

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In re applications of:)	DOCKET No.: MM <u>99-153</u> /
)	
READING BROADCASTING, INC.)	File No.: BRCT-940407KF
for Renewal of License of)	
Station WTVE-TV Channel 51,)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS CORP.)	File No.: BPCT-940630KG
for Construction Permit for a)	
new Television Station to)	
operate on Channel 51,)	
Reading, Pennsylvania)	

JUL 5 2 57 PM '00
 FCC-0ALJ RCD

Volume: 24
 Pages: 2327 through 2413
 Place: Washington, D.C.
 Date: June 20, 2000

HERITAGE REPORTING CORPORATION

Official Reporters
 1220 L Street, N.W., Suite 600
 Washington, D.C. 20005-4018
 (202) 628-4888
 hrc@concentric.net

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

In re applications of:)	MM DOCKET No.: 99-153
)	
READING BROADCASTING, INC.)	File No.: BRCT-940407KF
for Renewal of License of)	
Station WTVE-TV Channel 51,)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS CORP.)	File No.: BPCT-940630KG
for Construction Permit for a)	
new Television Station to)	
operate on Channel 51,)	
READING, PENNSYLVANIA)	

FCC
Room No. TW-A-363
445 12 Street, N.W.,
Washington, D.C.

Tuesday,
June 20, 2000

The parties met, pursuant to the notice of the
Court, at 9:34 a.m.

BEFORE: HONORABLE RICHARD L. SIPPEL
Presiding Judge

APPEARANCES:

For Reading Broadcasting, Inc.:

C. DENNIS SOUTHARD IV, Esquire
THOMAS J. HUTTON, Esquire
Holland & Knight, LLP
2100 Pennsylvania Ave., N.W., Suite 400
Washington, D.C. 20037-3202
(202) 828-1848
(202) 955-3000

For Adams Communications Corporation:

HARRY F. COLE, Esquire
Bechtel & Cole Chartered
1901 L Street N.W., Suite 2500
Washington, D.C. 20036

For Telemundo:

MICHAEL D. HAYS, Esquire
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036-6802
(202) 776-2711

For the FCC:

JAMES W. SHOOK, Esquire
Federal Communications Commission
Enforcement Division
445 12th Street, S.W.,
Washington, D.C. 20554
(202) 418-1420

I N D E X

VOIR

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE CROSS</u>	<u>REDIRECT</u>	<u>DIRE</u>
Eric S. Kravetz	2340	2363	2370		
Garrison C. Cavell	2387	2396		2411	

Hearing Began: 9:34 a.m.

Hearing Ended: 2:36 p.m.

Recess Began: 10:52 a.m.

Recess Ended: 1:35 p.m.

E X H I B I T S

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Eric S. Kravetz:</u>			
Adams 51	2343		
I	2346		
Adams 54	2353		
Adams 55	2353		
Adams 60	2359	2363	
Reading 46	2364		
<u>Garrison C. Cavell:</u>			
Adams 68	2405		
Reading 70	2406	2409	

P R O C E E D I N G S1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(9:34 a.m.)

THE COURT: We're on the record. Before we go, as a preliminary matter, I first wanted to see if we could get a determination as to what the final order of witnesses is going to be.

MR. COLE: Sure.

THE COURT: You've got Mr. Kravetz.

MR. COLE: Mr. Kravetz this morning. We have Mr. Cavell this afternoon and Mr. Feckinger (phonetic) tomorrow morning, and I'm hoping we can even begin Mr. Gilbert tomorrow morning, as well, and finish him up tomorrow afternoon.

THE COURT: So you think that it's pretty safe to assume that we should be finished by tomorrow afternoon at some point.

MR. COLE: I am hopeful. I am optimistic, and I think we can do it. It obviously depends on how examination goes in cross --

THE COURT: Sure.

MR. COLE: But I anticipate it's a very doable thing.

THE COURT: All right. Well, I'm going to figure my schedule that way. I mean if we had to go a little bit late into the evening, that's okay with me. I don't think

1 anybody's going to complain about that. But if we have to,
2 if you have to go over on Thursday, we go over on Thursday.

3 MR. COLE: And as far as the two bureau witnesses,
4 Mr. Shook and I are still working on the stipulation, but I
5 think we're very close. I prepared a draft, sent it to him,
6 he edited. I consented to all of his edits, sent him over a
7 revised copy. He edited it some more. And now the ball is
8 back in my court, but I think at this point, I hope to have
9 that out to the parties this afternoon or tomorrow morning
10 so, ideally, we'll get that taken care of, and I don't
11 anticipate that will be a problem.

12 THE COURT: Okay. That was my second thing to ask
13 about. So we're up to date on that, or at least we're on
14 top of that. And does that stipulation contemplate
15 reference to the exhibit --

16 MR. COLE: Yes, it does.

17 THE COURT: That's been marked. And the other
18 third thing on my list was Mr. Parker's letter to Anne
19 Gaulke (phonetic) that we talked about yesterday. Do you
20 have any status on that, Mr. Hutton?

