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DEC 24 10 54 AM '92 Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 92I-097
30540

In re Applications of)	
)	
HARRISCOPE OF)	MM DOCKET NO. 83-575
CHICAGO, INC.)	File No. BRCT-820802J9
<u>et al.</u>)	
A Joint Venture d/b/a)	
VIDEO 44)	
)	
For Renewal of License of)	
Station WSNS-TV, Channel 44)	
Chicago, Illinois)	
)	
and)	
)	
MONROE)	MM DOCKET NO. 83-576
COMMUNICATIONS)	File No. BPCT-821101KH
CORPORATION)	
)	
For a Construction Permit)	

ORDER

Adopted: December 23, 1992 ; Released: December 24, 1992

1. This order approves a settlement agreement dismissing the application of Monroe Communications Corporation, the challenger in this comparative renewal proceeding.

I. BACKGROUND

2. In this case, after lengthy proceedings,¹ the Commission denied Video 44 renewal of its license for station WSNS-TV, Channel 44, in Chicago, Illinois and granted Monroe Communications Corporation's mutually exclusive application for a construction permit. Video 44, 5 FCC Rcd 6383 (1990), recon.

¹ Video 44, 102 FCC 2d 419 (I.D. 1985), remanded in part and certified in part, 102 FCC 2d 408 (Rev. Bd. 1985), rev. granted, 103 FCC 2d 1204 (1986), recon. granted in part, 3 FCC Rcd 757 (1988), on remand, 3 FCC Rcd 3587 (Rev. Bd. 1988), rev. denied, 4 FCC Rcd 1209 (1989), remanded sub nom. Monroe Communications Corp., 777 F.2d 1000 (D.C. Cir. 1985), rev. denied, 900 F.2d 351 (D.C. Cir. 1990).

denied, 6 FCC Rcd 4948 (1991), appeal pending sub nom. Harriscope of Chicago, Inc. v. FCC, No. 91-1455 (D.C. Cir. Sept. 19, 1991). The Commission found that Video 44 was not entitled to a renewal expectancy based on the merit of its past programming and that Monroe's proposal was superior to Video 44's on comparative grounds. 5 FCC Rcd at 6385 ¶ 18. Because Video 44 would not prevail in any event, the Commission did not reach allegations that Video 44 presented obscene programming in violation of 18 U.S.C. § 1464. Id. at 6385 ¶ 19.

II. SETTLEMENT AGREEMENT

3. The parties now propose to settle this case.² Under the terms of the settlement, Video 44's application would be renewed and Monroe would dismiss its application in return for payments totalling \$17,676,424 plus interest.³ The payments would be made in two installments. The first installment, of \$11,666,667 plus interest, would be made upon the finality of a Commission order dismissing Monroe's application. Recognizing that Video 44's application could not be renewed until the Commission resolves the allegations concerning obscene programming, the parties provide that a second installment, of \$6,009,757 plus interest, would be paid after a final Commission order granting renewal of Video 44's license. The payment of the first installment and the dismissal of Monroe's application are not contingent on the renewal of Video 44's license.

4. The parties assert that approval of the settlement would serve the public interest by eliminating the need for further protracted litigation, by reducing the uncertainty over the future of Channel 44, and by allowing the continuation of the station's current, exemplary Spanish language programming. The parties recognize that the Commission cannot renew Video 44's application without further Commission action disposing of the obscenity question. The parties urge the Commission to take such action and have submitted a separate motion addressing the merits

² Before the Commission are: (1) a Joint Request for Approval of Settlement Agreement, Dismissal of Monroe Application and Grant of Video 44 Application, filed October 28, 1992, by Video 44 and Monroe Communications Corporation, and (2) comments, filed November 6, 1992 by the Mass Media Bureau. On December 17, 1992, the Court of Appeals granted the parties' request for remand of the record to permit consideration of the settlement proposal.

³ Because this proceeding was designated for hearing in 1983, it is not subject to limitations on settlement amounts that were subsequently adopted. Formulation of Policies Relating to Broadcast Renewal Applicants, 4 FCC Rcd 4780, 4788 ¶ 59 (1989).

-3-

of the obscenity question.⁴

5. Additionally, Video 44 and Monroe have each submitted a declaration stating that it did not file its application for the purpose of reaching a settlement. The Mass Media Bureau supports approval of the settlement.

III. DISCUSSION

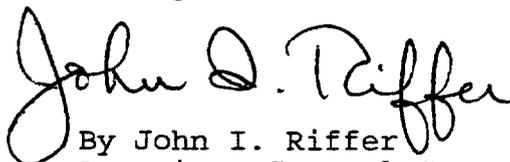
6. We will approve the settlement agreement. Approval of the settlement will serve the public interest by avoiding the need for additional burdensome litigation and expediting the outcome of this proceeding. The settlement is in conformance with the provisions of 47 U.S.C. § 311(d) and 47 C.F.R. § 73.3525. As noted, approval of the settlement does not prejudice the qualifications of Video 44 to remain a licensee in light of the allegations regarding obscene programming. That matter will be considered by the Commission in due course.

IV. ORDERS

7. ACCORDINGLY, IT IS ORDERED, That pursuant to 47 C.F.R. § 0.251(f)(11), the Joint Request for Approval of Settlement Agreement, Dismissal of Monroe Application and Grant of Video 44 Application IS GRANTED, and the attached settlement agreement IS APPROVED.

8. IT IS FURTHER ORDERED, That the application of Monroe Communications Corporation for a construction permit (File No. BPCT-821101KH) IS DISMISSED with prejudice.

