exhibit No. 19, are
23 notes dated 9/20/93 and they're three pages.

24 THE JUDGE: The document is marked for
25 identification as Mass Media Bureau Exhibit No. 19.

1 MR. SHOOK: Mass Media Bureau Exhibit No. 20, are
2 appointment calendar pages for September 20 through 26,
3 1993, one page.

4 THE JUDGE: The document is marked for
5 identification as Mass Media Bureau Exhibit No. 20.

6 MR. SHOOK: Mass Media Bureau Exhibit No. 21, are
7 notes dated 9/22/93 and they are three pages.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 21.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 22, is a
11 September 27, 1993 letter from Robert Watson to
12 David Foltyn, one page.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 22.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 23, is
16 the affidavit of Edward J. Sackley, III, with attachments,
17 it's fifty-seven pages in length.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 23.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 24, is
21 an invoice from Irwin, Campbell & Crowe to Federated Media,
22 dated November 4, 1993, consists of two pages.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 24.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 25, is a

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1 fax from Bob Watson to Ric Brown, dated 10/20/93, two pages.

2 THE JUDGE: The document is marked for
3 identification as Mass Media Bureau Exhibit No. 25.

4 MR. SHOOK: Mass Media Bureau Exhibit No. 26, is a
5 one page October 21, 1993 letter from Eric Brown, Jr. to
6 Kimberly Hudolin.

7 THE JUDGE: The document is marked for
8 identification as Mass Media Bureau Exhibit No. 26.

9 MR. SHOOK: Mass Media Bureau Exhibit No. 27, is a
10 one page November 3, 1993 letter from Eric Brown, Jr. to
11 David Hicks and John Dille, III

12 THE JUDGE: The document is marked for
13 identification as Mass Media Bureau Exhibit No. 27.

14 MR. SHOOK: Mass Media Bureau Exhibit No. 28, is a
15 draft of the Asset Purchase Agreement, dated 11/4/93, it is
16 nineteen pages.

17 THE JUDGE: The document is marked for
18 identification as Mass Media Bureau Exhibit No. 28.

19 MR. SHOOK: Mass Media Bureau Exhibit No. 29, is
20 one page, it is a November 5, 1993 letter from Eric Brown to
21 David Hicks.

22 THE JUDGE: The document is marked for
23 identification as Mass Media Bureau Exhibit No. 29.

24 MR. SHOOK: Mass Media Bureau Exhibit No. 30, is a
25 draft of Schedule 1.1(d) dated 11/5/93, it is seven pages.

1 THE JUDGE: The document is marked for
2 identification as Mass Media Bureau Exhibit No. 30.

3 MR. SHOOK: Mass Media Bureau Exhibit No. 31, is a
4 one-page document that is a November 8, 1993 letter from
5 Eric Brown to David Hicks.

6 THE JUDGE: The document is marked for
7 identification as Mass Media Bureau Exhibit No. 31.

8 MR. SHOOK: Mass Media Bureau Exhibit No. 32, is a
9 two-page document, it is an invoice from Irwin, Campbell &
10 Crowe to Federated Media dated December 6, 1993.

11 THE JUDGE: The document is marked for
12 identification as Mass Media Bureau Exhibit No. 32.

13 MR. SHOOK: Mass Media Bureau Exhibit No. 33, is
14 a fax from Dave Hicks to Ric Brown, dated 11/23, it is one
15 page in length.

16 THE JUDGE: The document is marked for
17 identification as Mass Media Bureau Exhibit No. 33.

18 MR. SHOOK: Mass Media Bureau Exhibit No. 34, it
19 is a November 26, 1993 letter from Robert Watson to
20 Eric Brown, Jr.

21 THE JUDGE: The document is marked for
22 identification as Mass Media Bureau Exhibit No. 34.

23 MR. SHOOK: Mass Media Bureau Exhibit No. 35, is a
24 December 3, 1993 letter from Eric Brown, Jr. to
25 Kimberly Hudolin, it is three pages in length.

1 THE JUDGE: The document is marked for
2 identification as Mass Media Bureau Exhibit No. 35.

3 MR. SHOOK: Mass Media Bureau Exhibit No. 36, is a
4 one-page document entitled, "Office Memorandum", dated
5 December 8, 1993.

6 THE JUDGE: The document is marked for
7 identification as Mass Media Bureau Exhibit No. 36.

8 MR. SHOOK: Mass Media Bureau Exhibit No. 37, is
9 eleven pages in length, it is entitled, "Fax from Dave Hicks
10 to Allen Campbell", it is dated 12/14/93

11 THE JUDGE: The document is marked for
12 identification as Mass Media Bureau Exhibit No. 37.

13 MR. SHOOK: Mass Media Bureau Exhibit No. 38, is a
14 one-page document, it is a December 16, 1993 letter from
15 Allen Campbell to Robert Watson.

16 THE JUDGE: The document is marked for
17 identification as Mass Media Bureau Exhibit No. 38.

18 MR. SHOOK: Mass Media Bureau Exhibit No. 39, is a
19 four-page document. It is an invoice from Irwin, Campbell &
20 Crowe to David Hicks, dated January 10, 1993. There are two
21 copies of that document included in the exhibit.

