

1 practice at that point?

2 A Because the Express had grown to  
3 the point where it took up all my time.

4 Q Okay. Can you tell us a little  
5 bit about Express, what kinds of business it  
6 did.

7 A We started off, we were selling  
8 applications, started off doing, actually,  
9 wireless cable, individual and applications,  
10 general partnerships, some very very small  
11 general partnerships. We started on a  
12 cellular underserved area program in the fall  
13 of 1990. Mostly general partnerships. Got  
14 involved in a rulemaking proceeding on 90.90-  
15 6, which formed what came to be known as the  
16 Committee For Effective Cellular Rules, along  
17 with some other folks.

18 Then we got involved in doing SMR  
19 applications, 900 MHz, for a lottery that was  
20 never held.

21 Q And did Express actually own  
22 licenses itself?

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1           A       Through subsidiary companies.

2       Yes, sir.

3           Q       Can you tell us who those--or what  
4       those subsidiaries were.

5           A       It was a company called Personal  
6       Communications Corp, and there was a number of  
7       subsidiaries, one of which was a management  
8       company at one time.

9           Q       Do you know--which also owned  
10       licenses?

11          A       It had construction management  
12       contracts with several thousand licenses. Yes  
13       sir. PCC Management Corp. It filed--

14          Q       PCC Management Corp.?

15          A       Yes, sir. It filed an extended  
16       implementation authority request with the  
17       Commission, I believe in January 1995.

18          Q       And how many licenses did PCC own?

19          A       Didn't own them, it had  
20       construction management contracts.

21          Q       Okay. So I'm asking about  
22       licenses that Express actually owned or

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1 controlled.

2 A There were a number of SMR  
3 licenses that another subsidiary of PCC held.  
4 Express owned Personal Communications Corp.  
5 and I had two subsidiaries. One subsidiary  
6 held licenses. One subsidiary managed, just  
7 built and operated--

8 Q And the management subsidiary was  
9 PCC. What was the owner--

10 A PCC Management Corp. was the  
11 management company.

12 Q Okay. What was the ownership  
13 subsidiary?

14 A PCC Holdings, Inc. I'm sorry.  
15 PCC Holdings Corp.

16 Q Holdings Corp.?

17 A Yes, sir. I believe so.

18 Q And approximately how many  
19 licenses did PCC Holdings Corp. own or  
20 control?

21 A I don't remember the number of  
22 licenses. It was several hundred SMR paired

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1 channels.

2 Q Okay. So those are the companies  
3 that you were holding under Express. Were  
4 there any other companies, at that time, that  
5 you owned or controlled?

6 A There was another subsidiary that  
7 was called CMC Plus, and it was a management  
8 company for various marketing organizations  
9 that had contracted with Express.

10 Q Okay. And how would you describe  
11 the main thrust of Express' business?

12 A It was a license application  
13 preparation firm. It also did equity deals,  
14 it put together a 100 liability companies and  
15 general partnerships that bought licenses in  
16 the secondary market with a goal of building  
17 and operating--actually digital cellular  
18 systems using SMR frequencies.

19 Q And so was its main business  
20 creating these partnerships for third parties  
21 or those people--

22 A Yes. Partnerships and limited

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1 liability companies. Yes, sir.

2 Q Okay. Can you speculate--or don't  
3 speculate. I'm sorry. Do you know how many  
4 companies that would have been, that Express  
5 put together for others?

6 A There were about 350 limited  
7 liability companies.

8 Q Which were created and completed?

9 A Not all of them were completed but  
10 they were created, and there were investors in  
11 all of them. Yes, sir.

12 Q Okay. Can you give us, to the  
13 best of your recollection, what the revenues  
14 Express generated in '90 or '91.

15 A In '90/'91, they were very low.  
16 In '92, the sales, I could tell you, over a  
17 three or four year period, we raised about \$25  
18 million. That's all I can remember. I can't  
19 break it down by individual year.