Renée Licht
Acting General Counsel



By John I. Riffer
Associate General Counsel

⁴ Motion for Resolution of Remaining Issues and Grant of Video 44's application, filed October 28, 1992, by Video 44. The Commission will rule on this motion in a separate order. No opinion is expressed here as to the merits of that motion.

Page 1

1 UNITED STATES OF AMERICA)
 2 SS:
 3 STATE OF ILLINOIS)
 4
 5 I, Wayne J. Fickinger, herein, having read
 6 the foregoing testimony of the pages of this
 7 deposition do certify it to be a true and correct
 8 transcript, subject to the corrections, if any, shown
 9 on the attached page.
 10 - - -
 11
 12
 13
 14
 15 WAYNE J. FICKINGER
 16
 17
 18 Subscribed and sworn to before me
 19 this ____ day of ____, 19__
 20 _____
 21
 22

Page 3

1 DEPOSITION EXHIBITS
 2
 3 WAYNE J. FICKINGER
 4
 5 NUMBER DESCRIPTION IDENTIFIED
 6 No. 1 Adams Corp. Application 15
 7 No. 2 Amendment dated 4/30/99 23
 8 No. 3 Order of FCC dated 12/24/92 34
 9
 10
 11
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 14
 15
 16
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 18
 19
 20
 21
 22

Page 2

1 A P P E A R A N C E S O F C O U N S E L :
 2
 3 FOR ADAMS COMMUNICATIONS CORPORATION:
 4
 5 Bechtel & Cole, Chartered
 6 BY: Mr. Harry F. Cole
 7 1901 L Street, N.W.
 8 Suite 250
 9 Washington, D.C. 20036
 10 (202) 835-4190
 11
 12 FOR READING BROADCASTING, INC.:
 13
 14 Holland & Knight
 15 BY: Thomas J. Hutton
 16 2100 Pennsylvania Avenue, N.W.
 17 Suite 400
 18 Washington, D.C. 20037-3202
 19 (202) 955-3000
 20
 21
 22

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1 CONTENTS
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 3 WITNESS: Wayne J. Fickinger
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 19 READING EXHIBIT 43
 20 PAGE 107
 21
 22

Page 5

1 WAYNE J. FICKINGER,
 2 having been first duly sworn, was examined and
 3 testified as follows:
 4 EXAMINATION
 5 BY MR. HUTTON:
 6 Q. Mr. Fickinger, my name is Tom Hutton. I'm
 7 counsel for Reading Broadcasting, Inc. I'm going to
 8 be asking you a series of questions. If you don't
 9 understand a question, please feel free to ask me to
 10 rephrase it or repeat the question.
 11 If Mr. Cole interjects with an objection,
 12 please wait until we have completed our colloquy and
 13 then we'll instruct you as to whether or not to
 14 answer the question.
 15 A. Okay.
 16 Q. When I mentioned the sequestration rule to
 17 Mr. Cole, what that means is that after you complete
 18 your deposition, you are not to discuss the substance
 19 of what was discussed today with any of the other
 20 people who are being deposed on behalf of Adams
 21 Communications.
 22 A. I understand.

Page 6

1 Q. Once their depositions are complete, you
 2 may discuss what was discussed, but just pending the
 3 completion of depositions.
 4 Would you state your name and address for
 5 the record.
 6 A. My name is Wayne Fickinger, Wayne J.
 7 Fickinger, 1244 Forest Glen South, Winnetka,
 8 Illinois.
 9 Q. And what is your -- let me ask you another
 10 question, are you taking any medications that could
 11 affect your ability to recall past events or your
 12 ability to testify accurately as to past events?
 13 A. No, I'm not.
 14 Q. Can you give me a brief rundown of your
 15 work history, your current job and going back into
 16 the past just in general terms.
 17 A. I have been in the advertising agency
 18 business 40 years. Currently I'm retired. I'm on
 19 several very small privately held boards, and that's
 20 what I do.
 21 Q. In the advertising business, which agency
 22 or agencies did you work for?

Page 7

1 A. I really worked for basically two, J.
 2 Walter Thompson Company and Bozell, Inc., which is
 3 now True North.
 4 Q. You retired when?
 5 A. Well, I actually retired from Thompson in
 6 1983, and a year or so later, I joined Bozell, and I
 7 retired then in 19 -- I think it was '89 or '90, I
 8 don't remember which.
 9 Q. And what was your position when you
 10 retired?
 11 A. From Thompson I was a president of the
 12 company. From Bozell, I was vice chairman of the
 13 company.
 14 Q. Let's talk about Reading, Pennsylvania.
 15 Have you ever been to Reading, Pennsylvania?
 16 A. No, I've never been to Reading.
 17 Q. Are you familiar with the programming of
 18 television station WTVE in Reading?
 19 A. Yes.
 20 Q. Can you describe for me your understanding
 21 of the programming of that station.
 22 A. The programming, the current programming is

Page 8

1 primarily to Hispanics.
 2 Q. And when did you learn that the programming
 3 was primarily to Hispanics?
 4 A. I'm going to say about maybe three or five
 5 months ago.
 6 Q. What was your understanding prior to that
 7 time?
 8 A. You mean -- what did they call it? It's
 9 where they sell the merchandise, home shopping,
 10 that's what I understood prior to that.
 11 Q. And was that the case at the time Adams
 12 Communications filed its application, to your
 13 knowledge?
 14 A. To my knowledge, yes. I'm not 100 percent
 15 sure of that.
 16 Q. Can you state your ownership interest in
 17 Adams Communications.
 18 A. I'm one of a group of investors in Adams,
 19 that's basically what I am.
 20 Q. Do you know your percentage of ownership
 21 interest?
 22 A. Yes, 10

Page 9

1 Q. And are you an officer or director of Adams
 2 Communications?
 3 A. Yes.
 4 Q. What office do you hold or --
 5 A. Vice president.
 6 Q. Are you a director?
 7 A. Yes.
 8 Q. Have you had any discussions with any of
 9 the other stockholders of Adams Communications about
 10 the programming that Adams would air on this station
 11 if Adams is successful?
 12 A. I talked with two of the leaders, yes.
 13 Q. What was the nature of that discussion?
 14 A. Hispanic is what we currently would be
 15 planning to do.
 16 Q. When did you have that discussion?
 17 A. The first time around I'm going to say
 18 about four or five months ago and this morning.
 19 Q. Would the plan be to affiliate with a
 20 Hispanic network or to air independent Hispanic
 21 programming?
 22 A. I don't know.