21 MR. HUTTON: I do, Your Honor. I have copies of
22 the full letter.

23 MR. COLE: Excuse me, Your Honor, before we start
24 the proceedings, I should point out for the record that Mr.
25 Gilbert is back in the room, because we're doing a Phase II

1 witness this morning. In the event that you contemplate any
2 discussion about Phase III matters that you don't want Mr.
3 Gilbert here for, you know, please, we'd be happy to have
4 him leave if, as you wish. I just want to make sure that we
5 all understand that he's here.

6 THE COURT: Okay. Good morning, Mr. Gilbert.
7 We'll try not to talk about anything that will make Mr.
8 Gilbert leave the courtroom, but I'll let you know if we get
9 to that point. We don't try to keep too many secrets around
10 here, you know.

11 MR. COLE: And Your Honor, do you contemplate that
12 Mr. Gilbert would be sequestered for Mr. Cavell this
13 afternoon too? He's a phase III witness, but he's not a
14 phase III witness in the sense of Ms. Swanson being a phase
15 III witness.

16 THE COURT: Mr. Cavell was the --

17 MR. COLE: He was our consulting engineer.

18 THE COURT: Consulting engineer. No. Mr. Hutton?

19 MR. HUTTON: I think sequestration would be
20 appropriate for that witness.

21 THE COURT: Mr. Cavell?

22 MR. HUTTON: Yes.

23 MR. COLE: Your Honor, in phase I, Mr. Parker was,
24 I believe, in the hearing room for a number of Reading
25 Broadcasting witnesses, without problem, but --

1 THE COURT: Well, wait a minute, you're shaking
2 your head, Mr. Hutton.

3 MR. HUTTON: I don't believe that was the case,
4 but even if it was the case, phase I did not involve issues
5 of credibility. It was the renewal issue.

6 THE COURT: I see. I see. Well, I'm afraid I'm
7 going to have to grant his motion.

8 MR. COLE: So be it.

9 THE COURT: Because of the nature of the issue.
10 Before I pass on that in final form, I'm going to ask Mr.
11 Shook what his views are on that. Mr. Shook? We're talking
12 about sequestration of Mr. Gilbert during the testimony of
13 Mr. Cavell, who is the engineer. Mr. Hutton wants
14 sequestration because he feels there's a credibility issue
15 with respect to that particular witness that he wants to
16 test with respect to Mr. Gilbert.

17 MR. SHOOK: Sequestration would probably be more
18 prudent.

19 THE COURT: We'll take the more prudent approach.
20 It's good to raise it now. Now, I have a copy, it's just
21 been given to me, this copy of a letter, dated October 8th,
22 to Ms. Gaulke from -- this is from Mr. Parker. Is that
23 correct?

24 MR. HUTTON: Yes.

25 THE COURT: It looks like an 11-page letter, and

1 what I intend to do is to review this document and compare
2 it with what has been marked for identification. The
3 two-page, I don't have the Exhibit Number at my fingertips,
4 but you know that there's a two-page excerpt from this that
5 was attached to an interoffice memo that was prepared by Ms.
6 Swanson's law firm, and that's what this is all about. Is
7 there any, have you talked to counsel? I mean, is there
8 anything that I should know about with respect to the
9 document?

10 MR. HUTTON: Well, I can tell you what I think I
11 know at this point. It's my understanding that the letter
12 was prepared under the direction or by Mr. Topel, who is
13 former counsel for Reading Broadcasting. It was prepared in
14 connection with a potential interest by Telemundo in
15 purchasing some equity interest in Reading Broadcasting.

16 And I think the probative value is diminished by
17 the nature of the letter, because Mr. Parker indicated to me
18 that his understanding of the letter was simply that it was
19 prepared by Mr. Topel to present sort of a worst case
20 analysis of the facts of the matters described under FCC
21 qualifications of Michael L. Parker. And this does not
22 represent Mr. Parker's personal views either at the time of
23 the applica -- well, it doesn't indicate his personal views
24 at the time he prepared the applications and signed the
25 applications that are under examination here.

1 Further, Mr. Parker indicated to me that he did
2 not make any editorial changes to the letter that was
3 prepared for him. And finally, the last paragraph of the
4 letter, there's no defense of any nature asserted in this
5 letter with respect to the allegations that had been
6 presented by Sherberg against Mr. Parker's companies, but in
7 the second-to-last paragraph of the letter, it indicates
8 that, "I intend to seek to resolve the matters in this forum
9 if at all possible, and I am fully confident that I will be
10 vindicated by, A, an exploration of the merits of the
11 charges . . ." and then it continues. So I think the
12 probative value is slim to none.

