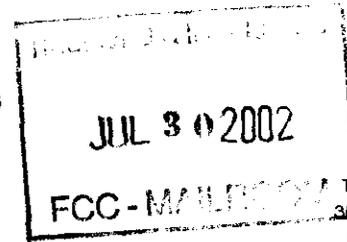


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July 29, 2002

VIA FACSIMILE/FEDERAL EXPRESS

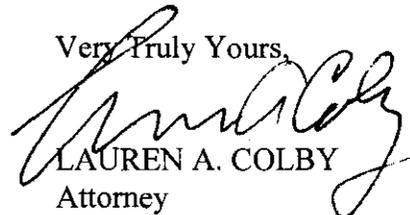
Honorable Richard L. Sippel
Office of Administrative Law Judges
Room 1-C768
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Ref: Kevin David Mitnick
WT Docket No. 01-344

Dear Judge Sippel:

On behalf of my client, Kevin B. Mitnick, I hand you herewith for filing the original and five copies of a transcript of the testimony of David Hall, accompanied by a notarized affidavit from Mr. Hall, attesting to the authenticity of the transcript. With the submission of this affidavit, I believe that all of the conditions for the receipt of Mr. Hall's testimony in evidence have now been fully satisfied.

Very Truly Yours,



LAUREN A. COLBY
Attorney

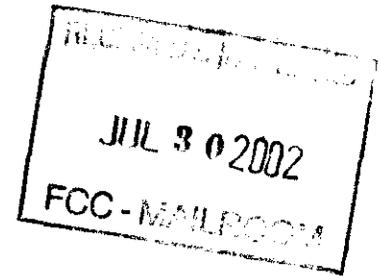
LAC/lsp
cc: Mr. James Shook, FCC Enforcement Bureau

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015

STATE OF CALIFORNIA)
)
COUNTY OF Los Angeles)

ss.



AFFIDAVIT

David G. Hall, being duly sworn, deposes and states as follows:

My name is David G. Hall. I have reviewed the transcript of the testimony given by me in a hearing before the Federal Communications Commission on June 24, 2002, and I hereby affirm that the transcript of my testimony is a true and correct representation of that testimony.

A handwritten signature in black ink, appearing to read "David G. Hall".

David G. Hall

STATE OF CALIFORNIA)
)
COUNTY OF Los Angeles)

ss.

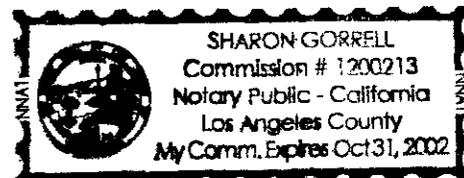
ACKNOWLEDGMENT

On this 23rd day of July, 2002, before the undersigned officer, personally appeared an individual who properly identified himself to me as David G. Hall, the person whose name is subscribed to the above Affidavit, and swore to me that the above Affidavit is true and correct.

A handwritten signature in black ink, appearing to read "Sharon Gorrell".

Notary Public

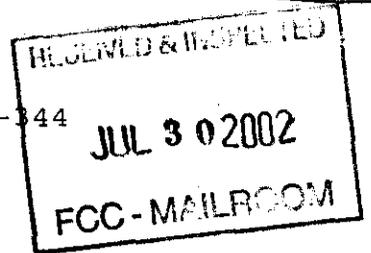
My commission expires: October 31, 2002



UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In The Matter Of:)
)
KEVIN DAVID MITNICK,)
)
Licensee of Station NGNHB)
in the Amateur Radio Service)
for Renewal of Station)
License.)
)
KEVIN DAVID MITNICK,)
)
For Renewal of Amateur)
Radio General Class Operator)
License.)

EB Docket No.: 01-344



Pages: 118 through 140
Place: Washington, D.C.
Date: June 24, 2002

HERITAGE REPORTING CORPORATION

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

In The Matter Of:)
)
 KEVIN DAVID MITNICK,) EB Docket No.: 01-344
)
 Licensee of Station NGNHB)
 in the Amateur Radio Service)
 for Renewal of Station)
 License.)
)
 KEVIN DAVID MITNICK,)
)
 For Renewal of Amateur)
 Radio General Class Operator)
 License.)