Page 10

1 Q. Was that discussed?
 2 A. No, not in my presence.
 3 Q. Was the availability of an affiliation with
 4 a Hispanic network discussed?
 5 A. Not really. There was one mentioned that
 6 works with them, but no affiliation was discussed.
 7 Q. Which one -- I'm sorry. Which one works
 8 with them?
 9 A. The one that currently works with the
 10 station, with Channel 51.
 11 Q. To your knowledge, has anyone affiliated
 12 with Adams Communications held discussions with a
 13 representative of a Hispanic network on any subject?
 14 A. Not to my knowledge.
 15 Q. Prior to four or five months ago, did you
 16 have any understanding or any discussion with other
 17 Adams principals as to what programming Adams would
 18 air if Adams were successful?
 19 A. No.
 20 Q. Have you participated in any discussions
 21 with other Adams principals about the proposed
 22 management of the station if Adams is successful?

Page 11

1 A. No.
 2 Q. Have you been involved in any discussions
 3 with anyone about the proposed management of the
 4 station if Adams is successful?
 5 A. No.
 6 Q. Have you had any discussions with anyone
 7 about potential changes in the ownership of Adams?
 8 A. No.
 9 Q. Have you had any discussions with anyone
 10 about the potential sale of the FCC authorization if
 11 Adams is granted the FCC authorization?
 12 A. No.
 13 Q. Have you ever worked in the -- I understand
 14 you have worked in the advertising industry. Have
 15 you ever worked in the broadcasting industry?
 16 A. I'd have to say no, no.
 17 Q. Have you ever been involved in any civic
 18 activities in or around the Reading, Pennsylvania
 19 area?
 20 A. No.
 21 Q. I'm going to ask you a series of questions
 22 about potential media interests, and by media

Page 12

1 interests I mean any media of mass communications,
 2 including cable television, broadcast communications,
 3 satellite communications, publication of any type.
 4 Are you an officer or director -- one caveat, I'm
 5 sorry, I'm going to exclude any holdings in publicly
 6 traded companies that amount to less than 1 percent
 7 of a publicly traded company. Do you have any
 8 ownership interests in any medium of mass
 9 communications?
 10 A. No.
 11 Q. Are you an officer of any company that
 12 holds an ownership interest in any medium of mass
 13 communications?
 14 A. No.
 15 Q. Are you a director of any company that
 16 holds any such interest?
 17 A. No.
 18 Q. And is all of that true as of April of
 19 1999?
 20 A. Yes.
 21 Q. Are
 22 institution?

READING EXHIBIT 43
PAGE 109
 of an

Page 13

1 A. No.

2 Q. Are you a trustee of any organization that

3 operates a noncommercial broadcast station?

4 A. No.

5 Q. Can you tell me how you came to be involved

6 in Adams Communications.

7 A. In 1963 I started work with a fellow named

8 Bob Haag who was president of Adams. And he and I

9 have been friends for many years and throughout those

10 years, I became also friends with Howard Gilbert or

11 Manny Steinfeld and so on, that's how.

12 Q. Who was it that first suggested to you that

13 you become an owner of Adams Communications?

14 A. Howard Gilbert.

15 Q. What did he tell you at that time?

16 A. Well, he suggested that we had an interest

17 in organizations of mass communication that weren't

18 serving the public interest in the way that they

19 should and here was an example.

20 Q. What was an example?

21 A. Channel 51 in Reading, Pennsylvania.

22 Q. Why did he say that that was an example?

Page 14

1 A. He just felt from what he knew about it

2 that the public wasn't being served as it should be

3 properly.

4 Q. Did he tell you why?

5 A. Not in any detail, no.

6 Q. Did he tell you who had brought Channel 51

7 in Reading, Pennsylvania to his attention?

8 A. No, he didn't.

9 Q. Did you discuss with him who else would be

10 involved in Adams Communications?

11 A. Yes.

12 Q. Who were the persons that were going to be

13 involved?

14 A. He told me Bob Haag, himself and he wasn't

15 specific about the rest of them.

16 Q. Did you discuss what your ownership

17 interest would be, the percentage?

18 A. Yes.

19 Q. Did he propose it to you or did you propose

20 it to him?

21 A. He proposed it to me.

22 Q. Did you agree to what he proposed or was

Page 15

1 there any negotiation about the figure?

2 A. I agreed.

3 Q. Did he indicate to you what the cost would

4 be?

5 A. No, he didn't.

6 (Document marked as Fickinger Deposition

7 Exhibit No. 1 for identification.)

8 Q. I'd like to introduce Fickinger Exhibit 1.

9 Mr. Fickinger, this is to the best of my knowledge --

10 and you or your counsel can correct me if I'm

11 wrong -- but this is a copy of the Adams

12 Communications Corporation application as filed on

13 June 30th, 1994. Does that appear to be correct to

14 you?

15 A. Looking at it, yes, it appears to be

16 correct.

17 Q. First, I would like you to turn to Page 3

18 of that form. In the middle of that page there's

19 reference to a filing made in Boston, Massachusetts

20 on November 23 of 1993, do you see that?