22 THE JUDGE: The document is marked for
23 identification as Mass Media Bureau Exhibit No. 39.

24 MR. SHOOK: Mass Media Bureau Exhibit No. 40, is a
25 December 17, 1993 letter from Allen Campbell to David Hicks,

1 it is two pages.

2 THE JUDGE: The document is marked for
3 identification as Mass Media Bureau Exhibit No. 40.

4 MR. SHOOK: Mass Media Bureau Exhibit No. 41, is a
5 check -- is a copy of Check No. 4076 from David Hicks to
6 Allen Campbell, it is one page.

7 THE JUDGE: The document is marked for
8 identification as Mass Media Bureau Exhibit No. 41.

9 MR. SHOOK: Mass Media Bureau Exhibit No. 42, is a
10 invoice from Irwin, Campbell & Crowe to David Hicks dated
11 February 2, 1994, it is two pages.

12 THE JUDGE: The document is marked for
13 identification as Mass Media Bureau Exhibit No. 42.

14 MR. SHOOK: Mass Media Bureau Exhibit No. 42, is a
15 one-page document and is an invoice from Irwin, Campbell &
16 Crowe to Federated Media dated March 7, 1994

17 THE JUDGE: The document is marked for
18 identification as Mass Media Bureau Exhibit No. 43.

19 MR. SHOOK: Mass Media Bureau Exhibit No. 44, is a
20 four-page document, it is an invoice from Irwin, Campbell &
21 Crowe to David Hicks, dated March 7, 1994. There are two
22 copies of that invoice.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 44.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 45, is a

1 two-page document. It is an invoice from Barnes & Thornburg
2 to Hicks Broadcasting, dated April 27, 1994.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 45.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 46, it
6 is an invoice from Barnes & Thornburg to Hicks Broadcasting,
7 dated May 31, 1994.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 46.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 47, is a
11 Barnes & Thornburg, new client information, it consists of
12 nine pages.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 47.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 48, is a
16 two-page document, it is a March 18, 1994 letter from
17 Robert Watson to Allen Campbell.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 48.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 49, is a
21 five-page document entitled, "Summary of Employee Benefits
22 Programs."

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 49.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 50, is a

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1 March 7, 1994 letter from Robert Watson to David Hicks, it
2 is four pages in length.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 50.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 51, is a
6 two-page document that is an invoice from Irwin, Campbell &
7 Crowe to Federated Media dated April 5, 1994.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 51.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 52, is a
11 March 15, 1994 letter from Eric Brown to David Hicks, it
12 consists of three pages.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 52.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 53, is a
16 March 15, 1994 letter from Eric Brown to Richard Zaragoza,
17 it is two pages.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 53.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 54, is a
21 two-page document, it is an invoice from Irwin, Campbell and
22 Crowe to David Hicks dated April 6, 1994.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 54.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 55, is a

1 one-page document, a March 21, 1994 letter from Eric Brown
2 to Richard Zaragoza.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 55.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 56, is a
6 March 21, 1994 letter from Eric Brown to David Hicks, it
7 consists of six pages.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 56.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 57, is a
11 one-page document, a March 24, 1994 letter from
12 J. Scott Troeger to Robert Watson.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 57.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 58, is a
16 one-page document, it is a March 25, 1994 letter from
17 Robert Watson to Eric Brown.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 58.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 59, is a
21 Certificate of Organization of Hicks Broadcasting of
22 Indiana, LLC, it is three pages in length.

23 THE JUDGE: And that document is marked for
24 identification as Mass Media Bureau Exhibit No. 59.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 60, is a

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1 March 29, 1994 letter from Eric Brown to Allen Campbell,
2 consists of one page.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 60.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 61, is a
6 note from Ric to Bob, dated 3/30/94, it's three pages in
7 length.

8 THE JUDGE: The documents marked for
9 identification as Mass Media Bureau Exhibit No. 61.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 62, is a
11 fax from Sam Thompson to Bob Watson dated March 30, 1994,
12 consists of five pages.

13 THE JUDGE: That document is marked for
14 identification as Mass Media Bureau Exhibit No. 62.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 63, is a
16 March 30, 1994 letter from Robert Watson to Eric Brown, and
17 it's four pages in length.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 63.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 64, is a
21 fax from Scott Troeger to Robert Watson dated March 31,
22 1994, it consists of four pages.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 64.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 65, is a

1 fax from Scott Troeger to Steve Stankewicz, dated March 31,
2 1994, it consists of five pages.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 65.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 66, is a
6 March 31, 1994 letter from Steve Stankewicz to
7 S. Lee Johnson, consists of three pages.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 66.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 67, is a
11 one-page document, a March 31, 1994 letter from
12 Robert Watson to Pete Wehle, W-E-H-L-E.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 67.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 68, is a
16 two-page document, it is a July 29, 1994 letter from
17 Robert Watson to Fred Riley.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 68.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 69, is a
21 1994 Annual Employment Report for Stations WTRC and WLTA,
22 it's two pages.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 69.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 70, is

1 the 1994 Annual Employment Report for WRBR FM, it consists
2 of two pages.