Suite 600
 Heritage Reporting Corporation
 1220 L Street, N.W.
 Washington, D.C. 20005

Monday,
 June 24, 2002

The parties met telephonically, pursuant to the
 notice of the Judge, at 2:00 p.m.

BEFORE: HONORABLE RICHARD L. SIPPEL
 Administrative Law Judge

APPEARANCES:

On Behalf of Kevin David Mitnick:

LAUREN A. COLBY, Esquire
 10 East Fourth Street
 P.O. Box 113
 Frederick, MD 21701
 (301) 663-1086

Heritage Reporting Corporation
 (202) 628-4888

APPEARANCES: (Continued)

On Behalf of the Federal Communications
Commission, Enforcement Bureau:

DANA LEAVITT, Esquire
Federal Communications Commission
Enforcement Bureau
445 12th Street, S.W.
Washington, D.C. 20554
(202) 418-7584

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
David G. Hall	122	125	136	137	--
			137		

E X H I B I T S

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Mitnick:</u>			
3	124	124	--

P R O C E E D I N G S

(2:00 p.m.)

1
2
3 JUDGE SIPPEL: Good afternoon, Judge Sippel here.
4 Is everybody on board?

5 MS. LEAVITT: Yes, Your Honor. It's Dana Leavitt.

6 JUDGE SIPPEL: Mr. Colby?

7 MR. COLBY: Lauren Colby here.

8 THE COURT REPORTER: This is the court reporter,
9 Ms. Logan.

10 JUDGE SIPPEL: Okay, thank you, Ms. Logan.

11 And Mr. Hall, is Mr. Hall with us?

12 MR. HALL: Yes, sir. Yes, Your Honor.

13 JUDGE SIPPEL: I understand that there is no
14 notary with you, but that you are prepared to review the
15 transcript and then notarize your signature to the
16 transcript. Is my understanding correct?

17 MR. HALL: Yes, that's right.

18 JUDGE SIPPEL: Okay, And, Ms. Leavitt, you are
19 ready to proceed under those conditions?

20 MR. COLBY: Yes, Your Honor.

21 THE COURT REPORTER: If I could just ask on
22 question, if people could introduce themselves before they
23 begin to speak.

24 JUDGE SIPPEL: Excellent, excellent. You are
25 right on. This is Judge Sippel speaking.

1 What I am going to do, Mr. Hall, right now is
2 administer the oath to you.

3 MR. HALL: Okay.

4 Whereupon,

5 DAVID G. HALL

6 having been duly sworn, was called as a witness
7 and was examined and testified as follows:

8 JUDGE SIPPEL: Now, again this is Judge Sippel
9 speaking.

10 Mr. Colby, you may proceed in presenting this
11 evidence.

12 MR. COLBY: I am Lauren Colby speaking.

13 DIRECT EXAMINATION

14 BY MR. COLBY:

15 Q Dave, do you have before you a letter that you
16 wrote to me on May 7, 2002?

17 A Actually, I don't, but it's on it's way. It was
18 faxed to the hotel, and there was a problem with it, but
19 they are bringing it up to my room right now.

20 Q Well, I'll just read the letter because it's very
21 brief, and then ask you after I have read the letter whether
22 it is your testimony.

23 A Okay.

24 Q It says, "During the time I worked with Kevin
25 Mitnick at KFI, I saw him working tirelessly to both move on

1 with his life and to use his past to the benefit of others.
2 His show on KFI was all about demystifying the internet for
3 people. He focused on issues of security and explaining how
4 the internet works, and how it can both help and hurt
5 someone.

6 "He rarely spoke of hacking, and when he did, it
7 was always in terms of explaining how someone's personal
8 computer is vulnerable and what they could and should do to
9 protect their computer and themselves.

10 "Kevin seemed genuinely interested in fostering
11 understanding in others. It was this mindset that made the
12 KFI show so successful and in fact attracted us to Kevin in
13 the first place.

14 "If there is anything else I can do, please don't
15 hesitate to ask."