21 A. Yes, I do.

22 Q. Do you know why Adams was incorporated in

Page 16

1 Massachusetts?

2 A. No, I don't.

3 Q. Did you ever have any discussion with

4 Mr. Gilbert about participating in an application for

5 a new station in Massachusetts?

6 A. No.

7 Q. Or did you ever discuss with him the

8 possibility of filing a competing application against

9 the renewal application in the station of

10 Massachusetts?

11 A. No.

12 Q. Turning to Page 4 of that application, do

13 you know how it was decided that Mr. Haag would be

14 president of the company?

15 A. No, I don't.

16 Q. Do you know how it was decided that he

17 would hold 18.5 percent of the company?

18 A. No, I don't.

19 Q. With respect to Mr. Gilbert, do you know

20 how he came vice president and secretary

21 director of company?

22 A. No, I't.

Page 17

1 Q. Do you know how it came to be decided that
 2 he held 11.6 of the company?
 3 A. No.
 4 Q. Looking through the next several pages,
 5 would you answer the same questions for each of the
 6 entries there?
 7 A. No, I really don't know.
 8 Q. Referring to the entry under your name, it
 9 shows 11.6 percent.
 10 A. Yeah.
 11 Q. Was that ever discussed with you?
 12 A. Yes, it was.
 13 Q. When was that discussed?
 14 A. When I was asked if I wanted to come into
 15 this.
 16 Q. I guess I understood that you had agreed to
 17 take a 10 percent interest.
 18 A. That was initially.
 19 Q. How was it decided that you would have 11.6
 20 percent?
 21 A. I don't know to be honest with you.
 22 Q. Did you have any discussion in which you

Page 18

1 agreed to take 11.6 percent?
 2 A. Much later on.
 3 Q. When was that?
 4 A. I really don't know. It was just later,
 5 maybe a year or a year and a half later.
 6 Q. Was that in connection with someone bowing
 7 out of the group?
 8 A. I don't know.
 9 Q. Was it in connection with someone not
 10 paying capital calls?
 11 A. I don't know.
 12 Q. Who did you have the discussion with?
 13 A. Howard Gilbert.
 14 Q. What did he tell you at that time?
 15 A. I don't remember the conversation to be
 16 honest with you.
 17 Q. Before Adams was formed or before its
 18 application was filed rather, did you provide any
 19 personal financial information to anyone in
 20 connection with the application?
 21 A. I don't remember doing so.
 22 Q. Were you asked to provide a balance sheet?

Page 19

1 A. I don't remember being asked to do that.
 2 Q. Do you know if you did provide a balance
 3 sheet?
 4 A. To the best of my knowledge, no.
 5 Q. Early on in your testimony you referred to
 6 leaders of the group. Who were you referring to?
 7 A. Bob Haag and Howard Gilbert.
 8 Q. And why did you see them or term them the
 9 leaders of the group?
 10 A. I've done some other investments with them,
 11 and I knew their role and I accepted their role as
 12 such.
 13 Q. And what was the nature of those other
 14 investments?
 15 A. It was an interest in a television station
 16 in Chicago. We as a group had an interest in
 17 obtaining a station.
 18 Q. Was that Monroe Communications?
 19 A. Yes, it was.
 20 Q. Have you been involved in any other
 21 investments with these gentlemen?
 22 A. No.

Page 20

1 Q. And do you recall what percentage of Monroe
 2 Communications you owned?
 3 A. Ten percent.
 4 Q. Exhibit 1 shows that the application was
 5 filed by the law firm of Bechtel & Cole. Do you know
 6 who picked the law firm to file the application?
 7 A. No, I don't.
 8 Q. The engineering exhibit to the application,
 9 which maybe your counsel can point to you.
 10 MR. COLE: I will show it to him.
 11 (Discussion off the record.)
 12 Q. Now, that engineering exhibit indicates
 13 that it was prepared by Suffa & Cavell, Inc. Do you
 14 know who picked the consulting engineers?
 15 A. No, I don't.
 16 Q. Did you see a draft of the application
 17 before it was filed with the FCC?
 18 A. No, I didn't.
 19 Q. Did you see the application after it was
 20 filed with the FCC?
 21 A. No.
 22 Q. Have you ever seen a copy of the Reading

**READING EXHIBIT 43
 PAGE 111**

Page 21

1 Broadcasting, Inc. license renewal application?
 2 A. No.
 3 Q. Do you know whether Bechtel & Cole has a
 4 contingent fee arrangement for this case?
 5 MR. COLE: Objection.
 6 THE WITNESS: No, I don't.
 7 BY MR. HUTTON:
 8 Q. In the engineering exhibit, Page 25 of the
 9 FCC form, there's a description of the location of
 10 the proposed transmitter site of Adams
 11 Communications. Do you see that?
 12 A. Yes, I do.
 13 Q. Did you play any role in selecting that
 14 transmitter site?
 15 A. I didn't, no.
 16 Q. Do you know who did?
 17 A. No.
 18 Q. On Exhibit 3 to the application, which is
 19 the financial qualifications exhibit, there's a
 20 reference in the last paragraph to a loan commitment
 21 from American National Bank and Trust Company of
 22 Chicago. Do you know who selected that bank for that

Page 22

1 purpose?
 2 A. No.
 3 Q. Did you play any role in selecting a bank
 4 for that purpose?
 5 A. No.
 6 Q. There's a reference to a John Q. McKinnen
 7 from that bank. Did you ever have any discussions
 8 with Mr. McKinnen prior to the time that the
 9 application was filed?
 10 A. No.
 11 Q. After it was filed?
 12 A. No.
 13 Q. In the next sentence it says that Adams'
 14 shareholders have committed to contribute funds as
 15 necessary during the prosecution of the application.
 16 Is that correct, to your knowledge?
 17 A. Yes.
 18 Q. And is that commitment set forth in
 19 writing?
 20 A. I don't know.
 21 Q. Did you set forth a commitment to
 22 contribute your pro rata share in writing?