3 THE JUDGE: Two pages or three pages?

4 MR. SHOOK: Let me check. I believe two, Your
5 Honor. Does your version reflect three?

6 THE JUDGE: Well, I haven't looked at them, the
7 legal text is at three pages, that's why I raised that
8 question. It's two pages, that what it is?

9 MR. SHOOK: That's what I have, Your Honor.

10 THE JUDGE: All right. That document will be
11 marked for identification as Mass Media Bureau Exhibit
12 No. 70.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 70.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 71, is a
16 one-page document, an April 5, 1994 letter from
17 Allen Campbell to Federal Communications Commission.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 71.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 72,
21 consists of eleven pages, it is employment information
22 concerning David Miholer.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 72.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 73, is

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1 nine pages, it is employment information concerning
2 Mervin Reist, Dawn Hatfield and Thomas Rogers.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 73.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 74, is a
6 one-page document, an April 5, 1994 letter from
7 Allen Campbell to Eric Brown.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 74.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 75, is
11 seven pages in length, it is an April 5, 1994 letter from
12 Steven Stankewicz to Robert Watson.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 75.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 76, is a
16 one-page document, an April 12, 1994 letter from
17 Kimberly Hodulin to Robert Watson.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 76.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 77, is
21 three pages in length, an April 13, 1994 letter from
22 Eric Brown, Jr. to Kimberly Hudolin.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 77.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 78, is a

1 one-page document, an April 14, 1994 letter from
2 Eric Brown, Jr. to Allen Campbell.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 78.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 79, is
6 an April 25, 1994 letter from Eric Brown, Jr. to
7 Robert Watson, it consists of one page.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 79.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 80, is a
11 one-page document, a May 2, 1994 letter from Eric Brown, Jr.
12 to David Hicks.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 80.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 81, is a
16 one-page document, a May 2, 1994 letter from Eric Brown, Jr.
17 to Robert Watson.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 81.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 82, is a
21 one-page document, a May 2, 1994 letter from Eric Brown, Jr.
22 to John Dille, III.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 82.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 83, is a

1 May 3, 1994 letter from Eric Brown, Jr. to Kimberly Hodulin.
2 It consists of two pages.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 83.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 84, is a
6 May 5, 1994 letter from Eric Brown, Jr. to Robert Watson,
7 it's three pages in length.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 84.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 85, is a
11 one-page document, a May 18, 1994 letter from Robert Watson
12 to Eric Brown, Jr.

13 THE JUDGE: That document is marked for
14 identification as Mass Media Bureau Exhibit No. 85.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 86, is a
16 one-page document, a May 31, 1994 letter from Robert Watson
17 to David Hicks.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 86.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 87, is
21 five pages in length, it is employment information
22 concerning Gregory Hicks.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 87.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 88, is

1 three pages in length, it is employment information
2 concerning Michelle Poepppe, that's P-O-E-P-P-E.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 88.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 89, is
6 eleven pages in length, it is employment information
7 concerning David Majenski and Vincent Turner, Jr.

8 THE JUDGE: Majenski is, M-A-J-E-N-S-K-I. That
9 document is marked for identification as Mass Media Bureau
10 Exhibit No. 89.

11 MR. SHOOK: Mass Media Bureau Exhibit No. 90, is
12 employment information concerning David Hicks, it is
13 seventeen pages, overall.

14 THE JUDGE: The document is marked for
15 identification as Mass Media Bureau Exhibit No. 90.

16 MR. SHOOK: Mass Media Bureau Exhibit No. 91, is
17 employment information concerning Kenneth Hall, four pages
18 in length.

19 THE JUDGE: The document is marked for
20 identification as Mass Media Bureau Exhibit No. 91.

21 MR. SHOOK: Mass Media Bureau Exhibit No. 92, is
22 six pages in length, it is employment information concerning
23 Michelle Santiago, Wanda Taylor and Victoria Whitten and
24 Annette Kline.

25 THE JUDGE: The document is marked for

1 identification as Mass Media Bureau Exhibit No. 92.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 93, is
3 five pages in length, it is employment information
4 concerning Ned Swanson and Bradley Williams.

5 THE JUDGE: The document is marked for
6 identification as Mass Media Bureau Exhibit No. 93.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 94, is
8 twenty-six pages in length, it is employment information
9 concerning Paul Szrom, that's S-Z-R-O-M -- excuse me, let me
10 try that again -- S-Z-R-O-M. Cathy Worland, Sarah Erlacher
11 (Dillie), Amos Williams, III, Elizabeth Davis, Sean McBryde,
12 William Diedrich, Marilyn Covey, Jim Kelly, Tamara Shirk,
13 James Mitchell and James S-K-W-I-A-T.

14 THE JUDGE: The document is marked for
15 identification as Mass Media Bureau Exhibit No. 94.

16 MR. SHOOK: Mass Media Bureau Exhibit No. 95, is
17 six pages in length, it is employment information concerning
18 Benjamin Tiedemann, that's T-I-E-D-E-M-A-N-N and Cinda
19 White.