16 Was that the text of your letter?

17 A Yes.

18 Q And do you swear and affirm that it's true and
19 correct?

20 A Yes.

21 MR. COLBY: I have no further questions for you,
22 but I believe Dana Leavitt from the Enforcement Bureau does,
23 and I turn you over to her for cross-examination.

24 JUDGE SIPPEL: This is Judge Sippel again.

25 I would like to have this document, it has been

1 marked as Mitnick Exhibit 3 for identification, and I think
2 would be appropriate to move it into evidence.

3 MR. COLBY: Lauren Colby speaking.

4 I move it at this time, Your Honor.

5 JUDGE SIPPEL: Any objection?

6 MS. LEAVITT: No, Your Honor. Dana Leavitt.

7 JUDGE SIPPEL: Judge Sippel.

8 Okay, then Exhibit 3 for identification is now in
9 evidence as Mitnick No. 3.

10 (The document referred to was
11 marked for identification as
12 Mitnick Exhibit No. 3, and
13 received in evidence.)

14 JUDGE SIPPEL: Let me add to that or make a query
15 of the court reporter, do you have these exhibits before
16 you?

17 THE COURT REPORTER: Yes, I do.

18 JUDGE SIPPEL: Would you please then make the
19 appropriate entry that that document is received in
20 evidence? Can you do that?

21 THE COURT REPORTER: Yes. I have.

22 JUDGE SIPPEL: Thank you very much.

23 Ms. Leavitt, you may proceed.

24 MS. LEAVITT: Thank you, Your Honor.

25 //

1 CROSS-EXAMINATION

2 BY MS. LEAVITT:

3 Q Mr. Hall, how did you come about preparing this
4 letter?

5 A I was asked by Mr. Colby.

6 Q Okay. Did anybody help you compose the letter?

7 A No.

8 Q Can you tell us where you work?

9 A I work at Premier Radio Networks in Sherman Oaks,
10 California.

11 Q And what is your job title?

12 A I am senior vice president of programming.

13 Q How long have you been there?

14 A Six months.

15 Q And where were you prior to that time?

16 A At KFI Radio in Los Angeles.

17 Q And how long were you there?

18 A Fourteen years.

19 Q And please describe your duties.

20 A I was the vice president of programming at KFI. i
21 was in charge of essentially everything that was on the air
22 on the radio station. It's a talk radio, it's a news and
23 talk radio station. So I hired and fired newspeople and
24 talk show hosts, and then developed, you know, their shows
25 so that they would be successful from a ratings and business

1 standpoint.

2 Q Okay. And what do you do now in your current
3 functions?

4 A The same thing, but for a national network, which
5 just for reference is the network that syndicates Rush
6 Limbaugh and Dr. Laura and some of the bigger talk shows in
7 America.

8 Q Okay. Did there come a time when you met Kevin
9 David Mitnick?

10 A There did.

11 Q And please tell us about that.

12 A We had an opportunity to have him on a guest in
13 the morning show on KFI, and I actually heard him while
14 driving to work the day that he was on. I thought he was
15 excellent. I thought he was very informative, and likeable,
16 approachable. And so when I got to the radio station that
17 morning I pulled him aside and I talked to him about the
18 possibility of maybe trying a talk show, trying to do a talk
19 show for himself.

20 Q And did there come a time when you hired Mr.
21 Mitnick --

22 A There did.

23 Q -- a radio program?

24 A There did.

25 Q When was that?

1 A Actually, I do not have the dates. I had, and
2 this is something I would like to clarify here for you
3 especially, I think, Ms. Leavitt, I had requested the exact
4 dates of his employment from the radio station, but because
5 this is an FCC matter and I am no longer an employee there,
6 they need to be -- they need to hear from you to release the
7 dates of when he was there.

8 Q Oh, okay.

9 JUDGE SIPPEL: This is Judge Sippel.

10 Can you approximate the dates to the best of your
11 recollection, please?

12 THE WITNESS: 2000, like the spring or summer of
13 2000, I think.

14 JUDGE SIPPEL: You may proceed, Ms. Leavitt.

15 MS. LEAVITT: Thank you, Your Honor.

16 BY MS. LEAVITT:

17 Q What was the name of the program?

18 A The Dark Side of the Internet with Kevin Mitnick.

19 Q And what was that show about?

20 A It was about the internet, and really we tried to,
21 or my goal for the show was to focus on two areas in the
22 internet, or internet issues: security and content, because
23 I thought that Kevin would probably be a little light on
24 content since he's not allowed to access the internet, but
25 would be pretty good with security and kind of demystifying

1 that for people, so that ended up being really the main
2 focus of the show.

