

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
FRANKLIN COUNTY, ILLINOIS**

THREE ANGELS BROADCASTING NETWORK,

Plaintiff

v.

**ILLINOIS DEPARTMENT OF REVENUE,
Defendant, and THOMPSONVILLE COMMUNITY
HIGH SCHOOL DIST. NO. 112, and
THOMPSONVILLE SCHOOL DIST. NO. 62,
Intervenors**

Defendants

No. 04 MR 15

Barbara S. Rowe
Administrative Law Judge

VOLUME ONE OF FIVE

**ANSWER AND ADMINISTRATIVE RECORD
OF THE ILLINOIS DEPARTMENT OF REVENUE**



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**ANSWER AND ADMINISTRATIVE RECORD
OF THE ILLINOIS DEPARTMENT OF REVENUE**

Now Comes the Illinois Department of Revenue and Brian Hamer, Director, through their attorney, LISA MADIGAN, Attorney General, and respectfully submits as its Answer to the Complaint For Administrative Review filed in this cause, the following record of administrative proceedings taken before the Illinois Department of Revenue, together with the exhibits submitted thereto, pursuant to 735 ILCS 5/3-101, et seq.

Respectfully submitted,

Brian Hamer, Director
Illinois Department of Revenue

By: LISA MADIGAN
Attorney General of Illinois
Revenue Litigation Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9022

THREE ANGELS BROADCASTING NETWORK,

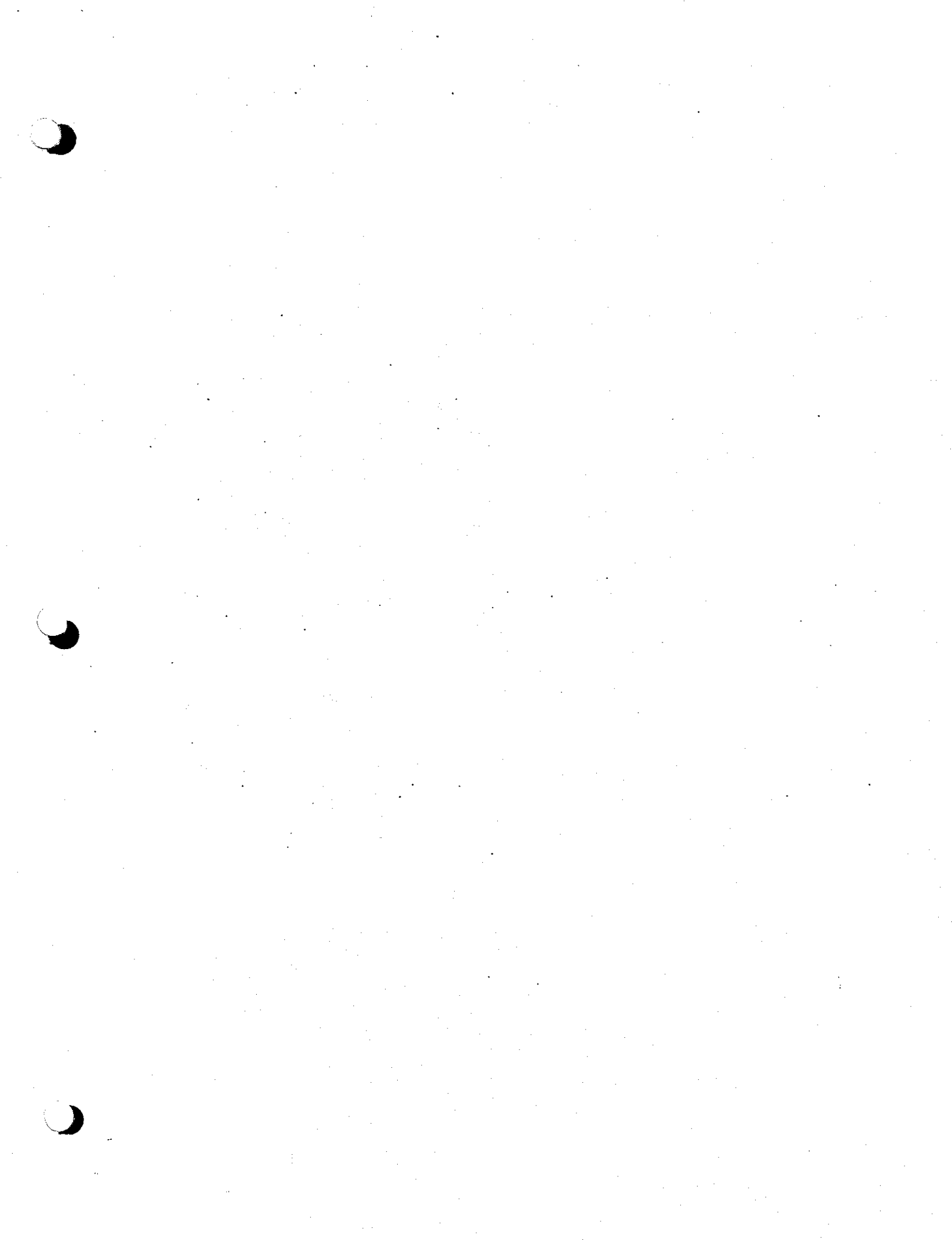
V.

**ILLINOIS DEPARTMENT OF REVENUE, and
THOMPSONVILLE COMMUNITY HIGH SCHOOL DISTRICT NO. 112, and
THOMPSONVILLE SCHOOL DISTRICT NO. 62**

04 MR 15

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1 STATE OF ILLINOIS
2 DEPARTMENT OF REVENUE
3 OFFICE OF ADMINISTRATIVE HEARINGS

4 THREE ANGELS BROADCASTING NETWORK,)
5 INC.,)

6 Applicant,)

7 and)

8 THE DEPARTMENT OF REVENUE OF THE)
9 STATE OF ILLINOIS,)

10 Respondent.)

11 and)

12 THOMPSONVILLE COMMUNITY HIGH)
13 SCHOOL DISTRICT NO. 12, and)
14 THOMPSONVILLE SCHOOL DISTRICT)
15 NO. 62,)

16 Intervenor.)

17 Hearing held on September 23, 2002, at the
18 Offices of the Illinois Department of Revenue, 101 West
19 Jefferson Street, Basement Conference Room,
20 Springfield, Illinois, scheduled for the hour of 10:00
21 A.M.

22 PRESENT:

23 MS. BARBARA ROWE,
24 Administrative Law Judge
MS. DONNA M. DODD, CSR

GOLEMBECK REPORTING SERVICE
Connie S. Golembeck, Owner
(217) 523-8244
(217) 632-8244

1 APPEARANCES:

2 MR. KENT STEINKAMP
3 Special Assistant Attorney General
4 101 West Jefferson
5 Springfield, Illinois 62702

6 Appeared on behalf of the Respondent.

7 MR. NICHOLAS P. MILLER
8 Sidley, Austin, Brown, Wood, L.L.C.
9 555 West Fifth Street
10 Los Angeles, California 90013

11 Appeared on behalf of the Applicant.

12

13 MR. LEE BOOTHBY
14 Boothby & Yingst
15 4545 42nd Street, N.W., Suite 201
16 Washington, D.C. 20016

17

18 Appeared on behalf of the Applicant.

19

20

21 MR. D. MICHAEL RIVA
22 Attorney at Law
23 226 East Main
24 West Frankfort, Illinois 62896

25

26 Appeared on behalf of the Applicant.

27

28

29 MS. MERRY RHOADES
30 Robbins, Schwartz, Nicholas,
31 Lifton & Taylor, Ltd.
32 230 Regency Centre
33 Collinsville, Illinois 62234-4635

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35 Appeared on behalf of the Intervenors.

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APPEARANCES CONTINUED:

MS. JOANNE H. PETTY
Robbins, Schwartz, Nicholas,
Lifton & Taylor, Ltd.
20 North Clark, Suite 900
Chicago, Illinois 60602-4115

Appeared on behalf of the Intervenors.

ALSO PRESENT:

Mr. Danny Shelton
Mr. Eugene Hanses
Mr. John Robinson

I N D E X

WITNESS

PAGE NUMBER

DANNY SHELTON

Direct Examination by Mr. Miller

36

E X H I B I T S

NUMBER

ADMITTED INTO EVIDENCE

Department's Exhibit Number 1

27

Department's Exhibit Number 2

27

Applicant's Exhibit Number 1

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Applicant's Exhibit Number 2

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Applicant's Exhibit Number 3

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Applicant's Exhibit Number 4

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Applicant's Exhibit Number 9

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Applicant's Exhibit Number 12

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Applicant's Exhibit Number 13

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Applicant's Exhibit Number 14

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Applicant's Exhibit Number 15

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1 ADMINISTRATIVE LAW JUDGE ROWE: I usually do
2 some preliminary things before we get into the hearing
3 itself. This is Donna Dodd. She's my court reporter.
4 She has my permission to interrupt at any time, because
5 she can only take one person's testimony or statements
6 at a time. So if she says stop, we all stop.

7 We have a number of attorneys over here. One
8 needs to be the representative for the Applicant. I
9 can't have all four of you objecting or all four of you
10 doing, you know, whatever you will feel necessary. So
11 if you'd like to elect one person to be the
12 spokesperson.

13 MR. MILLER: That's fine.

14 Can we allow that, I think certain attorneys
15 will be handling certain witnesses.

16 ADMINISTRATIVE LAW JUDGE: That's fine, as far
17 as, I mean, as far as cross examination and things like
18 that, that's fine.

19 MR. MILLER: Yes.

20 ADMINISTRATIVE LAW JUDGE: That's fine. But
21 what I don't want is all four of you deciding that you
22 want to object to every comment.

23 MR. MILLER: No, that's fine.

24 ADMINISTRATIVE LAW JUDGE: So if you will

1 please tell me who will be the major spokesperson.

2 MR. MILLER: Presently?

3 ADMINISTRATIVE LAW JUDGE: Uh-huh.

4 MR. MILLER: That would be Mr. Boothby.

5 ADMINISTRATIVE LAW JUDGE: Okay.

6 Same with you, Merry and Joanne, if you want
7 to do that.

8 Which one of the two of you will it be?

9 MS. RHOADES: And what we intend to do is when
10 we do our own witnesses, as Mr. Miller indicated, we
11 would do the objection for those.

12 As far as the primary spokesperson, we've got
13 some prehearing matters that will be brought up. Those
14 will be done by Joanne.

15 ADMINISTRATIVE LAW JUDGE: All right.

16 MS. RHOADES: We're not going to --

17 ADMINISTRATIVE LAW JUDGE: Okay. Just don't
18 have everybody objecting to everything all at once.

19 MS. RHOADES: We won't.

20 ADMINISTRATIVE LAW JUDGE: Make sure all of
21 your exhibits are marked and each page is numbered so
22 that if you're referring to Applicant's Exhibit 27,
23 make sure everyone's on the same page with you.

24 Does -- now, we do have some prehearing

1 matters that need to be taken up I believe as well. I
2 think there is --

3 MS. RHOADES: I think so.

4 ADMINISTRATIVE LAW JUDGE: -- I've got a
5 Notice to Produce at Trial and a Motion to Quash that
6 were faxed to the Department on the 20th I believe.

7 Is that what you wanted to address or --

8 MS. RHOADES: Yes.

9 MS. PETTY: Yes.

10 ADMINISTRATIVE LAW JUDGE: All right.

11 MS. RHOADES: I think it's their motion, so we
12 would just respond to it.

13 ADMINISTRATIVE LAW JUDGE: All right.

14 MR. BOOTHBY: You're ready, Your Honor?

15 ADMINISTRATIVE LAW JUDGE: Yes.

16 MR. BOOTHBY: The Applicant, counsel for the
17 Applicant received a Notice to Produce at Trial from
18 the Intervenor, and there were -- it consisted of some
19 three pages and twenty-nine specific requests to
20 produce.

21 I think one of them, Number 7, related to the
22 production of witnesses for adverse examination. The
23 remainder dealt with the production of documents.

24 We filed a Motion to Quash on the grounds

1 that it appeared to us that the request was really
2 discovery.

3 Many of the items that were requested as far
4 as the documents were concerned had been previously
5 part of the request for documents that were made during
6 discovery.

7 There was objections that were filed by the
8 Applicant, and there was a hearing and an Order entered
9 by the court back in April of this year indicating
10 which documents were going to be produced and those
11 documents were produced.

12 The rule that was claimed by the Intervenors
13 was Supreme Court Rule 237, and the committee notes
14 that we've indicated in our Motion to Quash clearly
15 states that the purpose of the rule is not for
16 discovery purposes.

17 In fact, the rule itself states: The
18 appearance that the trial of the party or person who at
19 the time of the trial is an officer, director, or
20 employee of a party may be required by serving the
21 party with a notice designating the persons who are
22 required to appear.

23 The notice also may require the production at
24 the trial of the originals of those documents or

1 tangible things previously produced during discovery.

2 If the party or person is a nonresident, and
3 it goes on to something that's not related. The
4 committee note states this: Paragraph B has been
5 revised to clarify the fact that Rule 327(b) is not a
6 discovery option to be used on the eve of trial in lieu
7 of a timely request for the production of documents,
8 objects, and tangible things pursuant to Rule 214.

9 Discovery of relevant documents, objects, and
10 tangible things should be diligently pursued before
11 trial pursuant to Rule 214.

12 Under the new paragraph Rule 237(b) Request
13 to Produce at Trial will be expressly limited to those
14 documents, objects, and tangible things produced during
15 discovery.

16 Now, the other item deals with the request
17 that certain individuals who were employed, who are
18 employees or officers of the Applicant appear at
19 trial.

20 The Intervenors in their list of witnesses
21 listed three witnesses: Steve Webb, Cynthia Humm, and
22 Joseph McKerty.

23 Up until we received this particular notice
24 to produce, there was no indication that they were

1 going to seek to present as witnesses those individuals
2 that are employees or officers of Three ABN, and we
3 think that the Motion to Produce should be quashed
4 based upon the specific wording of the rule.

5 And I might say, that if you go through that
6 list of documents, there are all kinds of documents
7 that which relevancy is questionable, but on the eve of
8 trial, it would have been impossible and is impossible
9 to put all those documents together.

10 ADMINISTRATIVE LAW JUDGE: Thank you, Mr.
11 Boothby.

12 MS. PETTY: Thank you, Your Honor.

13 Just in response, we have no quarrel with
14 what Rule 237 says, but we do believe that it is a
15 proper Rule 237, in that it lists, requires the
16 production of things that we've already asked for in
17 discovery, and to the extent that they were produced in
18 discovery, we're entitled to the originals of those
19 things at the production here at the hearing.

20 Now, with respect to relevancy issues and
21 things that were not produced in discovery --

22 ADMINISTRATIVE LAW JUDGE: Excuse me. I need
23 to take a recess.

24 (Discussion off the record.)

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ADMINISTRATIVE LAW JUDGE: Back on the record.

MS. PETTY: And with respect to the employees of the Applicant that we've listed it lists, produce the following witnesses at hearing for purposes of adverse examination: Linda Shelton, Danny Shelton, Larry Ewing, Robert Russell, and Mollie Steenson.

I just want to clarify we're not trying to call these witnesses in our own case in chief, just for adverse examination. A Rule 237 is the only proper way to get these witnesses in for adverse examination.

Because they're employees and officers of Three ABN, we could not subpoena them. These are witnesses that we've deposed because they've been disclosed as witnesses by the Applicant, so we're allowed to rely on the fact that they've listed them as their prospective witnesses.

And since we've expended the money to depose them, we'd like the opportunity for adverse examination.

So to that extent, we don't really -- there is no basis for why the actual 237 request is invalid, just that, if -- for the documents that were already produced in discovery, we're entitled to have originals for use in our case in chief and the witnesses here for

1 adverse examination.

2 ADMINISTRATIVE LAW JUDGE: Okay. To the extent
3 that the documents were made available during
4 discovery, do you want to reply?

5 MR. BOOTHBY: We really don't have any problem
6 producing those documents which are in fact originals.
7 Many of the documents which we produced are copies, I
8 mean, so we have our copy of copies, and we certainly
9 have no -- no problem with them seeing copies of
10 documents that we have.

11 There are I think three perhaps originals,
12 three or four original documents that we do have that
13 are in fact original documents. For instance, a tax
14 return for Three ABN is not an original document. The
15 original document was filed, so we don't have those
16 documents.

17 But to the extent that we have original
18 documents, we don't have any problem with them being
19 used.

20 I would say that we have no problem
21 stipulating that copies of the documents may be
22 introduced in lieu of original documents for
23 evidentiary purposes, if that's the reason for the
24 request.

1 ADMINISTRATIVE LAW JUDGE: Is that the reason
2 for the request?

3 MS. PETTY: Yes, yeah.

4 MS. RHOADES: And we would want to make sure
5 that if they have the originals here, that the copy
6 that we have, Judge, is the same as the original, which
7 we don't know.

8 ADMINISTRATIVE LAW JUDGE: Right, and that's
9 fine. I think that's a reasonable request, and I think
10 Applicant is willing to comply with that.

11 They did -- was it the Articles of
12 Incorporation that you wanted to keep the original of
13 or the Charter?

14 MR. RIVA: Both of those.

15 ADMINISTRATIVE LAW JUDGE: Okay. They do have
16 the original of the Charter and the Articles of
17 Incorporation, and they did ask that copies be
18 submitted into evidence because they'd like to keep
19 their original.

20 MS. RHOADES: That's fine.

21 ADMINISTRATIVE LAW JUDGE: I feel that's
22 reasonable as well, so that you're welcome to look over
23 the original, but it will not be admitted into
24 evidence.

1 Regarding these witnesses, I believe you said
2 that Linda Shelton would be a witness for you anyway,
3 is that correct, or -- what I'm concerned with is,
4 these witnesses, and since they have deposed them and
5 they were listed as your witnesses.

6 MR. BOOTHBY: In the original filing that we
7 made of prospective witnesses we listed a number of
8 witnesses. We had a paragon list, which we indicated
9 that witnesses that may be called as witnesses.

10 We understood that the court did not want us
11 to present witnesses that would only provide
12 duplicative testimony. I think we were admonished
13 several times about that, and we may or may not call
14 some of the witnesses that we listed on our may call,
15 most recent may call list if their testimony would be
16 cumulative.

17 My understanding is that regardless of
18 whether depositions have been taken of witnesses,
19 whether witnesses have been listed as a prospective
20 witness, for the other side to call that witness they
21 must list that witness on their prospective witness
22 list.

23 ADMINISTRATIVE LAW JUDGE: Do you want to
24 address that?

1 MS. PETTY: Are they saying that they're not
2 going to bring these witnesses?

3 ADMINISTRATIVE LAW JUDGE: I'm not sure.

4 MR. BOOTHBY: We're not saying -- to the
5 extent that the witness's testimony would be
6 cumulative, we may not present those witnesses.

7 We respect the Court's admonition to us that
8 we should not present cumulative testimony. Some of
9 the testimony would be cumulative. If what we feel is
10 necessary that had been covered by a witness, we don't
11 plan to present cumulative testimony.

12 MS. PETTY: Based on the deposition testimony
13 that's been presented these witnesses that we've
14 requested in this 237 would not provide cumulative
15 testimony of other witnesses, and so I think we're
16 still entitled to have them appear to present evidence
17 that came out during the depositions and not leave it
18 to the discretion of the Applicant to say that they
19 have cumulative testimony, so they're not going to call
20 them.

21 We're entitled to, pursuant to 237, to cross
22 examine and to use these witnesses' testimony as
23 evidence in our case in chief.

24 ADMINISTRATIVE LAW JUDGE: I'm going to go

1 ahead and rule that the Applicant will need to have
2 Linda Shelton, Danny Shelton, Larry Ewing, Robert
3 Russell, and Mollie Steenson available in case there is
4 some testimony that they want to elicit, but will not
5 be able to find from the witnesses that you have agreed
6 that you are going to provide.

7 And as to the rest of the Notice to Produce,
8 as to the original documents, I think we've worked that
9 out.

10 Is that correct?

11 MR. BOOTHBY: Yeah. My understanding, as I
12 understand it, just so we're in agreement, they are not
13 now, by they, the Intervenors are not requiring us or
14 asking us to produce documents that were not produced
15 during the discovery period, am I correct on that?

16 MS. PETTY: That's correct.

17 ADMINISTRATIVE LAW JUDGE: Okay.

18 MR. BOOTHBY: All right. Then we are in
19 agreement.

20 ADMINISTRATIVE LAW JUDGE: Okay. Then everyone
21 is in agreement?

22 MS. PETTY: Yes.

23 ADMINISTRATIVE LAW JUDGE: All right.

24 These witnesses will be produced and I'm

1 going to deny the Motion to Quash as it stands and with
2 the reservations that I've already expressed.

3 MS. PETTY: We have one other preliminary
4 matter regarding, on the same, Applicant's notice
5 concerning prospective witnesses that was part of the
6 Motion to Quash.

7 ADMINISTRATIVE LAW JUDGE: Uh-huh.

8 MS. PETTY: They list several witnesses that
9 we would ask to be stricken as irrelevant. One of them
10 is, the first witness is Ken Denslow, Applicant's
11 number two witness, and in the Applicant's witness
12 disclosure they disclose him as the President of the
13 General Council, General Conference of Seventh-day
14 Adventist to provide testimony as to the religious
15 activities of the Applicant and its affiliation in
16 connection with the Seventh-day Adventist Church.

17 In his position as the President of the
18 Illinois Conference of the Seventh-day Adventist, he'd
19 be in the same position to testify as to the use of the
20 property as Mr. Ted Wilson was, who was the Vice
21 President of the General Conference of the Seventh-day
22 Adventist whom Your Honor has already stricken as
23 irrelevant, and for the same reason we ask that Mr.
24 Denslow be stricken as a witness.

