

1 JUDGE SIPPEL: Objection?

2 MR. COLE: Relevance, Your Honor.

3 MR. SOUTHARD: Well, Your Honor, if you would like
4 me to respond to that?

5 JUDGE SIPPEL: Well, I'd like a proffer of
6 relevance anyway, yes.

7 MR. SOUTHARD: By its terms, the option agreement
8 expired in December of '99, and apparently this is a check
9 for renewing the option.

10 Now, our position is, one, it expired, so I don't
11 know legally if it could be renewed simply with a check.
12 That's an argument we will make. But clearly, at some point
13 there was no -- there was no option in place.

14 JUDGE SIPPEL: Well, this is just a check for
15 \$3,000. It doesn't --

16 MR. SOUTHARD: His testimony was that it was for
17 renewal.

18 JUDGE SIPPEL: You testified that it was for
19 renewal?

20 THE WITNESS: Yes, sir.

21 JUDGE SIPPEL: So we've got an option that appears
22 to have expired but it has been renewed. Is that what
23 you've got?

24 MR. SOUTHARD: It appears that they tried to renew
25 it. But it's also probative that the May 17th date is just

1 in front of the hearing, and that this appears to have been
2 triggered by the fact that we received documents from
3 Conestoga from which --

4 JUDGE SIPPEL: All right, all right, all right,
5 all right.

6 This is really -- this is getting to be a bit of a
7 stretch, but I'm going to let it come in. It's your case.

8 (The document referred to,
9 previously identified as
10 Reading Exhibit No. 76. was
11 received in evidence.)

12 JUDGE SIPPEL: Go ahead.

13 MR. SOUTHARD: Thank you, Your Honor.

14 BY MR. SOUTHARD:

15 Q Just very briefly on this check, Exhibit 76, who
16 is Adams Communication Company?

17 A That's the name of our checking account.

18 Q Is there an entity called Adams Communication
19 Company?

20 A That's the corporation. There are corporate
21 resolutions backing up the establishment of this account at
22 the bank. That's the way the check was --

23 Q Is Adams Communications Corporation different than
24 Adams --

25 A No.

1 Q -- Communication Company?

2 A No.

3 Q Why do you use two separate names?

4 MR. COLE: Objection, Your Honor.

5 JUDGE SIPPEL: Sustained.

6 BY MR. SOUTHARD:

7 Q Now, you've testified that at some point you made
8 some trips to Reading in which you interviewed people about
9 WTVE?

10 A Yes.

11 Q How many trips did you make?

12 A Three or four.

13 Q How do you know that?

14 A I remember that.

15 Q I think you said -- you testified that you had
16 interviewed 30 or 40 people; is that correct?

17 A Yes.

18 Q These interviews were conducted at business
19 establishments, including retail malls and restaurants?

20 A Yes.

21 Q You didn't go to peoples' homes?

22 A No.

23 Q You didn't go door-to-door to residences?

24 A No.

25 Q You didn't ask for the names of the people you

1 interviews, did you?

2 A No.

3 Q You didn't take any written record of the
4 interviews?

5 A No.

6 Q And none of the people you interviewed were aware
7 of Station WTVE?

8 A That's correct.

9 Q None of them?

10 A None.

11 Q With respect to your review of the tapes that Mr.
12 Sherwood made, I just want to clear up one point.

13 The second batch you received --

14 A Yes.

15 Q -- you didn't review those at real-time speed, did
16 you?

17 A You want to define real-time speed?

18 Q Normal speed as opposed to fast forward review.

19 A What I would do is I would watch the tape, run it
20 fast forward. When I got the bleep, I would listen to the,
21 you know, the little jingle, whatever, the music that told
22 you it was coming, listen to the PSA, then run it forward
23 again.

24 Q So when you were fast-forwarding you could
25 actually hear the audio?

1 A Oh, sure. I could see the video. I mean, I could
2 see --

3 Q Well, my question is could you hear the audio?

4 A I could see and hear what was being presented,
5 yes.

6 Q You testified that you saw three missing children
7 PSAs that were about Pennsylvania; is that correct?

8 A Correct.

9 Q Is that something you actually remember today as
10 you sit here?

11 (Pause.)

12 Q Do you have an actual recollection of seeing those
13 PSAs at the time that you revived the tape?

14 A No, not today.

15 Q You were the person at Adams charged with the
16 primary responsibility for evaluating the public service
17 contention of WTVE's programming?