3 BY MS. LEAVITT:

4 Q Is the show still airing?

5 A It's not.

6 Q Why is that?

7 A We had to make budget cuts at the radio station,
8 and we eliminated several of our weekend shows. It was a
9 weekend show, by the way, that was on Sunday mornings from
10 five to seven a.m. And so we eliminated it in the fall of
11 2001.

12 Q And why did you eliminate it?

13 A Budget constraints. We just -- we couldn't afford
14 the show, and several others on the weekend.

15 Q Okay. So it ended in the fall of 2001?

16 A Mm-hmm.

17 Q Okay. So how long did the program run for then?

18 A There were really two incarnations of it. The
19 first, it went on the air in -- it must have been either
20 late 2000 or early 2001, and again I'm sorry that I don't
21 have specific dates. And the original intent was for it to
22 have been a nationally syndicated network show actually with
23 Premier, the company that I am working for now.

24 And then after a few months it became clear that
25 it probably wouldn't -- we probably wouldn't find a big

1 enough market for it as a nationally syndicated show. So we
2 converted it to being a local show, just KFI only, and that
3 was probably, oh, in the spring of 2001 when that happened.

4 So all together, about a year.

5 Q Okay. Did you make any tapes of the show?

6 A The show -- well, there are two answers to that.
7 First, the radio station records everything that's on its
8 air for FCC compliance purposes, and for -- you know, for
9 legal purposes anyway.

10 Aside from that we were required to make tapes of
11 the show to supply to Kevin's probation officer, which I
12 personally did not do, but I oversaw that process.

13 Q And was there any feedback at all from his parole
14 officer regarding the tapes?

15 A I never heard directly from his parole officer. I
16 heard indirectly from not Kevin, but the producer of the
17 show, who is the person who made the tapes and sent them to
18 the parole officer, that the parole officer actually liked
19 the show personally, you know, enjoyed listening to the show
20 from a personal standpoint.

21 MR. COLBY: Lauren Colby here.

22 I would just interject to point out that there is
23 no federal parole anymore. This is a probation officer.

24 THE WITNESS: Oh, I am sorry.

25 //

1 BY MS. LEAVITT:

2 Q And how did you interact with Kevin during the
3 course of the running of his radio program?

4 A We would meet irregularly but frequently.
5 Sometimes once or twice a week, sometimes once or twice a
6 month, most due to my schedule because I had a lot going on.
7 I was very busy at the time. And we would typically meet
8 for about an hour. We would meet in my office during the
9 week. Often I would play excerpts of the show and talk to
10 him about things that he might consider doing differently,
11 you know, to focus differently, or to bring different
12 elements to the show.

13 And then we would always have a general discussion
14 about the general direction of the show; you know, how
15 informative it was, and how entertaining, and what could be
16 done generally to get more attention for it and to have it
17 become more successful.

18 Q And how did he reaction to your coaching?

19 A Very positively. He was like a sponge. He would,
20 you know, take notes, listen very carefully. He was very
21 quick to ask if he didn't understand something. And then he
22 would really work to apply it, you know, the next time that
23 he would be on the radio.

24 Q Would you consider yourself having been an
25 authority figure with respect to Kevin?

1 A Yes.

2 Q Okay. How did he take it when you had to inform
3 him that you weren't going to carry the show anymore, his
4 program anymore?

5 A He was disappointed. I think he really enjoyed
6 doing the show. He was very disappointed.

7 Q And how did you know that he was disappointed?

8 A He told me.

9 Q Okay.

10 A Well, he sounded disappointed and he told me.

11 Q Any other response? Did he have any other
12 response to the cancellation?

13 A No. He asked if I could help him, you know, find
14 a different home for it or something. But other than that,
15 no.