1 And the same with Pastor Bill Bishop who has
2 never been disclosed in there list of prospective
3 witnesses. They say he's going to be testifying in the
4 place of Samuel Thomas, but we have no basis to know
5 that they have the same basic knowledge from which to
6 testify to, and we just -- there is not sufficient
7 disclosure of Pastor Bill Bishop for us to be aware.

8 To be put on notice of what the testimony is
9 going to be would be an unfair surprise to the
10 Intervenors at this point to allow him to testify.

11 And with regard to Douglas Batchelor, his
12 proposed testimony is the religious ministry of
13 Applicant and the contents of the religious
14 programming.

15 As far as we can tell, Mr. Batchelor is not
16 an employee or part of Three ABN. He's listed as part
17 of Amazing Facts at an address in California, and to
18 the extent he's going to, we just don't -- there is not
19 enough foundation for his testimony.

20 We believe it would be an unfair surprise to
21 us at this point to allow him to testify as to the
22 content of the religious programming since that was an
23 issue that Your Honor has decided in the Motion In
24 Limine, was an issue we could not get into.

1 ADMINISTRATIVE LAW JUDGE: Okay. Those are
2 the only ones --

3 MS. PETTY: Yes.

4 ADMINISTRATIVE LAW JUDGE: -- that you have
5 any objection to?

6 MR. MILLER: Your Honor, I dealt with these
7 particular issues, so if I may speak to them most
8 directly?

9 ADMINISTRATIVE LAW JUDGE: Yes.

10 MR. MILLER: As to this last minute Motion In
11 Limine, Elder Denslow is an, indeed an employee of the
12 Seventh-day Adventist Church, the Illinois Conference
13 President, but he's also a member of the Three Angels
14 Board and has firsthand knowledge of its operations and
15 activities as a member of the Board.

16 And I believe the case law suggests that
17 Board oversight, an affiliation and religious
18 affiliation is part of determining whether a religious
19 organization is running a charity, and so we think he's
20 distinct from Elder Wilson in that regard.

21 As far as the change to Bill Bishop for
22 Samuel Thomas, what happened, Mr. Thomas was a pastor
23 at Three ABN and he was on our witness list to talk
24 about his pastoral activities and duties at the

1 broadcast facility, to talk about the activities of the
2 department there.

3 After we submitted the witness list he
4 actually left Three ABN at the end of, I believe, July
5 or August of this year. Opposing counsel, neither
6 State's counsel or Intervenors deposed Mr. Thomas.
7 They have no -- they made no inquiry as to the
8 testimony that he would have given, and what we've done
9 is just substituted someone else in the department who
10 will give the same testimony we believe that Mr. Thomas
11 would have given.

12 And opposition cannot argue on prejudice,
13 because they chose not to depose the original witness
14 anyway, so there is no sense that they've gained
15 information which is now unuseful in any sense.

16 This is merely a generic switch of two
17 individuals who will testify to the same thing.

18 Elder Batchelor, I'm not sure there is an
19 issue there. We have him on our list. I believe we
20 have a short summary and we're going to ask about this
21 in a moment of Three ABN and programming and this five
22 minute video will talk about a number of different
23 programs on Three ABN, and that in lieu of calling this
24 particular witness, we would be willing not to have to

1 call him.

2 MS. PETTY: In response to the position of Mr.
3 Denslow as a Board member, based on the production
4 request given to us, their list of Board members for
5 2000 and 2001, Mr. Denslow doesn't appear on either of
6 those lists as a member of the Board, so to that
7 extent, that is a complete surprise to us that he has
8 the capability to testify as a Board member.

9 And Pastor Bishop, it may be that it's just a
10 generic switch, but we just don't have sufficient
11 information, and I think at this point it's a little
12 bit too late to be switching witnesses based, and
13 especially since the disclosure is so insufficient in
14 the first place.

15 They're going to testify as to pastoral
16 activities and other religious activities, and I guess
17 I'll just leave Mr. Batchelor since they're not sure if
18 they're going to call him.

19 ADMINISTRATIVE LAW JUDGE: Number one, I
20 remind everyone that the taxable years in question are
21 2000 and 2001.

22 Is the information that Pastor Bill Bishop
23 has relevant to those two years?

24 MR. MILLER: Yes. He was with Three ABN in

1 2001.

2 ADMINISTRATIVE LAW JUDGE: So he was there
3 during?

4 MR. MILLER: Yes.

5 MS. PETTY: He could have been disclosed,
6 should have been.

7 ADMINISTRATIVE LAW JUDGE: All right. I guess
8 my concern is that you did not in fact depose Pastor
9 Samuel Thomas who they're stating has the same type of
10 information that Bill Bishop will be testifying to.

11 And Ken Denslow you're stating was not a
12 Board member?

13 MR. MILLER: Your Honor, Elder Denslow is the
14 President of the Illinois Conference and the position
15 of the President of the Illinois Conference has been a
16 Board member for the last several years. I understand
17 Elder Kolter was previous to Mr. Denslow.

18 Mr. Denslow came on at the very beginning of
19 this year.

20 MR. SHELTON: Uh-huh.

21 MR. MILLER: But was familiar with Three ABN's
22 operations, but prior to his role as President he was
23 Secretary of the Conference and worked with Three ABN
24 on various projects and is very familiar with their

1 activities on a firsthand basis, so he is a fact
2 witness, not just a reviewing expert if you will.

3 MS. PETTY: So he came on the Board in 2002?

4 MR. MILLER: In January of 2002 he officially
5 became a Board member, but he was certainly involved
6 with and aware of Three ABN's operations and activities
7 prior to that from his role at the Illinois Conference
8 with his President serving on the Board until he
9 assumed that position himself.

10 ADMINISTRATIVE LAW JUDGE: I think I'm going
11 to go ahead and allow these witnesses and then you can
12 object as far as relevancy or if you think there is
13 something that's not been disclosed prior, but for my
14 sake, I'd rather have a full record than something
15 that's not part of the record and then I'm trying to
16 make a finding of fact without any substantiation in
17 the record itself.

18 MR. BOOTHBY: Your Honor, we have one other
19 preliminary matter, somewhat of an inquiry. We
20 understand that videos that are to be introduced into
21 evidence require five copies.

22 We have -- we will have five copies of, at
23 least a couple of the videos later today, or in one
24 case later today and in one case tomorrow.

1 Does the -- does Your Honor require those
2 five videos to be present before we actually introduce
3 the video if they are produced during the course of the
4 hearing?

5 ADMINISTRATIVE LAW JUDGE: No. It's just,
6 when you have Intervenors and Applicants you normally
7 have a case that's right for appeal.

8 MR. BOOTHBY: Right.

9 ADMINISTRATIVE LAW JUDGE: And we do not have
10 the facilities here in the Department to make those
11 kind of copies, so that's why, again, for the same
12 reason, that's why I said everything had to be on eight
13 and a half by eleven inch sheets.

14 We no longer have the photocopying
15 capabilities we used to have for plats and surveys and
16 things like that. So it just makes it much easier for
17 us when we're copying, especially for administrative
18 review to have things either copied for us or have them
19 on the same size sheets that we can copy.

20 So if that helps to clarify for everyone why
21 that became part of the order.

22 MR. BOOTHBY: Okay.

23 Just a question of mechanics.

24 Does the machine, the video machine that is

1 currently in back of Your Honor, is that working at the
2 present time, do you know?

3 ADMINISTRATIVE LAW JUDGE: They told me it
4 was. I have not had an opportunity to check it out
5 this morning because I was moving furniture if you want
6 to know the truth.

7 MR. BOOTHBY: Okay.

8 ADMINISTRATIVE LAW JUDGE: If it doesn't work,
9 I can go down to the video people and say, would
10 somebody please come help us out with that.

11 MR. BOOTHBY: Okay. Thank you.

12 ADMINISTRATIVE LAW JUDGE: Anything else
13 preliminarily?

14 Okay. Mr. Steinkamp, if you'd like to
15 proceed.

16 MR. STEINKAMP: Judge Rowe, I'm Kent
17 Steinkamp. I represent the Department. I prepared two
18 exhibits for this hearing of the protest of the
19 Department's Denial of Exemption for Property Tax.

20 These exhibits represent the two separate tax
21 years that have been consolidated for consideration
22 together in this proceeding, and I placed the originals
23 of those exhibits before you. I've provided copies to
24 the court reporter and to the other parties in this

1 case.

2 They are, both exhibits are similar and I'll
3 describe them generally. The first page of each is the
4 Certification of Record signed by a designee of the
5 Director of the Department of Revenue, Glen Bower, and
6 this certifies that the documents are true and correct
7 copies of documents that are received, prepared, or
8 maintained by the Department in the regular course of
9 its business.

10 After the first page in each exhibit is a
11 letter of protest from the Applicant, which protests
12 the Department's decision of denial.

13 In addition to that is the Department's, a
14 copy of the Department's decision and the original
15 application submitted in each by the Applicant for each
16 year.

17 Exhibit 1 is a little different from Exhibit
18 2 in that in Exhibit 1 I've included two letters from
19 representatives of taxing districts who expressed
20 opposition of the application.

21 I don't include those exhibits necessarily as
22 evidence, but because the ability to enter an objection
23 by a taxing district is part of the procedure, that's
24 expressly permitted under the statutes.

1 It's more of a procedural matter than
2 evidentiary, and at this time I would move that
3 Department's Exhibits 1 and 2 be introduced into
4 evidence.

5 MR. BOOTHBY: We have no objection.

6 MS. RHOADES: No objection.

7 ADMINISTRATIVE LAW JUDGE: Let the record
8 reflect that Department's Group Exhibits 1 and 2 are
9 admitted into evidence.

10 (Department's Group Exhibit Numbers
11 1 & 2 were admitted into evidence.)

12 MR. STEINKAMP: Your Honor, with that the
13 Department has nothing further to present at this time,
14 but on behalf of the Department and also speaking for
15 the Intervenors, I believe we do reserve the right from
16 this point forward to present evidence in rebuttal to
17 the presentation of the Applicant here or to cross
18 examine Applicant's witnesses, and also to object when
19 appropriate to evidence, motions, and other
20 presentations by the Applicant.

21 We, of course, also reserve the right to
22 present appropriate motions as necessary, and I
23 suppose, I don't mean to complicate this too much, and
24 I don't anticipate this problem at all, but there may

1 come a time when the Department notices that -- that
2 the Intervenors are taking a position that may be
3 contrary to something that the Department as a matter
4 of policy would have some input about.

5 As I say, I don't, having dealt with this
6 case over a long period of time now, I don't anticipate
7 that happening, but I believe I simply have to reserve
8 the possibility of that coming up.

9 ADMINISTRATIVE LAW JUDGE: I think that's
10 definitely true, because you've got a different
11 interest.

12 MR. STEINKAMP: It's somewhat different.

13 ADMINISTRATIVE LAW JUDGE: Similar, but
14 certainly you're a separate party from the
15 Intervenors. That's why I was just asking for one to
16 represent them, not the total interest of all
17 Intervenors, just for clarification.

18 MR. STEINKAMP: All right. And also, in most
19 cases, since you've asked for someone to be the lead
20 attorney, I believe that Merry Rhoades would be
21 primarily the lead attorney for the -- for this side of
22 the hearing.

23 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

24 MR. STEINKAMP: And that's all I have.

1 ADMINISTRATIVE LAW JUDGE: Thank you.

2 Mr. Boothby?

3 MR. BOOTHBY: Mr. Miller will take on the
4 first witness.

5 MR. MILLER: I have a brief opening
6 statement.

7 Is that appropriate?

8 ADMINISTRATIVE LAW JUDGE: Yes, uh-huh.

9 MR. MILLER: Okay.

10 Your Honor, Three Angels Broadcasting
11 Network, a religious broadcasting ministry, finds
12 itself in somewhat of an extraordinary position of
13 having to prove what both the federal government and in
14 fact the State of Illinois have agreed is true for the
15 years 2000 and 2001, and that is that it is a
16 not-for-profit charitable organization organized and
17 operated exclusively for religious purposes.

18 We even have letters from the IRS for 2000
19 showing their 501(c)(3) status, and we also have a
20 letter from the Illinois Department of Revenue stating
21 that in fact Three Angels is a religious ministry
22 operated exclusively for exempt purposes. This other
23 letter related to sales and use tax issues.

24 But it is I think somewhat extraordinary that

1 the State, the Department, the same Department is
2 taking what appears to be an opposite position in this
3 case. Three ABN finds itself in court having to prove
4 that its main facility, not some far flung operation,
5 but it's where it carries out the vast majority of its
6 work, programming, broadcast, administrative
7 facilities, are in fact in furtherance of its tax
8 exempt religious purposes.

9 Fortunately for Three Angels, I believe it
10 will not be difficult to show this, their name itself
11 you will hear testimony is from the 14th Chapter of
12 Revelation. Three Angels spread the everlasting Gospel
13 to every kindred, tongue of people around the world,
14 and I think the evidence will show that this is in fact
15 their primary and exclusive purpose.

16 Illinois law requires, I filed the pretrial,
17 a trial brief here where I did my best to set out the
18 standards here in Illinois on that front, makes clear
19 that to be exempt the property needs to be used
20 exclusively for religious purpose.

21 The case law makes two things clear, that an
22 exclusive use is a primary use. There can be
23 incidental uses that may not fit into that purpose
24 without it disqualifying the property itself, and that

1 religious use is not confined just to the Sunday or
2 Saturday church attendance, but extends beyond that to
3 the distribution and dissemination of religious
4 messages through various media.

5 The witnesses we are putting on today will
6 present evidence that in fact this is what Three
7 Angels, Three Angels ministry does. That the President
8 will be testifying this morning that, as I -- the five,
9 the checklists of the five factors that the Courts
10 appear to use.

11 Three ABN was organized by its Articles and
12 Bylaws as a not-for-profit religious entity, that it
13 was to have no personal profit or inurement, no
14 shareholders, that it had a clause that if Three ABN
15 was dissolved that the assets would go on to other
16 not-for-profit charitable organizations and no private
17 individual.

18 The third point being, that it not only
19 supports missionary activities, but you will hear
20 testimony that it itself is a missionary organization,
21 that its leaders, while not formally credentialed, are
22 lay pastors and ministers of the Gospel that travel 40
23 or 50 times a year and putting on preaching and praise
24 services in churches throughout America and overseas;

1 that they have a ministries hotline that's manned by a
2 staff of five pastors during the year of 2000 and 2001
3 to pray and to give biblical answers to questions that
4 arise; that they work closely with the Seventh-day
5 Adventist Church to support their missionary activities
6 overseas through providing free and the low cost
7 programming through traveling overseas.

8 You will discovery that Three Angels actually
9 supports facilities, missionary facilities overseas,
10 both in the Philippines and in Russia. They pay the
11 salaries of employees who broadcast messages there.

12 The fourth factor you'll find that they
13 provide substantial amounts of both their time,
14 airtime, documents, videos, and CDs free to the viewing
15 public, below cost frequently, and certainly no more
16 than at cost the evidence will show.

17 The only reason the evidence will show that
18 Three ABN is able to survive is from its charitable
19 donations, and if it was attempting to run as a
20 business, it would have gone out of business many many
21 many years ago.

22 And that there are thousands, tens of
23 thousands of viewers around the world who agree with
24 the State of Illinois and the federal government that

1 Three ABN furthers a religious purpose, and that's why
2 they're supported with their funds, but for those funds
3 it would be operating at a dreadful dreadful loss.

4 Any sales from videos, from CDs, which all
5 have a religious content, even the satellite sales that
6 you will hear testimony about, the satellite dishes
7 that are sold receive only Three Angels Broadcasting or
8 one kind of satellite receives that.

9 Another satellite that is sold receives Three
10 Angels Broadcasting along with some other religious
11 ministry of broadcasting. There is no widely available
12 commercial or secular kinds of programming sold. These
13 are sold at and below cost to further expand the
14 viewing pool of Three Angels Network.

15 And you will hear testimony from accountants
16 agreeing that in fact these sales are made in
17 furtherance of Three Angels tax exempt purpose, and
18 they're not an unrelated form of business income.

19 You will hear testimony that Three Angels
20 have a net revenue of nearly 14, around \$14 million for
21 2000 and 2001, and the vast majority of that, 80
22 percent to 90 percent came from charitable donations.
23 That any that came from any kind of sales of these
24 related items was -- was a very small percentage.

1 Certainly incidental and secondary and
2 immaterial to Three ABN's source of income from purely
3 charitable sources.

4 Three Angels is in its seventeenth or
5 eighteenth year of operation because of this charitable
6 support, and if it was attempting to operate as a
7 business or with a profit, they would have closed its
8 doors many many years ago. That's what the evidence
9 will show before presenting it to the court.

10 ADMINISTRATIVE LAW JUDGE: Thank you, Mr.
11 Miller.

12 Did you want to do an opening statement?

13 MS. RHOADES: We'll do a brief opening
14 statement, Your Honor.

15 On behalf of the Intervenors, the
16 Thompsonville Elementary School District 62 and the
17 Thompsonville High School District Number 112, what we
18 believe has happened, we're not going to sit here and
19 try to educate this court on what actually Illinois
20 case law is with respect to property tax exemptions.
21 This Hearing Officer has heard us expound that in
22 numerous documents, in numerous times, and I'm not
23 going to attempt to do that at this time.

24 I'm sure the court will entertain written

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1 arguments from us at a later time where that will be
2 fully laid out.

3 What we believe is going to happen here in
4 this hearing quite honestly is, they're not going to be
5 able to show those standards are set forth in case law,
6 and particularly pursuant to the Illinois Property Tax
7 Code, that the property was in fact in exempt use for
8 2000 and 2001. Thank you.

9 ADMINISTRATIVE LAW JUDGE: Thank you.

10 MR. MILLER: We'd like to call our first
11 witness to the stand.

12 ADMINISTRATIVE LAW JUDGE: All right.

13 MR. MILLER: Mr. Danny Shelton.

14 Where is the stand by the way, Your Honor?

15 ADMINISTRATIVE LAW JUDGE: Right here.

16 (The Witness was sworn
17 by the ALJ.)

18 DANNY SHELTON

19 called as a witness herein, at the instance of the
20 Applicant, having been first duly sworn on his oath,
21 was examined and testified as follows:

22 ADMINISTRATIVE LAW JUDGE: Please be seated.

23 MR. MILLER: Your Honor, if I may stand in the
24 well of the court.

1 ADMINISTRATIVE LAW JUDGE: I apologize for the
2 accommodations, but as I said, it was a question of
3 trying to find a room big enough.

4 MR. MILLER: That will be fine. I'm just
5 going to be moving around and handing documents and it
6 may be useful if I can stand here.

7 DIRECT EXAMINATION

8 BY MR. MILLER:

9 Q. Good morning, Mr. Shelton.

10 A. Good morning.

11 Q. Can you tell us your full name and address
12 for the record this morning?

13 A. Danny Lee Shelton. I live at 2954 New Lake
14 Road, West Frankfort, Illinois 62896.

15 Q. Can you tell me the organization you work for
16 and your position with that organization?

17 A. I work for Three Angels Broadcasting Network,
18 Incorporated, and I'm the President.

19 Q. And can you briefly describe to me your
20 overall responsibilities?

21 A. Well, as President I'm Chief Executive
22 Officer and I carry forth the policies that the Board
23 sets to make sure they're directed to the operations,
24 and so I oversee the operations, for instance, oversee

1 the Broadcasting Department, the Programming
2 Department, the Financial Department, even the physical
3 building and maintenance, the outside.

4 I also represent Three Angels Broadcasting in
5 raising of the funds of the finances to proclaim the
6 Gospel to the world to complete its mission to going
7 into all the world.

8 I travel weekends and do PR work along with
9 my wife. We preach and do music and hold religious
10 services most weekends a year, and we do the hiring and
11 the firing so to speak, and we just kind of oversee the
12 general operations.

13 There is numerous other things that show up
14 every day, but in general.

15 Q. I'm sure we'll go into some of those in your
16 testimony later on.

17 A. All right.

18 Q. Is -- how long have you held this position?

19 A. Since we incorporated in I think 1985 or
20 yeah, '86, '85 or '86.

21 Q. And are you the member of any church, Mr.
22 Shelton?

23 A. I'm a member of the Seventh-day Adventist
24 Church.

1 Q. Do you hold any title or position in that
2 church?

3 A. I'm an ordained elder.

4 Q. And what does that mean?

5 A. Well, it means I'm ordained to do the and
6 participate in events that the church, that the
7 official church, Seventh-day Adventist Church
8 operates.

9 For instance, in communion services the
10 elders help with and comes to the communion of passing
11 out the bread and the wine, the new wine we call it, to
12 the foot washing services, to who, as Jesus said, do
13 these likewise as you see me do.

14 I also represent the church as far as going
15 and visiting and to hospitals and praying with people
16 and to do things very similar to a minister but I'm not
17 an ordained minister.

18 Q. Can you baptize?

19 Can you baptize?

20 A. I can baptize, yes.

21 Q. And have you baptized?

22 A. I have.

23 Q. Are you a minister of the Gospel?

24 A. I am a minister of the Gospel. I have been

1 for probably 20 years and even before Three Angels
2 Broadcasting Network, though I was a carpenter, I
3 ministered on weekends for a number of years where we'd
4 go preach and sing in churches and try to evangelize
5 and help people what we know about.

6 Q. Are you an ordained minister?

7 A. I'm not ordained by the Seventh-day Adventist
8 Church as a minister, just as an elder.

9 Q. I see. Okay. Before we go further into
10 questions about Three Angels I did want to bring to
11 your attention two items of evidence that have already
12 been entered in this court.

13 The State has submitted applications that you
14 and your attorneys submitted protesting this action,
15 but attached to one of those, and these have been
16 entered into evidence, and so I think we do need your
17 comments if you know anything about them, are two
18 letters, and I'm looking then at, I don't know if this
19 has been labeled particularly.

20 Do we have an exhibit number for this?
21 Department's Group Exhibit Number 1, is that how
22 we're --

23 ADMINISTRATIVE LAW JUDGE: Yes, that's
24 correct.

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1 MR. MILLER: Okay. That's what we're calling
2 it. Okay.