20 THE JUDGE: The document is marked for
21 identification as Mass Media Bureau Exhibit No. 95.

22 MR. SHOOK: Mass Media Bureau Exhibit No. 96, is
23 eleven pages in length, it is employment information
24 concerning Joseph Goldbach.

25 THE JUDGE: The document is marked for

1 identification as Mass Media Bureau Exhibit No. 96.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 97, are
3 the 1995, 1996 and 1997 Annual Employment Reports for WRBR
4 FM, there are six pages altogether.

5 THE JUDGE: The document is marked for
6 identification as Mass Media Bureau Exhibit No. 97.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 98, are
8 the 1996 and 1997 Annual Employment Reports for WTRC and
9 WBYT FM, four pages total.

10 THE JUDGE: The document is marked for
11 identification as Mass Media Bureau Exhibit No. 98.

12 MR. SHOOK: Mass Media Bureau Exhibit No. 99, are
13 Broadcast Equal Opportunity Report for WTRC, WBYT and WRBR,
14 it's eleven pages total.

15 THE JUDGE: The document is marked for
16 identification as Mass Media Bureau Exhibit No. 99.

17 MR. SHOOK: Mass Media Bureau Exhibit No. 100, are
18 Hicks Broadcasting Minutes, they're twenty-four pages in
19 length.

20 THE JUDGE: The document is marked for
21 identification as Mass Media Bureau Exhibit No. 100.

22 MR. SHOOK: Mass Media Bureau Exhibit No. 101,
23 consists of insurance information, there's thirty-two pages
24 total.

25 THE JUDGE: The document is marked for

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1 identification as Mass Media Bureau Exhibit No. 101.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 102, we
3 have entitled, "Reminder Memos", there are forty-one pages
4 total.

5 THE JUDGE: That document is marked for
6 identification as Mass Media Bureau Exhibit No. 102.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 103, is
8 thirteen pages in length, it is, "Notes payable to
9 David Hicks."

10 THE JUDGE: The document is marked for
11 identification as Mass Media Bureau Exhibit No. 103.

12 MR. SHOOK: Mass Media Bureau Exhibit No. 104,
13 sixteen pages in length, "Notes Payable to John Dille, IV.

14 THE JUDGE: The document is marked for
15 identification as Mass Media Bureau Exhibit No. 104.

16 MR. SHOOK: Mass Media Bureau Exhibit No. 105, is
17 entitled, "Loan Record", it is five pages in length.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 105.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 106, is
21 a one-page document, it is a copy of check no. 43055 from
22 Pathfinder to Booth American.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 106.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 107, is

1 a two-page document, a December 7, 1994 letter from
2 Eric Brown, Jr. to John Dille, III.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 107.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 108, is
6 a one-page document, a June 22, 1994 letter from
7 Anthony Adleman to David Hicks.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 108.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 109, is
11 a one-page document entitled, "Hicks Broadcasting of
12 Indiana, LLC Resolution."

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 109.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 110, is
16 a one-page document, a July 23, 1995 letter from David Hicks
17 to Steve Kline.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 110.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 111, is
21 a one-page document, a March 3, 1998 e-mail to
22 Robert Watson.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 111.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 112, are

1 twenty-seven pages total, they are the 1994 Financial
2 Statements of Hicks Broadcasting.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 112.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 113,
6 include thirty-five pages, they are the 1995 Financial
7 Statements of Hicks Broadcasting.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 113.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 114,
11 includes thirty-six pages, the 1996 Financial Statements of
12 Hicks Broadcasting.

13 THE JUDGE: No. 114 is 1995 or 1996?

14 MR. SHOOK: Your Honor, 113 should be 1995, 114
15 should be 1996.

16 THE JUDGE: All right. The document described is
17 marked for identification as Mass Media Bureau Exhibit No.
18 114.

19 MR. SHOOK: Mass Media Bureau Exhibit No. 114, is
20 a memorandum from Kimberly Hudolin to the WRBR Working
21 Group, dated September 14, 1993, it is two pages.

22 MR. SHOOK: Mass Media Bureau Exhibit No. 115, are the
23 1997 Financial Statements of Hicks Broadcasting, forty-four
24 pages in length.

25 THE JUDGE: The document described is marked for

1 identification as Mass Media Bureau Exhibit No. 115.

2 MR. SHOOK: Mass Media Bureau Exhibit No. 116, are
3 the 1998 Financial Statements of Hicks Broadcasting, twenty
4 pages in length.

5 THE JUDGE: The document is marked for
6 identification as Mass Media Bureau Exhibit No. 116.

7 MR. SHOOK: Mass Media Bureau Exhibit No. 117, are
8 invoices from McGladrey & Pullen to Hicks Broadcasting, ten
9 pages total.

10 THE JUDGE: The document is marked for
11 identification as Mass Media Bureau Exhibit No. 117.

12 MR. SHOOK: Mass Media Bureau Exhibit No. 118, is
13 seven pages altogether, they are the invoices from Audience
14 Development Group.

