

1 Q Good morning, Mr. Sherwood.

2 A Good morning.

3 Q Just for the record, would you state your full  
4 name and address please.

5 A Paul Willis Sherwood, 79 Nut Road, Phoenixville,  
6 Pa, 19460.

7 Q Thank you. Your date of birth?

8 A April 5th, 1963.

9 Q What is your current occupation?

10 A Pardon?

11 Q What is your current occupation?

12 A I'm a computer consultant.

13 Q What was your occupation in May through June of  
14 1994?

15 A In that period of time I was doing computer  
16 consulting as well.

17 Q Now, at some point you were hired by Howard  
18 Gilbert to do some videotaping. Do you remember that?

19 A Yes.

20 Q Do you recall about when that was?

21 A To my best recollection, in '95? '94? My, the  
22 paperwork that you have in the original deposition, that's  
23 my best recollection of the period of time when I did this.

24 MR. SOUTHARD: Your Honor, may I approach the  
25 witness?

1 THE COURT: Please do.

2 MR. SOUTHARD: I'm going to hand the witness a  
3 copy of, it's from Adams, the blue volume, and it's Exhibit  
4 Number 77.

5 (The document referred to was  
6 marked for identification as  
7 Adams Exhibit No. 77.)

8 BY MR. SOUTHARD:

9 Q Mr. Sherwood, does that help refresh your  
10 recollection as to the dates?

11 A Yes. I don't know exactly when we started, but  
12 this is about that period of time, July '94.

13 Q Do you know how it was that Mr. Gilbert came to  
14 contact you about doing that videotaping?

15 A Mr. Gilbert has a daughter, apparently, I was  
16 told, who knew my brother, worked in a restaurant with my  
17 brother in Chicago.

18 Q And --

19 A And she apparently, her father had asked if he  
20 knew anybody from the Philadelphia area, and she mentioned  
21 my brother and my brother mentioned that his brother, me,  
22 was living in the Philadelphia area.

23 Q Where in the Philadelphia area were you living at  
24 that time?

25 A In Chester Springs, which is approximately 30

1 miles west of Philadelphia.

2 Q When you first spoke to Mr. Gilbert, did he ask  
3 you where you lived?

4 A Yes. I believe he asked me where I lived in  
5 relation to Reading, Pennsylvania.

6 Q And you told him 30 miles?

7 A Well, yeah. Reading's approximately 30 miles from  
8 Chester Springs.

9 Q And that's what you told him.

10 A Yes.

11 Q When Mr. Gilbert first hired you, what did he tell  
12 you to record?

13 A I was contacted. He was looking to record the  
14 Home Shopping channel, and that's what he had asked me to  
15 do.

16 Q Did he ever tell you anything about recording  
17 Reading channel 51?

18 A He may have, but it's been so long, I don't  
19 recollect the specific station number. To my best  
20 recollection, we talked about the Home Shopping channel.

21 Q Do you recall that, appearing for a deposition in  
22 Reading?

23 A Yes.

24 Q Do you recall at that time that I asked you  
25 whether Mr. Gilbert had ever told you or mentioned WTVE or

1 channel 51?

2 A I don't recollect him specifically mentioning that  
3 name. My initial understanding of WTVE was when this whole  
4 thing came up and I was subpoenaed. That's when that, to my  
5 best recollection when I started, when I can remember WTVE.  
6 The whole focus of the taping was the Home Shopping channel.  
7 I don't recall him specifically saying WTVE at that point in  
8 time. It's been so long.

9 Q When you first spoke to Mr. Gilbert, did he ask  
10 you anything about your qualifications?

11 A Not that I recall, but again, it's been so long.  
12 It's six years. He could have asked me lots of things, but  
13 --

14 Q Okay. Again, referring to your deposition, on  
15 page 37, do you have a copy of your deposition handy?

16 A No I don't. Is it in this --

17 Q I have, I have a copy.

18 MR. SOUTHARD: Your Honor, may I approach the  
19 witness?

20 THE COURT: Please. Yes sir.

21 MR. SOUTHARD: I'm handing the witness a copy of  
22 his deposition transcript.

23 BY MR. SOUTHARD:

24 Q Mr. Sherwood, if you could take a look at page 37  
25 please.

1 A Yes.

2 Q Line 19. Question: "When you spoke to him," and  
3 that refers to Mr. Gilbert, "that first time, did he ever  
4 ask you anything about your qualifications for doing this  
5 project?" Answer: "No, he didn't." Do you recall that?