3 And on Pages 8 and 9 you will find two
4 letters and I've asked you if you're familiar with
5 those letters?

6 THE WITNESS: I am familiar with these
7 letters.

8 Q. And how are you familiar with those letters?

9 A. Actually, I've never seen them until after
10 the depositions and then I was handed a copy of these
11 letters.

12 Q. Now, these letters make certain factual
13 claims and statements, is that right?

14 A. Well, they appear to. I think they're trying
15 to do that, yes.

16 Q. And what are those claims?

17 What do those letters claim about Three ABN?

18 MS. RHOADES: I'm going to object on the
19 questioning on a lack of foundation with regard to how
20 he can interpret the writers of these letters, what
21 they intend to convey or the facts that they're
22 conveying.

23 ADMINISTRATIVE LAW JUDGE: If you'd like to
24 rephrase.

1 MR. MILLER: I'll rephrase the question, Your
2 Honor.

3 Do you see any claims in that letter
4 regarding Three ABN and its relation to the community
5 that you feel is in error?

6 THE WITNESS: Yes, definitely.

7 The letter from the Mayor of Thompsonville
8 where he says, we adamantly oppose. He says that we
9 have worked hard over the years to maintain good
10 streets, lighting, and upgrade our municipal sewers and
11 water system, and that he's basically saying all of
12 this is done with tax money and services that Three
13 Angels Broadcasting Network benefited.

14 Actually Three ABN is outside the Village of
15 Thompsonville. Our facilities that we're talking
16 about, we receive no water. We put in our own sewers.
17 We get water from the Rend Lake District. They do not
18 maintain our roads, and in fact, on much of Three ABN's
19 roads where we have properties, we not only pay
20 property taxes, but they have made us, the County has
21 made us pay cash out-of-pocket.

22 Which I think we're the only people in the
23 County that pay as much as 3,000 if we want our roads
24 oiled and chipped, because they always say, well, we

1 don't have any money and you all don't pay taxes. So I
2 said, well, go to the courthouse and see that we pay
3 more than most people here, but I'm not successfully,
4 so actually I've paid twice.

5 The truth of the matter is Three ABN
6 installed almost, which we can show later on, almost
7 \$150,000 of water and sewer systems that actually
8 helped the city of Thompsonville.

9 And we maintain two pump systems on our
10 property that if Thompsonville's system has a problem,
11 I have to pay for it to get it done, so to me this is
12 the most ridiculous letter I've ever seen.

13 Because when I ask them for help or can you
14 do this or that, he always says to me, well, you're not
15 in the Village. We only help the Village.

16 MS. RHOADES: I'm going to object. That's
17 hearsay and not responsive to the question and ask that
18 it be stricken.

19 ADMINISTRATIVE LAW JUDGE: We're going to
20 strike that position of his testimony.

21 MR. MILLER: Which portion, Your Honor?

22 ADMINISTRATIVE LAW JUDGE: The portion
23 regarding the --

24 MS. RHOADES: The Mayor's statement.

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1 ADMINISTRATIVE LAW JUDGE: -- the Mayor's
2 statement.

3 MR. MILLER: The second letter, Mr. Shelton,
4 the following page, I believe it is Page 9, does that
5 contain, in your view, any factual misstatements about
6 Three Angels Broadcasting and its relation to others?

7 THE WITNESS: Yes, it does.

8 Q. And what would that be?

9 A. Give me just a second to, I haven't seen it
10 in just a little bit of two weeks.

11 Well, number one, he's saying what we think.
12 This letter is actually saying that the County Review
13 Board, however, the property in question is a
14 television studio not a church. They have paid taxes
15 to this Township for several years knowing that it's a
16 profitable organization. He's saying what we think we
17 know now, knowing that we're a profitable organization
18 that should pay its fair share. What has changed?

19 The truth of the matter is, we have never
20 paid taxes on that property. We built it in 1991. It
21 was never even assessed until 2000. It's exactly the
22 opposite.

23 That's my question, what has changed? We've
24 been here since 1991 and if we were not tax exempt,

1 we've always, the State of Illinois says we're tax
2 exempt. The 501 federal government says we are.

3 MS. RHOADES: I'm going to object and ask that
4 this be stricken as well. It's not responsive to the
5 question.

6 MR. MILLER: The first portion was responsive
7 I believe.

8 ADMINISTRATIVE LAW JUDGE: Yes. The last part
9 was not, so I'm going to have the latter part stricken
10 from the record.

11 MR. MILLER: That's probably sufficient, Mr.
12 Shelton, unless there is something else in there that's
13 directly ---

14 THE WITNESS: Yes. It says they're continuing
15 to purchase properties in great amounts, and at this
16 time or another time we can tell about the properties,
17 but the insinuation in both letters, and the first
18 letter actually he says, we're buying up properties and
19 they claim that we're taking these properties out of
20 taxation when in fact they weren't in taxation. They
21 weren't taxable, so we're not taking anything out of
22 being taxed.

23 We're just wondering why we are being taxed
24 against what we believe are our rights and privileges

1 from the State of Illinois after all of these years.

2 Q. Thank you, Mr. Shelton.

3 Mr. Shelton, does your organization, and I'll
4 use Three Angels for short instead of the full name
5 everytime.

6 A. Okay.

7 Q. On the property, on the five acre parcel at
8 3390 Charlie Good Road that is the subject of -- of
9 this action?

10 A. Pardon, the question?

11 Q. The five acre parcel at 3390 Charlie Good
12 Road?

13 A. Yes.

14 Q. That is the subject of this case?

15 A. Yes.

16 Q. And the deed to that property, I'm handing
17 you what's marked Applicant's Exhibit 1, and I will
18 give copies to everyone else. You probably need one
19 for the Judge.

20 ADMINISTRATIVE LAW JUDGE: Thank you.

21 MR. STEINKAMP: She can have mine. I've got
22 one.

23 MR. MILLER: That one's for the court.

24 Do you recognize that document?

1 THE WITNESS: Yes.

2 Q. And what is that document?

3 A. This is a document, the Warranty Deed of the
4 property that we purchased from the Crosclins.

5 Q. And is that the subject property?

6 A. This is part of the subject property. I
7 think there was a total of about 70 acres, in which
8 five, the five that we're talking about is part of this
9 acreage.

10 MR. MILLER: Okay. I'd like to proffer this
11 to the court as Applicant's Exhibit Number 1.

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 Any objection?

14 MS. RHOADES: No objection.

15 ADMINISTRATIVE LAW JUDGE: Mr. Steinkamp, any
16 objection?

17 MR. STEINKAMP: No.

18 ADMINISTRATIVE LAW JUDGE: Okay. I'd like the
19 record to reflect that Applicant's Exhibit Number 1 is
20 admitted into evidence.

21 Will you please initial and date that?

22 (Applicant's Exhibit Number 1
23 was admitted into evidence.)

24 MR. MILLER: Mr. Shelton, I'd like to ask you

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1 about the background and purposes of Three Angels
2 Broadcasting.

3 Who founded Three Angels Broadcasting?

4 THE WITNESS: I did.

5 Q. And what does the name Three Angels
6 Broadcasting mean?

7 Where did it come from?

8 A. It comes from Revelation, the 14th Chapter
9 beginning with verses six where it talks about three
10 angels. It's an in times message for an in times
11 people and prophecy acts and revelation and it talks
12 about three angels and the first angel says, fear God
13 and give glory to him for the hour of his judgment has
14 come, referring to the last day events; and it says,
15 worship him who created heaven and earth.

16 The second angel talks about the Babylon has
17 fallen, has fallen, come out and hear my people,
18 talking about confusion. Babylon represents confusion
19 in the bible, and it talks about giving a message to
20 the world that Jesus is coming soon.

21 The third angel talks about the mark of the
22 beast, and it's the third angel, and tells people,
23 warns people actually not to partake of this, not to
24 bow down to the image or to the beast itself, and so

1 this was, we felt like inclusive of Seventh-day
2 Adventist beliefs to promote the Gospel of the Lord
3 Jesus Christ through all the world believing in the
4 second coming of the Lord Jesus, second advent of the
5 Lord Jesus Christ.

6 Q. Does the Three Angels message have a special
7 meaning to any particular group of people?

8 MS. RHOADES: I'm going to object, foundation.

9 ADMINISTRATIVE LAW JUDGE: If you'd like to
10 rephrase and lay some foundation.

11 MR. MILLER: Do you know if this message has
12 any special meaning to any particular group of people?

13 THE WITNESS: Well, it, particularly to the
14 Seventh-day Adventist Church, even where we formed our
15 name, seventh day, because it's inclusive in the three
16 angels messages in keeping the seventh day sabbath
17 instead of the first day of the week that traditional
18 people do, and also it talks about the second coming of
19 Jesus, thus second advent of Jesus, therefore the name
20 Seventh-day Adventist.

21 Q. Can you tell me then how you actually went
22 about founding this organization?

23 A. Yes. What made me start it, my daughter and
24 I were traveling singing on weekends in churches. My

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1 first wife had been killed in an automobile accident in
2 1982, and I had an eleven year old daughter. The three
3 of us had been singing, and so Melody and I continued
4 to sing and, even though my wife was killed, we gave
5 testimony that we blame sin, death, and disease on the
6 devil and not on God.

7 And so, therefore, people began to ask us to
8 come and minister, and then several television stations
9 said, well, let's hear your testimony. As I went to
10 those television networks I saw things that I didn't
11 like, things that I didn't believe in. I saw networks
12 that I thought the people were living life-styles, they
13 were doing things that was inconsistent with the
14 mission of the Gospel.

15 MS. RHOADES: I'm going to object on this
16 testimony. First of all, it's nonresponsive to the
17 question. Secondly, there's no foundation as to what
18 he believes is people who are living an appropriate
19 life-style.

20 MR. MILLER: Your Honor, this has to do, if I
21 may respond, an important part of understanding the
22 organization as its purpose is, why it was formed and
23 certainly the -- the statements that are being made go
24 to the understanding of Mr. Shelton.

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1 There is no attempt to present to the court
2 an objective standard of life-style and these people
3 were falling beneath that. It goes to why Mr. Shelton
4 wanted to found Three Angels and what the purpose of
5 Three Angels would be, and I think it goes to providing
6 that context for the court to understand how this
7 organization was formed and why it was formed and what
8 its purposes are.

9 I think that the objection is based on
10 hearsay or speculating as to what other thoughts missed
11 the point of what his testimony is being provided for.

12 ADMINISTRATIVE LAW JUDGE: I'm going to
13 overrule the objection. I'd like to know what the
14 history is and also why Mr. Shelton in fact founded it.

15 THE WITNESS: So as I traveled to these
16 networks, several of them, and we would sing. We saw
17 the way they were raising funds. They called them
18 praise-a-thons. I felt they were beg-a-thons and I
19 didn't see anything in the scripture that says people
20 should be begging for funds, and they had always
21 bothered me.

22 Things that they were preaching and saying
23 theologically I felt was wrong and I wondered why my
24 church wasn't more involved with the Seventh-day

1 Adventist Church, why though we had half hour programs
2 showing once in a while, why didn't we own networks
3 proclaiming what we thought.

4 I wondered why there wasn't a network where
5 just the average person, whether he had money or didn't
6 have money, could afford to have airtime and give his
7 particular view of the Gospel, and it seemed that these
8 networks were, in my opinion, to the point that, unless
9 you had a lot of money or unless you knew a lot of
10 people, you couldn't get on them.

11 So I would lay awake at night sometimes
12 thinking about those, and then in 1984, in November on
13 such night, I was laying awake and basically about two
14 in the morning and saying, I wonder, basically talking
15 to the Lord, why don't we as a church have a television
16 station that doesn't do all of this, that where there
17 is really a need that mission is the focus of it,
18 average everyday people can be a part of it.

19 And the impression came to me, why don't you
20 build it, and my first thought was, and I didn't hear
21 an audible voice, just impression. I'm kind of talking
22 to myself.

23 Well, I don't have money. I don't have
24 property. I don't have equipment. I don't have an

1 education in communications. I only have a high school
2 education period. I'm a carpenter. I know about
3 building houses and churches, but that's mostly, and
4 the impression came to me.

5 Suddenly I thought about Moses and the bible
6 who had been away from the people for 40 years, was 80
7 years old when he took the call and his previous wife
8 had been murdered and yet God used him. I thought of
9 Joseph. He was sold in the slavery by his own family
10 and didn't end up staying in slavery. God brought him
11 up to be a prince of the land and allowed him to be
12 accomplished. And then I thought of Ellen V. White, a
13 young lady in the middle 1800's who was impressed to
14 found the Seventh-day Adventist Church.

15 MR. MILLER: What did you do?

16 A. I said, Lord, if they can do this, I think
17 you're telling me I'll go forward. You supply every
18 need but I won't beg for money. If it's you, the needs
19 will be provided.

20 Q. And what did you do?

21 What happened next?

22 What -- how did you form this thing?

23 A. Well, I talked to my brothers and my family,
24 and so my brother, who was a lay pastor in the

1 Adventist Church and his wife Ema Lou, Kenny and Ema
2 Lou Shelton, and Linda, my -- I remarried actually
3 after my first wife was killed in '82. In November of
4 '84 I remarried Linda Shelton, and before I said,
5 well, let's do something about it. Let's form a
6 network.

7 So we got some attorneys from Benton,
8 Illinois, and asked them to set us up as a nonprofit
9 501(c)(3) charitable organization, religious
10 charitable, and then we applied for the State of
11 Illinois and granted by each.

12 Q. So you had Articles of Incorporation drawn
13 up?

14 A. Yes.

15 Q. And Bylaws?

16 A. Yes.

17 Q. And let me approach you, Your Honor, and give
18 you the Articles.

19 Do you recognize this document, Mr. Shelton?

20 A. Yes, I do.

21 Q. And what is that?

22 A. These are the State of Illinois Articles of
23 Incorporation of Three Angels Broadcasting Network.
24 Says we're incorporated under the laws of the State of

1 Illinois and been filed in the office and it shows that
2 and it sets forth our purposes.

3 Q. And what was your understanding of what your
4 purposes were as reflected on this document?

5 A. I'm sorry?

6 Q. What is your understanding of your
7 organization's purpose as reflected on this document?

8 A. Well, Item A for instance includes a lot. We
9 develop. We plan. We promote. We produce, and direct
10 incorporation with various other religious
11 organizations, all types of religious programming where
12 the electronic transmissions for television and radio
13 broadcasting throughout the world.

14 We also do a number of other things, that we
15 buy. We sell. We distribute. We produce in
16 association with other, as we said earlier, religious
17 ministries.

18 Q. Is that reflected in the Articles of
19 Incorporation?

20 A. Yes, it is, Item B.

21 Q. And do the Articles set up any sort of
22 shareholders or individuals who will profit from the
23 operation?

24 A. No.

1 MS. RHOADES: I'm going to object. The
2 document speaks for itself.

3 ADMINISTRATIVE LAW JUDGE: Sustained.

4 MR. MILLER: Did you plan to set up any
5 shareholders?

6 THE WITNESS: No.

7 Q. Any individuals who would profit from the
8 organization?

9 A. No.

10 Q. And is that reflected in your Articles of
11 Incorporation?

12 MS. RHOADES: I'm going to object. Again, the
13 document speaks for itself.

14 MR. MILLER: Well, the document doesn't speak,
15 Your Honor.

16 ADMINISTRATIVE LAW JUDGE: That's correct, and
17 I think the document has sufficient information in it
18 that we understand that there are no shareholders in
19 this corporation.

20 MR. MILLER: Okay. I just wanted to get that
21 in the record apart from the original documents.

22 ADMINISTRATIVE LAW JUDGE: I understand.

23 THE WITNESS: So do I answer that?

24 MR. MILLER: I think that the court has taken

1 notice that there is no inurement, no profit clause in
2 the Articles of Incorporation.

3 THE WITNESS: All right.

4 MR. RHOADES: I'm going to object. I don't
5 think that was the question, no inurement and no
6 profit. It was no shareholders. I think those are
7 different.

8 MR. MILLER: All right.

9 ADMINISTRATIVE LAW JUDGE: I think those are
10 two separate. It's getting to semantics.

11 MR. MILLER: She can't have it both ways, Your
12 Honor. She doesn't want me to actually have the clause
13 read yet.

14 Is it your understanding then that as an
15 organization you were going to forbid any personal
16 inurement and profit?

17 THE WITNESS: Yes, we did forbid personal
18 inurement and profit.

19 Q. And you believe that's reflected in the
20 Articles, do you?

21 A. Yes, I do.

22 MR. MILLER: I would like to submit the
23 Articles into evidence.

24 ADMINISTRATIVE LAW JUDGE: I believe I've

1 already agreed that you can submit a copy, that you
2 would like to keep the original.

3 MR. MILLER: That's what we would like to do,
4 Your Honor, yes. We'll ask that we can trade.

5 MS. RHOADES: Your Honor, we were not provided
6 a copy that's been given to the witness and we would
7 like to compare that with our own copies to make sure
8 there's no additional documents.

9 MR. MILLER: Let's give you the original to
10 look at. Yeah, that's fine.

11 MS. PETTY: What do you call this?

12 MR. MILLER: These are the Articles of
13 Incorporation.

14 ADMINISTRATIVE LAW JUDGE: Articles of
15 Incorporation.

16 MS. PETTY: I mean number wise.

17 MR. MILLER: Oh, this is Number 2.

18 ADMINISTRATIVE LAW JUDGE: Applicant's Exhibit
19 Number 2.

20 MR. MILLER: And at the same time, Mr.
21 Shelton, did you put together Bylaws?

22 ADMINISTRATIVE LAW JUDGE: Can you wait just a
23 second?

24 Is there any --

1 MS. RHOADES: Well, I'm still looking. We had
2 not been provided the same copy so I wanted to make
3 sure..

4 ADMINISTRATIVE LAW JUDGE: Okay. Let's take
5 about a two minute recess and give the Intervenor an
6 opportunity to double check the Articles of
7 Incorporation.

8 MR. STEINKAMP: Can we make that a five minute
9 recess?

10 ADMINISTRATIVE LAW JUDGE: Yes. We can make
11 that a five minute recess.

12 (Whereupon a short recess
13 was taken.)

14 ADMINISTRATIVE LAW JUDGE: Back on the
15 record.

16 Have you had an opportunity?

17 MS. RHOADES: Yes, we have, and we have no
18 objection.

19 ADMINISTRATIVE LAW JUDGE: And, Mr. Steinkamp?

20 MR. STEINKAMP: No objection.

21 ADMINISTRATIVE LAW JUDGE: Okay. Let the
22 record reflect that Applicant's Exhibit Number 2 is
23 admitted into evidence. Please initial and date this.

24

1 (Applicant's Exhibit Number 2
2 was admitted into evidence.)

3 MR. MILLER: I'd like to ask you, Mr. Shelton,
4 if those Articles are the ones that were in effect for
5 2000 and 2001?

6 THE WITNESS: Yes.

7 ADMINISTRATIVE LAW JUDGE: Did you want to
8 wait for Mr. Boothby?

9 MR. MILLER: I'm handling this witness so I
10 think we're all right.

11 ADMINISTRATIVE LAW JUDGE: Okay. I just didn't
12 know if you noticed he had left.

13 MR. MILLER: I have here another document, and
14 I'll give the original to the Judge.

15 Did you at the same time have Bylaws for your
16 organization put together?

17 THE WITNESS: Yes, we did.

18 Q. And are these the Bylaws that were in effect
19 in 2000 and 2001?

20 A. Yes, they are.

21 MR. MILLER: I'd like to submit these then in
22 as Exhibit Number 3.

23 ADMINISTRATIVE LAW JUDGE: Any objection to
24 the admission into evidence of Applicant's Exhibit

1 Number 3?

2 MS. RHOADES: No objection.

3 ADMINISTRATIVE LAW JUDGE: Mr. Steinkamp?

4 MR. STEINKAMP: I have no objection.

5 ADMINISTRATIVE LAW JUDGE: Let the record
6 reflect that Applicant's Exhibit Number 3 is admitted
7 into evidence.

8 (Applicant's Exhibit Number 3
9 was admitted into evidence.)

10 MR. MILLER: Mr. Shelton, if in the event,
11 Lord forbid, that Three Angels should stop operating
12 and dissolve as a corporation, do you know what would
13 happen to the assets of the organization under your
14 Articles and Bylaws?

15 THE WITNESS: Yes, I do. They would be
16 distributed among another nonprofit organization.

17 Q. And to your knowledge has Three Angels
18 Broadcasting operated consistently with these Articles
19 and Bylaws especially during the years 2000 and 2001?

20 MS. RHOADES: I'm going to object, foundation.

21 MR. MILLER: To your knowledge?

22 I've established that he was the President
23 for the whole period. I'm not sure what more
24 foundation is needed, Your Honor.

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1 ADMINISTRATIVE LAW JUDGE: I'm going to
2 overrule your objection.

3 MR. MILLER: And the answer was, Mr. Shelton?

4 THE WITNESS: Yes, we have.

5 Q. Now, did you at some point seek a tax
6 exemption from the IRS for your organization?

7 A. Yes, early on.

8 Q. And did you receive such tax exemption?

9 A. Yes, we did.

10 Q. Applicant's Exhibit Number 4, Mr. Shelton,
11 what is that document?

12 A. Okay. Recognition that we determined that
13 you are exempt from federal government income tax under
14 Section 501(c)(3) of the Internal Revenue Code.

15 Q. And what is the date on that?

16 A. May 21, 1986.

17 Q. And, in fact, that is -- is that the tax
18 exempt letter from the IRS recognizing that Three
19 Angels was an exempt organization?

20 A. Yes.

21 Q. And do you believe, is it your understanding
22 that Three ABN has held that status unbroken until this
23 present day?