15 THE JUDGE: The document is marked for
16 identification as Mass Media Bureau Exhibit No. 118.

17 MR. SHOOK: Mass Media Bureau Exhibit No. 119, is
18 three pages in length, the 1994 EEO 1 Report for Pathfinder.

19 THE JUDGE: The document is marked for
20 identification as Mass Media Bureau Exhibit No. 119.

21 MR. SHOOK: Mass Media Bureau Exhibit No. 120,
22 five pages in length, the 1995 EEO 1 Report for Pathfinder.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 120.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 121, is

1 also five pages in length, it is the 1996 EEO 1 Report for
2 Pathfinder.

3 THE JUDGE: The document is marked for
4 identification as Mass Media Bureau Exhibit No. 121.

5 MR. SHOOK: Mass Media Bureau Exhibit No. 122, is
6 six pages in length, it is the 1997 EEO 1 Report for
7 Pathfinder.

8 THE JUDGE: The document is marked for
9 identification as Mass Media Bureau Exhibit No. 122.

10 MR. SHOOK: Mass Media Bureau Exhibit No. 123, are
11 Pathfinder check numbers; 53994, 53995 and 53996 to
12 Alec Dille, John Dille, IV and Sarah Dille, one page total.

13 THE JUDGE: The document is marked for
14 identification as Mass Media Bureau Exhibit No. 123.

15 MR. SHOOK: Mass Media Bureau Exhibit No. 124, is
16 a two-page document, it is the August 9, 1984 letter from
17 Allen Campbell to the Federal Communications Commission.

18 THE JUDGE: The document is marked for
19 identification as Mass Media Bureau Exhibit No. 124.

20 MR. SHOOK: Mass Media Bureau Exhibit No. 125, is
21 two pages in length, an October 2, 1997 letter from
22 Elizabeth Sims to the Federal Communications Commission.

23 THE JUDGE: The document is marked for
24 identification as Mass Media Bureau Exhibit No. 125.

25 MR. SHOOK: Mass Media Bureau Exhibit No. 126, is

1 thirty-one pages total, consists of invoices from Irwin,
2 Campbell & Crowe and Irwin, Campbell & Tannenwald to
3 David Hicks and Federated Media.

4 THE JUDGE: The document is marked for
5 identification as Mass Media Bureau Exhibit No. 126.

6 THE JUDGE: Mr. Crispin, do you want to note your
7 appearance?

8 MR. CRISPIN: Yes, sir. William Crispin on behalf
9 of Niles Broadcasting, thank you, Your Honor.

10 THE JUDGE: So, you don't want to look for any of
11 these exhibits at this time?

12 MR. SHOOK: At this time, no, Your Honor.

13 THE JUDGE: And you propose to do this through
14 witnesses?

15 MR. SHOOK: By and large, sir, yes.

16 THE JUDGE: And who are your witnesses going to
17 be?

18 MR. SHOOK: Edward Sackley --

19 THE JUDGE: Yeah?

20 MR. SHOOK: -- Steven Kline and Robert Watson.

21 THE JUDGE: And is that the order in which they're
22 going to appear?

23 MR. SHOOK: That's the order that we anticipate.
24 We certainly anticipate Mr. Sackley going first. What we're
25 not entirely certain of at this point is whether we'll have

1 Mr. Kline second, or Mr. Watson second.

2 THE JUDGE: And you said Mr. Sackley won't be
3 available next week?

4 MR. SHOOK: Correct.

5 THE JUDGE: So, he'll be available the following
6 week?

7 MR. SHOOK: Yes, sir. We believe that we could
8 start him first thing on Tuesday morning, the 20th. It
9 would allow him to travel on Monday.

10 THE JUDGE: Now, we also have documents which were
11 exchanged by Hicks; what are we proposing to do with those
12 documents? I mean, what was the purpose for exchanging
13 them?

14 MR. WERNER: We had delivered those to the Mass
15 Media Bureau, Your Honor, in anticipation that the
16 presentation of witnesses is simply an exercise in good
17 faith so that the Commission had some sense of what
18 documents we intended to present as exhibits as well.

19 It was our understanding that written cases were
20 not required but, nevertheless, we decided that, in exchange
21 for the Commission's exhibits, we would present them with
22 our's as well.

23 THE JUDGE: But, do you propose to identify each
24 of these exhibits, or just some of these exhibits, depending
25 on witnesses? I mean, do you have any plan for what you

1 propose to do with these exhibits?

2 MR. HALL: What we thought we'd do, Your Honor, is
3 wait until the end of the Commission's case and at that time
4 do similar exercise, identify them and then through
5 witnesses, admit them as we go along.

6 THE JUDGE: But, is it your intention to identify
7 each one of these exhibits?

8 MR. HALL: Not necessarily, it depends on what
9 happens with the Commission's case. As Mr. Shook pointed
10 out, I think there is some duplication amongst the --

11 THE JUDGE: Well, I mean, you have them numbered
12 consecutively so, what I understand is, some of these
13 exhibits may not be identified for the witnesses.

14 MR. HALL: We may decide not to identify some of
15 these, that's correct.

16 THE JUDGE: So, I assume you don't want to go
17 through the same exercise at this time?

18 MR. HALL: That's correct, Your Honor.

19 THE JUDGE: And the position, as far as Mr. Hicks'
20 illness is concerned is that he would be available next
21 week, and you presume that you have no objection to starting
22 here on the 20th?

