

1 A That is correct.

2 Q And the representation was from Mr. Root?

3 A That is correct.

4 Q And the representation was only for purposes of
5 your being a witness?

6 A Yes.

7 Q So in other words, at the time the ALJ's decision
8 came out you did not then go to Mr. Root and say, "Look at
9 what they have done to me. We've got to appeal this."

10 A No, and I'm not sure I had standing to appeal it
11 anyway. I think that was part of the advice that I was
12 given. I was not a party to the applicant, and --

13 Q So in other words, for your name to be cleared one
14 of two things had to happen: either the applicant had to
15 appeal and be successful in some fashion, or you had to find
16 a way to interject yourself into the proceeding and get that
17 ruling changed?

18 A Or we had to have a proceeding like we are having
19 today.

20 Q But you had that understanding back in 1987, that
21 in order to get your name cleared something was going to
22 have to happen with respect to this ALJ decision?

23 A Well, or as an example, one of the applications
24 that I had filed over the years, if that had come up, it
25 could well have been adjudicated, but nobody raised the

1 issue until this application, or at least no one was
2 successful in getting it added until this -- I think Mr.
3 Cole has raised it in other proceedings as well.

4 Q Now, moving on to the review board's decision,
5 which just for ease of reference because we are in the black
6 binder, same black binder.

7 A Excuse me, Mr. Shook.

8 I think the direct response is I was under the
9 impression at the end of the proceedings that this issue had
10 been cleared up.

11 Q When we get all the way to the very end of it.

12 A Okay. Yeah, when you get the final dismissal, I
13 was under the impression that it had been cleared up.

14 Q Right. Well, I'm just --

15 A Okay.

16 Q -- trying to -- I'm trying to clarify the record
17 to see that we are all on the same page --

18 A Okay.

19 Q -- in terms of understanding when you think the
20 matter was resolved.

21 A Yes, okay.

22 Q At this point in time, as I understand your
23 testimony, we understand. We have an understanding between
24 us that the matter was not resolved to your satisfaction or
25 in your favor at the time the ALJ's decision was issued?

1 A That is correct.

2 Q Now, moving on to the review board decision, which
3 is Official Notice Document No. 3, I take it you had an
4 opportunity to see this decision.

5 A Yeah.

6 Q You read it shortly after it was issued.

7 A Yes.

8 Q Now, are you saying that roughly contemporaneous
9 with this decision, July 1988, did you have an understanding
10 or let me rephrase this.

11 As of July of 1988, what was your understanding as
12 to what the review board had done vis-a-vis you with respect
13 to the real party in interest issue?

14 A When their next ruling came out you're talking
15 about -- I want to make sure I've got the right time frame.
16 Is that the first review board --

17 Q Yes, sir.

18 A Okay. It was my understanding at that point they
19 had limited the real party in interest issue to the issue of
20 comparative or to integration credit, and that Ms. Van
21 Osdale was not going to get it, and that it was her error in
22 not having disclosed me in her application; and that in fact
23 that was the limit to any problem.

24 Q Were you a party to any conversations at that
25 point as to whether or not that decision needed to be

1 appealed further?

2 A What? In terms of San Bernardino's? No, not at
3 all.

4 Q Were you a party to any conversation as to whether
5 or not you should try to interject yourself into the
6 proceeding at this point to change the review board's
7 decision in any way?

8 A I think by that time I was not financially -- and
9 I want to make sure that's the right time frame.

10 Q Well, coincident or not, it happens to be one
11 month to the day before the Anacordes, Washington decision
12 that we had been talking about earlier.

13 A Like I say, I wasn't -- I wasn't spending a lot of
14 time trying to fix other problems and forest fires that were
15 raging in my life at that point.

16 MR. SHOOK: Your Honor, I think I have almost
17 covered everything I have, but I want to take one last look
18 at my notes.

19 JUDGE SIPPEL: Very well. Let's go off the record
20 while he's doing that.

21 (Pause off the record.)

22 MR. SHOOK: There is one final area I want to
23 cover. Famous last words "no more questions," but we're not
24 quite there yet.