24 A. I do, yes.

1 MR. MILLER: Applicant's Exhibit -- I'd like
2 to move this into evidence, Your Honor.

3 ADMINISTRATIVE LAW JUDGE: Is there any
4 objection to the admission into evidence of Applicant's
5 Exhibit Number 4?

6 MS. RHOADES: No objection.

7 MR. STEINKAMP: I have none.

8 ADMINISTRATIVE LAW JUDGE: Let the record
9 reflect that Applicant's Exhibit Number 4 is admitted
10 into evidence.

11 (Applicant's Exhibit Number 4
12 was admitted into evidence.)

13 MR. MILLER: Number 5, what is that, Mr.
14 Shelton, that document?

15 THE WITNESS: This is from the Internal
16 Revenue Department of Treasury and it says, our records
17 indicate that a determination of this letter issued in
18 1986 granted your organization exemption from federal
19 income tax under Section 501(c)(3) of the Internal
20 Revenue Code and that this letter is still in effect,
21 and this was October 30, 2000.

22 Q. Okay. I've got two other tax exempt
23 letters. Maybe we'll do this altogether and move them
24 in all at one time.

1 Did you at any time seek tax exemption status
2 from the State of Illinois?

3 A. Yes, we did.

4 Q. Mr. Shelton, I'm going to give you two
5 letters, Applicant's Exhibit Numbers 6 and 7.

6 A. Okay.

7 Q. And if you can briefly describe to us what
8 those document are?

9 A. Okay.

10 Q. And what dates are on them, starting with the
11 early document?

12 A. June 7, 1996. It's from the Illinois
13 Department of Revenue, Office of Local Government
14 Services, Sales Tax Exemption Section. It says, we've
15 received your letter, and based on the information you
16 furnished, we believe Three Angels Broadcasting Network
17 of West Frankfort, Illinois, is organized and operated
18 exclusively for religious purposes.

19 Consequently, the sales of any kind of this
20 organization are exempt from retailers, occupational,
21 etcetera.

22 Q. What department, what organization issued
23 that letter?

24 A. The Office of the Local Government Services,

1 Illinois Department of Revenue.

2 Q. And what about the second letter?

3 A. It's also from -- it's dated March 30, 2001,
4 the Illinois Department of Revenue, and it says --

5 MS. RHOADES: I'm going to object. The
6 witness should not be reading from the document absent
7 it being introduced into evidence. It's not been
8 tendered and we have objections to it with respect to
9 these particular documents.

10 MR. MILLER: Well, Your Honor, I will tender
11 them into evidence and perhaps we can deal with the
12 objections.

13 ADMINISTRATIVE LAW JUDGE: All right. Why
14 don't we do that?

15 Are there objections to the admission into
16 evidence of Applicant's Exhibits 5, 6, and 7?

17 Do you want to do all three?

18 MR. MILLER: Those are in.

19 Why don't we just deal with the ones that
20 aren't in, that would be six and seven?

21 ADMINISTRATIVE LAW JUDGE: I don't believe
22 four and five. You said you wanted to do all three
23 together.

24 MR. MILLER: I'm sorry, my fault.

1 MS. RHOADES: First of all, with respect to
2 five, six, and seven, we have no records that these
3 were produced to us pursuant to our request to produce
4 documents, not previously been disclosed to us.

5 Secondly, there is -- there has not been a
6 proper foundation laid for purposes of admission of
7 these records.

8 MR. MILLER: I don't have -- I need to see the
9 request that requested these particular documents. I
10 point out, Your Honor, that these are letters,
11 correspondence of the State of Illinois and of the
12 Department of Revenue that is involved in this case.

13 And typically when we receive requests for
14 items we give those that are in our custody possession,
15 and if the other side already has them, government
16 generated documents, we generally don't feel it
17 necessary to produce those.

18 So these are letters from the Department
19 itself, Department of Revenue, and opposing side would
20 have ready and easy access to them for the entire
21 period of this case and so forth.

22 ADMINISTRATIVE LAW JUDGE: All right.

23 MR. STEINKAMP: I'd like to respond to at
24 least a portion of that. There are many documents that

1 are in this department, and although it might be argued
2 that we have ready and easy access to any document that
3 we have here in the building, absent some sort of an
4 understanding of what evidence is going to be presented
5 or request for in discovery, we don't normally go out
6 and do a search of the department of every document
7 that might relate to an organization.

8 So at least to that extent, I'd say that
9 that's certainly something we normally would have
10 produced on our behalf with regard to a property tax
11 case, but I'd go on to say that I think probably the
12 document is relevant though not controlling.

13 That's how I would respond from that point of
14 view, and I'm sure the Intervenor has some issues with
15 whether discovery would have included this document.

16 ADMINISTRATIVE LAW JUDGE: Thank you, Mr.
17 Steinkamp.

18 MR. MILLER: Your Honor, I don't think any
19 particular prejudice has taken place here. There is no
20 jury or other issue. I'm certainly happy to allow --
21 we can continue and submit these and perhaps not move
22 them in at this point, and if opposing counsel wants to
23 review at lunchtime, you know.

24 ADMINISTRATIVE LAW JUDGE: I think that's a

1 reasonable statement. Let's just go ahead and put --

2 MR. MILLER: And I think it would be useful to
3 know if the State's taking a position that in fact this
4 didn't happen, these aren't true, the State didn't hold
5 Three ABN tax exempt.

6 I mean, I think it would be perhaps very
7 relevant if that were the case but, otherwise, it's
8 hard to understand why these letters wouldn't be of
9 interest to the court.

10 ADMINISTRATIVE LAW JUDGE: Okay.

11 Mr. Steinkamp?

12 MR. STEINKAMP: The State is not taking the
13 position that this didn't occur.

14 ADMINISTRATIVE LAW JUDGE: Are the Intervenors
15 taking the position that this did not occur?

16 MS. RHOADES: We are not.

17 ADMINISTRATIVE LAW JUDGE: All right. We got
18 that cleared up.

19 As far as what the discovery request was for
20 these, we'll just go ahead and put that on hold until
21 after lunch and give you an opportunity to look and
22 find out what request to produce is relevant for
23 these.

24 MR. MILLER: I'm sorry.

1 ADMINISTRATIVE LAW JUDGE: I wanted to finish
2 the sentence.

3 MR. MILLER: I don't want to interrupt.

4 ADMINISTRATIVE LAW JUDGE: All right.
5 Continue.

6 MR. MILLER: I believe I was asking about the
7 2001 letter and whether that -- what that conveyed to
8 your understanding to Three ABN?

9 THE WITNESS: It's the same. It conveyed to
10 us that we're presently, as of March 30, still tax
11 exempt as far as the State of Illinois is concerned.

12 Q. And what did it say you're organized for?

13 MS. RHOADES: I'm going to object. I think
14 the document speaks for itself as to what the State of
15 Illinois recognizes. I don't think he can speak for
16 the State of Illinois.

17 MR. MILLER: What message do you believe that
18 the State of Illinois was conveying to you about your
19 status as you read the letter?

20 THE WITNESS: Well, it says they are agreeing
21 with us, as they have all these years, that we're
22 organized and we're exclusively for religious purposes.

23 MS. RHOADES: I'm going to object and ask to
24 strike because I think it's not responsive to the

1 question.

2 MR. MILLER: It was what he understood the
3 State was telling him. I don't quite know what else
4 to --

5 ADMINISTRATIVE LAW JUDGE: I'm going to
6 overrule your objection and let's get on with the
7 testimony.

8 MR. MILLER: Okay. And I will move these into
9 evidence then at the appropriate time. It sounds like
10 we're going to --

11 ADMINISTRATIVE LAW JUDGE: As I said, we're
12 just going to put that on hold and give the Intervenors
13 an opportunity to find their request.

14 Yeah, I'd like the ones marked.

15 MR. BOOTHBY: Just so I understand what's
16 happened. As I understood, the Exhibit 5 had not been
17 received.

18 Are we withholding receipt of that pending
19 that IRS 501(c)(3)?

20 MS. RHOADES: Right.

21 ADMINISTRATIVE LAW JUDGE: Five, six, and
22 seven.

23 MS. RHOADES: That is correct.

24 MR. MILLER: Although we slipped four in.

1 MS. RHOADES: Four we got.

2 MR. MILLER: Moving away from the documents,
3 can you tell me about Three ABN's operations?

4 What is Three ABN, and how does it basically
5 get its message to the world?

6 THE WITNESS: Okay. Three ABN is a
7 satellite. We work with satellite television and
8 radio. We're networked there from Southern Illinois,
9 that we're actually sending programs that mostly that
10 we produce and some that others within the church
11 produce, and we send them to various downlink sites or
12 various homes entirely around planet earth 24 hours a
13 day seven days a week.

14 The programs that we send are all mission
15 oriented. They're all religious, religious purposes.

16 MS. RHOADES: Objection, foundation as to that
17 they're all religious. He's not laid any foundation as
18 to those statements.

19 MR. MILLER: Well, Your Honor, I think it's
20 pretty clear that, I mean, certainly I imagine he can
21 describe these, but they certainly are what they, it
22 shows what these purposes are.

23 ADMINISTRATIVE LAW JUDGE: I'm going to
24 sustain the objection, but I would like to also have

1 him expound on what he considers to be religious.

2 MR. MILLER: Sure.

3 What is the religious -- you can ask the
4 question.

5 ADMINISTRATIVE LAW JUDGE: No.

6 MR. MILLER: What types of programming do you
7 consider religious, Mr. Shelton?

8 THE WITNESS: Religious programs are those
9 that forward the message of Christianity of spreading
10 the Gospel to the world, whether that's just in a
11 spiritual sense or in the physical sense.

12 That our bodies are created by God and so,
13 therefore, instead of just talking about when we get to
14 heaven, we like to talk about health issues. If we're
15 going to have happy lives, we do programs on how to
16 stop smoking, how to get off of alcohol and drugs, how
17 to lower your cholesterol and blood pressure, as well
18 as it's an intricate part of the Seventh-day Adventist
19 message to the world that we're all, the body, mind,
20 and spirit are all closely united together, but that
21 God is our creator.

22 We're not here by accident or we didn't
23 evolve but our message is, God is our creator and that
24 we let people know that and the bible says there is one

1 way to be saved and that's through our belief in the
2 Lord Jesus Christ.

3 So we consider all of the programs that we do
4 incorporate, even if it's on health, we talk about our
5 God is our creator and that our body, he designed them
6 to, for instance operate better if we don't put alcohol
7 into our bodies or take cigarettes into our bodies,
8 because it destroys us as medical science tells us.

9 Q. Does your church have doctrines in fact
10 regarding health issues?

11 A. Yes, we do. In fact, even to be a member of
12 the Seventh-day Adventist Church one of the commitments
13 that we make is that we abstain from the use of alcohol
14 and tobacco and drugs, alcohol and tobacco in any
15 forms, and there are prescription drugs or health drugs
16 of course that are acceptable.

17 Q. Now, I believe you were, when we got into
18 this religious program question you answered, beginning
19 to describe for us the technological side of ABN. You
20 mentioned satellite systems and you can continue on
21 that.

22 A. Three ABN from our central there in Southern
23 Illinois we have some large satellite systems, analog
24 and digital, and these systems and satellite signals,

1 my wife and I do a daily program. So we come on and
2 say, hello and welcome to, Three ABN presents.

3 When we say that this signal goes up through
4 the transmitter that we have 23,300 miles in space to a
5 satellite called G-4. G-4 is one of its transponders
6 owned by GE American, for instance, or Hughes, and what
7 happens there is, each, there is 24 channels or
8 transponders.

9 Ours is sent up to GE-4 and can be received
10 by anyone with a particular kind of satellite system or
11 a UHS stations or a cable station, anyone who wants to
12 rebroadcast that, so we send the signal up 22,300 miles
13 then it bounces back down to earth stations.

14 The earth stations, such as cable stations,
15 we own eighty some UHS stations across America, then
16 it's received unmanned stations and then through
17 transformers, transmitters, and towers and antennas
18 actually transmit to maybe a thirty or forty, fifty
19 mile radius so that people in their homes, all they
20 have to do is turn on Channel 15 or Channel 64.

21 Many cable stations receive us several
22 hundred, off the same satellite by putting a dish that
23 receives it at their cable head end and they put it on
24 their cable channels so people in many cities, hundreds

1 of cities across the country are able to do this.

2 Even, in fact, in Germany there are 90 cities
3 now in Germany where they receive satellite signals
4 that we go up. This covers North and Central America.

5 We also at the same time are sending signals
6 to Sky Angel Network. It's a network of all religious
7 programs, approximately 20 channels, and we're one of
8 the channels that provide programming.

9 People buy the dish, network dish, but not
10 necessarily the dish network programming. You only
11 receive, with Sky Angel you just receive religious
12 programming and family oriented programming.

13 Now, as it's been distributed to, from G-4,
14 we also are sending up to a satellite called Past
15 Nine. Past Nine then, I know this is confusing, but
16 I'll try to make it as simple as we can.

17 Past Nine is a distribution satellite that
18 distributes the signal to Europe, to France during
19 these years, and now it's teleported. It's taken down
20 into France.

21 From France then it's teleported back up
22 immediately. All of this is within a split second.
23 It's transported immediately back up to a satellite
24 called the Hotberg, which has ninety some million

1 potential viewers.

2 The Hotberg then, as it goes up brief, people
3 all throughout Europe can receive through cable
4 stations, the same way through North America through
5 certain satellite systems. They're able to get this
6 into their home.

7 Then from the Hotberg it's sent down to
8 Jerusalem and in Jerusalem we have a teleport in
9 Jerusalem then that receives this, the signal. It
10 teleports it back up to a satellite called Tycom 3, so
11 we've got North and Central America so far.

12 We have Europe including the eastern block
13 countries and South Africa, Africa in general, and so
14 now with Tycom, Tycom covers Indonesia, China, Asia,
15 Philippines, New Guinea, basically the rest of the
16 known world.

17 So Three ABN signal is virtually on every
18 continent on planet earth what we do here in Southern
19 Illinois, there in Southern Illinois, in West Frankfort
20 can be seen by conservatively a hundred, potentially
21 150 to 200 million people around the world watch, can
22 watch, not that they do necessarily. We have no way of
23 knowing who does, but that's how we operate.

24 All of this takes about two seconds to go the

1 22,000 down. It's transmitted at the speed of light.
2 It's 186,200 miles per second. Our church, we work
3 with the church, has now 14,000 downlink sites.
4 Adventist Churches around the world has thousands each
5 of these have big satellite systems. So if the
6 churches want to receive, then they, wherever they are
7 on the earth, also can receive it. It's a joint venture
8 that we have.

9 They can receive and rebroadcast Three ABN
10 programs to their church and provide people to
11 evangelistic means.

12 Q. Well, Mr. Shelton --

13 A. Did I confuse you?

14 Q. That's a very interesting description.

15 I'm wondering, do you have, does Three ABN
16 have a product that summarizes this testimony in a
17 helpful form?

18 A. I do have a short video if we can show it.

19 MR. MILLER: We have a five minute video that
20 I think would be very helpful in setting up graphically
21 illustrating the testimony here if Your Honor is
22 willing to review that.

23 ADMINISTRATIVE LAW JUDGE: Have you had an
24 opportunity to review that?

1 MS. RHOADES: No, we have not.

2 ADMINISTRATIVE LAW JUDGE: Well, I'll tell you
3 what, we can look at it and then we can decide if it
4 should be entered into evidence.

5 MR. MILLER: That's fine.

6 ADMINISTRATIVE LAW JUDGE: And now somebody's
7 going to expect me to be technologically advanced.

8 MR. STEINKAMP: Well, I'd just say for
9 technical reasons I think -- well, the Department at
10 least would object to the acceptance of the VCR tape as
11 evidence, and those technical reasons include the fact
12 that we just don't know how well these things are kept
13 when they go from this administrative hearing division
14 to other courts and, therefore, it may not be useful if
15 in fact this case gets to -- to some other court as a
16 part of the record.

17 And so simply for that technical reason, not
18 because I would object to any of the content of the
19 tape, but because it's difficult to keep this type of
20 evidence in as good as condition as maybe it should
21 be. I would -- I think it's better that we not allow
22 it into evidence and simply rely on whatever Mr.
23 Shelton and other witnesses can testify to.

24 MR. MILLER: Well, Your Honor, I find it an

1 unusual objection. Typically objections are based on
2 substance and I would imagine the court itself would
3 know whether or not this is the kind of evidence that
4 can go forward.

5 I would note that there were other evidence
6 that were struck on other grounds, but apparently the
7 court was viewing it as acceptable to accept a
8 videotaped deposition of Elder Wilson, and I believe
9 that these types of depositions on tape must be used
10 from time to time by Your Honor's court and by the
11 appeals system.

12 And I would request that the hearing on
13 whether or not this is admissible be made when we've
14 actually seen it rather than just the first 30 seconds
15 or so.

16 MR. STEINKAMP: Could I respond to that?

17 ADMINISTRATIVE LAW JUDGE: Yes.

18 MR. STEINKAMP: And that's why the tapes of
19 depositions must include in this court a transcript of
20 the deposition, because of the technical problems that
21 sometimes occur.

22 When a deposition, evidence deposition is
23 accepted into evidence here, we require that there be a
24 transcript included with it.

1 And that's, for those very reasons and here
 2 we don't have a transcript and I don't think we could
 3 have a transcript, because there are many graphics,
 4 excellent graphics on this tape that simply couldn't be
 5 transcribed.

6 Depositions are easy to put into another
 7 form. This tape, because of the excellence of the
 8 graphics and the music and the presentation, simply
 9 can't be put into that form, and so I would simply
 10 persist in the objection.

11 MS. RHOADES: If I can also, for purposes of
 12 the record, Your Honor, join in Mr. Steinkamp's
 13 objection to that.

14 Secondly, and we're looking for and I believe
 15 this court did submit an order to all parties that said
 16 if video evidence is to be provided a corresponding
 17 transcript must also be provided as well.

18 Secondly, we have no foundation laid for the
 19 purposes of this video to date. We have no idea who
 20 made it, when it was made, for what purpose. We don't
 21 have any of that.

22 MR. MILLER: Your Honor, I don't -- we weren't
 23 aware of the requirement of the transcript. We
 24 certainly can provide one if that's necessary, and that

1 sounds like it would take at least in partial account
2 the technical issues that have been raised.

3 As far as foundation, I believe I asked Mr.
4 Shelton if his organization prepared this to describe
5 the, his systems operations and I believe he testified
6 as much, and there wasn't a timely objection made to
7 that foundation.

8 I can certainly provide more of a foundation
9 if and when we can actually get it operating. I guess
10 at this point I would urge the court that we should
11 make a decision about this when we can actually, if and
12 when we can actually show the tape.

13 ADMINISTRATIVE LAW JUDGE: I'm going to go
14 ahead and rule that they are allowed to be able to lay
15 the foundation for showing the tape, and also that we
16 can at least see the tape if we can get the technical
17 difficulties taken care of and also get a transcript of
18 the factual, or not the factual but the --

19 MR. MILLER: The narrative.

20 ADMINISTRATIVE LAW JUDGE: -- the narrative of
21 the tape.

22 MR. MILLER: Thank you, Your Honor.

23 Can you describe the actual buildings that
24 are at issue, that are at issue in this particular

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1 case?

2 THE WITNESS: Yes, I can. The main facility,
3 our administrative production center, I think we're
4 probably looking close to 30,000 square feet. I don't
5 have the exact footage, but we have studios which is
6 where we're producing our religious programs that we
7 were just talking about transmitting on this property.

8 And we also do our administration, such as
9 finance and such as engineering, and pastoral
10 department is there, and we have five pastors who, four
11 to five we keep all the time who are there up until
12 twelve midnight, from eight in the morning to twelve
13 midnight to answer calls, because we get several
14 thousand of calls per month from people to pray with
15 them, talk with them.

16 Q. Mr. Shelton, if I can just interrupt just to
17 help the testimony, help the Court understand. I'm not
18 proffering this as an exhibit. I'm proffering it as an
19 illustration to give Mr. Shelton the ability to guide
20 the court around the description of at least the main
21 building at issue in this case, and that's this
22 document here.

23 Mr. Shelton, have you seen this document
24 before?

1 A. Yes.

2 Q. And does it roughly -- what does it roughly
3 sketch?

4 A. It represents the building in question, the
5 main administration building.

6 Q. And would it be helpful to your testimony to
7 the court in describing the building and its uses to
8 the court?

9 A. Yes.

10 MR. MILLER: May we use it for that purpose,
11 Your Honor?

12 ADMINISTRATIVE LAW JUDGE: Yes. Can you see
13 it or --

14 MS. RHOADES: No, we couldn't see it earlier.
15 I mean, I'd like to see it when he's doing the
16 testimony if that's okay.

17 ADMINISTRATIVE LAW JUDGE: Okay.

18 MR. MILLER: Danny, perhaps you can stand here
19 like I am and hold this and everyone can sort of see
20 it.

21 MR. RIVA: Here, I can help you out.

22 MR. MILLER: Okay. You can sit down if you'd
23 like, Danny.

24 THE WITNESS: Do you want me to describe

1 each?

2 Q. Yeah.

3 Why don't you just briefly let the court know
4 what happens in the --

5 A. When you come into Three ABN our maintain
6 entrance is our lobby and our reception area. To the
7 right of this is administrative secretary and, which is
8 my secretary, Mollie, which is Dee Hildebrand who does
9 programming and scheduling, then my wife Linda's office
10 since she's the Vice President, and there's a bathroom
11 between, and then I have my office, and right next door
12 to mine is a kitchen for the workers that work on this
13 floor.

14 We're looking at the first floor, so there's
15 a kitchen and all the workers can come cook their own
16 or during break time can take a break here. Then we
17 also have a secretary here, so this is just
18 administration, administrative section here to the
19 left -- to the right.

20 To the left is the financial services. We
21 have about six full-time people or so that's in here,
22 and so we have a couple of rest rooms and library
23 storage for extra, we have a lot of books, older books
24 about the foundation of our church and what have you

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1 that we keep.