18 A I would say Mr. Haag and I did it.

19 Q Prior to filing your application in this case, did
20 you -- Adams never retained any kind of expert or consultant
21 to conduct an evaluation of WTVE's programming?

22 A No.

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

25 A No.

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

3 A I've been involved with the media as a counsel to
4 radio and television stations.

5 Q Yes or no, Mr. Gilbert?

6 JUDGE SIPPEL: Well, you know, I'd go easy on him,
7 Mr. Southard. You are getting an answer.

8 Go ahead, Mr. Gilbert. You answer the question.

9 THE WITNESS: Yeah, I think I understand what's
10 involved. I've been an owner of radio stations with Mr.
11 Haag and Mr. Umans in which we presented public service
12 broadcasting. I've been engaged in extensive discussions.
13 As a result of the Monroe case, I have spoken at law schools
14 about it and so on. And I think I understand the problem.

15 BY MR. SOUTHARD:

16 Q Prior to filing its application, Adams never
17 reviewed WTVE's public inspection files, did it?

18 A No.

19 Q Prior to filing the application, Adams made no
20 attempt to buy WTVE outright?

21 A No.

22 Q Prior to filing the application had Adams made any
23 effort to determine the potential cost of buying WTVE
24 outright?

25 A No.

1 Q Adams has in fact never sought to buy any
2 televisions stations outright, has it?

3 A No.

4 Q Has Adams even looked to see if there were
5 stations that were for sale?

6 A No.

7 Q You testified earlier about some conversations you
8 had with Ann Swanson. Do you understand that testimony --
9 you had some conversations with Ann Swanson?

10 A Yes.

11 Q Yes.

12 A You have to speak louder. I'm having a little
13 difficulty hearing you.

14 Q I'm sorry. I'll try.

15 And I believe you said that your first
16 conversation with her was in the spring of 1999; is that
17 correct?

18 A That's correct.

19 Q During that conversation, Ms. Swanson asked you
20 for an amount that Adams would be willing to settle for?

21 A No.

22 Q You agreed to split the cost of an appraisal of
23 the station with Ms. Swanson or --

24 A No.

25 Q No? You agreed to split the cost of the appraisal

1 with whoever it was Ms. Swanson was representing?

2 A No.

3 Q You didn't agree to split the cost of the
4 appraisal?

5 A I did agree to split the cost of the appraisal.

6 Q Who did you understand you were splitting the cost
7 of the appraisal with?

8 A Reading Broadcasting Company, a client of Ms.
9 Swanson and Adams.

10 Q And just so your testimony is clear, you are not
11 saying that Reading Broadcasting was represented by Ms.
12 Swanson?

13 A I don't think so.

14 Q You have in front of you a black notebook with a
15 yellow label?

16 A Yes.

17 Q Would you open to Exhibit 57, please? It's
18 Reading Exhibit 57?

19 A Five-seven?

20 Q Yes.

21 A Yes.

22 Q Did you write that letter?

23 A Yes.

24 Q And that's your signature?

25 A Yes.

1 Q This letter appears to bear a fax imprint dating
2 the fax transmission for April 30, 1999.

3 Do you see that?

4 A Yes.

5 Q Do you know why the letter bears a textual date of
6 April 22, 1999?

7 A Presumably I sent it on that date.

8 MR. SOUTHARD: Your Honor, I would just note for
9 the record that this document was not produced to us during
10 the course of discovery. We received this document from
11 Telemundo/Dow Lohnes.

12 THE WITNESS: As a matter of fact, it may have
13 been dated that date and I signed it and sent it a week
14 later. I just don't know. The letter says I'm going to be
15 out of the country for a week.

16 BY MR. SOUTHARD:

17 Q This letter refers to a Station WNET-TV. Is that
18 supposed to mean WTVE-TV?

19 A Yes.

20 Q And it says Redding, R-E-D-D-I-N-G. That's actual
21 Reading, R-E-A-D?

22 A Yes. Yes.

23 JUDGE SIPPEL: Have you got something else to go
24 after? Are you finished with this one?

25 MR. SOUTHARD: I'm finished with this exhibit,

1 yet.

2 JUDGE SIPPEL: All right, let's find something
3 else to talk about.

4 BY MR. SOUTHARD:

5 Q Do you have the -- I believe -- the blue binder,
6 that's Adams Phase III Exhibits?

7 A Yes.

8 Q Would you open to Exhibit 75, please?

9 A Yes.

10 Q The third page of that exhibit is -- is that the
11 appraisal that you split the payment for?

12 A Yes.

13 MR. SOUTHARD: Your Honor, I would also note for
14 the record that we were never provided with a copy of this
15 appraisal as part of discovery.