25 BY MR. SHOOK:

1 Q You have been involved in a number of applications
2 through the years, that's what you indicated in your
3 testimony, and one of the things that happened in San
4 Bernardino, for example, is that the dismissed applicants
5 received settlement payments at the very end of the
6 proceeding.

7 A Yes

8 Q You understood that?

9 A Mm-hmm.

10 Q Were you ever involved in a situation where you
11 were connected with, and I use that term very loosely here,
12 but connected with an applicant that paid off other
13 applicants to dismiss?

14 A Yes.

15 Q Do you recall whether any of the applicants that
16 had dismissed their applications had pending at the time of
17 the dismissal an issue that they had to face or an adverse
18 finding that they had to deal with?

19 A Yes.

20 Q And could you tell us, you know, what the
21 circumstances were for the situation that you are thinking
22 of?

23 A I was thinking of Ms. Shaw's application in
24 Avalon. Oh, you limited it -- I'm sorry. You limited that
25 to people who paid off other people to dismiss.

1 Q Right, right.

2 A I'm sorry.

3 Q So what I'm thinking about is --

4 A I -- I --

5 JUDGE SIPPEL: Wait, wait. Let him --

6 THE WITNESS: I'm sorry. Go ahead.

7 MR. SHOOK: Just to make sure we understand each
8 other.

9 BY MR. SHOOK:

10 Q As I recall from the testimony in the record as
11 it's developed, Ms. Shaw did not receive an money for
12 dismissing her application?

13 A That's correct. That's correct. I'm trying to
14 think --

15 JUDGE SIPPEL: That's okay. You've answered the
16 question.

17 THE WITNESS: I do not believe so.

18 BY MR. SHOOK:

19 Q So in other words, you aren't familiar with any
20 situations where you were connected with an applicant that
21 paid off another applicant to dismiss its application?

22 A Where their issues were cleared up. Not to my
23 recollection, but I've been in a lot of cases, you know,
24 advisor or something, where maybe there is something that I
25 don't recall. But I don't recall any, no.

1 Q Now, looking at Reading Exhibit 46, it's your
2 testimony, pages 3 and 4, and what I am focusing on is
3 paragraph eight.

4 A Pages 3 and 4 you said?

5 Q Correct.

6 JUDGE SIPPEL: This is your written testimony.

7 THE WITNESS: Yes. Paragraph eight?

8 MR. SHOOK: Yes, sir.

9 BY MR. SHOOK:

10 Q Now, the particular sentence that I want you to
11 focus on, it's the very last sentence in the paragraph which
12 begins on page 3 and carries over to page 4.

13 A Yes.

14 Q What Commission rules are you referring to in this
15 sentence?

16 A Well, again, that's what I believed at that time.
17 What I believed then and what's been told me to me since are
18 somewhat difference. So I believed that clearly if -- in
19 the case of San Bernardino -- they hadn't resolved those
20 issues, that it would not have allowed the settlement
21 payment.

22 Q And when you say the "Commission's rules," I'm
23 just asking whether you have one or more particular rules in
24 mind.

25 A No. I believed that was the case, either rule or

1 precedent or whatever, and I found out that I may have been
2 mistaken.

3 MR. SHOOK: Your Honor, I have covered all the
4 areas I want to. I have nothing further.

5 JUDGE SIPPEL: You have anything on these areas,
6 Mr. Cole?

7 MR. COLE: No, Sir. I have nothing

8 JUDGE SIPPEL: Time for redirect.

9 MR. HUTTON: Thank you.

10 REDIRECT EXAMINATION

11 BY MR. HUTTON:

12 Q Mr. Parker, I would like you to refer to Reading
13 Exhibit 46, Attachment J.

14 A Yes.

15 Q And particularly, page J-3.

16 A Yes.

17 Q Do you recall questions by Mr. Cole concerning
18 whether the balance amendment in your mind or whether this
19 amendment in your mind included the San Bernardino
20 application?

21 A Yes, I do.

22 Q And do you recall indicating that you did not read
23 that amendment to refer to the San Bernardino application?

24 A Yes.

25 Q Was that testimony based on your state of mind

1 today or on your state of mind at the time you reviewed and
2 signed the amendment?

3 A That's based on today. I believe I told Mr.
4 Shook, in answer to his question, that in fact, in 1992,
5 clearly I believed it to be connected with San Bernardino.