2 But mainly Larry Ewing, our Financial
3 Director, his office is here and this is divided with a
4 number of other partitions where we have probably five
5 or six other people working here full-time in this
6 area.

7 When we go into the main body of the
8 building, which is approximately, these are
9 approximately 40 by 42 areas. This is like 20 by 30 or
10 so here.

11 When we go into the main facility we have our
12 control room. Control Room A, Studio A controls Studio
13 A. We have a number of people that's sitting here. We
14 have all the monitors. You've seen CNA or what have
15 you, picture in your mind the walls of monitors and
16 equipment, switchers.

17 We have graphics people. We have video
18 control technical people. We have a studio audio booth
19 here. So these people are looking at monitors and in
20 the monitors they would have four cameras out in the
21 studio that's strategically placed around us or our
22 guests.

23 Q. And what takes place in this studio?

24 A. Okay. This studio is set up like a large

1 house or living room area where we have a couch and
2 chairs.

3 My wife and I sit on a daily program and we
4 interview people from other ministries talking about
5 their ministries or officials from the church talking
6 about global missions around the world church.

7 We have a section where we do gospel music
8 that at times we produce music. We have a little front
9 porch area that when we first come on we do an intro
10 which is, again, give a bible scripture and we say
11 hello and welcome, give a bible scripture, and then we
12 do a prayer, then we introduce the music, which happens
13 here.

14 Then it goes from that where we're
15 interviewing people in this area, and also --

16 Q. What kind of people do you interview?

17 A. These are people in ministry, that's in
18 ministry and many or most of them work for the
19 Seventh-day Adventist Church, and so we talk about
20 projects around the world.

21 For instance, we build -- raise money for
22 orphanages in Bangladesh in India.

23 We're helping support ministries over there
24 also, so the interviews goes on here daily, and then we

1 have a little kitchen set where we actually do
2 vegetarian cooking classes, telling you how to prepare
3 healthy vegetarian meals.

4 Q. What about Studio B?

5 A. Studio B is not completed yet. It is the
6 lighting. We do use it from time to time. When I say
7 it's not totally, the control room is here, is self --
8 controls, this is finished.

9 In this studio we have a remote truck, which
10 is a large truck that's totally equiped in the studio.
11 We pull it up to the outside and bring our cameras and
12 we do produce Christian programs here. We do sometimes
13 our children programs in here where we do songs. The
14 children sing. They learn bible. They hear bible
15 stories. We have people dress up and come in and do
16 stories of Moses or whoever, and so we also have a
17 little church, looks like the front of a church set up
18 in here, and so pastors come and preach in one
19 section.

20 This area is about 60 by 90, so it's a pretty
21 good size studio, and we have several sets we can set
22 up here.

23 Q. What about this segment of the building?

24 A. Okay. This segment here, this is all new

1 master control. For years we were at another facility,
2 but we're moving this. Master control is where all of
3 the -- the tapes that go 24 hours a day, they have to
4 get satellite, so they're brought in. All of this
5 equipment, which is all new digital equipment, it's a
6 merit of machines that I'm not that technical, but I
7 know they work.

8 So we bring in, all of this is for the master
9 control area. So what happens is programs that we take
10 and produce in these studios actually come first to
11 these edit bays, because we come in, and since we may
12 just do the interview first and then come and do the
13 opening and then add some music, then we have a format
14 that's 58 minutes and 50 seconds, for instance.

15 Q. What about this labeled Spanish studio?

16 A. Okay. This Spanish studio we used to refer to
17 it as BOS Auditorium, but this is a total Spanish
18 Studio where we're doing 24 hours starting in Spanish
19 channel.

20 Q. Has that happened yet?

21 A. It's in the processing of happening right
22 now. We're building it as we speak.

23 Q. In 2000 and 2001 what was that space used
24 for?

1 A. This space had been and still was used for
2 recording. It was also a studio. We held Net 2000
3 with Steven Lewis where we could hold several hundred
4 people. If it were drawn to scale it should come up
5 here a ways, but we run out of paper I think is what
6 happened.

7 Q. So Net 2000, what is Net 2000?

8 A. Well, it's where we have a preacher come and
9 for approximately 30 nights that he preaches and we
10 invite the public to come and we do it for 30 nights,
11 and we send it by satellite up to satellite and then
12 around the world, so that happens in this part of it.

13 The editing bays, we edit the programs, now
14 bring them in master control and that's what sends the
15 programs to satellite.

16 Q. Is there any space on this diagram here,
17 which I believe is the first floor, is there any space
18 in that building that is not used exclusively and
19 primarily for the religious broadcast purposes of Three
20 Angels?

21 A. The bathrooms.

22 Q. And those are for the employees of the
23 organization for furthering your ministry, is that
24 right?

1 A. Yes, of course. All the rest of this, of
2 course, everything here is used for religious
3 purposes. There is nothing here. We do nothing
4 secular.

5 Our whole ministry is to missions, to get the
6 Gospel to the world.

7 Q. Maybe you can turn it over, Lee.

8 And what would this represent?

9 A. This is the upstairs. Actually if I can show
10 you one more time, you come up these stairs from the
11 first floor and when you do you enter, here's the
12 stairs right here, continuation of the stairs, and so
13 the graphics that you just saw, for instance, were done
14 in this little room right here.

15 We put together by computer. We designed
16 that. Our maintenance on the second floor, Larry
17 Welch, who is in charge of maintenance for all our
18 properties is here. Then we also do more graphics in
19 the Publishing Department where we design our calendars
20 and design literature and our newsletters that we send
21 out every month to people.

22 This is pastoral. We have two pastors in
23 each office, sometimes three. They're fairly large
24 offices and they are there praying with people.

1 They're taking phone calls. They do a number of
2 pastoral, we can talk about that, at any one time.

3 But this is our Director, for our Production
4 Director and the Editing Director. They meet in here
5 because they have to, when we have guests who are
6 coming and we are trying to produce this certain focus
7 for or that, they put all the programs together, bring
8 Linda and I the guest names, who they are, what their
9 ministry is all about, and so this area here then takes
10 you into above what we just saw was this, where it says
11 master control, and this is the new Spanish Production
12 Center up above.

13 To start our 24 hour day, just like we have
14 English going to the world, we, through with the same
15 satellite systems it's going up, we have an extra video
16 feed that we can send Spanish, so we can send two
17 languages at the same time, and so these will be
18 received in the Spanish speaking countries around the
19 world.

20 And so we're also building the production so
21 we'll actually produce programs there as well as send
22 them to satellite.

23 Q. I see there is a third floor.

24 A. This is storage tapes and we have some

1 computers up there, but it's mostly -- it has to be air
2 conditioning for the technical end of the library for
3 tapes.

4 Q. Is there any space on this diagram that is
5 not used to further or support of the religious
6 ministries and activities of Three Angels?

7 A. No, not really any.

8 MS. RHOADES: I'm going to object. I think
9 that calls for a conclusion.

10 ADMINISTRATIVE LAW JUDGE: Sustained.

11 MR. MILLER: Yeah. I am calling for a
12 conclusion, Your Honor. It's not a legal conclusion.
13 It's a question about his understanding of the use of
14 these facilities.

15 MS. RHOADES: I believe it is a legal
16 conclusion.

17 ADMINISTRATIVE LAW JUDGE: I don't think it's
18 a legal conclusion because what he's asking is the use
19 of the facilities are being used for Applicant's
20 endeavors and how did those endeavors are characterized
21 is what this hearing is all about, so I'm going to
22 allow the question.

23 THE WITNESS: All of these, of course, as I
24 said, except kind of jokingly referred to the washrooms

1 and the kitchen, but that does feed where the workers
2 can come inside as far as employee benefit, but all the
3 offices do, are directly, you know, in association with
4 our ministry and mission of the Three Angels
5 Broadcasting Network.

6 MR. MILLER: Thank you, Lee. Thank you, Mr.
7 Shelton.

8 Now, you've told us a little bit about your
9 relationship with the Seventh-day Adventist Church.

10 Can you tell me how your Board is related to
11 the Adventist Church?

12 THE WITNESS: Okay. Our Board is made up of
13 Seventh-day Adventists, Christians.

14 Q. About how many?

15 A. Well, it varies. I think during the years
16 2000/2001 I believe we had twelve Board members, maybe
17 eleven for part of it, but twelve. They're made up of
18 Adventist laymen, business people. They're made up of
19 church employees and former church employees.

20 For instance, Illinois Conference President
21 of the Seventh-day Adventist Church also serves on our
22 Board of Directors.

23 The -- under secretary of the General
24 Conference of Seventh-day Adventist, which we referred

1 to as the number two man, whatever, that is under the
2 President of the world church of Seventh-day
3 Adventist. He's retired now, but he sits on our Board
4 and was active. In fact, 2000 I believe he was still
5 under secretary of the General Conference.

6 Q. Was he an ordained minister?

7 A. All of these, yes. Yes, he's ordained, so is
8 Ken Denslow who is the Illinois Conference President.

9 MS. RHOADES: I'm going to object because I
10 think he's testify Mr. Denslow was not on the Board of
11 Directors for the 2000/2001 year, which is the year
12 that is in question.

13 ADMINISTRATIVE LAW JUDGE: That's correct.
14 Okay.

15 MR. MILLER: Who was Mr. Denslow's
16 predecessor?

17 THE WITNESS: Wayne Kolter. Wayne Kolter was
18 the Illinois Conference President, I'm sorry, in the
19 year 2000 and 2001. He was also the Illinois
20 Conference President and our Board has always
21 maintained for years, so whoever, when he goes out, the
22 next Illinois Conference President, that position is
23 entitled to a position on the Three ABN Board.

24 And we've done that because we want a close

1 relationship with the church and he's a liaison to the
2 North American division and to the General Conference,
3 and we've always said, if they can see us going in the
4 direction that's different from the church, and if the
5 Illinois Conference President is there, he can help to
6 work with us, which to work together, so we've by
7 choice done that.

8 We have Owen Troy, who is the Communication
9 Director for the North American Division of Seventh-day
10 Adventist for many many years, and Owen is retired now
11 and he's a Three ABN Board member also.

12 Q. Is he a pastor, ordained pastor?

13 A. Yes, ordained pastor for many years and still
14 ordained pastor for the Seventh-day Adventist Church.

15 Larry Welch sits on our Board. He also was a
16 pastor for a number of years in the Seventh-day
17 Adventist Church.

18 I have Ellsworth McKey who -- do you want me
19 to go through the Board?

20 Q. No, that's okay.

21 If you can tell me generally about the
22 operations of the Board, how frequently do they meet
23 and what are their general duties?

24 A. Okay. We meet regularly, at least three

1 times a year, sometimes five if there is special
2 meetings that we need to hold. But we have annual
3 meetings every year also around the third quarter of
4 the year. We do it in conjunction with our regular
5 Board meeting.

6 Is that what you asked me, how often?

7 Q. Uh-huh.

8 A. Okay.

9 Q. What does the Board -- what are its general
10 duties and responsibilities?

11 A. Well, the Board governs Three ABN naturally,
12 and so the Board, when we meet together, we always have
13 a financial report from, not only the local report, but
14 annually we have an auditor's report that we bring too,
15 an outside auditing company that we bring to the
16 Board.

17 And then we do the financial, any items of
18 business outside the main items of business, if we want
19 to open a new or build a television station in the
20 Philippines, which we have, for instance, then the
21 Board would vote, yes, we should do that or no, we
22 shouldn't do that.

23 We look at the cost involved and try to see
24 where is this funding come from and so the Board just

1 basically governs and they look over me as the
2 President and make sure I'm doing what I'm supposed to
3 do.

4 Q. And apart from the pastors and church leaders
5 you have on your Board, do you have any sort of formal
6 relationship with the Seventh-day Adventist Church
7 itself?

8 MS. RHOADES: I'm going to object. I want to
9 make sure we understand that the questioning, these
10 questions are for the years 2000 and 2001.

11 THE WITNESS: Yes.

12 MR. MILLER: Please, if and when I ask a
13 question that may be ambiguous, I'm meaning 2000/2001.

14 A. Yes.

15 Q. Okay.

16 A. So everything here is kept for 2000/2001.

17 ADMINISTRATIVE LAW JUDGE: Those are the only
18 years I have jurisdiction over.

19 THE WITNESS: Okay. Good.

20 MR. MILLER: Why don't we give the original to
21 the Judge so you can actually see the real signatures,
22 but we don't want to submit that.

23 I have a document entitled here, Mr. Shelton,
24 Joint Declaration of Commitment, and it's been marked

1 Applicant's Exhibit Number 9.

2 THE WITNESS: Yes, sir.

3 Q. Can you tell me what that document is?

4 A. Yes. It's a Joint Declaration of Commitment
5 between the General Conference of Seventh-day Adventist
6 and Three Angels Broadcasting Network.

7 Q. And can you tell me the circumstances
8 surrounding the creation of that document, briefly?

9 A. Yes. The circumstances was, since we're
10 promoting the church and viewed by members as
11 Seventh-day Adventists, though we're not a Seventh-day
12 Adventist institution, the church wanted to make sure
13 that what we are doing and have some formal type of
14 relationship, so that we can work closely together to
15 make sure that we're not working in one direction and
16 they're working in another, but that we could jointly
17 work together, where they possibly could use our tools
18 of communication, our broadcast tools and we could use
19 their membership or their people that they have in
20 different divisions to help promote Three ABN.

21 Q. And what year did you enter into this
22 agreement?

23 A. Well, look and see if it says here because
24 I've forgotten. I believe it's 1997, yes.

1 Q. And who was the main signatories on the
2 document?

3 Who represented Three Angels?

4 A. Myself as President; Walter Thompson who was
5 the Board Chairman of Three ABN; and Linda Shelton, my
6 wife who is the Vice President.

7 Q. And who represented the Seventh-day Adventist
8 Church?

9 A. Robert S. Falkenberg, who was the General
10 Conference President of Seventh-day Adventist.

11 Q. Can you tell us what the General Conference
12 is of Seventh-day Adventist?

13 A. The General Conference, the Seventh-day
14 Adventist Church is broken up into approximately nine
15 divisions around the world. The structure is simply
16 that the General Conference oversees the organized
17 church worldwide.

18 Now, their headquarters are in Washington,
19 D.C., and Robert Folkenberg, we have approximately
20 fourteen or fifteen million members, and Robert S.
21 Folkenberg was at this point in 2000 or 1997 when this
22 came about, was the President of the world church.

23 Q. And was that agreement in operation during
24 the years 2000 and 2001?

1 A. Yes, yes.

2 Q. And can you briefly describe to me the, what
3 that committed ABN to?

4 A. Yes. It actually was a reaffirmant of our,
5 in our very beginning as we, our mission of Three ABN
6 and when we entered into our original Bylaws to work
7 closely with other religious institutions to promote,
8 distribute, produce materials to reach the world, and
9 so what we're reaffirming that we are, Three ABN is
10 committed to helping the Seventh-day Adventist Church
11 through our vehicle of broadcasting, radio, and
12 television to get that message to the world.

13 Q. And what does it commit the church to do?

14 A. Okay. It -- the church here is committed to
15 supporting Three ABN, and they're also making a big
16 statement that the Seventh-day Adventist official
17 church believe in lay institutions like Three ABN, and
18 that they have a value and a place within the church,
19 even though we're not owned and controlled by the
20 church and that they, therefore, are going to use their
21 divisions around the world, their church institutions
22 to utilize the production and distribution of Three
23 Angels Broadcasting Network programs around the world.

24 MR. MILLER: Your Honor, I'd like to submit

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1 this document as an exhibit, and I'd like to trade you
2 however.

3 ADMINISTRATIVE LAW JUDGE: I certainly
4 understand that.

5 Is there any objection to the admission into
6 evidence of Applicant's Exhibit Number 9?

7 MS. RHOADES: We have no objection.

8 ADMINISTRATIVE LAW JUDGE: Mr. Steinkamp?

9 MR. STEINKAMP: I have no objection.

10 ADMINISTRATIVE LAW JUDGE: Let the record
11 reflect that Applicant's Exhibit Number 9 is admitted
12 into evidence.

13 (Applicant's Exhibit Number 9 was
14 admitted into evidence.)

15 ADMINISTRATIVE LAW JUDGE: Is there an Exhibit
16 8?

17 MR. MILLER: You know, I think that was
18 possibly going to be the videotape.

19 ADMINISTRATIVE LAW JUDGE: Okay. I'm just
20 trying to keep track of them.

21 MR. MILLER: I think we had that numbered and
22 that sort of dropped out.

23 Mr. Shelton, what projects have you
24 undertaken in cooperation with the Seventh-day

1 Adventist Church?

2 THE WITNESS: Oh, we've taken on numerous,
3 numerous programs, for instance.

4 Q. Maybe I can ask you.

5 You mentioned earlier a Net Series.

6 Can you tell us about the Net Series?

7 A. We produced, starting in 1995 the General
8 Conference chose Mark Finley who was the speaker for It
9 is Written Program. That's the program owned and
10 operated by the Seventh-day Adventist Church to do what
11 we call satellite evangelism.

12 They have a huge auditorium. They invite the
13 public, several thousand people came, and then they
14 needed this distributed to the rest of North America
15 and to the rest of the world where possible.

16 During Net 95 Three ABN really didn't get
17 world coverage until the year 2000. I think about
18 June, but we were going into Europe, so what happened
19 is that you, the evangelist is speaking. They use
20 their cameras and their equipment, but they send it,
21 rented an uplink truck, sent it to our satellite which
22 then interrupted our main programming or regular
23 program, and then we distribute it to Europe.

24 Now the problem with Europe, the eastern

1 world, for instance, Romania, they didn't have --
2 they're not as technologically, of course, advanced as
3 we are, of course, and those countries are behind, so
4 we helped actually raise about \$300,000 from private
5 adventist individuals to purchase dishes and
6 instruments to be able to receive these programs into
7 their churches and our translators from the church.

8 So what we sent to satellite these churches
9 now in Romania, for instance, I'm just using that as
10 one of these countries, 60,000 people a night, people
11 would invite people to the churches all across the
12 country. 60,000 people a night would come, so it went
13 up in English but it came down in their particular
14 language, in their own language would also come down.

15 We brought people to Three Angels
16 Broadcasting Network, about twelve translators, so we
17 did Russian. We did Yugoslavian. We did German,
18 Spanish, and so when -- on the receiving end, your
19 receiver, though they saw the picture of Mark Finley
20 when they turned to a certain audio dial, like 6.2
21 would be English, 6.4 would be Spanish, 6.6 would be
22 Portuguese, 6.8 would be Russian, so each country then
23 could receive.

24 So by this way it helped the church do an

1 evangelist, instead of paying an evangelists to go to
2 all these countries in the world and to do all of this,
3 we were able to bring the church down to one unit.

4 Q. And how long did that series roughly last?

5 A. That's about a month.

6 Q. And how many nights a week if you remember
7 roughly?

8 A. Five, I believe.

9 Q. And roughly how much did it cost your
10 organization to provide these services?

11 MS. RHOADES: I'm going to object. I don't
12 know what the relevancy is of the question.

13 ADMINISTRATIVE LAW JUDGE: The amount that it
14 cost?

15 MS. RHOADES: Yeah, how much it cost. What's
16 the relevancy as to the use of the property?

17 ADMINISTRATIVE LAW JUDGE: Go ahead.

18 MR. MILLER: Did you use -- did you use this
19 property in conjunction with this net series at all?

20 THE WITNESS: Well, yes. Of course our
21 properties is our administration and where we do all of
22 this. At the time we broadcast it from another piece
23 of property, but that still uses the facility of
24 course.

1 MR. MILLER: Your Honor, I'm not sure I
2 understand the basis of the objection. Maybe it is
3 that this is a program that happened in 1995 and we're
4 looking at tax years 2000 and 2001.

5 Insofar as I understand our case however, we
6 need to show, and the other side seems to object to the
7 question of whether Three Angels itself is a
8 not-for-profit charitable organization as well as its
9 use of this property.

10 So its activities in providing a free or
11 reduced services in and around the years 2000 and 2001
12 seem to me would certainly go to the identity and
13 purposes of Three ABN even if we're not dealing with
14 the property at issue in 2000 and 2001.

15 Am I making sense?

16 ADMINISTRATIVE LAW JUDGE: Yes, you're making
17 sense. But I think if we can confine the evidence to
18 2000 and 2001, because otherwise you're going to go the
19 entire gamut of your time that Three ABN was
20 functioning and I'd like, so I'm going to sustain your
21 objection and -- but I do think it would have been
22 relevant had this net series taken place in 2000 and
23 2001.

24 MR. MILLER: Mr. Shelton, did you have any net

1 series in year 2000/2001 similar to the one you've just
2 described?

3 THE WITNESS: Yes. Only this time we were
4 able to take it to the world and we had the General
5 Conference World Headquarter session in Toronto, Canada
6 during 2000 where 75,000 Seventh-day Adventists from
7 around the world, representatives from the churches
8 came and met together.

9 That's where they meet every five years.

10 Q. Mr. Shelton, maybe we can take them one at a
11 time so we don't inflate them.

12 A. Okay.

13 Q. If you'll begin with the net series in 2000.

14 A. 2000, we did, I believe it was Steven Lewis.
15 We called it net, I don't know if we used the word net,
16 but it was Evangelism 2000, Pentecost 2000 I think is
17 what we called it.

18 Also, we did Pentecost 2000 with an adventist
19 pastor doing the same thing, bringing it, only we
20 actually did it at the Three ABN headquarters in the
21 BOS Auditorium.

22 We did Samuel Thomas, an evangelist that
23 works with, he's a black evangelist working with
24 intercity blacks and so we went to Columbus, Ohio and

1 then we netted that around the world also in the year
2 2000.