13 THE COURT: You say this was a letter that was
14 prepared by Mr. Topel?

15 MR. HUTTON: Either prepared by Mr. Topel or under
16 his direction.

17 THE COURT: Or under his direction.

18 MR. HUTTON: The final editor of the letter was
19 Mr. Topel, as I understand it.

20 THE COURT: And then Mr. Parker just signed it?

21 MR. HUTTON: That's my understanding.

22 MR. COLE: I think Mr. Shook was the one who
23 raised the -- I mean, I'm happy to comment on it, Your
24 Honor, but I think Mr. Shook was --

25 THE COURT: No, you're right. Mr. Shook?

1 MR. SHOOK: Well, this is all very interesting,
2 but of course right now it's Mr. Hutton giving you his
3 understanding as opposed to Mr. Parker actually testifying
4 about this letter, the circumstances of its --

5 THE COURT: So your feeling is that Mr. Parker --
6 I'm sorry, I didn't mean to --

7 MR. SHOOK: Well, the circumstances of its
8 creation, what he read, what he understood, if there's
9 something in this letter that he disagrees with, what is it?
10 What disagreement does he have? What would he change? Does
11 this represent, you know, his view or does it represent
12 somebody else's view? And then, after all that is in and
13 we've had a chance to observe his responses to any such
14 questions, then you're in a better position to evaluate
15 whether this letter has any value or not.

16 THE COURT: So what I hear you saying is that
17 you're pressing for a recall of Mr. Parker --

18 MR. SHOOK: I'm looking for a return engagement.

19 THE COURT: A return engagement. Interesting.
20 Mr. Cole.

21 MR. COLE: Your Honor, I agree with Mr. Shook, but
22 I'd also point out that, even assuming everything Mr. Hutton
23 says is accurate -- and I have no reason to doubt his
24 accuracy -- the fact of the matter is that Mr. Parker, as
25 president of this organization, signed this letter,

1 regardless of who wrote it. It could have been written by
2 Mr. Topel. It could have been written by Mr. Parker. It
3 could have been written by anybody. Mr. Parker signed it.
4 And, as reflected in the last paragraph, and also the first
5 paragraph, he signed it knowing that it was going to be
6 relied on in a due diligence review by Telemundo.

7 In other words, it's a -- in terms of the purpose
8 of the document, this is not just something that Mr. Topel,
9 assuming he wrote it, threw together and plunked in front of
10 Mr. Parker. This is something that Mr. Parker must have
11 known, from both the first paragraph and the last paragraph,
12 even if he didn't read anything else, that Telemundo was
13 going to be relying on it and, therefore, while it's nice to
14 say somebody else drafted it, the fact of the matter is Mr.
15 Parker signed it and presumably released it to Telemundo so
16 that they could rely on it. And under those circumstances,
17 the identify of the drafter, it seems to me, is not only of
18 marginal importance as soon as Mr. Parker signs it.

19 THE COURT: What I have to do is read this over
20 the break during lunch, and then I'll come back and when we
21 come back this afternoon, I'll make a determination as to
22 whether or not the entire letter should be turned over. I'm
23 not going to have it turned over before I read it. Secondly,
24 I think that you ought to start talking now about a return
25 date for Mr. Parker. I mean I think you ought to

1 realistically talk about it. I know he's out of the country
2 now. What's the earliest time that we could bring him back
3 in?

4 MR. HUTTON: Well, Your Honor, I'd like to suggest
5 that if we conduct a further examination, that it be done by
6 telephone, because we're running into some scheduling
7 issues. Mr. Parker is out of the country, I think until the
8 27th. I'm planning to be out of the state for the next two
9 weeks, beginning Saturday, and I don't know what the
10 availability of other people is after that point.

11 THE COURT: Well, I'll be out of the country, but
12 I won't be out of the country until the first week of
13 August, so I'll be able to work something in between now and
14 then, certainly. Well, I'm going to ask counsel. I'm
15 assuming that, for one, Mr. Shook said the he wants Mr.
16 Parker in court. Am I correct on that?

17 MR. SHOOK: You are.

18 THE COURT: And what about you?

19 MR. COLE: I concur.

20 THE COURT: I don't feel comfortable in doing this
21 over the telephone. This is too important an issue and the
22 documents are too important. Let's think about what we can
23 do. I'm not going to shortcut the due dates on the proposed
24 findings or implied findings except to carve out very short
25 extensions perhaps, to accommodate this, but this should not

1 hold up putting findings and implied findings together.

2 That's a question, that's an issue for another day
3 to discuss. I realize that, and I certainly am not going to
4 impose the shortest time that I possibly can, recognizing
5 the fact that people do go away in July and August. So I'm
6 factoring that in too.