Page 23

1 A. It was always understood that that would be
 2 part of it.
 3 Q. Do you know if there are any contingent
 4 ownership interests held by other parties in Adams
 5 Communications such as options to buy stock or
 6 pledges of stock or warrants?
 7 A. I don't know that.
 8 Q. Referring to the second paragraph of this
 9 form, there's a reference to a total budget estimated
 10 by Adams. Were you involved in preparing that
 11 budget?
 12 A. No, I was not.
 13 Q. Was the figure there discussed with you at
 14 all?
 15 A. No.
 16 Q. I'd like to introduce Fickinger Exhibit 2.
 17 (Document marked as Fickinger Deposition
 18 Exhibit No. 2 for identification.)
 19 (Discussion off the record.)
 20 Q. This is an amendment to the application as
 21 filed with the Federal Communications Commission on
 22 April 30, 1999. Mr. Fickinger, did you see this

Page 24

1 before it was filed?
 2 A. No.
 3 Q. Did you see it after it was filed?
 4 A. No.
 5 Q. Do you know why it was filed?
 6 A. No, I don't.
 7 Q. Referring to Exhibit 3 to that amendment,
 8 in the second paragraph there's a reference to a new
 9 budget figure for Adams Communications. Were you
 10 involved in any of the analysis referenced in that
 11 paragraph?
 12 A. No.
 13 Q. Was the new budget figure ever discussed
 14 with you?
 15 A. No.
 16 Q. Have you ever been involved in any
 17 discussions with any other party about dismissing the
 18 application of Adams Communications in return for a
 19 payment?
 20 A. No.
 21 Q. To your knowledge, has anyone associated
 22 with Adams Communications been involved in such a

Page 25

1 discussion?

2 A. I don't know.

3 Q. We mentioned Monroe Communications and that

4 you were a 10 percent owner of Monroe

5 Communications. When did you become a 10 percent

6 owner of Monroe Communications approximately?

7 MR. COLE: Objection. What relevance is

8 that? How is this even calculated to lead to the

9 discovery of evidence?

10 MR. HUTTON: Do you want to excuse the

11 witness and I'll discuss it with you.

12 MR. COLE: Sure.

13 (Witness excused.)

14 MR. HUTTON: It has to do with the

15 motivations underlying this application.

16 MR. COLE: What do the motivations have to

17 do with anything? Why is that relevant to the

18 comparative issue?

19 MR. HUTTON: It's relevant because you're

20 asking to be considered as an applicant that will

21 build a tower, operate a certain way, and if that's

22 not going to happen, the FCC is entitled to know

Page 26

1 about that. It didn't happen with respect to Adams

2 Communications, and so the question arises whether it

3 will happen with -- it didn't happen with Monroe

4 Communications, so the question arises whether it

5 will happen with Adams.

6 MR. COLE: If you want to call the judge

7 and ask him and make this argument to him, I'm happy

8 to participate in that. That would be great. I

9 would like to hear that.

10 MR. HUTTON: All right.

11 (A recess was taken, after which the

12 following proceedings were had.)

13 MR. HUTTON: We've attempted to reach the

14 administrative law judge for a ruling on the

15 relevance or potential relevance of a line of

16 questioning. He is unavailable at this point.

17 We believe that he and his assistant are at

18 lunch and will be available shortly so we're going to

19 recess until, let's see, a quarter to 12 our time.

20 MR. COLE: Sure, that's fine.

21 MR. HUTTON: Okay.

22 MR. COLE: The witness will remain around

Page 27

1 because the witness apparently would have to travel

2 30 miles out and 30 miles back, so he will remain in

3 the offices or in the immediate vicinity, but he's

4 still subject to the sequestration order, so that is

5 to say --

6 THE WITNESS: I understand.

7 MR. COLE: Right.

8 THE WITNESS: Quarter of 1.

9 MR. HUTTON: Quarter of 12.

10 (A recess was taken, after which the

11 following proceedings were had.)

12 BY MR. HUTTON:

13 Q. Mr. Fickinger, you previously mentioned

14 that you had been a 10 percent stockholder in Monroe

15 Communications?

16 A. Yes.

17 MR. COLE: Excuse me. Before you go on,

18 can we just state that we conferred -- did you take

19 that conference down on the record?

20 THE COURT REPORTER: No, I did not.

21 MR. HUTTON: Okay.

22 MR. COLE: That we had a conference call

Page 28

1 with the judge and that the judge has, as I

2 understand it, and Mr. Hutton can correct me if I

3 misspeak, that the judge has ruled that Mr. Hutton is

4 entitled to cross-examine Mr. Fickinger about Monroe

5 matters, but for no more than 30 minutes.

6 MR. HUTTON: That's correct.

7 THE WITNESS: Okay.

8 MR. HUTTON: It's approximately -- I have

9 about 13 after.

10 MR. COLE: I got a clock running on it

11 so --

12 MR. HUTTON: Okay.

13 Q. How did you come to be involved in Monroe

14 Communications?

15 A. Once again, Bob Haag and I worked together

16 in business since 1963, and I was contacted by him,

17 just wanted to know if I was interested in this, and

18 that's how it happened.

19 Q. Did he explain to you how he had heard

20 about the opportunity to file an application?

21 A. I'm only hesitating because we had some

22 conversations, I don't know at that time whether he

Page 29

1 did or not.