3 Q. And this gentleman who preached in the BOS
4 Auditorium, what was his name again?

5 A. Steven Lewis, Pastor Steven Lewis.

6 Q. And who was Mr. Lewis employed by?

7 A. The Seventh California Conference of
8 Seventh-day Adventist.

9 Q. And who actually did the programming in
10 this -- in this series, stood behind the cameras?

11 A. Three Angels Broadcasting employees.

12 Q. And where did you send this message to?

13 A. We sent it to all of our downlink sites
14 around the world.

15 Q. And was it a costly process?

16 A. Yeah, it cost lots of money.

17 Q. How many weeks did it go?

18 A. For a month.

19 Q. For a month.

20 And approximately, roughly how much did it
21 cost Three ABN to do that?

22 A. Estimate, \$200,000.

23 Q. And did Three Angels charge any entity for
24 that program?

1 A. No.

2 Q. Tell me -- tell the court, if you will, about
3 the General Conference session that you began talking
4 about.

5 What is a General Conference session?

6 A. General Conference Session is where officials
7 from the church and church leaders who were sent to
8 represent the world church come together for about ten
9 days and make decisions about the world church, so get
10 a word from virtually every country around the world.

11 Q. And how often does a General Conference
12 happen?

13 A. Every five years. 2000 was in Toronto,
14 Canada, and so we had our trucks there as well as the
15 General Conference, because it was a huge baseball
16 auditorium that we had for ten days, so it took a
17 combination of their equipment and ours to send it.

18 But we sent it literally to churches around
19 the world, because most of the people, thirteen or
20 fourteen million people couldn't come to the session
21 for various reasons, but many of those were able to be
22 downlinked into their churches and rebroadcast and
23 watched these sessions night after night and day after
24 day actually there, and so we did that the year 2000

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1 for about ten days I believe.

2 Q. And roughly how much would that have cost
3 Three Angels?

4 A. That was very expensive. I would say in the
5 same range, because we had a remote crew and remote
6 trucks and everybody had to be on-site instead of
7 there, so I would say probably, roughly \$200,000.

8 Q. And how much did you charge the church for
9 that coverage?

10 A. We didn't charge them. It was free.

11 Q. Now, during 2000 and 2001 did you work with
12 church institutions on any overseas projects,
13 missionary projects?

14 A. Oh, yes. Sure.

15 Q. And what -- what kind of projects?

16 A. Well --

17 Q. And with who?

18 A. We worked with Global Missions. There is a
19 department in the Seventh-day Adventist Church called
20 Global Missions, which oversees the missionary work
21 around the entire world church.

22 We produced a program for Global Mission
23 entitled Global Mission that Mike Ryan, the Director
24 comes to Three ABN and he talks about needs and brings

1 video of where there is need for new churches in
2 Africa, Bangladesh, where we need schools, where they'd
3 like to build orphanages, where they'd like to do the
4 mission work, whether it's Cuba, whether it's India,
5 numerous countries around the world, and so we produced
6 those programs for Mike and we air them also and help
7 to raise funds for --

8 Q. I'm sorry. Finish.

9 A. Just raise funds to help promote that cause.

10 Q. And in 2000 and 2001, roughly how many
11 programs did you put on for Global Missions?

12 A. Estimate, probably 20 to 30 programs. We
13 produced that many, but we aired them virtually every
14 week, so probably they had at least a hundred airings
15 of those programs through.

16 Q. For each year or for both years?

17 A. For each year.

18 Q. For each year.

19 And what other programs have you produced
20 with organizations of the Seventh-day Adventist Church
21 during 2000 and 2001?

22 A. Have we produced or do we air or both?

23 Q. Produced?

24 A. So the physical camera work. We have a

1 number of people like Mark Finley which it is written,
2 the Churches Program; Doug Batchelor from Amazing
3 Facts, which is owned by the North American Division of
4 Seventh-day Adventist.

5 We have George Reed who is the Stewardship
6 Director for the Seventh-day Adventist Church out of
7 the General Conference Headquarters in Washington, D.C.

8 We have Lyle Albrecht who is pastor out in,
9 evangelist in Idaho that we produce programs with him.
10 I don't know how many you want, but there is a list of
11 probably dozens that if I sat and think for a few
12 minutes that I could do.

13 Q. I think we have a list. There is an exhibit
14 of pastors that appeared regularly.

15 Applicant's Exhibit 10, Mr. Shelton, do you
16 recognize this list of names?

17 A. Yes, I do.

18 Q. And if you could just describe them as a
19 group rather than individually?

20 MS. RHOADES: I'm going to object with respect
21 to him testifying as to the exhibit without having it
22 being admitted first and laying appropriate foundation
23 for this document.

24 MR. MILLER: Mr. Shelton, do you recognize the

1 names on this list?

2 THE WITNESS: Yes, I do.

3 Q. And who do these people appear to be?

4 A. They're pastors that are seen on Three Angels
5 Broadcasting Network on a regular basis in 2000 and
6 2001.

7 MR. MILLER: As such, I would like to submit
8 this as an exhibit to the court.

9 MS. RHOADES: I still don't think proper
10 foundation has been laid. They haven't laid a
11 foundation as to who was the author of the document,
12 when it was prepared, whether it's a business record.
13 None of that foundation has been laid.

14 MR. MILLER: Your Honor, I'm not sure if Mr.
15 Shelton recognizes these names and he's willing to
16 testify that these names are those who appeared at
17 Three ABN, then I think that as to who prepared the
18 document, I'm not certain I see that's important or
19 needed for the foundation.

20 ADMINISTRATIVE LAW JUDGE: You're just
21 basically using this to refresh his recollection, is
22 that correct?

23 MR. MILLER: Yes.

24 ADMINISTRATIVE LAW JUDGE: On that basis I

1 think he can go ahead and testify from this document.

2 MR. MILLER: These ministers, Mr. Shelton, how
3 regularly would their programs appear on Three ABN?

4 THE WITNESS: These programs, they vary from
5 just a few times a week to a number of times a week. I
6 don't know if you want me to go through each one of
7 them or not, but they're on regularly I would say.

8 Q. About how many programs would you have per
9 week from Seventh-day Adventist ministers on your
10 program?

11 A. Most of our programming are from employees of
12 the Seventh-day Adventist Church. An estimate would
13 be, I'd have to verify it, but my mind tells me an
14 estimate would be probably 80 percent, 70 percent, 80
15 percent somewhere. There are Seventh-day Adventist
16 pastors employed by the church.

17 Q. And about how many pastors appear regularly?
18 Maybe you can count them up on the list. I'm not sure
19 if the names would be meaningful to the court.

20 A. One, two, three, four, five, six, seven,
21 eight, nine, ten, eleven, twelve, thirteen, fourteen,
22 fifteen, sixteen, but there are numbers of others that,
23 these are regulars, but there is a number of other
24 pastors that we bring in ourselves and produce their

1 programs, whether it's home school or health or whether
2 it's just little church setting that we have.

3 So this is just a -- these are regulars and
4 well-known people, but there is many other pastors of
5 course.

6 Q. Okay. Do you have -- has your organization
7 prepared a video regarding, summarizing the kind of
8 program you have on Three ABN?

9 A. Yes.

10 Q. And who produced that video?

11 A. Well, Three ABN produced the video. We did
12 it locally at our, this building in question.

13 Q. And have you reviewed that video?

14 A. Yes.

15 Q. And do you believe that it accurately
16 summarizes and gives an overview of what kind of
17 programming that appears on Three ABN?

18 A. Yes.

19 Q. Do you think it would be helpful to
20 understand your testimony today?

21 A. I do.

22 MR. MILLER: Your Honor, we have a five minute
23 video at this time that summarizes the kinds of
24 programming that he's talked about in general that will

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1 give you a sense of what actually appears on the
2 television screen, because that's what this is about.

3 MS. RHOADES: First of all, we haven't seen
4 the video for purposes of the record.

5 Secondly, we're going to object to it because
6 I still don't think proper foundation has been laid for
7 the admission of this video as well.

8 ADMINISTRATIVE LAW JUDGE: Well, let's see the
9 video first and then we'll go ahead and discuss the
10 others. It's hypothetical at this point right now
11 because I don't know what the video is going to show if
12 it works.

13 MR. MILLER: Thank you, Your Honor.

14 (At this time the video was viewed.)

15 MR. MILLER: Mr. Shelton, who was this
16 videotape made for?

17 THE WITNESS: We send that videotape to
18 potential -- to television stations, people that would
19 like to rebroadcast our programming, so they'll have
20 enough cable stations, so they'll have an idea of the
21 kinds of programs that we produce and the quality of
22 the programs.

23 So it's a sample program that we send out
24 probably by the hundreds and maybe even thousands.

1 Q. Was it made for this litigation?

2 A. No.

3 MS. RHOADES: I renew my objections with
4 respect to the video. I think, first of all, it would
5 constitute hearsay as it contains a lot of self-serving
6 or contains statements with which we don't have the
7 ability to cross examine. We don't know who the speaker
8 is. We don't know how it was put together.

9 Secondly, it contains a lot of self-serving
10 statements, and we still don't know when it was
11 produced. We have no idea.

12 MR. MILLER: Do you know --

13 MS. RHOADES: It was never provided to us.

14 MR. MILLER: Do you know when this tape was
15 produced, Mr. Shelton, approximately?

16 THE WITNESS: Yes. This tape would have been
17 produced in 2001.

18 ADMINISTRATIVE LAW JUDGE: I'm going to go
19 ahead and allow the video understanding that I agree
20 it's hearsay, there are sections of it. But I think
21 for expediency and also for completeness of the record
22 that this will -- does add information that maybe this
23 is the only way we're allowed, we'll be able to get it,
24 and by having that in, I don't want any additional

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1 duplication of, especially the self-serving statements
2 as to the Applicant's perception of what it does.

3 MR. MILLER: Sure. But --

4 ADMINISTRATIVE LAW JUDGE: And can we also get
5 a transcript?

6 MR. MILLER: Yes. We can provide a
7 transcript. We'll make arrangements for that.

8 ADMINISTRATIVE LAW JUDGE: Okay.

9 MR. MILLER: I don't know when Your Honor was
10 thinking of a lunch break. It might be --

11 ADMINISTRATIVE LAW JUDGE: Is this a good
12 time?

13 MR. MILLER: Well, I was just wanting to
14 finish up. It will take me four or five minutes.

15 We began asking for a description of the
16 building that is part of this property, and I realize
17 that we only went over the one building, which is the
18 main building.

19 There are two smaller buildings and it might
20 be helpful if I wrap that part of his testimony up so
21 we don't leave it hanging.

22 Mr. Shelton, you did show us on the, it
23 wasn't an exhibit, it was just an illustration for your
24 testimony, but the main auditorium and building. But I

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1 understand there are at least one or two other
2 buildings involved in this particular dispute.

3 Can you describe those for me?

4 THE WITNESS: Yes. About 20 feet from the
5 back of the main building where we just saw, we have
6 what we call our construction or our maintenance shed
7 where basically the sets, nearly all the sets that you
8 saw there we built ourselves, our own people.

9 We build our own sets, and then we move them
10 and store them and move them when we need them and take
11 them and move them back, so it's a carpentry shop that
12 has the tools and equipment to build sets and maintain
13 whatever else needs to be maintained.

14 Q. And so those materials are used for building
15 what?

16 A. In general, well, sets. Sets are what you
17 see that looks like a wall. They're facades actually.
18 They look like a wall or a house that it looks like my
19 wife and I was sitting there in the house. It was
20 actually just a facade out of two by two's and a lot of
21 brick things. They'd just be Styrofoam but we have to
22 build those and maintain them to make them look like
23 real bricks.

24 Q. But your dog was real, right?

1 A. The dog is real that was on there, yeah, and
2 the pretty red head was my wife was on there. She's
3 real, but that's mainly what that's for.

4 Q. And the other building?

5 A. The other building is the Call Center. It's
6 very important to this network because it's there that
7 we receive the phone calls from viewers, many of the
8 phone calls from viewers around the world who are
9 wanting information from Three ABN, whether it be tapes
10 or CDs or books, whatever information.

11 We do, we give away many of our books and CDs
12 and materials, religious materials, bible studies. We
13 give tremendous amounts of that away, and then we also,
14 they can order. If they see something we sell, they
15 can order from that. Also it stores and we do the
16 shipping and receiving.

17 You want me to tell about the set in the
18 building or describe it?

19 Q. Yeah, that's fine.

20 A. So we -- and this is also the shipping and
21 receiving department that the materials all have to
22 come that we mail out, all have to come in at the
23 loading docks and so, therefore, we bring all the
24 materials in. We ship all the materials out.

1 The satellite receivers that we sell, they
2 all come. They're stored there. We also have a little
3 printing shop where we print up products that, we
4 produce many of our own products that we mail out, and
5 so that, it's in this.

6 And, of course, we have a number of people
7 taking the phone calls and we have the office manager
8 who is there, and then you have the people who are
9 actually filling orders every day with the envelopes or
10 the boxes, and people, technical support for people who
11 were watching by Three ABN satellite. They have a
12 problem with their dish, there's a guy there all the
13 time during the day that they can call and he says,
14 well, turn your receiver to this and that and he
15 instructs them as to how, we needed him today,
16 instructs them how to get our programming.

17 Q. And, Mr. Shelton, does anything happen in
18 either of these buildings, the space in these buildings
19 that is not for the support or purposes of Three Angels
20 ministry?

21 A. No. It's the same way. We have a couple of
22 rest rooms and a kitchen area for the workers there,
23 but all of the rooms of course are used for the purpose
24 of mission and Three ABN.

1 MR. MILLER: Okay. Thank you.

2 At this --

3 ADMINISTRATIVE LAW JUDGE: Can I just ask a
4 question?

5 You have three buildings listed. There is
6 administration, the BOS Auditorium, and the carpenter
7 shop.

8 I thought the BOS Auditorium was a section
9 of --

10 MR. MILLER: It was. It is. There is some
11 confusion here I will admit, Your Honor. That as we
12 look at the five acre parcel on the maps that have been
13 provided to us, the three properties that we have
14 outlined are in those.

15 The Call Center is in this five acre segment,
16 although on our -- on a couple of the exemption
17 applications the Call Center does not appear for some
18 reason, and rather the BOS Auditorium is listed as a
19 separate building from the main.

20 THE WITNESS: But it isn't. It's part of the
21 same building, just attached to the same building.

22 ADMINISTRATIVE LAW JUDGE: So are there in
23 fact two buildings at issue or three buildings at
24 issue?

1 MR. MILLER: Three.

2 THE WITNESS: The one that I just showed you,
3 the big one, that's one building. Where what we call
4 BOS Auditorium, that's all attached. That's all one
5 building.

6 The little carpenter shop is just a little
7 pole barn behind that. That's the second building.
8 Then there is a second 7,000 square foot building on
9 this five acres that's called the Call Center, and
10 that's where all the shipping and receiving and the
11 mailing and all of this.

12 ADMINISTRATIVE LAW JUDGE: So, in other words,
13 BOS Auditorium is really included in the administration
14 building, and there is a separate building, 7,000
15 square feet that is the shipping and receiving, is that
16 correct?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE: I just want it
19 clear for the record as far as what is at issue,
20 because I didn't know.

21 MR. MILLER: That's why I wanted him to go
22 over the building.

23 ADMINISTRATIVE LAW JUDGE: Thank you.

24 MR. MILLER: I don't have any further

1 questions on that topic, so if you'd like to take a
2 break now.

3 ADMINISTRATIVE LAW JUDGE: You want to go
4 ahead and adjourn for lunch?

5 MR. MILLER: This would be a logical spot.

6 ADMINISTRATIVE LAW JUDGE: Let's go ahead and
7 adjourn for lunch.

8 (Whereupon a lunch recess
9 was taken.)

10 MR. MILLER: Your Honor?

11 ADMINISTRATIVE LAW JUDGE: Back on the record,
12 and I remind the witness he's still under oath.

13 THE WITNESS: Yes.

14 MR. MILLER: I'd like to begin, Your Honor, by
15 revisiting the issue that we ended with, and that was
16 the question about the properties at issue here, and
17 there was an application that seems that perhaps two of
18 the properties without listing the Call Center, and I'd
19 like to bring to the Court's attention and to the
20 witness's attention the affidavits of use.

21 Well, I'll ask you if you recognize these
22 documents, Mr. Shelton?

23 And I believe opposing counsel have this,
24 because they gave it to us this morning.

1 MR. STEINKAMP: They were in the original
2 file.

3 MR. MILLER: Do you recognize those
4 documents?

5 THE WITNESS: Yes, I do.

6 Q. And what are they?

7 A. Well, I'm basically saying that I'm familiar
8 with these, with the buildings or the location of the
9 property that's in question here, and that, it
10 determines how many buildings there are.

11 Q. Okay.

12 A. And this particular says there are three
13 buildings located on five acres.

14 Q. And what buildings do they identify?

15 A. Well, the administration production building,
16 the maintenance.

17 Q. Which was the first building you discussed?

18 A. First building. And the maintenance, then
19 the small workshop where we build our sets for
20 television.

21 Q. Which was building number two?

22 A. Yes. And building number three is the Call
23 Center where we do the shipping and receiving separate
24 there.

1 Q. And do you know why -- why you fill these
2 affidavits out, what use they were put to?

3 A. Why I filled these out?

4 Q. Do you know why you were asked to prepare
5 them?

6 A. Well, yeah. I assumed it was over this case.

7 MR. MILLER: And I believe, Your Honor, the
8 record will reflect these were submitted with the
9 exemption application.

10 MR. STEINKAMP: Actually that is not true.

11 The record does not reflect that at this point.

12 MR. MILLER: Okay.

13 MR. STEINKAMP: I included in my exhibit only
14 the application, and I think I explained to Mr. Riva if
15 he wanted to make them part of the record that that
16 would be up to you.

17 MR. MILLER: At this point we would like to
18 make them part of the record as having been submitted
19 with the original application.

20 ADMINISTRATIVE LAW JUDGE: Okay. I don't get
21 anything except actually what the Department's counsel
22 submitted, so I have no idea what accompanying
23 information comes into the Department.

24 So my knowledge is what is the exhibits that

1 are tendered here.

2 MR. STEINKAMP: And if I might just say, the
3 litigators have taken the position that we are not
4 going to determine what it is the Applicant wants to
5 present at the hearing.

6 We present the application apart from
7 whatever they presented in connection with it, and let
8 them make their case anew at the hearing since it is a
9 new procedure so.

10 MR. MILLER: I'm not sensing any objection to
11 this.

12 MR. STEINKAMP: No. I'm not objecting.

13 ADMINISTRATIVE LAW JUDGE: No. I think what
14 everybody is trying to do is, we have to establish the
15 jurisdiction of the Department and the position, but
16 the burden is on the Applicant to prove that they're
17 entitled to the exemption I think is how this
18 transpired.

19 MR. MILLER: My concern was, is that the
20 record reflects that all three of these building are
21 included in our request for exemption today as they
22 originally were.

23 ADMINISTRATIVE LAW JUDGE: And for
24 clarification purposes I appreciate that because I, as

1 I said, got confused. Even if no one else was, I was.

2 MR. MILLER: These should clear up the
3 confusion.

4 ADMINISTRATIVE LAW JUDGE: Thank you.

5 These are now marked as Applicant's Exhibits
6 12 and 13.

7 You want them admitted into evidence, is that
8 correct?

9 MR. MILLER: I do, Your Honor.

10 ADMINISTRATIVE LAW JUDGE: Is there any
11 objection to the admission into evidence of Applicant's
12 Exhibits 12 and 13?

13 Would you like to see them first?

14 MS. RHOADES: Yeah, if we could see them
15 first, please.

16 Okay.

17 ADMINISTRATIVE LAW JUDGE: Now, is there any
18 objection to the admission of Applicant's Exhibits 12
19 and 13 into evidence?

20 MS. RHOADES: No objection.

21 MR. STEINKAMP: No.

22 ADMINISTRATIVE LAW JUDGE: Let the record
23 reflect Applicant's Exhibits 12 and 13 are admitted
24 into evidence.

1 (Applicant's Exhibit Numbers 12 &
2 13 were admitted into evidence.)

3 MR. MILLER: One of those refers to an Exhibit
4 A.

5 ADMINISTRATIVE LAW JUDGE: Right here.

6 MR. MILLER: And the Exhibit A has become
7 detached, which is a description of the five acres.

8 ADMINISTRATIVE LAW JUDGE: It's just a
9 description, legal, so Applicant's Exhibit 12 has two
10 pages. Applicant's Exhibit 13 has only one. Thank
11 you.

12 MR. MILLER: Mr. Shelton, what -- do you know
13 what a missionary organization is?

14 THE WITNESS: Yes, I do.

15 Q. And what do you believe that consists of?

16 A. Missionary organization, which Three ABN is,
17 we have a mission and that's to get the Gospel to all
18 the world and our specific --

19 MS. RHOADES I'm going to object. I don't
20 think it's responsive to the question. He asked for
21 what a missionary organization was, which I understood
22 taking it as a definition. That's not what the witness
23 is stating.

24 MR. MILLER: Do you believe that Three Angels

1 is a missionary organization?

2 MS. RHOADES: I'm going to object on
3 foundation, because we don't have anything to establish
4 what his understanding of missionary organization is.

5 ADMINISTRATIVE LAW JUDGE: How about if you
6 rephrase your question and get him to define, if that
7 will help.

8 MR. MILLER: What is your understanding of
9 what a missionary organization is?

10 THE WITNESS: A missionary organization is an
11 organization of course who has a mission in the
12 Christian context. It's to get their slant, their
13 focus, their beliefs to as many people as possible in
14 helping those along the way in any way that they can,
15 in a charitable way in many cases.

16 Q. And do you believe that Three ABN, Three
17 Angels is a missionary organization?

18 A. Yes.

19 MS. RHOADES: I'm going to object to the
20 question. First of all, I think that calls for the
21 opinion of an expert witness. He has not been
22 disclosed as an expert witness pursuant to the
23 Department rules.

24 MR. MILLER: Your Honor, I'm not sure that a

1 missionary organization is a technical legal term. I
2 certainly wouldn't know that as a lawyer. It seems to
3 me it's a phrase that's of general usage from our
4 community and our country and the Applicant is giving
5 his opinion about what that is.