16 BY MR. SOUTHARD:

17 Q Did you discuss the results of this appraisal --

18 JUDGE SIPPEL: Wait a minute, wait a minute. I
19 thought that this came up in discovery? Wasn't this
20 discussed in discovery?

21 MR. COLE: I thought it was, Your Honor, but I
22 could be wrong on that. I don't believe -- oh, wait.

23 Mr. Booth suggests that we may have turned this
24 over in Phase I discovery, but I can't imagine I withheld
25 this intentionally, I mean, if it didn't go over. We had no

1 reason to hide this at all.

2 JUDGE SIPPEL: No, because I thought this came up
3 in the context of getting documents from Dow Lohnes.

4 MR. SOUTHARD: Your Honor, yes, we did receive it
5 in response to the subpoena from Dow Lohnes and Telemundo.

6 JUDGE SIPPEL: Oh, okay.

7 MR. SOUTHARD: But we did not receive it from --
8 at our records do not appear to show that it was received
9 from Adams in response to our discovery requests.

10 JUDGE SIPPEL: That was the May 10th subpoena to
11 Dow Lohnes that that's --

12 MR. SOUTHARD: That's how we received it.

13 JUDGE SIPPEL: That's how you received it.

14 All right. Well, okay. Okay, all right. Go
15 ahead. I'm not sure what that has to do with anything, but
16 let's go.

17 BY MR. SOUTHARD:

18 Q Mr. Gilbert, after you received the appraisal, did
19 you discuss it or review it with anybody from Adams, any of
20 the other Adams principals?

21 A Yes.

22 Q Who did you review it with?

23 A Mr. Haag.

24 Q When did that first initial review?

25 A Some time after I received it.

1 Q Can you put a ballpark on after?

2 A Within the week.

3 JUDGE SIPPEL: Well, this is dated June 2, 1999.

4 All right.

5 THE WITNESS: I did not see it on June 2.

6 JUDGE SIPPEL: All right. But it's some time in
7 June of 1999?

8 THE WITNESS: Yes, sir.

9 JUDGE SIPPEL: I don't think we want to spend a
10 lot of time on pinning down dates in June of 1999.

11 BY MR. SOUTHARD:

12 Q On June 7, not to pin down a date, but on June 7,
13 1999, you, Mr. Cole and Ms. Swanson had a telephone
14 conference about this appraisal?

15 A Yes.

16 Q And during that call the three of you discussed
17 the appraisal?

18 A Just that we received it.

19 Q Well, you also discussed the possibility of
20 resolving the proceedings by means of a settlement, did you
21 not?

22 JUDGE SIPPEL: No, wait a minute, wait a minute.
23 Now, we're in June of 1999.

24 MR. SOUTHARD: Yes.

25 JUDGE SIPPEL: I'm not as fast on the trigger as

1 some of the other people in this courtroom, but there is a
2 lot of things to ask this witness, it seems to me, about
3 what was going on when -- the transition between Monroe and
4 filing this application as opposed to what's going on in
5 June of 1999. I mean, you know, I've been trying to stay --
6 well, I've been trying to stay with you, but this, I think,
7 is taking it beyond the pale of the past.

8 MR. SOUTHARD: Your Honor, with all due respect to
9 your suggestion, we believe the record is already complete
10 with respect to the transition period.

11 JUDGE SIPPEL: Yes.

12 MR. SOUTHARD: And I have -- in fact, I may not
13 have anymore questions at all for this witness if I could
14 just take a look at my notes.

15 JUDGE SIPPEL: Well, I hope I didn't -- I hope I
16 didn't put the kibosh on this, but I think -- go ahead,
17 let's go off the record for a couple of minutes and you go
18 through your notes.

19 MR. SOUTHARD: I don't need to go off the record,
20 Your Honor. I've got it.

21 JUDGE SIPPEL: Go ahead.

22 (Pause.)

23 MR. SOUTHARD: I'm sorry.

24 BY MR. SOUTHARD:

25 Q Did I understand your testimony just now to be

1 that at that telephone conference you did not discuss
2 settlement?

3 A We never had any discussion of settlement. She
4 raised the issue, and I said no.

5 Q Oh, you did testify earlier that, with respect to
6 your conversations with Mr. Sherwood, that you reviewed some
7 additional material and that was the basis of changing your
8 testimony.