16 Q Okay. Have you had any contact with Kevin
17 subsequent to cancellation of the program?

18 A Very infrequently. He called to tell me that this
19 process was coming and to ask if I could be involved, and
20 really that's about it. And the truth is he has actually
21 called me several times, and I just have not had a chance to
22 call him back, probably in regard to this process, but
23 actually I don't know.

24 Q Was there any conversation or contact regarding a
25 syndicated program?

1 A Yeah, actually there was. You know, when the show
2 was finished and he had asked about getting my help, you
3 know, some help for finding a home for the program, he was
4 interested again in doing some kind of syndication or doing
5 it differently.

6 I had talked to him about coming into Premier to
7 us the studio to make a demo because he had talked about
8 doing a show that was different than what he had done on
9 KFI. We never actually ended up doing that though.

10 Q When were those contacts or discussions?

11 A Oh, must have been January of this year, 2002.

12 Q Do you have any ongoing dialogue regarding that?

13 A No.

14 Q Okay.

15 A Although the matter was not closed. We just -- we
16 don't have ongoing dialogue, but there was never a time
17 where I told him that wasn't a possibility or that I
18 wouldn't help. It's just nothing has happened with it.

19 Q Okay. Do you have any concerns with Kevin's
20 ability to deal with the Federal Communications Commission
21 in an honest and forthright manner?

22 A None.

23 Q And why is that?

24 A I have never seen him do anything at all in any
25 way that would lead me to be suspect of him in that way.

1 Q Do you have any examples?

2 A Yeah. I have actually a personal example. When I
3 first started working with Kevin, and you know, he explained
4 what he could do and what he couldn't do, and what he could
5 touch and what he couldn't touch, I was -- frankly, I was
6 amazed, and quite frankly, teased him about that a little
7 bit early on.

8 Q Let me interrupt one second, Mr. Wall.

9 You said that he told you what he could or
10 couldn't do. What was that in reference to?

11 A The use of computers.

12 Q As it related to his conditions of his --

13 A Probation.

14 Q Okay.

15 A Yeah.

16 Q Okay.

17 A So for example, the discussion was something like,
18 you know, he was very clear that he couldn't -- he couldn't
19 use a computer. He would always have to sit next to someone
20 or be on the phone with someone who is using a computer, but
21 he couldn't touch it himself.

22 And so I asked him, you know, about different
23 computer-related products. Can you use a calculator? Can
24 you use a computer printer? Could you use one of those Palm
25 Pilots, you know, that kind of thing. So we had that kind

1 of discussion.

2 After that discussion, frankly, I teased him a
3 little bit about it, and which was probably not a very nice
4 thing to do, but, you know, he was at my desk. I was
5 looking at something on the internet. He was looking over
6 my shoulder. And I said, "Are you sure you can't just, you
7 know, touch a keyboard?"

8 And he said, "Oh," and he backed off entirely.
9 Backed way up, and said, "No, absolutely not. I don't want
10 to go there. I don't want to fuck up again."

11 And the whole time I worked with him, I saw that
12 attitude and that manner from him; not that he was presented
13 with temptation like that, but just, you know, every time
14 that there could have been some place for him to say, well,
15 maybe once, or, well, I trust you guys or whatever, he never
16 did it.

17 In fact, when he was on the radio doing the show,
18 there were two computers in that room, in the studio. And
19 when the producer would leave the room during a break to go
20 to the bathroom, he would leave the room and stand in the
21 hallway. So he would never even allow himself to be alone
22 in a room with a computer at the radio station, which I was
23 pretty impressed by.

24 Q Why do you think he didn't want to be alone in a
25 room with a computer?

1 A I don't think he would want to have anyone be able
2 to say that he did -- you know, that he violated the terms
3 of his probation.

4 Q And to what do you attribute his, I guess, change
5 of heart in terms of his prior criminal activities and his
6 current behavior?

7 A I have the feeling that he wants to -- he really
8 want to just fly straight, like he's -- he feels like has
9 paid his debt. You know, he has done what he can. He
10 has -- he just seems to be looking at life differently than
11 he once did.

12 And you have to remember I didn't know him back
13 then, so it's kind of a lopsided reference, but I mean, he
14 just -- you know, every conversation or meeting, it just
15 seemed like he's so focused on doing the right thing and
16 really straightening out his life and going forward and
17 doing whatever is necessary to make that happen.