6 A Yes.

7 Q Was that testimony accurate?

8 A Yes. Again, it's been so long. If I did say I  
9 had any qualification, I don't recall him, it would have  
10 stuck in my mind if he was looking for a, I think if he was  
11 looking for a specific person --

12 MR. COLE: Objection, Your Honor. Last week I was  
13 criticized a number of times for not presenting the full  
14 context of quotations that I was asking witnesses to attest  
15 to. Mr. Southard neglected to continue the colloquy that  
16 appears at the bottom of page 37, where he asked the  
17 witness, "Did that," referring to questions of  
18 qualifications, "come up at any subsequent conversations?"  
19 Witness response: "I don't recall, I don't recall," which  
20 is my understanding is his testimony this morning.

21 MR. SOUTHARD: Your Honor, Mr. Cole's going to  
22 have an opportunity to cross-examine and he can bring in any  
23 part of this deposition transcript he'd like at that time.

24 THE COURT: Well, that's true. I mean I know  
25 exactly where you're coming from and what you're saying, Mr.

1 Cole, but you do have your, you will have an opportunity to  
2 recross or redirect this witness and I guess it would be in  
3 a cross-examination for you. Let's try and let Mr. Southard  
4 finish. But you've noted your objection and now you've  
5 clarified it. Is that right?

6 MR. COLE: Yes, Your Honor, and I'd also like to  
7 say that when the same objection was made to questions I was  
8 presenting, I didn't hear that response from Your Honor, but  
9 that's neither here nor there. I'm perfectly happy to  
10 proceed.

11 THE COURT: Well, let me stop you right there.  
12 What was my response?

13 MR. COLE: My recollection, Your Honor, was that I  
14 was expected to present the entire context of information  
15 that I was quoting. That was my understanding. And all I'm  
16 asking is the same, and I mean, I can raise, everybody's  
17 right that I can raise this on cross-examination, and I'm  
18 prepared to do that, but it seemed to me that if we were  
19 trying to move the case forward reasonably quickly, this is  
20 not brain surgery and it's not, you know, especially  
21 difficult to do, but if Your Honor wants me to in  
22 cross-examination, I'm happy to do it in cross-examination.

23 THE COURT: Well, no. I don't want, what I want  
24 done is I want it done the same for you as was done for  
25 them, or vice versa. Mr. Southard?

1           MR. SOUTHARD: That's fine. My question had to do  
2 with the initial conversations. I wasn't asking him about  
3 subsequent conversations and, therefore, the context about  
4 the questioning about subsequent conversations wasn't part  
5 of my question and it wasn't part of the deposition  
6 citation.

7           THE COURT: Well, that's what I thought I heard.  
8 All right. Well, you know, my instruction is to not leave  
9 out portions of anything that is in the narrative that  
10 applies to the question; however, you've drawn a distinction  
11 and I think that you acted appropriately.

12           MR. SOUTHARD: Thank you, Your Honor.

13           THE COURT: Let's move forward.

14           BY MR. SOUTHARD:

15           Q     Did Mr. Gilbert, when you first spoke to him, did  
16 he ask you whether you whether you'd done any videotaping  
17 projects like this before?

18           A     I don't recollect. Again, it's been so long. I  
19 may have told him in high school I was part of the media  
20 club or something, which, you know, certainly, I'm familiar  
21 with taping equipment and cameras and things like that,  
22 going back a ways. But I don't recall.

23           Q     Have you ever, I mean in the media club in high  
24 school did you do a two-week or three-week taping 24 hours  
25 like this?

1 A No sir.

2 Q Prior to the time you did this videotaping project  
3 for Mr. Gilbert, had you done anything similar to that  
4 before for anyone else?

5 A No sir.

6 Q Did Mr. Gilbert tell you at that time, and again,  
7 that's when you first spoke to him, why he needed the tapes?

8 A Just in that he was working on a case and he was,  
9 or he was working with a, he was working with a company, and  
10 he needed tapes made of this Home Shopping channel, but I  
11 don't recall asking him specifics.

12 Q Did he mention the name of the company?

13 A Not, again, I don't recall the initial  
14 conversation. I believe I may have asked him when he paid  
15 me my first check and it wasn't from him directly, it was  
16 from this Adams Communication. I may have asked him about  
17 it then.

18 Q So the check you received was an Adams  
19 Communications check?

20 A Yeah. One of your exhibits here, I think that  
21 you'll, it's in there, I believe.

22 Q Actually, if you can take a look at Adams Exhibit  
23 77, page 4. It's in the blue binder. It's the last  
24 Exhibit. I believe that binder is numbered 16. There it  
25 is. Is that a copy of a check you received from Mr.

1 Gilbert?

2 A I believe it is, yes.

3 Q And that's an Adams Communications Company check?

4 A According to the letterhead, yes.

5 Q Did Mr. Gilbert ask you to make any logs of the  
6 recordings?

7 A Just in, he wanted to know a ballpark time of day  
8 that the public service announcements came on in the tapes  
9 that we were making.