23 MR. WERNER: That's correct, Your Honor, at least
24 at this time, Your Honor, our best information would be that
25 we assume that Mr. Hicks will be available next week. We

1 have not received any word from his physician as to how he's
2 responding to his treatment at this point.

3 THE JUDGE: Well, the 20th will give him two
4 weeks, actually --

5 MR. WERNER: Correct --

6 THE JUDGE: -- to recover somewhat.

7 MR. WERNER: -- that's right.

8 THE JUDGE: Is there anything else you wanted in
9 today?

10 MR. SHOOK: Well, I guess that depends on what
11 Pathfinder wishes to do with the exhibits that it recently
12 exchanged.

13 THE JUDGE: Well, they've indicated they're not
14 going to do anything until after you finish your case and
15 then they'll decide which, if any of these documents they're
16 going to --

17 MR. SHOOK: Your Honor, I understood you put the
18 question to Hicks, I'm not sure you put the same question to
19 Pathfinder.

20 THE JUDGE: Did Pathfinder exchange exhibits?

21 MR. GUZMAN: Your Honor, we did exchange exhibits
22 with the Commission on Friday of last week. We have volumes
23 that I'm prepared to give to you today.

24 THE JUDGE: Yeah, I was wondering, I hadn't seen
25 those.

1 MR. GUZMAN: Our position is the same as that of
2 Hicks, that is, we would propose to identify certain of
3 these exhibits after the presentation of the Commission's
4 case, and admit them as appropriate through the appropriate
5 witness.

6 THE JUDGE: Well, do you have my copies? So, I
7 presume we have some duplicates here, is that?

8 MR. GUZMAN: That's correct, Your Honor.

9 THE JUDGE: Well, I assume when there are
10 duplicates, you're not going to offer that exhibit where the
11 Bureau has already identified them --

12 MR. GUZMAN: That's correct. Our position would
13 be that if the Commission has offered an exhibit and it's
14 been admitted into evidence then, we would not seek to
15 introduce a duplicate.

16 MR. WERNER: Hicks Broadcasting would intend to
17 follow the same practice, Your Honor.

18 THE JUDGE: So, who's going to go after the
19 Bureau, Pathfinder or Hicks, or who?

20 MR. GUZMAN: Your Honor, we intend to present a
21 coordinated defense, that is to say, there will be certain
22 Hicks exhibits -- excuse me, Hicks' witnesses, as well as
23 Pathfinder witnesses that will be presented in an order that
24 accommodates the witness' schedule and makes sense, in terms
25 of presentation.

1 With respect to witnesses that are fixed
2 witnesses, Counsel for Hicks will take the lead, and with
3 respect to Pathfinder witnesses, Pathfinder's Counsel will
4 take the lead.

5 THE JUDGE: There were some duplicates -- witness
6 lists?

7 MR. GUZMAN: Yes, and we've coordinated on that so
8 that we will not be calling a witness twice.

9 THE JUDGE: So, how soon will it be before you
10 know your order of witnesses, at least some idea who your
11 first two or three witnesses will be?

12 MR. GUZMAN: I'd be prepared to give you the order
13 of witnesses today if that's amenable to you.

14 THE JUDGE: I think that would be helpful to me
15 and the Bureau to know the order of witnesses.

16 MR. GUZMAN: Okay. Subject to the witnesses'
17 availability, I think our proposed order is this,
18 Charles Giddons, Joe Turner, Tim Moore, David Hicks,
19 Robert Watson, Eric Brown, Sam Thompson, Peter Cannonwald,
20 Allen Campbell, Richard Harris --

21 THE JUDGE: You moved too fast for me, Cannonwald,
22 who comes after Cannonwald?

23 MR. GUZMAN: Allen Campbell.

24 THE JUDGE: Campbell. Is that it?

25 MR. GUZMAN: Richard Harris, Edward Christian,

1 Bayard Walters, Richard Novik, John Dille, III, Glenn Mahone
2 and Jeff Bauman.

3 THE JUDGE: Now, some of these are character
4 witnesses I assume. You're going to do it by speakerphone?

5 MR. GUZMAN: You're correct, Your Honor. There
6 are, essentially the last six witnesses, with the exception
7 of Mr. Dille, are character witnesses and it would be our
8 intention to present the two Pathfinder witnesses,
9 Mr. Mahone and Mr. Bauman live at this time.

10 And, I believe that Mr. Werner has made
11 arrangements for some of his witnesses to be present by
12 speakerphone.

13 THE JUDGE: And who are they?

14 MR. WERNER: Your Honor, I've spoken with
15 Mr. Harris and Mr. Christian and Mr. Walters. Our
16 arrangements, at this juncture were based upon the
17 witnesses' availability on the hearing schedule, based upon
18 an assumption that the hearing testimony would begin in the
19 hearing today.

20 If their availability will permit them to attend
21 and appear live, I am working to try and facilitate their
22 live appearance, rather than by speakerphones.

23 THE JUDGE: And Novik is not a character witness?

24 MR. WERNER: Novik is a character witness. He --
25 it is not clear, at this point, whether he will be appearing

1 live, or by speakerphone.