9 Do you recall that?

10 A No. Yes. I don't know what I said but I didn't -
11 - wasn't asked about review of additional material, I don't
12 think.

13 Q Well, okay. How did it come up that you changed
14 your testimony from the -- the first testimony, if I recall
15 correctly, was that you spoke to him on a daily basis to
16 your current testimony.

17 A Oh, I saw his deposition.

18 Q Okay, so you changed your testimony based on Mr.
19 Sherwood's deposition?

20 A Yes.

21 Q And with respect to your conversation, the
22 settlement discussion you had with the unidentified man.

23 A Yes.

24 Q Did you ask him his name?

25 A I think I wanted to know who he was. I got no

1 answer. It was just a weird conversation.

2 MR. SOUTHARD: Okay, Your Honor, I have nothing
3 further for Mr. Gilbert.

4 JUDGE SIPPEL: Is there any redirect.

5 MR. SHOOK: I have some questions, Your Honor.

6 JUDGE SIPPEL: Go ahead.

7 CROSS-EXAMINATION

8 BY MR. SHOOK:

9 Q Mr. Gilbert, could you turn to Reading Exhibit 57,
10 please?

11 JUDGE SIPPEL: Fifty-seven mentioned the -- that
12 should be your letter dated April 22.

13 THE WITNESS: Yes. That's the letter about
14 agreeing to spend \$1667?

15 MR. SHOOK: Yes, sir.

16 BY MR. SHOOK:

17 Q Could you tell us, if you recall, how this letter
18 was prepared?

19 A Looking at all the errors, I suspect it was
20 prepared when I was not around.

21 Q Well, for example, did you dictate this letter?

22 A I don't recall, but I presume I did. Probably my
23 secretary took it off the tape.

24 Q Well, is it a typical office practice of yours to
25 dictate letters of this size?

1 A Yes, on a machine.

2 Q I take it that when you dictate you do not
3 necessarily spell out all the words that you are using?

4 A That is correct.

5 Q So with respect to the word "Reading," I take it
6 you did not spell the word "Reading" out when you dictated
7 it?

8 A I'm certain I didn't. I knew Reading from
9 Monopoly games and everything, so that's not the correct
10 spelling, to overstate the case, understate the case.
11 That's my guess.

12 Q What explanation, if any, do you have for the call
13 sign that appears there?

14 A It's just a -- on fact, on April 22nd, I was out
15 of the country.

16 Q So is it likely then that this letter was not in
17 fact prepared on April 22nd?

18 A Yes.

19 Q If you were out of the country.

20 A Right. It may have -- I can't tell you when my
21 secretary typed it, but I was out of the country. She may
22 have typed it on the 22nd. I just don't know.

23 Q All right, I don't want to belabor that further.

24 Could you turn to Reading Exhibit 72, please?
25 It's probably one of the pieces of paper that you have up

1 there.

2 A Would you mind telling me which one it is?

3 Q That's from the Commonwealth of Massachusetts.

4 A Yes. Yes, sir, I have it.

5 Q You will note that in the body of this document
6 there is a certification to the effect that the corporation
7 referenced was dissolved on August 31, 1998.

8 Do you see that?

9 A Yes.

10 Q Were you notified by the Commonwealth of
11 Massachusetts on or shortly after August 31, 1998, that
12 Adams Communications Corporation had been dissolved?

13 A No.

14 Q When, if ever, prior to today, were you notified
15 that the corporation had been dissolved?

16 A Never.

17 Q So today is the first time it's come to your
18 attention that according to the Commonwealth of
19 Massachusetts' records Adams Communications Corporation is
20 dissolved and has been since August 31, 1998?

21 A Yes.

22 Q Are you currently aware of what steps, if any, you
23 need to take in order to undo this action?

24 A No, but we will be doing it tomorrow morning
25 promptly. In the State of Illinois, you have two years to

1 reinstate a corporation. I just don't know what it is in
2 Massachusetts, but we will be hell-bent to bring it back.
3 Obviously a paralegal made a mistake and didn't renew it.

4 Q Could I direct your attention now to Reading
5 Exhibit 76?

6 A Which one is that?

7 JUDGE SIPPEL: That's the check.

8 THE WITNESS: Check. Yes.

9 BY MR. SHOOK:

10 Q Do you have any knowledge whether or not this
11 check was cashed?

12 A No. I believe it was. Yeah, I'm pretty sure it
13 was.

14 MR. SHOOK: Your Honor, if I may have one second
15 here?

16 JUDGE SIPPEL: Yes.

17 (Pause off the record.)