7 And that's why I'm saying that I don't want this
8 to be a delay, or any kind of a significant delay to getting
9 the papers complement on this case. We'll talk about that
10 before we go close the record. Okay. That's it. We'll get
11 back to this after lunch. I'll bet we have a witness in the
12 witness room today, and I think we probably ought to go and
13 get him.

14 MR. COLE: We have to unhandcuff him, Your Honor.
15 We brought him in last night. Stuck in the witness room
16 with the handcuffs.

17 THE COURT: Why don't we go off the record until
18 he gets back.

19 (There was a brief recess.)

20 Whereupon,

21 ERIC S. KRAVETZ

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

24 DIRECT EXAMINATION

25 THE COURT: Mr. Kravetz, you're here on the behest

1 of Mr. Cole.

2 MR. COLE: Yes, Your Honor. Yes he is.

3 THE COURT: Okay. And he's on the stand and he's
4 been sworn in.

5 MR. COLE: Yes.

6 THE COURT: I apologize for being a little bit
7 late in starting this morning. We had some, as you know,
8 the traditional preliminary matters that were supposed to be
9 five minutes, and here we are 15 minutes. So I apologize
10 for that.

11 MR. COLE: I'm sorry, Your Honor, have you sworn
12 the witness in?

13 THE COURT: He's in. He's all set to go.

14 MR. COLE: Your Honor, we're about to place before
15 the witness a copy of the gray notebook with the attractive
16 international emergency orange labels entitled Adams
17 Communication Corporation Phase II Exhibits. So he will
18 have that for future reference. And let me begin.

19 BY MR. COLE:

20 Q Good morning, Mr. Kravetz. Could you state your
21 name and address for the record please.

22 A Eric S. Kravetz, 3511 Porter Street, N.W.,
23 Washington, D.C.

24 Q And Mr. Kravetz, you are appearing here this
25 morning pursuant to a subpoena served on you by Adams

1 Communication Corporation?

2 A Yes, I am.

3 Q Are you yourself personally represented by counsel
4 today?

5 A No.

6 Q You're an attorney, aren't you?

7 A Yes.

8 Q Could you briefly describe your professional
9 history, just for the record?

10 A I graduated from Harvard Law School in the year
11 1971. I was employed by the Federal Communications
12 Commission for approximately five years, two on the legal
13 staff of the review board, and for the next three -- or the
14 next two, two and a half -- at the hearing division of the
15 mass media bureau, or division of the broadcast bureau at
16 the time. Since then, I've been in private practice. I was
17 with one year Fly and Shubert (phonetic), a law firm,
18 followed by about approximately ten years at Ward &
19 Mendelsohn (phonetic), and I think probably for about
20 another 10 years, approximately, with the firm of Brown,
21 Finn & Neitert (phonetic), that was later named Brown
22 Neitert & Kaufman. And for approximately the past two years
23 I've had my own practice, the law offices of Eric Kravetz.

24 Q And is it accurate to say that you specialize in
25 communications law?

1 A Yes.

2 Q Do you have a specialization within the area of
3 communications law?

4 A Primarily broadcast law.

5 Q Now, if you could open the gray notebook to the
6 tab labeled Exhibit 51 please. This is a document which has
7 been received into evidence as Adams 51, and it's an
8 application on FCC form 315 for Consent to the Transfer of
9 Control of station WHRC, in Norwell, Massachusetts. Are we
10 reading off the same page on this?

11 (The document referred to was
12 previously marked for
13 identification as Adams
14 Exhibit No. 51.)

15 A I do have one question. There is a loose cover
16 page, which is not actually --

17 Q That should be in there. We have not had a chance
18 to put holes in it and put it in there. It was a page --

19 A Okay. I just wanted make sure we were, I had the
20 entire document.

21 Q The first loose page should be a transmittal page
22 from you to the Commission. Is that your signature on that
23 first loose page?

24 A Yes.

25 Q Were you involved in the preparation of this

1 application, which is Adams 51?

2 A I was involved in the preparation of the
3 transferor's portion of the application.

4 Q And who did you represent in connection with this
5 application?

6 A Nikita Magos (phonetic).

7 Q Could you describe exactly what your role in the
8 preparation of the application was? What did you do?

9 A Yes. Shortly before the application was filed, I
10 was asked by Richard Brown, one of the partners, to prepare
11 the transferor's portion of an application for one of his
12 clients, Nikita Magos. He asked me to do this. I was the
13 only broadcast attorney at the firm, and so I went through
14 the files, found out who owned what and basically prepared
15 section one of the form, which is transferor's section. The
16 licensee's section of the form is supposed to be signed by
17 Mr. Magos, and Exhibit 4, I believe, which described the
18 officers and directors of the licensee corporation.

19 Q Did you represent the transferee at all?

20 A No.

21 Q And the transferee, if you'll refer to Adams
22 Exhibit pagination Number eight, Exhibit 51, pagination --
23 and you can see the little tabs down at the lower right hand
24 corner -- was the transferee Two If By Sea Broadcasting
25 Corporation?