10 Q Did he specify why he was interested in the public  
11 service announcements?

12 A To my best recollection, the television station is  
13 supposed to broadcast a certain number, I don't know what  
14 that number is, but a certain number of public service  
15 announcements in the course of their broadcasting day, and  
16 that's what we were looking for.

17 Q Did he say why he was concerned about that?

18 A To my best rec -- I can't, I can't recall if we  
19 talked about that or not, but that was the focus, was the  
20 public service announcements.

21 Q Did he indicate to you that there was an urgency,  
22 time-wise to receiving these tapes?

23 A Uh, the urgency, I believe it was on my part when  
24 he said he would pay me to make the tapes, that I would get  
25 them, well, you know, record them and get them back to him

1 as quickly as possible.

2 Q That was your own initiative?

3 A Pretty much, yes.

4 Q If you, I'm sorry, once more, to the blue binder,  
5 Adams Exhibit 77. It's the last, the last one there. Pages  
6 two and three. Is that one of the logs that you prepared?

7 A They're both logs I transposed from my handwritten  
8 scribble into these sort of spreadsheet layouts, so that it  
9 looked somewhat professional and it was easy to understand  
10 when the public service announcements, easier to understand  
11 when they came on, just the approximate time of day that the  
12 public service announcements came on.

13 Q At any time, did Mr. Gilbert tell you that these  
14 tapes were going to be used in connection with an  
15 application to the FCC?

16 A I don't recall. I don't recall him ever saying  
17 that.

18 Q How did you go about making the recordings?

19 A Basically, set the time, say, six in the morning,  
20 a tape would go into the VCR, and it was, it was tuned to  
21 record the, or set to record the proper channel, this Home  
22 Shopping channel, and the counter on the VCR was zeroed.  
23 Approximately, I don't know, maybe 12-hour tapes, I guess,  
24 the, yeah, the tape would come out. I had to be back to  
25 swap tapes out and then zero the counter again for the next

1 tape, and then the, then that, the finished tape would be  
2 reviewed in another machine, basically fast forwarding  
3 through it, keeping an eye out for the public service  
4 announcements and the approximate counter, the counter  
5 setting when it came on and then the approximate time of day  
6 that it occurred.

7 Q Where did you make these recordings?

8 A I produced the recordings on a VCR, which was in a  
9 room in the house that I was a tenant in at that period of  
10 time.

11 Q And that was your Chester Springs address?

12 A Correct.

13 Q Was anybody else involved in the actual recording  
14 process?

15 A No. I made the tapes.

16 Q And all of the tapes were done at the same  
17 location?

18 A Recorded? Yes.

19 Q You used the same VCR to make all of the  
20 recordings?

21 A That's correct.

22 Q Was the VCR you used to make these recordings  
23 connected to a cable input or to an antenna input?

24 A It was connected to a cable input.

25 Q Was that true for the entire time of the taping?

1 A Yes.

2 Q Do you recall what cable system that was?

3 A I'm almost certain that it's Suburban Cable where  
4 we live.

5 Q Did you, did you tell Mr. Gilbert that you were  
6 connected to Suburban Cable?

7 A Again, it may have come up, but I don't recall a  
8 specific conversation about it.

9 Q From the beginning of the project until the end of  
10 the project did you tape the same channel?

11 A Yes.

12 Q That was the Home Shopping channel?

13 A That's correct.

14 Q Now, you mentioned that you reviewed the tapes  
15 before you sent them to Mr. Gilbert. Is that correct?

16 A Yes.

17 Q Did anyone help you in the review process?

18 A As I stated in my earlier deposition in Reading, I  
19 had my neighbor, who lived about a quarter mile away, review  
20 some of the tapes. I went through a couple with her to show  
21 her how I was doing it, and I'm not sure exactly how many  
22 she did. It was just a handful. She was a, she was helping  
23 me to try to expedite it so I could get them off and we  
24 could get paid.

25 Q And that, she was the only person that helped you?

1 A That's correct.

2 Q Now, during the course of the videotaping, did you  
3 talk to Mr. Gilbert?

4 A I made Mr. Gilbert a couple tapes -- a few days  
5 worth of tapes and sent them to him, and then he called me  
6 back and said he wanted me to do the longer stretch of  
7 tapes, because he reviewed the ones that I had sent him, at  
8 which point I started the consecutive set of tapes. I don't  
9 know, whatever it was, 16 days or whatever, and at that  
10 point, somewhere in there after, I think I sent him the  
11 first, like, five days tapes or something and we may have  
12 spoken then, and to my best recollection, that's, I spoke to  
13 him once.

14 Q Once during the entire time of the taping?

15 A I don't recall specifically, but I know I spoke to  
16 him at length once.

17 Q Did you, you didn't speak with him daily?

18 A Not to my recollection, no.

19 Q Were you ever asked to inspect the public files  
20 for channel 51, WTVE TV in Reading?

21 A No.

22 Q Have you ever worked as a professional media  
23 consultant?

24 A No.

25 Q As of the time you made these tapes, did you

1 consider yourself to be an expert at evaluating television  
2 programming?