18 JUDGE SIPPEL: Back on the record.

19 BY MR. SHOOK:

20 Q Mr. Gilbert, I'd like to direct your attention to
21 Adams Exhibit 68.

22 A Yes.

23 Q It's your understanding that this letter was sent
24 to Conestoga Telephone & Telegraph Company on or about June
25 29, 1994?

1 A Yes.

2 Q Do you have any knowledge as to whether or not Mr.
3 Lubas responded in any way to this letter?

4 A He certainly responded orally. We had ongoing
5 conversations every year continually, and I assume he did,
6 but I don't have a copy of any letter, so I just don't
7 remember. The letter was sent to Mr. Haag. Mr. Haag has a
8 policy of throwing away all correspondence.

9 Q But to your knowledge, to your knowledge did Mr.
10 Lubas respond to this letter by informing you that the
11 information regarding whether or not you had an intent or
12 any agreement was incorrect?

13 A No. My understanding, he responded one way or
14 another that this was our deal.

15 Q Now, I believe on direct testimony, in response to
16 questions from Mr. Cole, you had indicated that when you
17 first spoke with Mr. Sherwood that you had requested that he
18 tape the programming of Channel 51 in Reading, Pennsylvania.

19 A Yes.

20 Q Do you recall that?

21 A Yes.

22 Q Would it be more correct to testify that when you
23 had asked Mr. Sherwood to video tape programming that you
24 simply asked him to video tape the programming of a home
25 shopping channel that could be received in that area?

1 A No.

2 Q You were very specific that you had wanted him to
3 video tape Channel 51 in Reading?

4 A Yes.

5 Q And if Mr. Sherwood recollected that his
6 instruction was to video tape home shopping programming,
7 that that was an error on his part?

8 A Yeah. Yes.

9 MR. SHOOK: I have nothing further.

10 JUDGE SIPPEL: Mr. Cole?

11 MR. COLE: Your Honor, just a couple of follow-up
12 matter.

13 REDIRECT EXAMINATION

14 BY MR. COLE:

15 Q Mr. Gilbert, if you could turn to Reading Exhibit
16 57, which is in the black notebook with a yellow cover, and
17 it's the cryptic letter from you to Ms. Swanson which bears
18 the typewritten date April 22, but the fax --

19 MR. SOUTHARD: Objection to the characterization.

20 MR. COLE: I apologize, Your Honor. I withdraw
21 the adjective "cryptic".

22 JUDGE SIPPEL: Is this the one line?

23 MR. COLE: The one line, or the two lines.

24 JUDGE SIPPEL: Right. Two-sentence letter.

25 BY MR. COLE:

1 Q Mr. Gilbert, let me refer you to the notation
2 below your signature on the left-hand side of the page which
3 reads, "HNG:SRC."

4 Do you see that?

5 A Mm-hmm.

6 Q Do you know who SRC is?

7 A No.

8 Q Are those your secretary's initials?

9 A No.

10 Q And you do not know who SRC is?

11 A No.

12 Q Thank you.

13 With respect to --

14 A MS is my secretary's initials.

15 Q With respect to questions from Mr. Shook
16 concerning any follow up by Mr. Lubas in response to Mr.
17 Haag's letter, let me show you -- I don't believe you have a
18 copy of it up there. Let me show you a copy of a document
19 which I believe has been marked for identification as
20 Reading Broadcasting Exhibit No. 70.

21 It is a one-page letter dated August 2, 1994, to
22 Mr. Haag from Mr. Bentz, and ask if you have ever seen that
23 document before.

24 A Yes.

25 Q Can you tell me what that document is?

1 A It's a letter from Conestoga Mobil Systems to Mr.
2 Robert L. Haag, President of Adams Communications
3 Corporation in which he says, "Pursuant to our
4 conversations, Conestoga will accept your three-year option
5 for the sum of \$3,000, with one additional three year
6 renewal, same price." And then it talks about the usual
7 standard contingencies in a situation like this. Dated
8 August 15, 1994, it looks like.