2 THE JUDGE: Thank you. So, I assume you could be
3 prepared to go ahead with Mr. Giddons as soon as Mr. Watson
4 has finished.

5 MR. GUZMAN: That's correct.

6 THE JUDGE: You have any comments on this, any of
7 this?

8 MR. SHOOK: No, the only thing that we would like
9 to clarify is the sequestration situation. We have
10 discussed the matter, I guess, informally, and the Bureau's
11 position is that it is acceptable to have each of the
12 parties that are subject to the show cause order, having one
13 representative available to assist them during the course of
14 the proceeding.

15 And we understand the representative of Hicks
16 Broadcasting to be Mr. Hicks. And we understand the --
17 well, actually, we're not entirely certain of who it is that
18 Pathfinder wishes to designate as its representative, and
19 we'll let Pathfinder speak to that.

20 MR. GUZMAN: It would be our intention to
21 designate Mr. John Dille, III as our representative.

22 And for clarification sake, it was my
23 understanding that the arrangement we worked out with the
24 Bureau was that those two designated representatives would
25 be present during the entirety of the hearing. That is,

1 there would be no sequestration of those two individuals.

2 MR. SHOOK: We find that acceptable.

3 THE JUDGE: All right --

4 MR. SHOOK: With the understanding, of course,
5 that sequestration would apply to every other witness.

6 MR. GUZMAN: That's acceptable. A point of
7 clarification on that though, Your Honor.

8 I assume that to mean that once a witness has
9 testified, then they would be entitled to be present at the
10 hearing for the duration if they so desired.

11 MR. SHOOK: That's fine with us.

12 THE JUDGE: All right, that's a procedural call.
13 Now, the Bureau has included the testimony from the civil
14 suit as far as a direct case.

15 MR. GUZMAN: Yes, sir.

16 THE JUDGE: I anticipate there's going to be
17 objections?

18 MR. GUZMAN: You're correct in anticipating that
19 Your Honor.

20 THE JUDGE: I assume the Bureau at this point,
21 doesn't want to discuss their -- what they intend to do.
22 You don't intend to put the entire direct -- the entire
23 testimony in, do you?

24 MR. SHOOK: Your Honor, we recognize that there
25 are certain parts of the various depositions, and the

1 affidavits that aren't relevant to this proceeding. But,
2 with respect to the material that is relevant, we would
3 certainly want it, you know, received into evidence.

4 THE JUDGE: Well, then I assume you're going to
5 set forth what parts of the transcripts are relevant?

6 MR. SHOOK: We will do that --

7 THE JUDGE: -- is the entire transcript.

8 MR. SHOOK: We understand that, Your Honor, we
9 will do that.

10 THE JUDGE: And when will you do that?

11 MR. SHOOK: We will do that --

12 THE JUDGE: In other words, then we'll only have
13 an argument over that portion which the Bureau claims is
14 relevant, rather than the entire transcript.

15 MR. SHOOK: I think the -- the time that it would
16 make the most sense would be once we concluded the testimony
17 of our three witnesses because, I think, at that point,
18 everybody will be much better enlightened about, you know,
19 what it is that we, at least, perceive to be, you know,
20 relevant and then we can make our arguments at that point.

21 I think if we were to do it at the beginning we
22 might be, you know, operating, a bit in a vacuum --

23 THE JUDGE: Well, I'm not telling you to do it in
24 the beginning. But, I think, at some point, you have to
25 delineate before any argument, as to which portions you

1 think are relevant so the parties will know what they have
2 to argue about.

3 I mean, you, presumably now, you know which
4 portions you think -- you believe are relevant.

5 MR. SHOOK: We can make that clear to the parties
6 before --

7 THE JUDGE: It's not a hard and fast rule that you
8 have to stick to that but, at least the parties have some
9 knowledge of what you consider to be relevant.

10 MR. SHOOK: We can make it -- we can make it clear
11 to the parties before witness testimony begins. At those
12 portions of the depositions that we would like to have
13 admitted into evidence, subject to, you know, what happens
14 during a witnesses' testimony at that point, I think
15 everybody would be ready to, you know, argue one way or the
16 other whether something should be received or not.

17 THE JUDGE: Well, you're calling three witnesses
18 but, you're calling -- obviously, we have a civil court
19 transcript that concerns many other witnesses you're not
20 calling.

21 MR. SHOOK: That's right.

22 THE JUDGE: And since Mr. Dille, and the Dille
23 children -- apparently the Dille children are not being
24 called, is that --

25 MR. GUZMAN: We have no intention of calling them,

1 Your Honor.

2 THE JUDGE: And the Bureau doesn't intend to call
3 them.

4 MR. SHOOK: Correct, Your Honor. We anticipate
5 that relevant information can be brought in through the
6 testimony of Messrs. Sackley, Kline and Watson.

7 THE JUDGE: Well, for instance, Mr. Hicks,
8 Mr. Dille did testify in the civil proceeding?

9 MR. SHOOK: Yes, sir.

10 THE JUDGE: So, at some point, you're going to
11 have to offer either an admission or something, is that
12 true?

13 MR. SHOOK: Yes, sir, we under -- yes, sir.

14 THE JUDGE: And you're going to delineate which
15 portions of their testimony you're offering as admissions,
16 is that what you plan on doing?