2 Q. Did you later learn how he came to find out

3 about this opportunity?

4 A. Yes.

5 Q. What did he tell you?

6 A. That he had been watching the station and

7 he was very unhappy with what he saw on the station

8 and thought someone should try to do something about

9 it for the public interest.

10 Q. What was it about the programming of the

11 station that he found disturbing?

12 A. As I recall, minimum public service

13 announcements, minimum participation by the station

14 in the community, those two key things.

15 Q. And did he indicate plans as to how he

16 would program the station if Monroe were successful?

17 A. No.

18 Q. Did you have any understanding as to what

19 Monroe would do to improve the situation if Monroe

20 were successful?

21 A. I don't know if understanding is the right

22 word, but I felt as though that the Hispanic side was

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1 really something that should be continued. That was

2 my feeling, and I don't know exactly how it all fell

3 together, because I'm sure I didn't think of it, but

4 that's what we ended up doing.

5 Q. I'm sorry, when you say that's what we

6 ended up doing, what does that mean?

7 A. That was our plan, that was our plan to

8 continue the Hispanic programming once we acquired

9 the operation of the station, that's what I mean.

10 Q. When did that plan come into place?

11 A. I must tell you, I really can't tell you.

12 I just don't know. Relatively early in the game, but

13 that's all I can say.

14 Q. Was the station operating with subscription

15 television programming at the time Mr. Haag first

16 approached you?

17 A. I don't know if it was subscription or

18 not. It sounds familiar, yes, but I can't be very

19 articulate on that subject. Yes. It sounds

20 familiar.

21 Q. And do you know if Mr. Haag had ever been

22 involved in any similar challenges?

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1 A. I don't know. To the best of my knowledge,

2 no.

3 Q. Do you know what he did to pursue the

4 opportunity to file a competing application?

5 A. No. I don't think I understand the

6 question.

7 Q. Did he hire a law firm, communications law

8 firm? Did he call the FCC? What do you know about

9 what he did to put an application into place at the

10 FCC?

11 A. I don't know.

12 Q. And who else became -- who else who is a

13 party to Adams Communications became involved in the

14 Monroe Communications application?

15 A. Well, Howard Gilbert, Manny -- I'm really

16 sure Manny Steinfeld. I have to just think about it

17 because that's a few years ago.

18 Q. Sure.

19 A. Black football player, Ike somebody.

20 Q. Mr. Hill?

21 A. Ike Hill, right. Could you repeat the

22 question.

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1 Q. Yeah. Who among the people who are

2 involved in Adams Communications who was involved

3 previously in Monroe Communications --

4 A. I see.

5 Q. -- to your knowledge?

6 MR. COLE: Excuse me. Can I just suggest

7 that if you want, you can show him the Adams

8 application and that would help to refresh his

9 recollection.

10 MR. HUTTON: If you want to do that, that

11 would be fine.

12 MR. COLE: Okay. I'm showing the witness

13 that which was identified as I believe Fickinger

14 Exhibit 1, I think.

15 MR. HUTTON: Yes.

16 MR. COLE: Which is the Adams

17 application.

18 THE WITNESS: Well, Bob Haag, Howard

19 Gilbert. **READING EXHIBIT 43**

20 BY MR. HUTTON: **PAGE 114**

21 Q. I think if you stick to the page Mr. Cole

22 initially suggested, it lists the people.

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1 MR. COLE: That's what he was going
2 through.

3 MR. HUTTON: I'm sorry. This page.

4 MR. COLE: Oh, okay.

5 THE WITNESS: Umans. Relative to a
6 question you asked me before, Cal Leibovitz, I didn't
7 know that he was, but he's Adams as well as -- I
8 don't know Talmadge Hill. Oh, that must be Ike.

9 BY MR. HUTTON:

10 Q. Yes.

11 A. I know Ike. I don't know Elinor Woron.

12 MR. COLE: But the question is -- I'm
13 sorry. Your question is which of these people were
14 principals of Monroe?

15 MR. HUTTON: Of Monroe, right.

16 THE WITNESS: Ike Hill, Milt Podolsky.

17 BY MR. HUTTON:

18 Q. Of the people who are principals of Adams
19 who are not principals of Monroe, do you know how
20 they came to be principals of Adams?

21 A. No, I don't.

22 Q. With respect to the Monroe Communications

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1 application, did Mr. Haag play essentially the same
2 role he has played with respect to the Adams
3 Communications application?

4 A. As far as I know.

5 Q. And the same question for Mr. Gilbert?

6 A. Yes.

7 Q. What was the outcome of the Monroe
8 Communications case?

9 A. Well, as far as I know the outcome was
10 agreement, a settlement between the station and
11 Monroe.

12 Q. And did Monroe agree to dismiss its
13 application in exchange for a payment of money?

14 A. I can't answer that specifically. I mean
15 from what you have just said, I don't know if the
16 agreement was that bald.

17 MR. HUTTON: We'll make this Fickinger
18 Exhibit 3.
(Document marked as Fickinger Deposition
20 Exhibit No. 3 for identification.)

21 Q. Mr. Fickinger, this is a copy of an order
22 of the Federal Communications Commission released

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1 December 24, 1992 in the Monroe Communications case.
2 In paragraph 3 of that order, it states the parties
3 now propose to settle this case. Under the terms of
4 the settlement, Video 44's application would be
5 renewed and Monroe would dismiss its application in
6 return for payments totaling \$17,676,424 plus
7 interest. Does that fairly summarize the outcome of
8 the case?