9 Q Thank you.

10 To your knowledge as of to day, June 21, 2000,
11 does Adams have an agreement with Conestoga concerning use
12 of the Conestoga site --

13 A Yes.

14 Q -- specified in Adams application?

15 A Yes.

16 MR. COLE: I have no further questions.

17 MR. SOUTHARD: I don't technically have a question
18 for the witness, Your Honor, although Mr. Shook asked some
19 questions about Adams receipt of notice from the
20 Commonwealth with respect to the dissolution.

21 I would, in response to that, request that the
22 Court take judicial notice of Massachusetts General Law,
23 Chapter 156-B, Section 101, which contains --

24 JUDGE SIPPEL: No, don't take me down that road,
25 please. We have a pretty good idea of what the status of

1 the situation is with respect to Adams and the State of
2 Massachusetts, and as the witness said, he's going to take
3 care of that the first thing tomorrow morning. So I don't
4 have to go any further.

5 MR. SOUTHARD: Very good, Your Honor.

6 JUDGE SIPPEL: If you have any updated information
7 on this, I am sure --

8 MR. COLE: Your Honor, rest assured as soon as I
9 get the word, you will hear.

10 JUDGE SIPPEL: I don't know why I even asked you
11 that question.

12 (Laughter.)

13 JUDGE SIPPEL: All right, that's it?

14 MR. SOUTHARD: That's it.

15 JUDGE SIPPEL: Thank you very much, Mr. Gilbert.
16 You are excused as a witness.

17 THE WITNESS: Thank you.

18 JUDGE SIPPEL: And you can stay in the courtroom
19 this time.

20 (Laughter.)

21 MR. COLE: Well, now you ask him.

22 JUDGE SIPPEL: I've got a few, I've just got one
23 or two other things that I wrote down about things to do.

24 Yes, actually there is only one thing, and that is
25 the redacted Reading Exhibit 52, Ms. Swanson's notes that

1 you were going to take care of, Mr. Shook.

2 MR. SHOOK: What I have is -- I have an 11-page
3 letter -- oh, yes, yes, right. I can't take care of that
4 until I get a transcript, and I can go through and
5 ascertain, you know, what she testified about and what she
6 did not testify about.

7 JUDGE SIPPEL: All right. Needs transfer, so that
8 can't be -- that can't be dealt with on Monday either. All
9 right.

10 MR. SHOOK: No, sir. I expect that will -- I
11 don't expect anyone to see a motion relative to that for at
12 least a couple of weeks.

13 JUDGE SIPPEL: All right. Well, maybe it would
14 make sense then to take the -- to take the Exhibit 52 as it
15 is lodged with the reporter and just take that out now, and
16 a motion would be to substitute it.

17 MR. SHOOK: Okay. Yes, my motion would be to
18 substitute a new Exhibit 52 --

19 JUDGE SIPPEL: Fifty-two.

20 MR. SHOOK: -- once I've had a chance to do my
21 thing on it.

22 JUDGE SIPPEL: Well, I'm going to authorize you to
23 do that. I'm going to authorize you to take from the
24 reporter today 52 that's in the record because once it
25 leaves here I lose -- I certainly lose immediate control

1 over it. I would just as soon see that taken out right now.
2 The record is very clear what we are talking about. And
3 you're going to file a motion with redacted materials that's
4 going to back in again.

5 MR. SHOOK: If that suits, Your Honor, that's fine
6 with me.

7 MR. COLE: That's fine, Your Honor, no problem.

8 JUDGE SIPPEL: Because this is being treated in a
9 sensitive way. I want to treat it all the way in a
10 sensitive way.

11 That's it then as far as the mechanics, as far as
12 my housekeeping chores go.

13 You've got an exhibit to mark and receive?

14 MR. SHOOK: Yes, and I'd just as soon take care of
15 that now rather than Monday.

16 JUDGE SIPPEL: Let's do it. Yes, sir.

17 MR. SHOOK: Your Honor, I will be handing to the
18 court reporter two copies, to yourself one, to the remaining
19 parties one, and 11-page document that appears to be a
20 letter on the letterhead of Reading Broadcasting, Inc.
21 directed to Ms. Ann Gaulke, and signed -- apparently signed
22 by Micheal L. Parker, President. And I would like that
23 marked for identification as Enforcement Bureau Exhibit 1.

24 JUDGE SIPPEL: The reporter will so mark that as
25 Enforcement Bureau Exhibit No. 1.

1 (The document referred to was
2 marked for identification as
3 Enforcement Bureau Exhibit No.
4 1.)