3 A No.

4 Q Did you ever hold yourself out to Mr. Gilbert as  
5 having experience in evaluating television programming?

6 A I don't think so, no.

7 Q As of the time you made these tapes, did you  
8 consider yourself to be an expert at evaluating the public  
9 service performance of television stations?

10 A No.

11 Q Did you ever hold yourself out to Mr. Gilbert as  
12 having any experience in evaluating the public service  
13 performance of television stations?

14 A No.

15 Q Thank you, Mr. Sherwood. For my part, I'm done  
16 for now.

17 THE COURT: Mr. Cole?

18 MR. COLE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. COLE:

21 Q Good morning, Mr. Sherwood. For the record, I'm  
22 Harry Cole.

23 A Pleased to meet you.

24 Q I'm counsel for Adams Communications Corporation,  
25 and you and I have spoken before in the past, but we've

1 never met. Let me just ask one clarifying question. Have  
2 you and I spoken since your deposition?

3 A No sir.

4 Q Thank you. Mr. Sherwood, am I correct that Mr.  
5 Gilbert made it clear to you when he first hired you in 1994  
6 that he wanted to know what non-Home Shopping programming,  
7 such as public service announcements was being broadcast on  
8 the Home Shopping channel in Reading?

9 A He wanted, could you repeat that?

10 Q Sure. I'm sorry. I didn't mean to make it so  
11 long. When Mr. Gilbert first hired you in '94, he wanted  
12 you to, he wanted know what non-Home Shopping programming  
13 was being broadcast on the Home Shopping channel in Reading,  
14 isn't that right?

15 A If public service announcements are non-Home  
16 Shopping, yes.

17 Q And you spent considerable effort to provide him  
18 that information, right?

19 A In, as, yes, I guess you could call this  
20 considerable effort, yes.

21 Q Do you have your deposition transcript in front of  
22 you?

23 A Yes.

24 Q Let me just refer you to page 32, lines four  
25 through seven, referring to Mr. Gilbert, you said, "He said,

1 'I am looking to record 24 hours of this Home Shopping  
2 channel' and he was looking to find out when public service  
3 announcements were broadcasted and just to make a note of  
4 it." Did I read that correctly?

5 A Correct.

6 Q And was that testimony accurate when you gave it  
7 in your deposition?

8 A Yeah.

9 Q Do you have any reason to change it now?

10 A No.

11 Q Now, at page 35 of your deposition, lines one  
12 through three, again, referring to Mr. Gilbert, you said,  
13 "He may have mentioned, he may have mentioned that he was  
14 looking to find out what public service announcements were  
15 being broadcast in that area." Did I read that correctly?

16 A Yes.

17 Q And that was your testimony at your deposition?

18 A Yes.

19 Q And that testimony, to your knowledge, is accurate  
20 as of today?

21 A Yes.

22 Q Next, page 38, lines 12 through 15, again  
23 referring to Mr. Gilbert, the deposition transcript  
24 indicates that you testified that "he," meaning Mr. Gilbert,  
25 "told me that he needed to find out how many public service

1 announcements were being broadcasted on the station on the  
2 Home Shopping channel and the approximate time of day that  
3 they were going off." Did I read that correctly?

4 A Yes.

5 Q And was that testimony accurate, to the best of  
6 your knowledge?

7 A Yes.

8 Q And there's no reason that you know of that your  
9 testimony has changed since your deposition until today.

10 A No.

11 Q And finally, on the next page, page 39, lines 15  
12 through 23, again referring to Mr. Gilbert, the question  
13 was, "Did he tell you why that, did he give you any  
14 indication why he was looking for the public service  
15 announcements?" And you answered, "Just that a TV station  
16 or channel is supposed to air so many public service  
17 announcements as part of their normal operation during the  
18 course of a, you know, broadcast day, and they were just  
19 trying to keep track of how many public service  
20 announcements were on the Home Shopping channel." Did I  
21 read that correctly?

22 A Yes.

23 Q And that was your testimony during your  
24 deposition?

25 A Yes.

1 Q And does that testimony remain accurate.

2 A Yes.

3 Q Thank you. Now, in 1994 -- okay, put yourself in  
4 a time machine and go back to May-June of 1994, okay? Were  
5 you aware that in the Reading area, there were two separate  
6 sources of programming from the Home Shopping network?

7 A No.

8 Q Are you aware of that now?

9 A I have an understanding that the, after reading  
10 some of the information that's been given to me, that the  
11 Home Shopping channel can be sent over the airwaves or it  
12 can be sent through a cable feed. That's my understanding.