20 Q When you say "raised \$25 million,"  
21 what would have become of that 25 million?

22 A Basically you were selling either

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1 license applications to people who filed and  
2 were granted licenses and/or--in one case we  
3 had--you know, it was a lottery program,  
4 people win the lottery, and clients won 20 to  
5 25 cellular underserved area licenses granted  
6 by the Commission.

7 Q Okay. Of the revenues I'm asking.  
8 Who was the owner of Express, or who were the  
9 owners of Express?

10 A Express had about 150  
11 shareholders.

12 Q Okay. So that 25 million--just  
13 take that for an example. I understand that's  
14 just a limited period of time. That would  
15 have been distributed to the owner?

16 A Those are sales. That wasn't net-  
17 -

18 Q Okay. That's what I'm trying to  
19 get at. What did that 25 million represent?

20 A Just gross sales.

21 Q Gross sales?

22 A Yes, sir.

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1 Q Do you know what, ultimately, the  
2 profit was that Express generated for that  
3 period of time?

4 A Didn't have a profit; had a loss.

5 Q Had a loss?

6 A Yes, sir.

7 Q How about in '92 and '93?

8 A I mean through the whole period.

9 Q Through the whole period?

10 A For two years it operated at a  
11 loss.

12 Q Okay. And how long is the whole  
13 period that Express was operating?

14 A Between 1990 and 1995.

15 Q Okay. What caused--did there come  
16 a time when Express came to an end?

17 A Yes, sir.

18 Q Okay. And when was that?

19 A July 1995.

20 Q Can you tell us why that occurred.

21 A Because I was incarcerated.

22 People decided not to go forward.

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1 Q Okay. I actually jumped ahead of  
2 where I was. Just give me a second here.  
3 Okay. I want to come back for a minute to the  
4 current deposition and ask how long have you  
5 known about this deposition? And I know it's  
6 been postponed a couple of times.

7 A Months. Six months.

8 Q Six months?

9 A Or more. I don't really recall.

10 Q And have you had an opportunity to  
11 prepare for the deposition with your attorney?

12 A Yes, sir.

13 Q Have you spoken to anyone else,  
14 other than your attorney, in regard to  
15 preparing for the deposition?

16 A No, sir.

17 Q Not an accountant? Not anyone  
18 else?

19 A No one.

20 Q No other professional?

21 A No.

22 Q No one at all. Have you reviewed

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1 documents in preparing for the deposition  
2 today?

3 A Yes, sir.

4 Q Can you tell us generally which  
5 documents you reviewed.

6 A I reviewed Mr. Austin's deposition  
7 testimony for three days, and I reviewed all  
8 the exhibits that you all went over.

9 Q So you obtained a copy of the  
10 transcript of Mr. Austin's testimony?

11 A For the first three days.

12 Q Do you know whether the documents  
13 that you reviewed were provided to the FCC  
14 during either the period where the letter of  
15 inquiry was pending, or during discovery in  
16 this proceeding?

17 I guess what I'm getting at is  
18 were there documents that you reviewed, that  
19 you know were not provided to--

20 A I don't have any idea what they  
21 provided you, to tell you the truth.

22 Q You don't have any idea what was

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1 provided to any of the letters of inquiry, or  
2 to the interrogatories that you answered?

3 A All I know is what I provided you.  
4 I don't know what they did.

5 Q That's what I'm asking. Of the  
6 documents that you reviewed and that you  
7 provided us. Would you recall whether any of  
8 the documents that you reviewed for the  
9 deposition were not provided to the Commission  
10 during the letter of inquiry or for your own--

11 A No, I don't, I don't--

12 Q --discovery? Is that too  
13 complicated?

14 MS. SINGH: I think it is. Let's  
15 break it down.

16 MR. SILVA: We reviewed the  
17 documents that were made exhibits to Mr.  
18 Austin's deposition. But I think Mr. Waugh is  
19 saying he doesn't know the source of those  
20 documents, whether they produced them, or  
21 where you got them.

22 MR. OSHINSKY: Okay. That's

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1 really not what I'm getting at. What I'm  
2 trying to ask is: Were there documents that  
3 you saw during your preparation, that you know  
4 for--or believe were not provided in either  
5 PCSI's answers to interrogatories or  
6 discovery, or your own?