6 I'm not sure I understand the basis of the
7 objection. It's not calling for a legal conclusion.

8 MS. RHOADES: Well, I think he's testifying
9 now that, the way the question was phrased and what
10 they're attempting to get the witness to testify to is
11 things that would normally come as opinion witnesses or
12 expert witnesses as we used to call them in Illinois
13 under the new rules.

14 The Department rules clearly specify for an
15 individual to testify as an opinion or expert witness
16 they must be disclosed in accordance with Supreme Court
17 Rules.

18 This gentleman has never been disclosed to us
19 as an opinion or an expert witness. We have never been
20 provided with a requisite report and the basis by which
21 he is making these statements.

22 ADMINISTRATIVE LAW JUDGE: Why don't we get
23 away from missionary and get into just what is done
24 with this property, and I think it's more semantics

1 than anything else?

2 MR. MILLER: Okay. Do you create broadcast
3 programs at the Three Angels headquarters?

4 THE WITNESS: Yes, we do.

5 Q. Can you describe for me the content of the
6 programs that you create?

7 A. The contents vary, but they're different
8 forms of what we term religious programming, which that
9 could be in the form of video, it could be in CDs that
10 we produce with music, could be in literature that we
11 put together.

12 I guess any number of forms, and it all has
13 to be with our mission of getting what I believe the
14 message, the three angels message to the world.

15 Q. What specific programs, names of programs do
16 you create at Three ABN for airing?

17 A. Well, we have a number of programs. We have
18 our Three ABN Presents, which is a daily program. We
19 produce probably four to five a week, but they're on
20 seven days a week, and where we interview guests and we
21 do music and we do bible scriptures and we do bible
22 studies, and we have --

23 Q. What kind of guests do you interview?

24 A. We interview guests who are missionaries from

1 around the world. They're working, building schools,
2 or orphanages or churches in different countries, like
3 India, Bangladesh.

4 We helped raise over \$2 million for an
5 orphanage in Bangladesh and India and Australia.
6 We -- those type of things that in association with the
7 Seventh-day Adventist Church.

8 Q. Do you and Linda travel on any regular basis?

9 A. Yeah. We travel on a very regular basis.
10 This year I think, well, the year 2000/2001 up to, I'd
11 have to look, probably 40 weekends a year, plus we do
12 many things in between.

13 We go to Russia. We have a center over
14 there, so we go to Russia. We go to New Guinea. We go
15 to the Philippines in between our weekend travels also.

16 Q. What do you do on a typical weekend travel?

17 A. Typical weekend travel is, we go to churches
18 or auditoriums on a Friday night. We do programs where
19 we bring musical guests. We do some music ourself.

20 Q. What kind of music do you do?

21 A. We do gospel music. We do gospel music and
22 then we preach. I tell stories about lives that we've
23 seen changed through people watching our channel,
24 people who has been helped spiritually, people who have

1 been helped physically.

2 We do that Friday night and then sabbath
3 morning we do what we call sabbath school. Some
4 churches have Sunday school. We have sabbath services
5 where we have people teaching lessons from either
6 quarterlies or lessons from whoever we're having do it,
7 whether it's myself or Linda or someone else
8 theological standpoint.

9 And then during the church services 11:00 I
10 usually do the preaching, and sermons could vary on any
11 number of topics in the bible. Of course, each week is
12 usually different, and then in the afternoon service we
13 usually term that as a rally where we do gospel music,
14 where we also share stories again of people, many times
15 that in the audience there are people there who have
16 watched our programs whose lives have been changed and
17 they've been able to stop smoking or get off of drugs
18 or what have you, and we personally interview them and
19 let them tell how watching Three ABN has changed their
20 lives, and sometimes we take up an offering and
21 sometimes we don't.

22 Q. How many weekends approximately did you do
23 these weekend travel visits in 2000 and 2001?

24 A. 2001 I think the first year was, or 2000 was

1 twenty probably some weeks, and I think 2001 was thirty
2 some and it's getting more each year.

3 Q. Is Three Angels involved in overseas
4 religious work?

5 A. Yes, we are.

6 Q. Where?

7 A. Well, we have the largest protestant facility
8 in the Ex-Soviet Union. It's probably 130,000 square
9 foot facility that we raised the money for and
10 purchased and we started a corporation over there, and
11 a corporation that's a charitable tax exempt
12 organization, which is in Nizhniy Novgorod, Russia,
13 which is the third largest city and we allowed the
14 Seventh-day Adventist Church, their facilities in
15 Russia, because of lack of finances, we share them.

16 We let them use our facilities and we built
17 television studios there. We have trained the
18 Russians. We put in Russian equipment and we're on 160
19 some cities I believe now throughout the Ex-Soviet
20 Union producing programs that are in the Russian
21 language for the Russians, and Russia, as well as here,
22 the message is the same.

23 That Jesus is really the only answer to this
24 world's problems today, and that people can have --

1 don't have to wait to get to heaven to be healthy and
2 happy. You can do that now if you live right and eat
3 right, take care of your bodies, at least helps your
4 chances of living longer and healthier.

5 Q. And who actually owns that building
6 presently?

7 Who holds the title to it?

8 A. That's the Christian Cultural Center and the
9 organization, it's actually separate from the Three
10 Angels here, and I'd have to look to see the -- we
11 have -- you'll see why if we continue going. I have a
12 number of these facilities.

13 Q. The employees salaries, who pays the
14 employees salaries for the Russia facility?

15 A. Three Angels here.

16 Q. And where is that money raised?

17 A. Here in North America..

18 Q. Does that facility have a church in it?

19 A. Yes, it does. It holds about 1200 members.

20 Q. Do you have an overseas facility somewhere
21 else?

22 A. Yes. We have overseas facilities in the
23 Philippines. We built in 2000 and 2001 a tele -- a
24 full power television station in metro Manila that

1 reaches over 20 million people every day. So we have a
2 number of employees, less than ten full-time employees,
3 and so we built facilities there.

4 We own and operate the transmitters and
5 equipment and reaching potentially millions of people.

6 Q. And what kind of programming goes out over
7 that Manila station?

8 A. It's virtually right now the same
9 programming. What we send most of the people in the
10 Philippines speak English. Now though there are a
11 number of languages they converse among each other, so
12 most of our programming there is in English.

13 Q. Is Three Angels -- what is a evangelistic
14 campaign, Mr. Shelton?

15 A. A evangelistic campaign is where we hold
16 meetings at auditoriums and we can use either the local
17 public, but we many times televise those evangelistic
18 campaigns where we invite people to come to our
19 auditorium to hear the Gospel message that we believe
20 that God has called us to give.

21 Q. And Three Angels was involved in the
22 evangelistic campaign in 2000 and 2001?

23 A. Yes, we were.

24 Q. Were there baptisms in those campaigns?

1 A. Yes, there was.

2 Q. Approximately how many, what range?

3 A. Well, in India we had over 15,000 baptisms,
4 which we were very happy about, and we have seen a
5 number in Russia. I don't know the figures. I'd be --
6 that would just be a guess.

7 Q. That's fine. I'd like to turn to a few
8 questions about Three Angels finances, and I'd like to
9 get the audited financials 2000 and 2001, and let's get
10 2001.

11 ADMINISTRATIVE LAW JUDGE: We have two
12 Applicant's Exhibit 10.

13 MR. MILLER: That would be a problem.

14 ADMINISTRATIVE LAW JUDGE: Yes.

15 This is the list of the pastors and this is
16 your financial.

17 MR. MILLER: Oh. Make the financial -- in
18 fact, we were up to, what were we up to?

19 ADMINISTRATIVE LAW JUDGE: You're up to, the
20 last one was 13.

21 MR. BOOTHBY: No, no. I think 12 and 13 were
22 the affidavits, unless they were combined.

23 MR. MILLER: Yes.

24 MR. BOOTHBY: The next one is 14.

1 MR. MILLER: The next one is 14 and 15, then
2 15 for 2001.

3 ADMINISTRATIVE LAW JUDGE: Ten has not been
4 admitted, nine is.

5 MS. RHOADES: That's correct.

6 MR. MILLER: Here's your 14. This is now 14.

7 ADMINISTRATIVE LAW JUDGE: Let me get these in
8 order if you don't mind.

9 MR. MILLER: I'll give you the original one.

10 I think both of these are 2001. We need an
11 original for 2000.

12 ADMINISTRATIVE LAW JUDGE: Do you all have
13 the --

14 MS. RHOADES: We only have 2000. We don't
15 have 2001.

16 MR. RIVA: Here you go.

17 MR. MILLER: Speak the word.

18 Do you recognize these documents, Mr.
19 Shelton?

20 THE WITNESS: Yes, I do.

21 Q. And what are they?

22 A. These are our financial statements for the
23 years ending 2000; December 31, 2000, and December 31,
24 2001.

1 Q. And who are they prepared by?

2 A. Gray, Hunter & Stenn Auditing Firm from
3 Marian, Illinois.

4 Q. And did you request that these be prepared?

5 A. Yes.

6 Q. And have you reviewed these audit statements
7 with the auditors involved?

8 A. Yes, we have.

9 MR. MILLER: I'd like to proffer these as an
10 exhibit to the court.

11 MS. RHOADES: No objection.

12 MR. STEINKAMP: No objection.

13 ADMINISTRATIVE LAW JUDGE: Okay. Is that the
14 same as asking that they be admitted into evidence?

15 Because certain times people proffer them and
16 then request that they get admitted later and I don't
17 know which way you're using the term.

18 MR. MILLER: I would like to request that they
19 be admitted in as evidence.

20 ADMINISTRATIVE LAW JUDGE: Okay. And do you
21 have any objections?

22 MS. RHOADES: I have no objection.

23 MR. STEINKAMP: No.

24 ADMINISTRATIVE LAW JUDGE: Let the record

1 reflect that Applicant's Exhibits 14 and 15 are
2 admitted into evidence.

3 (Applicant's Exhibit Numbers 14 &
4 15 were admitted into evidence.)

5 MR. MILLER: Mr. Shelton, what approximately
6 was your gross revenue in the year 2000?

7 THE WITNESS: Approximately fourteen and a
8 half thousand, I mean, million, \$14 million.

9 Q. And in 2001?

10 A. Approximately the same, maybe a little less,
11 around \$14 million.

12 Q. And in the year 2000 what approximately did
13 you -- what were the figures from your charitable
14 donations?

15 A. Approximately \$11 million.

16 Q. And in 2001?

17 A. I believe they were close to the same. Let
18 me look at it.

19 Close to \$11 million I think, yes.

20 Q. So what -- do you know what roughly
21 percentage of your revenue comes from charitable
22 donations?

23 MS. RHOADES: I'm going to object. I think
24 the document speaks for itself.

1 Secondly, he's not laid a foundation with
2 respect to what are charitable donations, what's
3 anything that's on that itemized financial report.

4 MR. MILLER: Mr. Shelton, what are charitable
5 donations?

6 THE WITNESS: Charitable donations are
7 donations that we receive at Three Angels Broadcasting
8 Network that people choose to give for whatever
9 reasons.

10 We receive those and then are able to,
11 because of our 501(c)(3) status with the federal
12 government, are able to offer them a tax receipt for
13 their donation for tax credit.

14 Q. And is it your belief that Three Angels is
15 largely supported by charitable donations?

16 A. I know that it is, yes.

17 Q. Okay. What roughly percentage of support is
18 from charitable donations?

19 A. Well, estimate 75 to 85 percent.

20 Q. If you didn't have charitable donations in
21 either 2000 or 2001 would you have made a profit from
22 your sales activities during those years?

23 A. No, absolutely not. I'd probably be in a
24 court, in bankruptcy court would be my guess.

1 Q. Now, as President of this \$14 million a year
2 operation, what was your approximate salary in the year
3 2000?

4 A. I made close to \$50,000.

5 Q. And in 2001?

6 A. Be close to the same. It was anywhere from
7 forty-eight to fifty-one or two, something like that.

8 Q. What other benefits do you get?

9 A. I get medical insurance and half of dental,
10 half dental insurance.

11 Q. Do you get any retirement benefits?

12 A. No. No, I don't.

13 Q. Do you get any housing benefits?

14 A. No, no.

15 Q. Did you during 2000 and 2001?

16 A. No, I did not.

17 Q. Do you get any vehicle benefits?

18 A. During the year 2000 and 2001 I had a pickup
19 truck, a company pickup truck available to me if I
20 wanted to use it.

21 Q. And when you used this truck what purposes
22 was it used for?

23 A. I used it for company business.

24 Q. And do you and your wife Linda make music?

1 A. Well, yes.

2 Q. I see. And have you ever made CDs together?

3 A. I thought he was on my side.

4 Oh, CDs. Yes, we make CD music.

5 Q. I thought so.

6 A. Kind of an open question.

7 Q. Yeah.

8 And how many CDs have you made in your time
9 at Three ABN?

10 A. I don't know, a half a dozen probably.

11 Q. And are those CDs given away?

12 A. Some of those CDs are given away and
13 sometimes they're sold.

14 Q. And when they're sold do you or your wife get
15 royalties from those sales?

16 A. No. We not only don't get royalties from the
17 sales, but we write most of the songs and we don't even
18 have Three ABN pay for mechanical rights that are
19 usually.

20 Q. Is your wife Linda, who I've now introduced,
21 a full-time employee of Three ABN?

22 A. Yes, sir.

23 Q. What is her role?

24 A. She's Vice President.

1 Q. What does she do?

2 What are her responsibilities and activities?

3 A. She does a number of things. She is
4 responsible, of course, as Vice President for carrying
5 out the, what, you know, I ask her to do to help me in
6 that sense. But she actually is in charge of
7 programming, the scheduling of guests who come to Three
8 ABN and the scheduling of programs, the type of new
9 programs that we want to go forward.

10 She carries whatever the Board wants. If we
11 want to do new children's programs, then she sets that
12 all in motion to do that. Linda also travels many of
13 the weekends, not all of the weekends with me, but she
14 does travel a lot also. She's in charge of production,
15 the remote truck that's on the road. We have a remote
16 truck which is on the video that travels several months
17 a year with a crew of eight or ten or twelve people in
18 it, so she schedules, she's in charge of scheduling all
19 of the production that they do and bringing it back.

20 And then she's -- she supervises the
21 production of airtime, when it goes on the air, when
22 it's shown, and so those are some of her
23 responsibilities.

24 Q. And does she receive a salary?

- 1 A. Yes, she does.
- 2 Q. And approximately what was that in 2000?
- 3 A. I think around \$45,000.
- 4 Q. And in 2001?
- 5 A. Three percent increase, so forty-six or
6 forty-seven thousand approximately.
- 7 Q. Does she use a vehicle?
- 8 A. She has a company vehicle that's a van.
- 9 Q. And does she have health benefits?
- 10 A. Yes, she does. She has the medical and she
11 has half dental.
- 12 Q. Does she get any retirement benefits?
- 13 A. No.
- 14 Q. Any other kind of benefits?
- 15 Does she receive any royalties?
- 16 A. No.
- 17 Q. From any other source?
- 18 A. No.
- 19 Q. Who sets --
- 20 A. From Three Angels Broadcasting Network?
21 We're talking about from Three Angels?
- 22 Q. Yes.
- 23 A. No, she doesn't.
- 24 Q. Who sets -- who sets your salary?

1 A. The Board.

2 Q. And who sets Linda's salary?

3 A. The Board of Directors.

4 Q. Do you get a bonus if you get more revenue in
5 a particular year?

6 A. No.

7 Q. How were your salaries initially calibrated?

8 A. They were initially calibrated by our desire
9 to make, when we first started we made \$20,000 a year.
10 We, as the years have gone by, we try to keep in line
11 with the average minister in the Seventh-day Adventist
12 Church in the State of Illinois.

13 For instance, a minister of a hundred member
14 church probably makes -- he makes in the forties, but
15 he has retirement, which it's not my Board's fault. My
16 wife and I have asked that we not get retirement. My
17 Board has offered me retirement and I've always told
18 tell them if I asked for retirement I've lost my vision
19 for what I'm saying so, not to do that.

20 So it's not been my Board's fault that we
21 don't have it, and so we try to keep in about what an
22 average pastor would make, our ranges, even though we
23 have much more responsibilities, but I just feel
24 comfortable and I want people that give to Three ABN to

1 realize, to see that we're not doing air conditioned
2 dog houses and we're not making millions of dollars of
3 of this.

4 It's not a business for us, but it's a
5 charitable organization and, therefore, we try to -- we
6 live -- both of us working, we can live fine but yet
7 frugally, so that's why we asked the Board to not give
8 us more than that.

9 And this past year I've actually asked for a
10 cut of 5,000, because I didn't want to make in the
11 fifties so I kept it down. I'm back at \$49,000.

12 Q. Okay. Now, does Three Angels sell all of its
13 airtime to programmers and other organizations?

14 A. No, we don't. Much of our programming
15 airtime we actually give away. There are people within
16 the church that, organizations church owned that have a
17 larger budget programs like it is written.

18 For instance, like Mark Finley, and they can
19 pay, which is below our cost, \$1200 an hour. The
20 programs are half hour, so on any given day they pay
21 \$600 to show it, even though we actually give them
22 three showings for the one \$600 price.

23 Other entities or lay people ministries
24 within the church don't have the budget that it is

1 written as, so we partnership together with them. We
2 look at the, actually the content of the program of
3 what they have to offer.

4 If we feel it's something of missionary value
5 that the public should hear about or would support the
6 public, we ask them, how much can you pay to offset our
7 cost, and many times they may only say, well, I can pay
8 a hundred dollars, and so if the Board feels that this
9 program is of a value, then we don't penalize them
10 because they can't afford to pay the whole amount. So
11 instead, we just go ahead and put them on for the
12 hundred dollars instead of the other.

13 In many cases they just say we can't pay at
14 all, but they have something we think should be to the
15 public and so we just produce it and give them the
16. airtime free.

17 Q. What percentage of your airtime
18 approximately, roughly is Three ABN programming as
19 opposed to programming that Three ABN would give to
20 other organizations?

21 MS. RHOADES: I'm going to object, foundation
22 with regard to exactly what it is that's considered
23 Three ABN programming versus other programming. None of
24 that document or information is in evidence.

1 MR. MILLER: I think the question is fairly
2 self-explanatory, but I'll try to break it down.

3 Mr. Shelton, I understand that -- does Three
4 ABN create some of its own programs?

5 THE WITNESS: Yes.

6 Q. And does it air programs included by other
7 groups?

8 A. Yes.

9 Q. What percentage of the airtime that Three ABN
10 uses is given to programming, Three ABN programming
11 itself use?

12 A. About 75 or 80 percent, I believe.

13 Q. And giving about how much then to other
14 organizations?

15 A. 20 to 25 percent.

16 Q. Is either given or sold to other
17 organizations?

18 A. That's true.

19 Q. Okay. What organizations do you sell airtime
20 to?

21 Can you name them all?

22 A. No, I can't.

23 Q. Is there anything that exists that would help
24 refresh your memory on that point?

1 A. Well, yes.

2 Q. What would that be?

3 A. Well, we wrote down some of them, because I
4 knew I wouldn't remember.

5 Q. Okay. Do you recognize these documents?

6 A. Yes.

7 Q. And what are they?

8 A. These are a list of programmers that are
9 outside of Three ABN locally produced programs that we
10 air on Three Angels Broadcasting Network that we --
11 that we rent time to.

12 Q. And turning your direction to the year 2000.

13 MS. RHOADES: First, I'm going to object. I
14 don't think these have been admitted into evidence.

15 Secondly, there's not been a proper
16 foundation laid for the purposes of admission.

17 Thirdly, this document was not produced to us
18 during discovery.

19 MR. MILLER: I think they were.

20 MR. BOOTHBY: Oh, yes, they were. They were
21 provided to you in response to the request for
22 production of documents or interrogatories.

23 MR. MILLER: It's attachment number six to, I
24 believe, our supplemental response. I remember giving

1 these at the time.

2 MS. RHOADES: Which date?

3 MR. MILLER: I don't know which date.

4 MS. RHOADES: What supplemental request or
5 what date was the request, Mr. Boothby?

6 MR. BOOTHBY: Hold on. I need to find it.

7 MR. MILLER: There seems to be a confusion
8 about whether this was attached or not. I actually
9 introduced it as a device to refresh his memory, and
10 I'm willing to move ahead on that basis, and if you
11 decide that these weren't provided, we can revisit the
12 issue of whether I'll actually enter them.

13 MS. RHOADES: We're going to object, because I
14 don't think he's laid a proper foundation for
15 refreshing of recollection.

16 ADMINISTRATIVE LAW JUDGE: Go ahead and lay
17 the foundation.

18 MR. MILLER: Mr. Shelton, is there anything
19 that would refresh your memory as to the organizations
20 that --

21 THE WITNESS: Yes.

22 Q. -- you sold airtime to?

23 A. Yes.

24 Q. And --

1 A. It's the list that I had prepared so.

2 Q. And do you recognize the document?

3 MS. RHOADES: I'm going to object again. He
4 should -- he is not asking the proper question, and the
5 witness, even with refreshing his recollection, is not
6 allowed to refer to the document.

7 MR. MILLER: Well, Your Honor.

8 MS. RHOADES: Otherwise he's testifying from
9 it and it's an exhibit, Your Honor.

10 ADMINISTRATIVE LAW JUDGE: I understand what
11 you're trying to say.

12 MR. MILLER: That's fine.

13 I'll have him review the document and then I
14 can ask him some questions about it. All right.

15 ADMINISTRATIVE LAW JUDGE: All right.

16 MR. MILLER: So if you can take a moment to
17 review the list and then you can set the document down
18 and you can talk about, I can ask you a series of
19 questions about the organizations on the list.