13 Q But you didn't know that in '94.

14 A To my best recollection, I didn't, don't recall  
15 having that conversation or understanding at that point in  
16 time.

17 Q So when Mr. Gilbert hired you back in '94,  
18 approximately, May? Did you put a date on that, by the way?  
19 Do you remember when it was?

20 A I don't know. May, June, yeah, somewhere in  
21 there.

22 Q Let me, let me just, let's clear this up if we  
23 can. Look at the blue notebook with the attractive lime  
24 green label on the front, Exhibit Number 76, which consists  
25 of two pages --

1 (The document referred to was  
2 marked for identification as  
3 Adams Exhibit No. 76.)

4 MR. SOUTHARD: That's going to be, in your book  
5 that's going to be Exhibit 15 .

6 THE WITNESS: In this book?

7 MR. SOUTHARD: No, no. The blue book. Yes.

8 MR. COLE: Your Honor, if we could, it may make  
9 this a little bit easier if we give the witness an updated,  
10 a properly cast number for reference purposes.

11 THE COURT: Please.

12 MR. COLE: Number 76 is what we're looking at.

13 MR. SOUTHARD: You don't have a properly numbered  
14 -- ?

15 BY MR. COLE:

16 Q And this consists of two, two pages. One is a  
17 letter over your name but not your signature, and the second  
18 is a check payable to you from Adams Communications Company.

19 A Right.

20 Q And the check from Adams is dated June 8, isn't  
21 it?

22 A Right.

23 Q Does that assist your recollection as to when  
24 approximately?

25 A Yes. Approximately in May, yes. That's a good

1     ballpark.

2           Q     Thank you.  So when Mr. Gilbert hired you in  
3     approximately May of 1994, you didn't advise Mr. Gilbert  
4     that there were two sources of Home Shopping programming in  
5     the Reading area, did you?

6           A     I don't think so, no.

7           Q     Okay.  And you didn't ask Mr. Gilbert which of the  
8     two he wanted you to tape, did you?

9           A     I don't recall.  I don't think so.

10          Q     But you weren't aware that there were two at that  
11     point, were you?  Isn't that what you just testified?

12          A     No.  Yeah.  I wasn't aware that there were, there  
13     were two different ways of feeding.

14          Q     By the way, as of 1994, how have you lived in the  
15     Reading area?

16          A     Approximately --

17                 MR. SOUTHARD:  Objection, to the extent that  
18     Chester Springs is considered in the Reading area.  I think  
19     the witness testified it was the Philadelphia area.

20                 THE COURT:  I'll sustain the objection and ask Mr.  
21     Cole to lay more of a foundation.

22                 MR. COLE:  No problem.

23                 BY MR. COLE:

24          Q     Mr. Sherwood, do you view Chester Springs as being  
25     in the Reading area?

1 A Yeah.

2 Q And as of -- strike that -- approximately how long  
3 have you lived in the Reading area?

4 A Since 1984, I believe.

5 THE COURT: Well, maybe he could explain a little  
6 bit about just how did he come to that conclusion that it's  
7 in the Reading area.

8 THE WITNESS: Well, okay, the Philadelphia area or  
9 Reading area, where Chester Springs is located I would say  
10 is probably almost equidistant. So you could say the  
11 Philadelphia area. When I talk with friends from my town  
12 where I grew up in Schuylkill county, they say, you live in  
13 Philadelphia, and I say, no, I'm just on the other side of  
14 Reading. So geographically, it's, I can go 30 minutes to  
15 Reading, I could go 30 minutes to Philadelphia. It's --

16 BY MR. COLE:

17 Q But you, am I correct? What you just said, you  
18 tell your friends you're just on the other side of Reading?  
19 Is that what you --

20 A Sometimes.

21 Q Were you even aware that there was a station WTVE  
22 licensed to Reading in 1994?

23 A No.

24 Q You recall, Mr. Sherwood, you and I just went  
25 through a couple of your, a couple of excerpts from your

1 deposition testimony. Is it accurate to say that during  
2 your conversations with Mr. Gilbert in 1994, you understood  
3 the term "television station" to be the same thing as  
4 television channel?

5 A Yeah, I assumed they were one and the same.

6 Q So if Mr. Gilbert would refer to a television  
7 channel, you might have understood that to be television  
8 station, or if he'd refer to television stations, you might  
9 heard him say television channel. Is that --

10 A Home Shopping channel.

11 MR. SOUTHARD: Objection. Your Honor. I'm sorry,  
12 objection, calls for speculation.

13 THE WITNESS: Home Shopping channel is what I was  
14 told --

15 THE COURT: I'm going to permit it on  
16 cross-examine.

17 BY MR COLE:

18 Q So if Mr. Gilbert had expected you to tape an  
19 over-the-air television station but you taped a separate  
20 cable Home Shopping channel, something other than what Mr.  
21 Gilbert expected, is it accurate to say that was the result  
22 of miscommunication between you and Mr. Gilbert?