18 Q So you have confidence -- how confident are you
19 that he has changed his behavior permanently?

20 A Based on my experience with him, 100 percent.

21 Q Okay. And you mentioned earlier that, you know,
22 you were at KFI for 14 years.

23 How long have you been in the radio business?

24 A Twenty-five years.

25 Q Okay. So you're familiar with the FCC rules and

1 regulations?

2 A Very.

3 Q Okay. Do you happen to have a ham license
4 yourself?

5 A No.

6 Q Okay.

7 A I have a second class radio telephone license
8 which doesn't even exist anymore.

9 Q Have you, in your capacity, in your programming
10 background, have you ever been cited for a violation?

11 A Never.

12 MS. LEAVITT: Okay, I have no other questions at
13 this time.

14 JUDGE SIPPEL: Thank you, Ms. Leavitt. This is
15 Judge Sippel.

16 Mr. Colby?

17 MR. COLBY: I have one question just for the
18 record.

19 REDIRECT EXAMINATION

20 BY MR. COLBY:

21 Q What is your date and place of birth?

22 A October 6, 1964, Sacramento, California.

23 MR. COLBY: Thank you very much.

24 JUDGE SIPPEL: Judge Sippel. I have one question.
25 I hope I am not asking you to repeat yourself.

1 What is your current business at this time?

2 THE WITNESS: I am in charge of syndicated radio
3 talk shows that are broadcast nationally, distributed
4 nationally for Premier Radio Networks.

5 JUDGE SIPPPEL: That's all I have.

6 MS. LEAVITT: Your Honor, I just thought of
7 another question. It's Dana Leavitt.

8 RE CROSS-EXAMINATION

9 BY MS. LEAVITT:

10 Q Are you related by blood or marriage to Kevin
11 David Mitnick?

12 A Not at all.

13 MS. LEAVITT: Okay, that's it, Your Honor.

14 JUDGE SIPPPEL: Very well. Mr. Colby?

15 MR. COLBY: I would just like to clarify one
16 thing.

17 FURTHER REDIRECT EXAMINATION

18 BY MR. COLBY:

19 Q Premier Radio Networks is a wholly owned
20 subsidiary of Clear Channel, is it not?

21 A It is. Yeah, it's the same company, different
22 division. So this move for me from the radio station to
23 Premier was a promotion and a lateral move within the same
24 company; lateral from division to division in other words.

25 MR. COLBY: That clarifies what I wanted to bring

1 out. Thank you so much.

2 JUDGE SIPPEL: This is Judge Sippel.

3 I have nothing further.

4 MS. LEAVITT: Neither do I, Your Honor.

5 JUDGE SIPPEL: Is everybody complete?

6 MR. COLBY: Certainly I am.

7 MS. LEAVITT: I think so.

8 JUDGE SIPPEL: Okay, Mr. Hall, you have given very
9 articulate testimony. Thank you very much, sir.

10 THE WITNESS: Thank you very much.

11 JUDGE SIPPEL: Okay, I'm not going to proceed any
12 further with administrative matters. We can take those up
13 later.

14 This session, this testimony session is completed.
15 You will, of course, Mr. Hall, or Mr. Colby will obtain it
16 for you a copy of the transcript that you can read and you
17 are satisfied with it, you will sign it before a notary, and
18 that will be it.

19 THE WITNESS: Okay.

20 JUDGE SIPPEL: Anybody have anything further?

21 MS. LEAVITT: Nothing, Your Honor.

22 JUDGE SIPPEL: Mr. Colby?

23 MR. COLBY: Nothing, Your Honor.

24 JUDGE SIPPEL: Thank you very much. Thank you,
25 Madam Reporter.

1 THE COURT REPORTER: Oh, you are welcome.

2 JUDGE SIPPEL: This session is terminated. Thank
3 you again.

4 MR. COLBY: Bye-bye.

5 MS. LEAVITT: Bye.

6 MR. COLBY: So long, folks.

7 (Whereupon, at 2:20 p.m., the hearing in the
8 above-entitled matter was adjourned.)

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