7 You can say, if you don't  
8 remember, or don't know. You can say that.

9 THE WITNESS: I wouldn't know.

10 MR. SILVA: I don't know either.

11 MR. OSHINSKY: Okay. But I mean  
12 you do know what documents you reviewed to  
13 prepare for the deposition?

14 THE WITNESS: Yes; yes. The ones  
15 you all went over with him, I guess, Exhibits  
16 1 through, lord, 200 something.

17 MR. OSHINSKY: Okay.

18 BY MR. OSHINSKY:

19 Q But you don't know if there were  
20 any that were not provided--

21 A No, I--

22 Q --that you reviewed for the

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1 deposition?

2 A I don't--

3 Q That's my question.

4 A Yes, Your Honor.

5 Q Okay. Can you tell us what--you  
6 told us a little bit about Express. Can you  
7 tell us what ultimately became of the licenses  
8 that Express owned or controlled, either by  
9 itself or through a subsidiary.

10 A Most of them were lost primarily  
11 due to no one renewing them.

12 Q How long did they exist until they  
13 were lost? I assume by "lost" you mean  
14 cancelled?

15 A Yes, sir. Various periods. A  
16 year, two years, three years. Most of what  
17 PCC Holdings had were, you know, SMR licenses.  
18 They had like a five year renewal period, and  
19 they bought them some time during the license  
20 term. That's two or three years, that they  
21 all canceled.

22 Q And do you know specifically why

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1 they canceled?

2 A Nobody renewed them.

3 Q What about build-out requirements?

4 A Most of those licenses were  
5 actually constructed in 1994, '95.

6 Q Where did the licenses come from  
7 originally?

8 A Bought on secondary market from  
9 people who had them, who either filed  
10 applications for them originally, or who  
11 bought them themselves in the secondary  
12 market.

13 Q What was the purpose of the  
14 purchasing of those licenses by Express?

15 A To develop a digital cellular  
16 architecture system in Texas, Oklahoma, and  
17 Louisiana, along with other clients.

18 Q And how did that progress from the  
19 point where you acquired the licenses?

20 A Well, a number of licenses were  
21 purchased, a number of them were constructed,  
22 and basically things came to a halt in either

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1 late '94, early '95, due to my legal problems.

2 Q Okay, can you -- and so at that  
3 point were you unable to renew the licenses?  
4 What happened?

5 A Well, I was unable to renew  
6 anything. I wasn't allowed to be associated  
7 with Express any longer due to my guilty plea  
8 in July 1994. So the people that were in  
9 charge of Express, they, you know, closed the  
10 company and they basically didn't renew the  
11 licenses.

12 Q When you say the people who were  
13 in charge of Express, who was that?

14 A Express had a board of directors  
15 and it had people in its management, and it's  
16 a number of different people. I can get you  
17 a list, if you would like.

18 Q Yes. If you could do that,  
19 appreciate it. Can you tell us a little bit  
20 about your guilty plea you just mentioned.  
21 Where was that? And what was it for?

22 A The guilty plea was on July 13,

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1 1994. It was for conspiracy to violate the  
2 currency transaction reporting requirements,  
3 a federal statute.

4 Q And that was in federal court?

5 A Yes, sir. The Northern District  
6 of Texas.

7 Q Okay. And what was the result of  
8 the guilty plea? Can you tell us what action  
9 the court took?

10 A Well, I was sentenced on January  
11 19, 1995, and you've got the--all those  
12 papers. I cooperated with the Government and  
13 the sentence was reduced. I was released on--  
14 went to Leavenworth Federal Prison Camp, April  
15 6, 1995. I got released in February 1996.

16 Q So your actual time in prison was  
17 how long?

18 A Ten months.

19 Q Okay, and--I'm sorry; go ahead.

20 A Then I had three months in the  
21 halfway house in--I forget the name of the  
22 town, actually. Like bad memories just fade

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1 away. Three months in a halfway house, and  
2 then I was released on May 6th, 1996.

3 Q And during that period of time,  
4 the ten months plus the three months, were you  
5 ordered not to take any actions in regard to  
6 Express?