23 MR. SOUTHARD: Objection.

24 THE COURT: Sustained.

25 MR. SOUTHARD: Don't answer that question.

1 BY MR. COLE:

2 Q Mr. Gilbert never said to you, don't tape the  
3 programming on station WTVE, did he?

4 A Don't tape?

5 Q Don't tape, right. He never said that to you.

6 A I don't recall.

7 Q Okay. And he never told you to tape the program  
8 of the cable channel as opposed to WTVE, did he?

9 A I don't recall.

10 Q In case it wasn't clear from the discussion  
11 earlier on, if you could turn to page 37 of your deposition,  
12 and I'm looking specifically to lines 19 through 25, and  
13 this is the section we talked about earlier, but I just  
14 wanted to make sure that the record is clear on this. Am I  
15 correct that Mr. Southard, in the deposition, asked you,  
16 "When you first spoke to him," meaning Mr. Gilbert, "that  
17 first time, did he ever ask you anything about your  
18 qualifications for doing this project?" Your answer was,  
19 "No, he didn't." Mr. Southard then asked you, "Did that  
20 come up in any subsequent conversations?" and you answered,  
21 "I don't recall. I don't recall." Did I read that  
22 correctly?

23 A Yes.

24 Q Is that testimony accurate?

25 A I'd say you could switch both of those answers

1 around. I don't recall and I don't, he didn't ask me, I  
2 don't, it's been so long, it's been six years.

3 MR. COLE: Your Honor, if Mr. Booth might approach  
4 the witness and provide him with a document and copies are  
5 being distributed to Your Honor and other parties. I'll  
6 identify this. This is a document three pages in length  
7 bearing a number of handwritten notations. The first page  
8 has, in the lower right hand corner, a small exhibit label  
9 with handwritten notation, "Sherwood Number 10, 5/19/2000,"  
10 and then some initials. And this is a document which was  
11 produced by Mr. Sherwood at the time of his deposition and  
12 was marked during the deposition as Sherwood Number 10, and  
13 I'd like to have this marked as Adams Number 86, we believe.  
14 87. It's hard to get Mr. Booth to be accurate on a Monday.

15 THE COURT: Adams Exhibit Number 87 for  
16 identification. The reporter will so mark it.

17 (The document referred to was  
18 marked for identification as  
19 Adams Exhibit No. 87.)

20 MR. COLE: Thank you, Your Honor.

21 BY MR. COLE:

22 Q Mr. Sherwood --

23 MR. COLE: Apparently -- excuse me Your Honor,  
24 excuse me Mr. Sherwood. Apparently we are lacking two  
25 copies. We're two copies short for the reporter. If I

1 might, I'll leave to withdraw a copy and provide it to the  
2 reporter later this afternoon.

3 THE COURT: All right. Well, we'll treat it as  
4 being marked.

5 MR. COLE: Thank you.

6 BY MR. COLE:

7 Q Mr. Sherwood, do you recognize this document?

8 A Yes.

9 Q Could you tell us what it is.

10 A These are the rough notes of the reviewing of the  
11 tapes, and when, approximate time of day --

12 THE COURT: Are these your notes?

13 THE WITNESS: Your Honor, I had a friend help me  
14 review some of the tapes, and I want to say that at length  
15 three of these are in her handwriting, I believe. I think  
16 they may all be. The top one looks like -- they all may be  
17 her handwriting. These one, two, three, four, five, I guess  
18 there are six days here. But these are the notes that I put  
19 into the format, like a spreadsheet format so that it would  
20 be more professional looking when I delivered them to Mr.  
21 Gilbert. I wanted them to look a little neater.

22 BY MR. COLE:

23 Q Now, Mr. Sherwood, look in the upper right hand  
24 corner if you could. There's a notation that reads, I  
25 believe, "Howard," and what appears to be a phone number and

1 then another number and then an address. Do you see that?

2 A Yes sir.

3 Q Is that your handwriting?

4 A Yes sir.

5 Q Could you tell me what that is.

6 A It looks like his phone number.

7 Q And when you say his, who is that?

8 A Howard, Howard's phone number. And I believe the  
9 address, that may have been where I shipped the tapes to  
10 when I was finished. And I think the number below it, the  
11 0606, now that I look at this, I think that may be his  
12 shipping number. We may have just charged the tape shipment  
13 to him.

14 Q And when you say Howard, am I correct that you're  
15 referring to Howard Gilbert?

16 A Yes, That's correct.

17 Q And when you refer to a shipping number, do you  
18 know what shipping company that would be?

19 A It's, I don't know, you know, it may be a Fed Ex  
20 number. It could be a Fed Ex number.

21 Q And did you use that Fed Ex number, to the best of  
22 your recollection?

23 A I believe I may have used it. I wasn't sure  
24 exactly. I can't remember how exactly I shipped them, but I  
25 know I shipped them, I don't think I shipped them U.S. mail.