9 A. Yes.

10 Q. And can you tell me why Monroe agreed to
11 dismiss its application?

12 A. No, I really can't tell you why.

13 Q. Were you consulted in the decision to
14 dismiss the application?

15 A. Yes.

16 Q. Did you concur in that decision?

17 A. Yes, I did.

18 Q. Why did you concur in that decision?

19 A. Primarily because I could see a problem.
20 We were led to believe by Harriscope that insofar as
21 getting the station into operation, that they would
22 be of no help whatsoever. In other words, we would

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1 have to start out with a new antenna. We would have
2 to start out with new equipment and a new building,
3 and I saw a difficulty in getting that done in the
4 required one year to get the station on the air
5 again.

6 Q. Well, when you initially filed the
7 application, wasn't it your understanding that Monroe
8 would have to build a new station?

9 A. Yeah. It wasn't necessarily that we would
10 have to build a new station. It was conceivable, of
11 course, in everybody's mind that we could buy the
12 equipment and all the material there.

13 Q. But you had no agreement to that effect,
14 did you?

15 A. No.

16 Q. You had no discussions with -- was it
17 Harriscope? **READING EXHIBIT 43**

18 A. That's what it says in this **PAGE 115**

19 Q. You had no discussions with Harriscope to
20 that effect, did you?

21 A. I don't know. I didn't, but I don't know.

22 Q. Who was it that advised you that there was

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1 a one-year period for building the station?
 2 A. To the best of my recollection, it was
 3 Howard Gilbert who was reciting I think the
 4 Communications Act of 1934 or something. That's to
 5 the best of my recollection.
 6 Q. Did he indicate that this was a change in
 7 policy from what had been the case previously?
 8 A. I don't remember any kind of a comment to
 9 that extent, no.
 10 Q. Do you know if in filing the Monroe
 11 application whether Monroe had specified or proposed
 12 the use of the existing station facilities or whether
 13 Monroe had proposed to build its own facilities in
 14 the FCC application?
 15 A. I don't know the answer to that question.
 16 Q. Do you know if there were people who were
 17 principals of Monroe who were asked to become
 18 principals of Adams but declined?
 19 A. I don't know.
 20 Q. Do you know which law firm represented
 21 Monroe before the FCC?
 22 A. Well, I guess it was not Holleb & Coff. I

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1 don't know. There was a law firm and I can't recall
 2 the name of it to be honest with you. I just don't
 3 know.
 4 Q. Do you know if Mr. Cole was involved in
 5 that representation?
 6 A. I don't remember.
 7 Q. With respect to the proposed programming,
 8 do you know if Monroe was planning to operate as an
 9 affiliate of a Hispanic network or to air independent
 10 Hispanic programming?
 11 A. We had talked with several, I'm going to
 12 call it Hispanic network operations, and that was --
 13 as I recall, that was to be part of our plan, to use
 14 one of those two.
 15 Q. Do you know which network operations those
 16 were?
 17 A. Telemundo is one, and it starts with a U.
 18 Q. Would it be Univision?
 19 A. Yeah, I think so.
 20 Q. But I take it from your prior testimony
 21 that there has been no similar discussion with either
 22 of those networks with respect to the Adams

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1 Communications application?
 2 A. To the best of my knowledge.
 3 Q. And do you recall how much money you
 4 received as a result of the settlement of the Monroe
 5 Communications case?
 6 MR. COLE: Once again, let me interpose an
 7 objection because I believe -- I don't have a copy of
 8 the agreement here, but I believe the settlement
 9 agreement imposes a confidentiality restriction on
 10 the parties to the agreement. I'm willing -- I'd be
 11 happy to stipulate to you that the Commission's order
 12 is accurate or reflects my understanding of the terms
 13 of the agreement, but I just don't want to get the
 14 witness involved in a breach of any obligations that
 15 may be imposed, and I have not read the agreement
 16 recently. But I believe there may be a
 17 confidentiality agreement there.
 18 MR. HUTTON: My question is in conflict
 19 with that?
 20 MR. COLE: Again, I'm willing to stipulate
 21 to what the terms were and obviously it's a matter of
 22 public record in any Commission's order and it's

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1 already an exhibit here before the witness.
 2 MR. HUTTON: I'm asking a different
 3 question. I'm asking what he received as a result.
 4 MR. COLE: I'm sorry. What he personally
 5 received. Okay. I'm sorry.
 6 MR. HUTTON: Yes.
 7 MR. COLE: I take that back. No
 8 objection.
 9 THE WITNESS: I can't give you the
 10 specific amount. It was 10 percent. Really, that's
 11 about all I can say.
 12 BY MR. HUTTON:
 13 Q. But it's 10 percent net of expenses?
 14 A. Oh, no. After expenses were -- as I
 15 understand it, after expenses were deducted. It was
 16 10 percent of the net.
 17 Q. I'm confused. Did Monroe pay its expenses
 18 as the case went along and then you received 10
 19 percent of the 17 plus million dollar settlement, is
 20 that what you mean? **READING EXHIBIT 43**
 21 A. I don't know. I don't know. **PAGE 116**
 22 Q. Do you recall in the Adams Communications

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1 case, this case, do you recall receiving capital
 2 calls periodically from Mr. Gilbert?
 3 A. Yes.
 4 Q. During the Monroe Communications case, did
 5 you receive similar periodic capital calls?
 6 A. Yes.
 7 Q. And is it your understanding that the
 8 purpose of those capital calls was to pay expenses as
 9 the case progressed?
 10 A. Yes.
 11 Q. So do you recall if there were any
 12 particular expenses to be paid out of the proceeds of
 13 the distribution of funds in the settlement?
 14 A. That's what makes it difficult for me to
 15 answer your question, I can't recall that. I don't
 16 know.
 17 MR. HUTTON: I have nothing further.
 18 MR. COLE: Can we stipulate that the 30
 19 minutes is not cumulative, you don't get the extra
 20 ten? I only have one question, just to clean-up, one
 21 brief area of questioning.
 22