7 A Well, as part of the guilty plea I  
8 could no longer be associated with Express,  
9 and I had to basically surrender my stock in  
10 the company.

11 So I had no more involvement with  
12 Express as of July 13, 1994.

13 Q But what about the other  
14 individuals that you indicated? Did they take  
15 any action in relation to Express, or--

16 A Apparently not. I didn't have any  
17 communication with them. So I wouldn't know,  
18 really.

19 Q Do you know what ultimately  
20 happened to the--was Express a legal entity?

21 A Oh, yes.

22 Q Okay. Do you know ultimately what

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1 happened to Express as a legal entity?

2 A It just ceased to--you know,  
3 basically became dormant.

4 Q Was it a corporation?

5 A Yes, sir. Subchapter C.

6 Q And was there papers for  
7 dissolution filed?

8 A I doubt if there were. I wouldn't  
9 know.

10 Q And where was it incorporated?

11 A Delaware.

12 Q Okay. So to this day, you don't  
13 know whether it actually maintains a legal  
14 liability or not?

15 A No.

16 Q And what about the other  
17 individuals in Express? Did they try to  
18 contact you? Did people who--

19 A The only person I had any contact  
20 with was June McNally. When I was released,  
21 I end up working with her, and, you know, with  
22 Telecellular, Inc.

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1 Q Telecellular, Inc.?

2 A Yes, sir.

3 Q Okay. All right.

4 A The other folks--no. The answer's  
5 no.

6 Q And they didn't try to contact you  
7 after you got out of prison?

8 A No, no.

9 Q And you were forbidden to have any  
10 further contact with Express?

11 A Couldn't. Couldn't do anything to  
12 help them. Couldn't do anything to help  
13 Express.

14 Q Okay. Did you know Charles Austin  
15 at this time?

16 A Oh, yes.

17 Q Okay. Can you describe your  
18 relationship with him--

19 MR. SILVA: Counsel, by this time,  
20 what are you referring to?

21 MR. OSHINSKY: The time period  
22 when he was--I should say that's true. I

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1 should clarify. During the time period where  
2 you were operating Express, did you know  
3 Charles Austin?

4 THE WITNESS: Oh, yes, sir.

5 BY MR. OSHINSKY:

6 Q Okay. Can you describe how and  
7 when you met him?

8 A I met him at a marketing office  
9 that I was loaning money to on Sepulveda  
10 Boulevard in Los Angeles. I met him in July  
11 1992. He was one of the first salespeople  
12 that was--they hired. It was Mike McGill, and  
13 Brian Walsh. They set up a company called  
14 Walmac, Inc., and we loaned them \$25,000 so  
15 they could set up their office--Express did--  
16 and Mr. Austin was one of the first eight  
17 brokers who worked there.

18 Q Okay. And can you describe how  
19 your relationship with him evolved.

20 A He--I had a falling out with Mr.  
21 McGill, to say the least, and I didn't see Mr.  
22 Austin after about December '92. Summer of

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1 1993, I was--we had opened an office, a  
2 marketing office in Dallas, off of Central  
3 Expressway. You know, 21<sup>st</sup> Century Financial.  
4 And he showed up one day in July 1993, and he  
5 started working there, and three or four  
6 months later, I hired him to open a marketing  
7 office in Santa Monica, California. He was a  
8 manager of the office out there.

9 Q For Express?

10 A It was an office I owned  
11 personally.

12 Q Related to your legal practice or  
13 something else?

14 A No. As a marketing office. It  
15 was a phone room.

16 Q But a marketing office for what  
17 company? Or companies?

18 A Express. It was--I had a contract  
19 with Express.

20 Q I'm sorry. That's what I meant to  
21 indicate that.

22 A Yes, sir.

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1 Q Okay. So he was the manager of  
2 that marketing office. Were there other  
3 marketing offices?

4 A Oh, yes, sir.

5 Q How many?

6 A About thirty-five.

7 Q Can you tell us in what  
8 jurisdictions they were.

9 A They were in Florida, New Jersey,  
10 Texas, Colorado, California.

11 Q Okay. I want to go back to your  
12 conviction for a second. Can you give us the  
13 specifics of that. You said it was for  
14 failure to report. Can you tell us what that  
15 related to.