5 JUDGE SIPPEL: The date on that letter again?

6 MR. SHOOK: I did not give a date before. The
7 date is October 8, 1998. Thank you.

8 JUDGE SIPPEL: Very well. And this document
9 does --

10 MR. SHOOK: Your Honor, pursuant to Your Honor's
11 instruction, I believe, with the understanding of the
12 parties, I've redacted portions of the letter that we had
13 discussed previously as not being relevant to the Phase II
14 issue concerning Mr. Parker's qualifications.

15 JUDGE SIPPEL: All right, let's go off the record
16 for just a minute.

17 (Discussion off the record.)

18 JUDGE SIPPEL: As I've indicated off the record,
19 the document that's been tendered by Mr. Shook is not -- it
20 leaves material out that I had indicated that I wanted left
21 in for purposes of the document, specifically starting on
22 page 6 under the category "Renewal of FCC license," which
23 had some explanatories and detailed explanatory information
24 with respect to the procedure as distinguished from the
25 substantive description of Mr. Micheal Parker's

1 qualifications, and I thought it was appropriate to have
2 that in there in terms of seeing the document in its
3 entirety. Its relevance certainly is a lot less, a lot less
4 and would be more in the nature of background information
5 for that section of the letter than the qualifications of
6 Mr. Parker.

7 And Mr. Shook has indicated, and Mr. Cole has
8 confirmed this too, that they are not intending to cross-
9 examine the witness on anything other than the qualification
10 section of the letter.

11 I'm going to ask Mr. Hutton. Mr. Hutton, you said
12 that you would like to see the entire subject matter in the
13 letter, and I'm going to ask you to address that, please.

14 In other words, why should we have the entire
15 subject matter?

16 MR. HUTTON: Well, it may help provide -- I think
17 it does provide some context for what follows, the material
18 that Mr. Shook has left in. I think that was your reasoning
19 when you initially indicated that you wanted the additional
20 renewal material in the letter as redacted.

21 And it may also help the witness in responding to
22 any questioning about what remains in this letter in terms
23 of who wrote what and so on.

24 JUDGE SIPPEL: Well, Mr. Shook, do you have any
25 strong objection to that being in the letter?

1 MR. SHOOK: For purposes of drafting proposed
2 findings and conclusions relative to the issue that we are
3 talking about, I can't begin to foresee making reference to
4 it. However, if Your Honor so desires, I can certainly add
5 the material and would do so Monday when we come back, or
6 either that or wait until the witness appears.

7 I have -- I just don't see any particular need for
8 it, especially since I have no intention of asking any
9 questions about that portion of the letter, and frankly, I
10 haven't heard anything from Mr. Hutton which suggests that
11 he is going to be asking any particular questions about it
12 either.

13 MR. HUTTON: Well, I'd like to retain that
14 flexibility.

15 JUDGE SIPPEL: Mr. Cole?

16 MR. COLE: Me too. No, I agree with -- as I said
17 off the record, Your Honor, I have no completely strong
18 feelings one way or the other. If Mr. Hutton prefers to
19 have it in, it's his client's letter and that's fine with
20 me, but I would reserve -- if the additional portion we are
21 talking about does go in, just so we are clear, I would
22 reserve the right to question about that if I ultimately see
23 any reason to, but at this point I don't see any reason to,
24 but I don't want you to think that I'm sandbagging you if it
25 goes in and then I start asking questions about it.

1 JUDGE SIPPEL: Oh, no, I never get sandbagged.

2 The reason -- well, that's essentially the reason
3 that I wanted it to be left in because I couldn't -- you
4 know, calling the shots from the bench here, I can't
5 anticipate with metaphysical certainty that there is not
6 something in there that might prompt a reasonably relevant
7 question, and being Mr. Parker is being brought back for a
8 return engagement, and for, I guess, what do we call it,
9 Mini-Phase IV.

10 MR. HUTTON: Phase II, Part 2.

11 JUDGE SIPPEL: Or Phase II, Part 2, that's right.
12 In any event, I would certainly feel more comfortable having
13 it in the way that I originally had instructed, and I
14 apologize to Mr. Shook to have to put you to the burden of
15 coming in with another copy, but we can take care of that
16 Monday if that's okay, or would you rather wait until the
17 witness comes?

18 MR. SHOOK: Monday is fine. It will be fresher on
19 my mind now.

20 JUDGE SIPPEL: That's what I thought.

21 MR. SHOOK: I most likely to forget --

22 JUDGE SIPPEL: I though it would be soon, sooner
23 better than later usually on these things.

24 All right, then that's it.

25 MR. HUTTON: Your Honor, I have a couple of things

1 I'd like to raise.

2 The first is that today the witness has revised
3 his testimony in a number of respects, and we believe that
4 there are conflicts between that witness's testimony and the
5 testimony of other witnesses in this case.