1 A Yes.

2 Q And -- I'm sorry, you said you do not represent
3 Two If By Sea.

4 A I do not represent them.

5 Q Did you represent Mr. Michael Parker, who was a
6 principal of Two If By Sea?

7 A Not in connection with this application, at this
8 point.

9 Q Did your law firm represent Mr. Parker at the time
10 of this application in any context?

11 A No.

12 Q Prior to the preparation of this application, I
13 think -- well let me -- strike that and let me back up -- go
14 back to page, the first page of the application form.
15 You'll note up in the upper left hand corner a file number.

16 A Yes.

17 Q "BTCCT910724KG." Would you agree with me that
18 that indicates that this application was filed on July 24th,
19 1991?

20 A Yes.

21 Q Prior to the filing of this application in July of
22 1991, did the firm of Brown, Finn and Neitert represent Mr.
23 Parker in any capacity, to the best of your knowledge?

24 A No.

25 Q And had you personally had any dealings of any

1 kind whatsoever with Mr. Parker prior to the Norwell
2 application?

3 A No.

4 Q Okay. Now look at, please, Exhibit Number roman
5 numeral I, which appears at Adams pagination 16, Exhibit 51,
6 page 16, the pagination in the lower right hand corner.
7 It's a document entitled, upper right hand corner, Michael
8 L. Parker, FCC Form 315. And then, centered, it says,
9 Exhibit I. Are you there?

10 (The document referred to was
11 previously marked for
12 identification as Exhibit
13 No. I for identification.)

14 A Yes.

15 Q Were you involved in any way in the preparation of
16 this Exhibit I?

17 A No.

18 Q Do you know who did prepare that exhibit?

19 A I don't know specifically. I have assumed it was
20 Mr. Parker. He usually did his own legal work to that
21 extent to my knowledge.

22 Q Now you filed the application with the FCC,
23 according to the transmittal letter.

24 A Right.

25 Q Did you assemble the application, put it all

1 together before filing?

2 A I had the portions I had prepared signed by Mr.
3 Magos and I was given, I believe by Mr. Brown, the
4 transferee's section. We, that was already prepared. And
5 as you can see on the application, it was prepared
6 differently than was the form prepared as prepared by our
7 firm.

8 Q When you say, "as I can see," perhaps you could
9 walk me through that and tell me how I could see that this
10 --

11 A Well, for example, on our, on our firm's, I had my
12 secretary simply type -- if you look for street addresses,
13 state and zip code, you'll see there are little boxes, or
14 half boxes prepared, and I always have my secretary just
15 simply type above that. And you'll see in this one there's,
16 they actually tried to, whoever prepared this actually fit
17 the letters in, in the boxes themselves.

18 Q When you say the boxes, you're referring to the
19 form --

20 A I'm sorry. The boxes in the form. For example,
21 sixth and Walnut Streets, they have spaced and inserted the
22 letters into each of those little half boxes on the form.
23 For the name of the transferee, they also put in legal
24 counsel an address, which we wouldn't have. On section two,
25 page three, which is your Exhibit 51, page 10, for example,

1 they put in yes, no, under director or member of governing
2 board.

3 Had I have done that, I would have an X. In
4 short, I was essentially given this. It had been delivered
5 to Mr. Brown. He had gave it to me. I had assembled it
6 with what I had received from Mr. Magos. I wrote my cover
7 letter and submitted it to the FCC.

8 Q Do you have any reason to believe that Mr. Brown
9 was involved in the preparation of the transferee's portion?

10 A I'm positive he wasn't. I was the only broadcast
11 lawyer at the firm. He routinely gave me things to do, and
12 I can conceive of no reason why he would have had me do the
13 short portion for Mr. Magos and then the larger, more
14 complicated version himself. He simply wouldn't have done
15 it.

16 Q Going back to Exhibit I, page 16, do you recall
17 whether you reviewed this exhibit before you filed the
18 application?

19 A I may have simply gone through the materials I was
20 given, to make sure all the pages were there or, but I, in
21 terms of reviewing the substance, no I didn't.

22 Q Did you discuss the information included in this
23 Exhibit I with Mr. Parker at any time?

24 A No.

25 Q Did you discuss the information included in this

1 Exhibit I with anybody representing the transferee at any
2 time?

3 A No.

4 Q And did you ever review -- strike that -- you'll
5 notice in this Exhibit I, particularly on page 17 and then
6 over on page 18, there are a number of citations to FCC
7 decisions. Do you see those?

8 A Yes.

9 Q Did you ever review any of the cases that were
10 cited in this Exhibit I at any time in order to determine
11 whether the representations contained in this exhibit were
12 accurate?