6 MR. HUTTON: I have nothing further.

7 JUDGE SIPPEL: Okay. That's it. That's it, Mr.
8 Parker, unless there is a page 4.

9 (Laughter.)

10 MR. COLE: Don't look to me. I don't start these
11 things.

12 (Laughter.)

13 JUDGE SIPPEL: Let's -- go ahead. Keep going.
14 Let's get these exhibits --

15 MR. COLE: Your Honor.

16 JUDGE SIPPEL: Exhibit 84.

17 MR. COLE: Was the Sidley opinion letter dated 12-
18 31-91, which, again, I identified primarily for background
19 reformative purposes, and since we have discussed and
20 described it in the record, I would move that into evidence
21 as Adams 84.

22 JUDGE SIPPEL: All right. I have that -- I have
23 that recorded as in, but let's do it again.

24 Do you have any objection to that?

25 MR. HUTTON: No objection.

1 JUDGE SIPPEL: All right, if it's not in already,
2 No. 84, as identified by Mr. Cole, is now received into
3 evidence as 84.

4 MR. COLE: Thank you, Your Honor.

5 JUDGE SIPPEL: Eight-five?

6 MR. COLE: Is the Avalon memorandum opinion and
7 order released June 29, 1987, concerning Ms. Shaw's
8 application. There was not only testimony during cross-
9 examination by me, but I believe on cross-examination by Mr.
10 Shook Mr. Parker mentioned it as well. So I think it would
11 be appropriate to leave that in the record as well. And on
12 that basis, I offer it into evidence.

13 JUDGE SIPPEL: Any objection?

14 MR. HUTTON: None.

15 JUDGE SIPPEL: It's received in evidence as
16 Exhibit 85.

17 (The document referred to,
18 previously identified as Adams
19 Exhibit No 85, was received in
20 evidence.)

21 JUDGE SIPPEL: And No. 86.

22 MR. COLE: Is the Avalon memorandum opinion and
23 order dated August 24, 1990, and again there was cross-
24 examination during both my examination and Mr. Shook's, and
25 I believe it would be appropriate to include that, and

1 therefore I offer that into the record.

2 JUDGE SIPPEL: No objection?

3 Number 86 is identified as Adams Exhibit No. 86 is
4 received in evidence.

5 (The document referred to,
6 previously identified as Adams
7 Exhibit No. 86, was received
8 in evidence.)

9 MR. COLE: Thank you, Your Honor. I think that
10 completes all my exhibits. I don't think I have anymore.

11 JUDGE SIPPEL: That finishes my count.

12 Just a very short administrative comment here. I
13 notice that the binder has been the -- the official notice
14 documents has been referred to in the questioning as Adams
15 official notice documents, and that's the way it really
16 should be.

17 I had indicated that it should be Office Notice
18 Documents No. 1 because I thought that maybe there might be
19 something coming afterwards. But I'm going to eliminate the
20 one so that in your citations it only needs to be referred
21 to as Adams official notice documents, and if the reporter
22 would straighten that out too in your notes.

23 That's it until 9:30 tomorrow morning.

24 MR. COLE: Ms. Friedman, right?

25 JUDGE SIPPEL: Ms. Friedman.

1 MR. COLE: She is the only one we have on the
2 agenda for tomorrow?

3 JUDGE SIPPEL: She is the only one since we are
4 finished with Mr. Parker, so that shouldn't take more than a
5 couple hours at best.

6 MR. COLE: No more than a couple hours.

7 JUDGE SIPPEL: All right.

8 MR. COLE: Probably less than that, I think.

9 JUDGE SIPPEL: All right. And then you all will
10 get on and do your thing with Mr. Shook and Judge Sippel.

11 MR. COLE: Mr. Shook will make us.

12 (Laughter.)

13 JUDGE SIPPEL: All right. Then we are in recess
14 until 9:30. Thank you, Jim.

15 ALL: Thank you, Your Honor.

16 (Whereupon, at 5:35 p.m., the hearing in the
17 above-entitled matter was recessed, to resume at 9:30 a.m.,
18 on Thursday, June 15, 2000.)

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REPORTER'S CERTIFICATE

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HEARING DATE: June 14, 2000
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.

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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.

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