17 MR. SHOOK: Yes, sir, yes.

18 THE JUDGE: All right --

19 MR. GUZMAN: Your Honor, if I might seek some
20 clarification on that point.

21 You put your finger on a subject of confusion for
22 me over the last few weeks. As I've wondered how it is and
23 when it is that the Commission would intend to introduce
24 deposition testimony of various people whom they don't
25 intend to call from the civil litigation.

1 Take, for example, the Dille children, that we
2 just talked about, as I've understood this colloquy, it
3 sounds to me as if the Commission intends, at some point, to
4 designate portions of those depositions for admission into
5 evidence.

6 And I think it would be helpful to us, if not to
7 the Court, to have designation prior to the commencement of
8 the oral testimony so that we can discuss that issue and the
9 evidentiary issues that relate to it.

10 THE JUDGE: Well, I understand before -- how soon
11 will you be able to delineate which portions of the
12 testimony you intend to offer as submissions -- I assume
13 that's what you're going to offer?

14 MR. SHOOK: Would the beginning of next week be
15 acceptable?

16 MR. GUZMAN: With, Your Honor's permission
17 perhaps, we could just converse by phone and seek some sort
18 of an agreement about the issue? I would prefer to know
19 sooner than next Monday -- well, strike that, that would be
20 fine. I'm thinking we were going to start next Tuesday, but
21 that's not right.

22 MR. HALL: That's fine with Hicks as well.

23 MR. GUZMAN: That's fine.

24 THE JUDGE: All right. And you're going to do
25 this in writing -- set forth in writing and also send me a

1 copy of --

2 MR. SHOOK: If that's Your Honor's desire?

3 THE JUDGE: Yeah, I'd like to have them and know
4 in advance so I have some idea and can be ready for the
5 arguments.

6 This should have your -- I guess, the admissions
7 of the parties in this proceeding and you intend to offer
8 the entire one, or there too, you intend to just offer
9 portions?

10 MR. SHOOK: Well, in terms of the admissions, we
11 would offer everything except those portions of the
12 depositions included in the exhibits, which, you know, we
13 believe are not relevant. We would, as I said, delineate
14 those by next Monday for the parties and for Your Honor.
15 But, otherwise, we would -- you know, it is our intention to
16 offer the admissions and the responses.

17 THE JUDGE: Anything else you want to clarify and
18 discuss this morning?

19 MR. GUZMAN: Your Honor, in addition to the
20 depositions from the underlying civil litigation, there is
21 also, at least one affidavit and perhaps, some other
22 material from that litigation. Perhaps, we should treat
23 that in the same way because we would also have objection to
24 the admissibility of that material at the appropriate time.

25 MR. SHOOK: If what you're referring to is the

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1 affidavit of Edward Sackley, we understand that there are
2 portions of that affidavit that are pertinent to this
3 proceeding and we could so delineate in our submission to
4 you and to Your Honor as to what portions we intend to offer
5 and what portions we do not intend to offer.

6 THE JUDGE: Mr. Sackley's going to be here, he's
7 going to be a live witness so, I don't know what use the
8 Bureau's going to make of this from the past statements.

9 MR. GUZMAN: I have had the same question, Your
10 Honor.

11 THE JUDGE: Is that, are you going to proceed to
12 ask him questions orally or, you plan on --

13 MR. SHOOK: Well, Yes, sir, I plan to proceed to
14 ask him questions orally.

15 THE JUDGE: All right, the question remains what
16 use you're going to make of any prior statements he made.
17 But, that's for you to tell us, at some point. Anything
18 else?

19 MR. WERNER: Just for a point of clarification.
20 Your Honor, we understand -- as I understand it, is it
21 correct that you'll, that the Bureau will be informing us as
22 to the use it plans to make of that in its communication
23 next Monday?

24 MR. SHOOK: That is correct.

25 MR. WERNER: All right.

1 THE JUDGE: This is Mr. Sackley we're talking
2 about?

3 MR. WERNER: That's correct, sir.

4 THE JUDGE: All right. Anything else?

5 MR. GUZMAN: No.

6 MR. WERNER: No, Your Honor.

7 THE JUDGE: All right. I guess, we'll recess
8 until the 20th and we'll start at 10 a.m. on the 20th,
9 unless the parties prefer to start at 9 a.m.? But,
10 thereafter, we will run from 9 to 4 with an hour for lunch,
11 run consecutively, I don't think there's any holidays
12 intervening so, all right, we're adjourned.

13 (Whereupon, the hearing adjourned at 9:52 a.m.)

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REPORTER'S CERTIFICATE

FCC DOCKET NO.: 98-66
CASE TITLE: IN RE: HICKS BROADCASTING
HEARING DATE: OCTOBER 6, 1998
LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 10/6/98 Elaine Kim Elaine Kim
Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: 10/4/98 Linda Harris-Proctor Linda Harris-Proctor
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PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 10/7/98 Bob Moser Bob Moser
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