13 A No, I didn't. I didn't represent the transferee.

14 Q The Norwell application was granted, wasn't it, as
15 far as you know?

16 A Yes.

17 Q Could you recall the approximately date?

18 MR. COLE: Your Honor, this is not a --

19 THE WITNESS: No I don't. It would be
20 approximately, I would think, about 45 days after it was
21 filed, but I have no independent recollection.

22 MR. COLE: Your Honor, if I may approach the
23 witness, and I just have a document which will refresh his
24 recollection, I believe. Do you want to see this?

25 THE COURT: You may approach the witness.

1 MR. COLE: Thank you, Your Honor.

2 BY MR. COLE:

3 Q Mr. Kravetz, I'm handing you a document, which is
4 down in the lower right hand corner identified as FCC Form
5 732, March 1983. And you'll also note there's a label down
6 in the lower right hand corner which indicates it was
7 Exhibit Number 3, which you reviewed during your deposition.
8 Does that refresh your recollection as to when the Norwell
9 assignment application we've been looking at was granted?

10 A Yes. September 11th, 1991.

11 MR. COLE: And Your Honor, I'm going to remove
12 this. I'm not proposing to offer this as an exhibit.

13 THE COURT: Very well.

14 MR. COLE: Thank you.

15 BY MR. COLE:

16 Q And am I correct that the Norwell transfer was
17 consummated shortly after the grant?

18 A I believe it was, yes.

19 Q So that would be, could you put an approximate
20 date on it if the application was granted September 11, do
21 you recall when it was consummated?

22 A They may have consummated it earlier or they may
23 have waited 40 days for, after the public notice for
24 finality, and I don't remember.

25 Q But in any event, to the best of your

1 recollection, sometime in September or October. Forty days

2 --

3 A Yes. If I can go back very quickly to Exhibit 51

4 --

5 Q Sure.

6 A Just for clarification as I've been going through
7 the pages. You'll see Exhibit two, item five, and Exhibit
8 three, item seven, and I'll point out that those were, those
9 were prepared by me.

10 Q I see. And this would be page 31 and 32?

11 A Pages 31 and 32.

12 Q Okay. And how do you know those were prepared by
13 you?

14 A They reflect the transferor's evidence, first of
15 all, which means I would have gotten it from our files. And
16 second of all, they're in a different format than the
17 exhibits that were prepared on behalf of the transferee.

18 Q When you say a different format, could you just
19 elaborate on that just a little bit?

20 A What there formats were was to put the name of the
21 individual or the applicant in the upper right hand corner,
22 along with the FCC form number. If you go back to Exhibit
23 I, for example, to that application, if you go back to
24 Exhibit I, where it says "Michael Parker Form 315 Exhibit
25 one," it says "Name and address," followed by "Linda L.

1 Hendrickson FCC Form 315 Exhibit I." Those weren't the
2 form, and I wouldn't have had two separately identified
3 exhibit ones. I plugged in Exhibit two. And you'll see,
4 Exhibit two, item five, and Exhibit three, item seven, those
5 are the ones prepared by, prepared by me.

6 Q Thank you. Now, after the Norwell transaction was
7 consummated, did you and your law firm continue to represent
8 the Norwell licensee in connection with the operation of
9 station WHRC?

10 A I don't believe so. I don't recall having
11 anything more to do with the, with that station.

12 Q Do you recall having any involvement at all with
13 Mr. Parker between approximately October of 1991 and October
14 of 1992?

15 A No.

16 Q Now, moving ahead to October of 1992, I believe
17 you testified earlier on or you mentioned the, Mr. Parker
18 came back into your professional life. Could you tell me
19 how that occurred? When and how that occurred.

20 A I believe, I believe he, I believe Mr. Parker or
21 his company was acquiring a radio station in 29 Palms,
22 California. That might be the next -- I'm not exactly sure.
23 We represented him for a couple of other additional matters.
24 He would come to us whenever he had any specific question.
25 But I can't tell you right now what my --

1 Q Well, let me refer you to Exhibit Number 54.

2 A Fifty four.

3 (The document referred to was
4 previously marked for
5 identification as Adams
6 Exhibit No. 54.)

7 Q Which is an application for assignment of the
8 license of an international broadcast station, KCBI, in
9 Dallas, Texas. And after you've had a chance to look at
10 that, I want you to look at one more item, which is Exhibit
11 Number 55, which consists of an amendment to the KCBI
12 assignment application.

13 (The document referred to was
14 previously marked for
15 identification as Adams
16 Exhibit No. 55.)

17 A Okay.

18 Q Ready?

19 A Yes.

20 Q Does that refresh your recollection as to when Mr.
21 Parker came back into your professional life?

22 A Well, this would have been in October of '92.
23 They had -- his company had filed an application to acquire
24 a station -- this station, KCBI in Dallas, Texas. He had
25 filed it independently of us. Then, either he called me or

1 his, or Linda Hendrickson, his assistant, called me, or the
2 FCC staff called me. I'm not sure who did. There was
3 something missing from the application. They needed an
4 amendment, and so he had called us to patch it.