1 I'm pretty sure that they went out either UPS or Fed Ex.

2 MR. COLE: I have no further questions, Your  
3 Honor.

4 THE COURT: Are you going to move this into  
5 evidence?

6 MR. COLE: Yes. I would like to move Adams 87  
7 into evidence.

8 THE COURT: Is there any objection.

9 MR. SOUTHARD: No objection.

10 THE COURT: Let me just ask you a question. The  
11 woman that made the notes, is this the neighbor that you  
12 testified about?

13 THE WITNESS: That's correct sir.

14 THE COURT: And could you tell me what's her name?

15 THE WITNESS: Her name is Aileen Hall, and I  
16 believe they asked for that in the deposition I had in  
17 Reading.

18 THE COURT: All right. How do you spell Alene?

19 THE WITNESS: A-I-L-E-E-N.

20 THE COURT: A-I-L-E-E-N.

21 THE WITNESS: Hall, H-A-L-L.

22 THE COURT: All right. Thank you very much.

23 THE WITNESS: Your welcome.

24 THE COURT: Yes, Mr. Shook.

25 MR. SHOOK: Yes. I have a few questions.

1 THE COURT: Why don't we get Mr. Shook to go first  
2 and then you can go last.

3 THE COURT: Go ahead, Mr. Shook.

4 CROSS-EXAMINATION

5 BY MR. SHOOK:

6 Q Mr. Sherwood, my name is James Shook. I'm with  
7 the Commission's Enforcement Bureau. We're a party to this  
8 proceeding. We had an opportunity to speak briefly on the  
9 telephone during your deposition. At that point, I was a  
10 disembodied telephone voice, and now we can actually meet  
11 each other. You had indicated that you lived in the  
12 Reading/Philadelphia area since 1984. When you began your  
13 residence in that area, was it in the Chester Springs area,  
14 or did you live someplace else?

15 A It was about seven miles west of Chester Springs.  
16 Approximately seven miles. It's called Thorndale,  
17 Pennsylvania.

18 Q So that would place you seven miles closer to  
19 Reading?

20 A It's probably almost equidistant. To give you an  
21 idea, route 30 goes directly from Philadelphia and heads  
22 west towards Lancaster and Harrisburg Pennsylvania, and  
23 Thorndale, where I lived from '84 to '91 or something, is  
24 about 35 miles from Philadelphia if you went straight down  
25 route 30. If you look at it like a pie, Chester Springs

1 would have been a little, I mean the same distance almost as  
2 Thorndale, where I lived.

3 Q The same distance from Reading.

4 A From Reading or Philadelphia. They're almost  
5 equidistant.

6 Q During that '84 to '91 period, did you watch  
7 television via cable or did you watch it over the air?

8 A At that point in time, in that point I lived with  
9 my parents. There was a period, I can't remember the exact  
10 dates, and I lived in a townhouse about five miles from my  
11 parents, which would still be in that area, general area,  
12 very close to home when I was, and I went back to college.  
13 But we had both places we had Suburban Cable, which serves  
14 Chester County, Pennsylvania.

15 Q So the Suburban Cable that you were watching  
16 during the '84 to '91 period was the same cable system that  
17 you were watching when you were in Chester Springs in 1994?

18 A That's correct.

19 Q Did you watch over-the-air television at that  
20 point, the '84 to '91 period?

21 A When you say over the air, do you mean antenna  
22 broadcast?

23 Q Yes. Without the benefit of a cable feed.

24 A Why? I mean I just, I don't--

25 Q For sheer entertainment.

1           A       I mean cable is so clear and antennas are always  
2       so archaic, you know. I have a greater appreciation for  
3       them now, but --

4           THE COURT: The only thing worse than a lawyer  
5       asking a witness why is the witness asking the lawyer why.

6           THE WITNESS: I'm sorry, Your Honor.

7           MR. COLE: Worse for whom.

8           THE COURT: I leave that up to you.

9           THE WITNESS: Sorry, Your Honor.

10          THE COURT: That's okay. You're doing fine. Go  
11       right ahead.

12          BY MR. SHOOK:

13          Q       Now, focusing on the 1994 period, when the taping  
14       occurred that we've been talking about, did Suburban Cable  
15       publish a guide that could tell you what channels or what  
16       television stations appeared on which channel in the system?

17          A       I believe I've seen a guide when I lived the home,  
18       everybody said, oh, let's get the premium cable and all  
19       that, and we discussed cost, but I think we had, like, the  
20       basic cable package, which included a number of stations  
21       that you wouldn't normally watch unless, I mean, the Home  
22       Shopping channel was sort of something that I really  
23       wouldn't, I'm not, I'm not a, I wouldn't say that I'm a  
24       regular viewer of the Home Shopping channel. I think it was  
25       part of the basic cable feed.