6 Reading plans to file a motion to enlarge issues
7 based on misrepresentation and lack of candor grounds. We
8 feel it would be important to have the transcript available
9 to do so, and therefore we would ask for a briefing schedule
10 for that purpose because the 10-day period in the rules
11 doesn't seem to be feasible under these circumstances.

12 JUDGE SIPPEL: Well, you're looking for an
13 extension of time, in other words, is what you're looking
14 for; the extension of time until what, 10 days after receipt
15 of the transcript?

16 MR. HUTTON: Essentially, yes.

17 JUDGE SIPPEL: Any objection to that?

18 MR. SHOOK: I have no objection.

19 MR. COLE: None, Your Honor.

20 JUDGE SIPPEL: Everybody is being very reasonable
21 today.

22 MR. HUTTON: Thank you.

23 JUDGE SIPPEL: You'll have it.

24 MR. HUTTON: Excuse me?

25 JUDGE SIPPEL: You'll have it. You have the

1 extension. I would suggest what you do though is file a
2 formal motion, put it into a motion, an anticipatory motion
3 for extension of time or something like that.

4 MR. HUTTON: I'll do so, Your Honor.

5 The second --

6 JUDGE SIPPEL: So that I can rule on.

7 MR. SHOOK: And you can state therein that the
8 Bureau interposes no objection to it.

9 JUDGE SIPPEL: Same with Mr. Cole.

10 MR. COLE: That's correct.

11 JUDGE SIPPEL: And you've got the answer and we
12 won't have to respond to it.

13 MR. HUTTON: The second point is simply that I
14 think both Mr. Southard and I are going to be out of town on
15 Monday, and I was hoping that we might be able to reschedule
16 for this Friday instead of next Monday.

17 MR. COLE: I have no problem with that.

18 MR. SHOOK: If no one minds me appearing in less
19 than formal clothing, that's fine.

20 JUDGE SIPPEL: I will waive the formality rule as
21 long as everybody is neat and clean.

22 MR. SHOOK: I intend on being so.

23 MR. COLE: It's universal waiver, right, Your
24 Honor?

25 JUDGE SIPPEL: Yeah, everybody --

1 MR. COLE: Great.

2 (Laughter.)

3 JUDGE SIPPEL: Universal waiver, yeah.

4 No, you can -- this is -- we're not going to have
5 any witnesses, and all we are trying to do is just to
6 accommodate scheduling and get some work done that needs to
7 get done. So that's alright, you can appear informally.

8 MR. SHOOK: Thank you.

9 MR. COLE: Thank you, Your Honor.

10 MR. HUTTON: And I also --

11 JUDGE SIPPEL: -- appears in informal attire.

12 MR. HUTTON: I also concur in thanking you for
13 that.

14 I also note that I have some appointments outside
15 the office that are going to occupy probably most of my
16 morning. If we could schedule it for 11:00, I think that
17 would work.

18 JUDGE SIPPEL: Well, that's fine. Anybody have a
19 problem with 11?

20 MR. SHOOK: No.

21 MR. COLE: No.

22 MR. HUTTON: Thank you.

23 JUDGE SIPPEL: See you at 11.

24 MR. HUTTON: Thank you very much, Your Honor.

25 JUDGE SIPPEL: The post-hearing conference, our

1 first post-hearing conference will be at 11:00 this Friday,
2 it being the day after tomorrow, which would be the 23rd of
3 June. Same order of business.

4 All right, I'm not going to -- if there is a
5 motion, I'm assuming I will see a motion to add issues.
6 That is not going to detract from the deadlines that I am
7 setting with respect to proposed findings. But I am -- you
8 are getting the relief that you requested.

9 All right, gentlemen, then we are in recess until
10 11:00 a.m. this Friday.

11 ALL: Thank you, Your Honor.

12 (Whereupon, at 1:20 p.m., the hearing in the
13 above-entitled matter was recessed, to resume at 11:00 a.m.,
14 on Friday, June 23, 2000.)

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REPORTER'S CERTIFICATE

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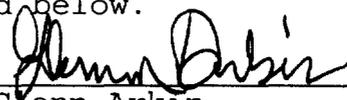
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