5 Q But you had not prepared the original 314
6 application for assignment that was filed in August of '92.

7 A No.

8 Q Were you even aware that that had been filed in
9 August of '92?

10 A I don't believe I was.

11 Q Turn if you could please to Exhibit 55, which is
12 the amendment, the Dallas amendment.

13 A Um-hum.

14 Q That's your signature on the first page, is it
15 not?

16 A Yes, it is.

17 Q Okay. I'd like you to walk through, step by step,
18 the process by which you were contacted about putting
19 together this amendment, how you then proceeded to assemble
20 the amendment, get it signed and get it filed, if you could
21 please. I understand you've given us a shorthand up front,
22 a shorthand description of it. If you could take that step
23 by step. You said initially you were contact by --

24 A I was contacted either by Mr. Parker or Ms.
25 Hendrickson or by the staff but, in any event, I was advised

1 there was a problem with the application and could we please
2 fix it. And I talked to Andrea Ellis, who was the FCC staff
3 person at the time who was reviewing the application to find
4 out what the defect was. She advised me that there was
5 nothing explicit in the application that talked about
6 whether character issue had been added or raised with regard
7 to the other applications with which the applicant was
8 connected -- the applicant and its principals were
9 connected.

10 And so what I did then was call Mr. Parker, or
11 rather I called Linda Hendrickson, and then Mr. Parker
12 returned my call. He never, there was never any way to
13 contact him directly. I never had his phone number. I
14 always had to call her, and then she would have him call me.
15 I told him what was missing. I asked him if he could make
16 such a statement. He said yes he could.

17 So I drafted an amendatory statement, generally
18 just, please amend the application, and then I drafted the
19 amendment itself where he supplied the additional
20 information. And I sent it to him for his signature. If it
21 was pursuant to my normal practice, there would have been a
22 cover letter saying, please review these, the enclosed
23 documents to make sure that they're completely, you know,
24 accurate and complete, and if they are, sign them and return
25 them.

1 I did get them returned. I have no memory of the
2 last page of that exhibit, dealing with KCBI International,
3 but I guess one way or the other I received that. And once
4 I'd received the material that was needed, I submitted it to
5 the FCC.

6 Q Do you recall whether you, once you had drafted
7 this language -- no, strike that, let me -- am I correct in
8 understanding that you caused this amendment, which is page
9 three of Exhibit 55, that you caused that to be typed up,
10 that was typed up in your office?

11 A Yes.

12 Q And you drafted that language yourself.

13 A Yes.

14 Q Did you read that language for Mr. Parker before
15 you sent it out to him?

16 A The specific language? No. I advised him of the
17 need for the amendment, what was needed to cure the defect
18 in the application, asked him if I could, if, told him that
19 this is what was needed and could this be submitted. And
20 once he advised me that it did, then I wrote up the
21 language. I don't know whether I read the specific language
22 to him over the phone before I sent it to him, but we had
23 discussed the nature of the amendment that was needed.

24 Q And did Mr. Parker at any time either during those
25 discussions or even after he'd received your amendment in

1 writing, did he ever suggest to you that the language of
2 that amendment was in any way inaccurate? In preparing the
3 amendment, did you undertake any independent research to
4 determine the accuracy of the information that Mr. Parker
5 was giving you?

6 A No.

7 Q Did Mr. Parker ask you to do any such independent
8 research?

9 A No. It was, I think it was clear from the fact
10 that he had filed his own application, that what he wanted,
11 what he'd retained us to do was to cure the defect in the
12 quickest and least expensive way possible.

13 Q Now, if you could, Mr. Kravetz, and I hate to keep
14 having you hop back and forth, but if you'd go back to
15 Number 54, which is the Dallas application, and refer
16 specifically to Exhibit Number Arabic three, which is on
17 page 23 -- 22, 23, 24, and 25. Do you see where we are.

18 A Page 22, 23, 24 and 25?

19 Q Yes.

20 A Um-hum.

21 Q Are the applications that are listed in this
22 Exhibit Number three, are other the applications that you
23 understood to be the subject of the amendment that was being
24 filed in October?

25 A Not specifically. I knew that an Exhibit -- that

1 an application had been filed that referenced applications,
2 and I generally referred to them in the, in my discussions
3 with Mr. Parker in the Exhibit (sic) I drafted. I doubt I
4 even saw this application.

5 Q Before you --

6 A I may have, but only to, in the form of a general
7 reference, but I think probably not.

8 Q And were you yourself familiar with any of the
9 situations that are listed in here?

10 A No.

11 Q "In here," being the Exhibit three.

12 A No.

13 Q Before you prepared the Dallas amendment in
14 October of 1992, you waited to receive a retainer payment
15 from Mr. Parker, didn't you?