1 Q Well, in 1994, how did you determine which channel  
2 it was that you were supposed to tape?

3 A How did I determine? Mr. Gilbert asked me to  
4 record the Home Shopping channel and I don't recall if we  
5 discussed a specific number. It was whatever number it was  
6 on my cable box or my cable-ready TV, what it received. I  
7 don't know what numeric number that, I don't recall what  
8 numeric number that fell on on the cable-ready television,  
9 but my focus was to record this Home Shopping channel for  
10 him.

11 Q You may not have understood the nature of my  
12 question. It was, can you recall, could you tell us how it  
13 was you determined what channel you were actually supposed  
14 to tape?

15 A How was I determined --

16 Q For example, did you have a guide, a cable guide  
17 that you could look at and then you looked through the guide  
18 and determined from that what channel you should tape, or  
19 were you working from memory in terms of you've scanned --

20 A I believe I, I don't recall if I ever looked at an  
21 actual guide. I believe I merely went through the channels  
22 on our cable system and found the Home Shopping channel, and  
23 that's what I recorded.

24 Q Do you know whether or not Suburban Cable carried  
25 WTVE?

1 A I don't recall.

2 Q Do you know now whether it carried it?

3 A I have a satellite dish now, and I don't, I'm not  
4 on that --

5 Q You've graduated from cable. Is that what you're  
6 telling us? (Laughter.)

7 A Well, they didn't have cable run into my house  
8 and, well, rather than editorializing, to get cable it was  
9 easier to get the dish than the two days and the cable  
10 company putting you on hold and then saying we'll get to you  
11 in a month to install it.

12 Q Yes. Some of us have had the pleasure as well.  
13 We understand.

14 A And if I ever move into the woods, I'm taking my  
15 dish with me.

16 THE COURT: This is not a regulatory hearing.  
17 (Laughter.)

18 MR. SHOOK: Right. We're not slamming the cable  
19 company here, even though it may sound like it.

20 BY MR. SHOOK:

21 Q Now, how long did you stay at the Chester Springs  
22 location after the summer of 1994?

23 A I know I lived there for four years, and I want to  
24 say that, maybe two years after that? Or a year. I lived  
25 there for about four years and then I purchased a home and

1 moved seven miles, I guess, closer to Philadelphia in little  
2 town called Knudsen (phonetic).

3 Q While you were in Chester Springs, did it ever  
4 come to your attention that there was a Channel 51 in  
5 Reading?

6 A I just, I don't recall at this point in time if I  
7 ever focused on that because I -- the primary stations that  
8 I would watch would be the local Philadelphia news stations  
9 that were on cable. I was more concerned what was going on  
10 in the Philadelphia area, I guess.

11 Q Well, prior to your deposition, did there come a  
12 time when you became aware that there was a Channel 51 in  
13 Reading?

14 A No.

15 Q So it wasn't until your deposition that you had  
16 any knowledge that Channel 51 in Reading existed?

17 A To my best recollection, yeah. I never really  
18 tuned in, again, you know, after reading this thing about  
19 antenna feeds and cable feeds, my understanding is that  
20 there's a station that broadcasts via airwaves, and I, you  
21 know, I had cable all the time. I didn't have an antenna  
22 and a rotator and all that good stuff and rabbit ears. I  
23 just didn't have rabbit ear. Just had cable.

24 Q It's a shame. You've missed out. Anyway, I have  
25 nothing further.

1 MR. SOUTHARD: Just one question, Your Honor.

2 THE COURT: Mr. Southard.

3 REDIRECT EXAMINATION

4 BY MR. SOUTHARD:

5 Q Mr. Sherwood, I believe you testified that you'd  
6 tape the same channel throughout the course of the taping  
7 project.

8 A Correct.

9 Q Did Mr. Gilbert ever tell you that you were taping  
10 the wrong channel?

11 A I don't, honestly, I don't recall. Home Shopping  
12 channel is what he wanted me to record. And if I said I was  
13 taping CNN, he would have, maybe he would have said you're  
14 taping the wrong channel, but we weren't, he said, you know,  
15 we're taping the Home Shopping channel. That's what I was  
16 doing.

17 Q Okay.

18 MR. SOUTHARD: Nothing further, Your Honor.

19 MR. COLE: Nothing here, Your Honor.

20 MR. SHOOK: Nothing further.

21 THE COURT: All right. You're excused. Thank  
22 you, Mr. Sherwood. I appreciate your coming down here and  
23 we recognize, I recognize, that you were here in a timely  
24 manner, timely fashion and prepared to go on the stand.  
25 Unfortunately, we had some administrative hitches, plus we