16 A I had an employee named Lonnie  
17 Guhl--Express had an employee named Lonnie  
18 Guhl. It's G-u-h-l. I want to make sure you  
19 get his name spelled right. He was referred  
20 to me by Steve Fox, that I knew from the late  
21 '80s in connection with the Cellular  
22 Corporation and Crystal Communications.

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1                   Lonnie, unbeknownst to me, had  
2                   been a vice president of a savings and loan in  
3                   Irving, Texas, and Lonnie had been indicted  
4                   and convicted of bank fraud, and he'd had his  
5                   conviction overturned, but on his resume there  
6                   was no mention of any of this.

7                   He was hired in -- by Express, in  
8                   March of 1991. Had a consultant named Arnold  
9                   Swanson, and I knew Arnie from the days when  
10                  I was a securities attorney, doing reverse  
11                  mergers. Lonnie had an affinity for attending  
12                  meetings with a gentleman named Thomas Gaubert  
13                  who was a son of a guy who owned a major S&L  
14                  in Irving, Texas.

15                  By continuing to meet with  
16                  Gaubert, it drew in the FBI, which was trying  
17                  to convince--trying to convict the father of  
18                  bankruptcy fraud.

19                  Q        The father being?

20                  A        Thomas Gaubert.

21                  Q        Okay.

22                  A        They tried to get him in 1988, and

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1 they had a criminal trial in Iowa. He was  
2 acquitted. So there was a savings and loan  
3 fraud task force that was roaming around  
4 Northern Texas at the time. So Mr. Guhl ended  
5 up in a number of meetings with Gaubert's son  
6 and they drew some attention. So the FBI and  
7 people around them, the confidential  
8 informant, other folks, concocted a number of  
9 schemes.

10 They took runs at us. In '91,  
11 various guises. Nothing every happened.

12 Q How do you know this?

13 A Life experience. That's what  
14 happened. I mean, in retrospect--

15 Q Anything specific?

16 A One of them involved--they tried  
17 to create a situation where one of the  
18 informants supposedly had an investment  
19 banking firm, or connection with an investment  
20 banking firm, and they were going to provide  
21 firm financial commitment letters to our  
22 clients who had gotten--who had filed 220,222

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1 MHz SMR nationwide license applications. At  
2 a certain point you needed to produce letters.

3 Mr. Guhl brought this guy in, and  
4 he was supposedly going to provide letters,  
5 and we were going to pay this guy so much  
6 money for the letters. And I wouldn't pay  
7 him, so Mr. Guhl went to another gentleman who  
8 did put up the money. I wouldn't pay because  
9 they wouldn't provide any kind of audited  
10 financial statements, which was one of the  
11 FCC's requirements.

12 Q Now this is in '91?

13 A This is in September/October 1991.

14 Q Okay. And you ultimately  
15 determined that this was something set up by  
16 the FBI?

17 A Well, later on, it proved to be  
18 that was the case. Yes, sir.

19 Q Okay. All right. Well, rather  
20 than spend too much time on that, can you go  
21 forward on your original--

22 A Oh, no, no, no. I want this on my

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1 story.

2 Q Okay.

3 A They decided to--once this--the--  
4 I'm trying to remember the guy who provided  
5 the letters. He owned a tower company in New  
6 Jersey. I don't remember. It's a little  
7 while. They contacted the FBI. The FBI  
8 contacted the FCC and made a big deal about  
9 this, and of course--and FCC sent them back a  
10 letter, which I ended up getting a copy of by  
11 accident. That you haven't got a copy of, I'm  
12 sure.

13 Q Can you provide that?

14 A I probably can find that, yes.

15 Q Okay. We appreciate that.

16 A And the FCC wrote him back and  
17 said, hey, until something happens, until  
18 sometimes's filed and, you know, these people  
19 are licensees. We have nothing to look at.  
20 We're not going to bother with those.

21 1992--

22 Q I'm sorry. That letter was from

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