16 A Yes.

17 Q Why was that?

18 A We hadn't, we regularly were not paid for the work
19 that we had done, and usually it was, if we had to do
20 something else, we said we'll only do it if you first pay
21 your outstanding bill, and we made a practice with him,
22 after our experiences to, in fact, get paid in advance
23 whatever we thought might be needed to cover our expenses.

24 Q And in connection with what work had Mr. Parker
25 not paid you? Was that the Norwell application or something

1 else?

2 A Now that I think about it, at some point we
3 established that practice. In his case, I don't know
4 whether it's that we weren't paid or that we, this would
5 have essentially been an initial retainer, which we
6 ordinarily would have offered. I, ordinarily, when people
7 came to us for a first time, we asked them for an initial
8 retainer to cover the work and then billed them for anything
9 over. That may have been in this case.

10 It was only in subsequent cases where we made sure
11 to be paid in advance. I can't be sure. If this was the
12 first time we dealt with him, then it would simply have been
13 an advance retainer.

14 Q And let me just refer you now to Number 60.

15 (The document referred to was
16 previously marked for
17 identification as Adams
18 Exhibit No. 60.)

19 A Sixty?

20 Q Yes. Way in the back. And the first page of 60
21 is a check payable, although it's difficult to read, it's
22 payable to Brown Neitert & Kaufman, and then pages two and
23 three are one page of a ledger sheet, which is a law, it's
24 theoretically a legal size page, but it'll be copied onto
25 two 8-1/2 by 11 pages. At least that's how it was provided

1 to me by Brown Finn & Neitert -- or Brown Finn & Kaufman I
2 or Brown Neitert & Kaufman at this point. And let me ask
3 you this, particularly with reference to page three, notice
4 in there that the first entry in, I guess the second column,
5 the words, "Retainer received" --

6 A Okay.

7 Q Does that refresh your recollection?

8 A Yes. This would have been, when we essentially
9 represented somebody for the first time, we asked for an
10 upfront retainer, and this would have been it.

11 Q Do you recall during your deposition you and I
12 reviewed this ledger sheet? Remember that?

13 A Yes.

14 Q And let me just state for the record, according to
15 the firm of Brown Neitert & Kaufman, I'm advised that these
16 are the only documents that they were able to locate in
17 their files relative to work performed in connection with
18 Mr. Parker's applications. Do you have any reason to
19 disagree with that information that Brown Neitert & Kaufman
20 gave me?

21 A No.

22 Q Going to page three, the first line item, the
23 retainer received a thousand dollars -- \$1092. Would that
24 be the check that it appears at page number one in this
25 Exhibit Number 60?

1 A Yes.

2 Q Would you also agree that this ledger sheet
3 indicates that over the course of after you've had 13
4 months, from 10/92 to 12/10, which I believe, if you review
5 the dates in the far lefthand column, indicate that it's
6 12/10 of '93, that Brown Finn charged this account a total
7 of approximately \$2,100 in fees and expenses?

8 A Yes.

9 Q And is that consistent with your recollection of
10 the extent of services that your firm provided to Mr. Parker
11 during that period of time?

12 A I believe it was.

13 Q Now, on page three of this ledger, in the upper,
14 way in the upper lefthand corner if you look at it
15 laterally, or in landscape mode, there's the identification,
16 "Reading Broadcasting, Inc., c/o Michael Parker." Do you
17 see that name and address in the upper lefthand corner?

18 A Yes.

19 Q To your knowledge, when you were working on the
20 Dallas application, were you working for Reading
21 Broadcasting Incorporated or Two If By Sea Broadcasting or
22 somebody or something else?

23 A Two If By Sea Broadcasting.

24 Q Were you the only attorney at Brown Finn who
25 worked on matters relating to Mr. Parker's broadcast

1 interests?

2 A I believe so.

3 Q How many attorneys were in Brown Finn at the time
4 that you were there?

5 A Approximately seven.

6 Q Okay. In the normal course of business, would you
7 have been aware of what all the other attorneys were working
8 on?

9 A If they were working on something that I also had
10 worked on, I would have known about it.

11 MR. COLE: I have no further questions, Your
12 Honor.

13 THE WITNESS: Why don't we put out that I didn't
14 personally prepare the ledger, where the client is
15 identified. I have to assume that when the check was given
16 to Mary Murphy, our office manager, she simply grabbed on
17 the check and put that on her ledger.

18 MR. COLE: Thank you. I have no further
19 questions, Your Honor, but I would like to offer at this
20 time Adams Exhibit 60 into evidence. I don't believe it's
21 been received.

22 THE COURT: Any objection to receiving 60 if we
23 have not received it yet?

24 MR. HUTTON: No.

25 THE COURT: Very well then. If it has not been