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1 EXAMINATION
 2 BY MR. COLE:
 3 Q. Mr. Fickinger, Mr. Hutton asked you at one
 4 point whether you had provided in connection with the
 5 Adams application a copy of a balance sheet or
 6 financial statement to anyone. Do you recall
 7 testifying -- do you recall that question, that he
 8 asked you whether you provided a balance sheet?
 9 A. Yeah.
 10 Q. I just want to clarify your statement or
 11 make sure I understand your statement. Is it your
 12 testimony that you did not provide a balance sheet or
 13 that you do not recall whether you provided a balance
 14 sheet?
 15 A. I may have, I may have not. I don't
 16 recall.
 17 MR. COLE: Okay. That's all I have.
 18 EXAMINATION (Further)
 19 BY MR. HUTTON:
 20 Q. Do you recall the last time you ever
 21 prepared a personal financial balance sheet?
 22 A. For myself or for --

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1 Q. For any purpose whatsoever with respect to
 2 your personal net worth.
 3 A. No, I can't recall that.
 4 Q. Do you recall having done one within the
 5 last ten years?
 6 A. Yes.
 7 Q. Do you recall what that was in connection
 8 with?
 9 A. No, I can't. I don't know.
 10 Q. To the best of your recollection, was it in
 11 connection with this case?
 12 A. Of this --
 13 Q. The Adams Communications case.
 14 A. It could very well have been. I just have
 15 a difficulty recalling it. This is such a long time
 16 ago.
 17 Q. Do you recall providing the balance sheet
 18 to Mr. Gilbert?
 19 A. No, I don't recall that.
 20 Q. Do you recall providing it to any other
 21 principals of Adams Communications?
 22 A. No.

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1 Q. Do you recall if the balance sheet that you
 2 prepared may have been related to your retirement
 3 from Bozell?
 4 A. No, I'm sure it was not, no.
 5 Q. Do you recall if it was provided to a
 6 financial consultant or a broker that you employ?
 7 A. I'm reasonably sure it wasn't that. The
 8 financial man I employ does these on his own. It's
 9 part of his job in monitoring my activity.
 10 Q. Do you know if he ever provided a balance
 11 sheet to any principal of Adams Communications?
 12 A. I don't think so, but I can't be ironclad
 13 positive.
 14 Q. Do you recall instructing him to provide
 15 such a balance sheet?
 16 A. No, I don't, no.
 17 MR. HUTTON: I have nothing further.
 18 MR. COLE: That's it for me.
 19 MR. HUTTON: Back on at 1:30.
 20 MR. COLE: That's fine. We are not going
 21 to waive signature. **READING EXHIBIT 43**
 22 **PAGE 117**

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periodic - Suite

Condenselt™

Adams v. Reading

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**Exhibit 44 DEPOSITION OF ROBERT L. HAAG
NOVEMBER 12, 1999, 8:35 A.M.**

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IN RE: READING BROADCASTING, INC. and ADAMS
COMMUNICATIONS CORPORATION

DEPOSITION OF: ROBERT L. HAAG

DATE OF DEPOSITION: FRIDAY, NOVEMBER 12, 1999

At the time the above-named deponent read and signed
this deposition, the deponent desired to make the
following changes:

<u>PAGE:</u>	<u>LINE:</u>	<u>AS TRANSCRIBED:</u>	<u>CHANGE TO:</u>
7	13	Howie	HOWARD
11	5	Jewels	Jules
14	17	Jewels	Jules
23	7	Howie	HOWARD
34	8	Howie	HOWARD
38	19	Howie	HOWARD

DATED:



SIGNATURE OF DEPONENT



**CAROL J. THOMAS STENOTYPE
REPORTING SERVICES, INC.**

3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
(703) 273-9221

**READING EXHIBIT 44
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Application of	x	
	:	
READING BROADCASTING,	:	MM DOCKET NO. 99-153
INC.,	:	FILE NO. BRCT-940407KF
	:	
For Renewal of License	:	
of Station WTVE (TV),	:	
Channel 51,	:	
Reading, Pennsylvania,	:	
	:	
and	:	
	:	
ADAMS COMMUNICATIONS	:	FILE NO. BPCT-940630KG
CORPORATION,	:	
	:	
For Construction Permit.	x	

Washington, D.C.

Friday, November 12, 1999

DEPOSITION OF:

ROBERT L. HAAG,

a witness, was called for examination by counsel for Reading Broadcasting, Inc., pursuant to Notice and agreement of the parties as to the time and date, taken at the offices of Holland & Knight, 2000 K Street, N.W., Washington, D.C., commencing at approximately 8:35 o'clock, a.m., before



**CAROL J. THOMAS STENOTYPE
REPORTING SERVICES, INC.**

3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
(703) 273-9221

1 Elaine A. Merchant, a Registered Professional
2 Reporter and Notary Public in and for the District
3 of Columbia, when were present on behalf of the
4 respective parties:

5

6 APPEARANCE OF COUNSEL:

7 For Reading Broadcasting, Inc.:

8 HOLLAND & KNIGHT, ESQUIRES
9 BY: THOMAS J. HUTTON, ESQUIRE
10 2100 Pennsylvania Avenue, N.W., Suite 400
11 Washington, D.C. 20037-3202

12

13 For Adams Communications Corporation:

14 BECHTEL & COLE, ESQUIRES
15 BY: HARRY F. COLE, ESQUIRE
16 1901 L Street, N.W., Suite 250
17 Washington, D.C. 20036

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I-N-D-E-X

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Witness:

Page:

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ROBERT L. HAAG

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Examination by Mr. Hutton

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