20 THE WITNESS: Okay.

21 Q. Are you familiar with the organizations?

22 A. Yes.

23 Q. And that you sold airtime to in the year
24 2000, we're only dealing with the year 2000 now?

1 A. Yes.

2 Q. And did all the organizations you sold
3 airtime to in 2000, did they have programs of a
4 spiritual and religious nature?

5 A. Yes.

6 MS. RHOADES: I'm going to object to
7 foundation as to what is spiritual and religious is in
8 his view and what the nature of the program is. It's
9 clearly speculation and conclusionary on the part of
10 this witness.

11 MR. MILLER: Well, Your Honor, I mean, the law
12 in Illinois is pretty clear that the description of and
13 understanding of what Mr. Shelton views as spiritual
14 and religious, and I think he's talked about that so
15 far, both verbally and in the video that was
16 presented. It just means that these programs are
17 consistent with what Mr. Shelton has already spoken
18 about, the religious admissions in the organizations.

19 ADMINISTRATIVE LAW JUDGE: Instead of using
20 religious and spiritual can you get into the
21 particulars of what the programming does?

22 And that way, I think this is semantics to a
23 certain extent, except that I can certainly understand
24 Intervenors arguments that by cloaking it as religious

1 and spiritual.

2 MR. MILLER: Mr. Shelton, do the programmers
3 on the list, what kind of topics, what kinds of
4 programming do they produce?

5 THE WITNESS: They all produce programmings
6 that -- that cooperate with the mission and the goal of
7 Three Angels Broadcasting Network of getting the
8 message we believe God has called us to get to the
9 world and we all have the same message.

10 Q. And maybe you can give some specifics in some
11 of the programs that you saw?

12 A. It is written, for instance, it is written as
13 one of those programs produced by the Seventh-day
14 Adventist Church, Pastor Mark Finley. He gives
15 programs and theological beliefs on spiritual health of
16 numbers of, he does health programs to help people in
17 many areas of their life, and so that's a program that
18 we would show. That's one of them.

19 Q. What about another one, another one?

20 A. Well, we have Amazing Facts by Pastor Doug
21 Batchelor, and Amazing Facts is a program that also is
22 evangelist revelation and seminars, prophecy of
23 seminars. They teach the 27 fundamental beliefs of
24 Seventh-day Adventist.

1 He talks about mission work and helps with
2 mission work, very similar to those, the programs that
3 we produce at Three ABN.

4 Q. Another one?

5 A. Light Bears Ministries, a ministry in Mayla,
6 Washington and they produce millions of pamphlets,
7 literature, that we show their program on the air and
8 then they get support and are able to send to countries
9 where they can't afford it. They give millions of free
10 literature away every year.

11 Q. Now, all of the programmers that, as you
12 reflected on the list and you used to refresh your
13 memory, is it fair to say that all the programmers on
14 the list provided you programming that was consistent
15 with any furtherance of the beliefs and teaching of the
16 Seventh-day Adventist Church?

17 A. Yes.

18 MS. RHOADES: First of all, I'm going to
19 object again because he's asking for opinion witness
20 testimony on, that the programming is consistent with
21 the beliefs of the Seventh-day Adventist Church.

22 I don't think this witness has been disclosed
23 as an expert witness or opinion witness to give that
24 information at this time.

1 MR. MILLER: Your Honor, I've asked Mr.
2 Shelton denomination background. He says he's been a
3 lifelong Seventh-day Adventist. I can certainly ask a
4 few more questions about his knowledge of the church's
5 beliefs if you'd like.

6 Mr. Shelton, how long have you been a
7 Seventh-day Adventist?

8 THE WITNESS: I was born into the Seventh-day
9 Adventist family and baptized in the church when I was
10 12.

11 Q. Have you studied the teachings of the
12 Seventh-day Adventist Church?

13 A. Yes, I have.

14 Q. And have you given bible studies or lessons
15 on doctrines and teachings of the church?

16 A. Yes, I have.

17 Q. Have you written books about the teachings of
18 the Seventh-day Adventist Church?

19 A. Yes, I have.

20 Q. How many books have you written about
21 doctrines of the Seventh-day Adventist Church?

22 A. Three.

23 Q. And what were the topics of those books that
24 you wrote?

1 A. The forgotten commandment.

2 Q. And what was that book about?

3 A. About the seventh day sabbath.

4 Q. And what was the other two books you wrote?

5 What were they about?

6 A. Does God Love Sinners Forever, What Happens
7 to Us When We Die.

8 Q. And what does happen to us when we die
9 according to your book?

10 A. According to my book we sleep in the grave
11 until the second advent and that the righteous go to
12 heaven and the wicked are destroyed.

13 Q. Is that a teaching of your understanding of
14 the Seventh-day Adventist Church?

15 A. That is the teaching in the Seventh-day
16 Adventist Church.

17 Q. And what was the other book about?

18 A. It was about the principles of eating, good
19 health, and nutrition and how to live a happy and
20 healthy life here on this earth.

21 Q. Did it relate back to biblical principles?

22 A. It did, Eleventh Chapter, Paul and the Book
23 of Romans, and a number of other chapters of the bible.

24 Q. And on that basis would you say that the

1 programs that you viewed and sold airtime to in 2000
2 were consistent with the messages of the Seventh-day
3 Adventist Church?

4 MS. RHOADES: And I'm going to object again.
5 They're proffering this individual, he's attempting to
6 clarify him and get him as an expert witness. He was
7 not disclosed as an expert witness.

8 Your Honor, can look at the list of
9 prospective witnesses that we provided to you
10 previously. You can see that they designated two
11 opinion or expert witnesses or attempted to and that
12 would be Ted Wilson and Denis Fortin. Mr. Shelton was
13 not one of them.

14 MR. MILLER: Your Honor, I do find this
15 somewhat extraordinary because there is not a
16 suggestion that this is irrelevant testimony, and yet
17 the earlier argument was that we couldn't proffer this
18 kind of expert opinion testimony because it was
19 irrelevant.

20 But now it's very clear that whether Three
21 ABN is supportive of and consistent with a church is
22 relevant and Danny, Mr. Shelton is being proffered as a
23 fact witness, and he is the gentleman who accepts this
24 program for his organization.

1 He believes that he's running it, according
2 to his testimony, on the principles of the Seventh-day
3 Adventist Church.

4 So I want to know whether in his opinion the
5 programming that is coming in is consistent with those
6 principles. This is a factual matter as to what he's
7 been doing at his organization and the church that he
8 belongs to.

9 I'm just very surprised at the objection.

10 ADMINISTRATIVE LAW JUDGE: I'm going to go
11 ahead and allow this testimony, and I think that, I
12 don't believe that this is -- he is being proffered as
13 an expert witness.

14 What he's doing is trying to testify that,
15 with the contract that he has with his Seventh-day
16 Adventist Church, that this is in conjunction with
17 that, and in that light I believe it's relevant and I
18 also think it should be admitted.

19 MR. MILLER: Okay. Thank you.

20 So the question was, in the year 2000 did
21 you -- did you see the programming that was aired in
22 the year 2000 on Three ABN?

23 THE WITNESS: Yes.

24 Q. And was that programming consistent with the

1 religious teachings of the Seventh-day Adventist Church
2 and the furtherance of those teachings?

3 A. Yes.

4 MS. RHOADES: At this point I'm going to note
5 for the record my continuing objection.

6 ADMINISTRATIVE LAW JUDGE: I understand, yes,
7 and it will be continuing.

8 MS. RHOADES: Thank you.

9 MR. MILLER: And for the year 2001, I will ask
10 the same question, was that programming consistent with
11 the religious teachings and in furtherance of those
12 teachings of the Seventh-day Adventist Church?

13 THE WITNESS: Yes, it was.

14 ADMINISTRATIVE LAW JUDGE: And for the record,
15 I'm going to put it, that is the opinion of this
16 witness.

17 MR. MILLER: That's right.

18 ADMINISTRATIVE LAW JUDGE: Does that make you
19 feel better?

20 MR. MILLER: Now, you do charge at least some
21 of these individuals airtime?

22 THE WITNESS: Yes.

23 Q. Is that right?

24 A. Uh-huh.

1 Q. And do you know what you charge?

2 What is your basic rate for airtime charges?

3 A. The basic rate that we have come up with over
4 the years is \$1200 an hour. Most of these programs are
5 half hours, so they're looking at \$600 an hour for one
6 showing.

7 Q. And were your charges above or below market
8 rates?

9 A. Below.

10 MS. RHOADES: Objection, foundation as to what
11 market rates are and the statistical basis by which
12 he's making that statement.

13 ADMINISTRATIVE LAW JUDGE: Objection
14 sustained, and if you'd like to do some foundation.

15 MR. MILLER: Are you aware of what any other
16 television programs charge for an hour of their
17 programming?

18 THE WITNESS: Yes.

19 Q. And what programming do you know about?

20 A. CNN, for instance.

21 Q. How much do they charge for an hour of their
22 time?

23 A. Depends on the time of day. Prime time is
24 \$24,000 per minute.

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1 Q. And nonprime?

2 A. As low as \$2800 I think, somewhere.

3 Q. And are you familiar with any other
4 broadcasters or media programming charges?

5 MS. RHOADES: First of all, I'm going to
6 continue to object to this line of questioning. This
7 wasn't the subject matter by which Mr. Shelton was to
8 testify as to.

9 Secondly, I don't think there is a sufficient
10 basis as to how he knows what the knowledge is of what
11 CNN or any other organization charges per minute.

12 MR. MILLER: What does Three Angels generally
13 aim to set its airtime charges at?

14 THE WITNESS: We -- actually it's a unique
15 situation. We don't figure a price as though it were a
16 business. We figure it on what the people can afford,
17 and yet we don't have the money to put everybody on for
18 nothing, so we ask those that are on, what can you
19 afford.

20 We set a fee at the half hour at \$600. Our
21 operating, it costs us much more than that to put on a
22 program around the clock as evidenced by our financial
23 statements, but we've been able to do it and people
24 help with the charitable donations. It makes up the

1 difference.

2 And so we ask that programmer what he can
3 afford, and so we start off with \$1200 an hour or \$600
4 per half an hour, and then we negotiate with them as to
5 what they can afford once my Board approves of their
6 programming.

7 Q. Okay. Do you sell satellite dishes?

8 A. Yes, we do.

9 Q. And why do you sell satellite dishes?

10 A. We sell satellite dishes so more people can
11 receive our programming.

12 Q. Now, we showed, I believe the video showed a
13 map or you described a map that the satellite can
14 broadcast to all of North America, is that right?

15 A. Yes.

16 Q. Doesn't that mean that all of North America
17 can turn on their TV and get your signal?

18 A. No, I wish they could.

19 Q. And why can't they?

20 A. Well, because it has to be downlinked. The
21 signal that we send to satellite 22,300 miles has to be
22 downlinked into the homes. There is numerous ways we
23 can do that, and 88 cities across America we have Three
24 ABN downlink stations that we own, unmanned stations

1 that we broadcast on UHF to any given particular city.

2 We have them in Minneapolis, Seattle,
3 Jacksonville, Florida to name a few. But there are
4 people within that city that, for instance, maybe they,
5 for whatever reason, is outside that city I should say,
6 that they can't receive us if they're outside the 30
7 mile radius.

8 So all across America there are places that
9 people cannot get Three Angels Broadcasting, because
10 either cable stations aren't rebroadcasting us in their
11 area or we don't have Three ABN downlink stations
12 available and we're not carried on the Dish Network
13 programming or the Direct TV programming, but we have
14 requested people who want to watch Christian
15 programming that can't get it.

16 So when we saw that there was a demand of
17 people, we decided to put together our own dish system,
18 so we could sell that to reach people who can't
19 normally get our programming.

20 Q. And what kind of satellite dishes do you
21 sell?

22 A. We sell our, what we call our own Three ABN
23 dish that we actually work and procured from a company
24 who specifically made a receiver and a dish system that

1 would work with our particular satellite, and so we
2 have that system.

3 Q. Do people buy that one, Mr. Shelton, can they
4 watch any other programming?

5 A. They only, on our Three ABN, if a person has
6 cable, for instance, but they want to get our programs
7 because of the health or whatever religious
8 programming, then all, they put in this one system and
9 it just adds our channel only to the channels that they
10 already have, so it makes Three ABN an addition.

11 Q. There is a second satellite dish I believe
12 you sell?

13 A. Yes. Yes. The second dish is a network
14 called Sky Angel that Bob Johnson is the President in
15 Florida. They have a contract with Dish Network where
16 their receivers and satellite systems are compatible
17 with Sky Angel who has their separate religious
18 format.

19 They're the only religious broadcasting
20 company in the world that's licensed by the government,
21 the FCC to Direct TV home, what we call direct to home
22 satellite licensing, and they have approximately 20 or
23 25 religious and family oriented channels, and we make
24 that available.

1 Because many Christians like, while they like
2 Three ABN, they like other options, and we're one other
3 channel, so we make that available to them and let them
4 take their choice.

5 Q. What are some of the costs associated with
6 your sale of these satellite dishes?

7 A. The cost associated?

8 Well, first of all, we have to negotiate and
9 have the systems built if it's our own Three ABN system
10 and so it's taken a lot of time and effort from our
11 engineering department to work with the producers of
12 these systems.

13 Then of course we have to negotiate the cost
14 of them. We have to have them shipped to us by the
15 truckload or however we choose to have them shipped to
16 us. Then we have to store them. We have to handle
17 them physically. We bring them in.

18 We store them in, in particular with the
19 Three ABN system, then we open up every one that we
20 buy. If we buy 300 at a time, we put in an extra long
21 cable that we make specifically. We put in videotapes
22 to show people how to put them, how to make them work,
23 and so we put that together. Then we handle them.

24 We store them, then it takes people to

1 answer, first of all, we have to advertise, so we
2 advertize in our newsletters and on Three ABN that
3 these are available, so the programming, time, and the
4 airtime to make them available.

5 And then we have phone numbers that they use,
6 the 800 numbers to call, which is an expense to us of
7 course, and then we pay people to answer the phones.
8 So when the people answer the phones and take the
9 order, then they take the order and give it to the
10 packing department and shipping department who then
11 packages it together and who then delivers it to the
12 ramp, the loading ramp to be loaded.

13 And so then we have to load them up with,
14 either by truck or UPS or however we choose to send
15 them.

16 Q. And how much did you sell these dishes for
17 individually in 2000 and 2001?

18 A. These particular dishes I believe were around
19 \$300 to \$350 apiece. That's the whole system.

20 Q. And taking into account all of these costs
21 you've described, did you make any profit on the sale
22 of these dishes?

23 MS. RHOADES: I'm going to object. There's
24 not any foundation as to what would be considered

1 profit, what went into the various components of what
2 the costs are.

3 MR. MILLER: Are you familiar with the
4 financial arrangements regarding these satellite
5 systems, the expenses that you've just described?

6 THE WITNESS: Yes. When we decided to -- to
7 sell these systems, I wanted to make them compatible
8 with other satellite systems. We were paying \$350
9 apiece, and so I instructed, that was our cost to put
10 them together.

11 But other networks that's selling, like Dish
12 Network, millions of them, could supply them at a
13 cheaper rate, so I asked my production, my engineering
14 team to sell them at cost, at \$350 apiece of what we
15 actually pay. So we didn't charge, we don't charge for
16 handling and phone calls and marketing and all of those
17 things that if it were a business and I was trying to
18 make a profit, of course, I would have to do.

19 Q. Now, does Three Angels produce materials such
20 as tapes, videos, and books itself?

21 A. Yes, we do.

22 Q. And what videos do you create?

23 A. We have a number of videos. We do music
24 videos. That's just a number of artists who come to

1 Three ABN.

2 Q. What kind of artists?

3 A. They're Christian music that does Christian
4 music and so we record those artists and we'll combine
5 a number of those, maybe twelve songs and make a video
6 available to the public.

7 My wife Linda has written music and she does
8 an outdoor video singing with that. She's done a
9 number of those. We do many CDs, music where we have a
10 music studio that we actually bring in the musicians
11 and singers and backup singers and the engineers. We
12 put this together to make sacred hymns. We do what's
13 called sacred hymns.

14 We do sometimes gospel, sometimes traditional
15 music for the different tastes. We have an audience
16 and my wife and I sing on a number of those and a
17 number of them that we don't sing, other people do, and
18 then we make those available to the public.

19 Q. What other kinds of videos do you distribute
20 that you make?

21 A. Well, we do what we call video of the month.
22 In other words, each month we look at our entire
23 programming and my wife and I, one will suggest to the
24 other usually, or she will say, you know, this was a

1 really good program last Thursday night with Pastor
2 Doug Batchelor, this two hour live. Why don't we make
3 that our video special of the month, and so then we
4 record that and then we advertise it on our newsletters
5 and on the air and people can purchase from us.

6 Q. And why do you make these videos?

7 A. We make these, number one, because there is a
8 demand. People that watch Three ABN, they want our
9 music and they've written us over the years and say, we
10 need to buy your music. We'd like to have your music.
11 We'd like to have videos. I want to show my friends.

12 I want to send this program you did on health
13 the other night, for instance, Two Hour Live. My
14 mother lives in Timbuktu and she doesn't have, Three
15 ABN is not accessible and she just has to know how to
16 lower her cholesterol. She's having cholesterol
17 problems, so we want to order that program.

18 Q. How do you set the pricing on these
19 materials?

20 What is the philosophy behind it?

21 A. The philosophy is that they're affordable to
22 the people. We set a price, though we've never turned
23 anyone down who asked for one free who didn't have any
24 money, and general people will spend, we'll set a price

1 of like \$20 for a two hour video.

2 Many people will send \$30 and say keep the
3 extra ten for the ministry. Some people will write and
4 say, I only have \$10 and I'd like to have it, and we
5 always send them the video regardless if they have the
6 money or not. We do the same thing with the CDs, so
7 there is no set price.

8 I don't -- I managed the lumberyard for
9 years, and at the lumberyard I set percentages because
10 we had to make a profit and make a business, so I would
11 tack on 40 percent to a hundred percent. I don't do
12 that at all. We never have here.

13 Q. Do you know if your CD pricing, do you know
14 if that was at the market rate?

15 A. No. My CD pricing for 2000 and 2001, an
16 average CD would cost us, would cost the public, we
17 advertised it for \$10, where the -- well, in the
18 retails -- can I?

19 For instance, the Adventist Book Center sells
20 mine and Linda's CD, but they get for the same CD, they
21 ask 16 to 18 dollars. The Chapel Records distributes
22 for us, which is an organization, the Seventh-day
23 Adventist organization. They wrote to us this year and
24 said, we're no longer going to distribute your products

1 because you sell yours too cheap, and we can't --
2 people get upset at us because they come in our stores
3 and they say, well, you're robbing us. You're charging
4 16 to 18 dollars apiece. Three ABN only charges ten,
5 so they say it causes hard feelings, and so we're not
6 going to be able to carry your products anymore.

7 Q. Does -- does Three Angels give materials away
8 on a regular basis?

9 A. Oh, yes.

10 Q. And what kind of materials and on what
11 occasions?

12 A. Well, we give -- everyday free material is
13 available on a variety of topics from health to
14 religion that people can call in.

15 There are many advertisements that come on
16 during the day, instead of selling something like the
17 public you might see, say does or public stations, we
18 come on and have little promos and it shows one reading
19 a little book called In Finding Peace Within, and then
20 they say, if you're having problems in your life and
21 just whatever, and you would like this little book,
22 simply write to us or call us here at 1-800-753-3326.

23 We'll send this to you absolutely free of
24 charge, and so we do that on a number of them.

1 Also every week my wife and I do a two hour
2 live on Thursday nights and we always have a free
3 offer, because we want to see who is watching and what
4 kind of response that we get.

5 Very recently we had Howard Lyman who wrote
6 the book on Mad Cow Disease. He was on the Oprah
7 Winfrey show where we got like a thousand calls over
8 that night and the next day they continued to call
9 because they wanted his information about this mad cow
10 disease, so we give, every week we give those away,
11 plus there are numerous things that we give away.

12 And then sometimes for those who give a
13 certain amount during the year, maybe that have given a
14 thousand dollars a year, we may send them a little
15 thank you by sending one of our personal CDs or
16 something like that to some of our donors.

17 Q. Where do -- these items that you give away,
18 where do they actually go from?

19 Who receives the calls and sends them out?

20 A. Well, the Call Center. The Call Center is
21 the 7,000 square foot building that we now know where
22 it is. It is next to the main facility, but it's still
23 within the five acres and the calls come there and they
24 take the orders and they process the orders there.

1 Q. And do you oversee the Call Center?

2 Is that part of your job?

3 A. Yes, yes.

4 Q. And do you ask the Call Center to prepare a
5 tracking of those things that you gave away in 2000 and
6 2001?

7 A. Yes, I did.

8 Q. And was that done?

9 A. Yes.

10 Q. And are you familiar with those documents?

11 A. Yes.

12 MR. MILLER: I'd like to proffer Exhibits 19
13 and 20.

14 MS. RHOADES: And I will object for the
15 purposes of this hearing. These were clearly made in
16 anticipation of litigation pursuant to the witness's
17 last testimony.

18 Secondly, the form of these documents and the
19 form that they're tendered here, these clearly were not
20 disclosed to us. We had a different form that was
21 disclosed to us, not these documents.

22 MR. MILLER: What was the form that was
23 disclosed to you?

24 MS. RHOADES: We don't have any of the writing

1 over here in the right-hand column.

2 MR. MILLER: I think the writing on this
3 right-hand column, apparently Mr. Boothby understands
4 that there are court rules about, we were possibly
5 anticipating proffering some of these individual items
6 as exhibits.

7 If you look over, this is a list of
8 giveaways. Let's look at one of the documents. Look
9 at Exhibit 19.

10 MR. BOOTHBY: May it please the court, I can
11 explain the writing.

12 ADMINISTRATIVE LAW JUDGE: First, is there an
13 Exhibit 18?

14 MR. MILLER: Right here.

15 MS. RHOADES: I don't have one.

16 ADMINISTRATIVE LAW JUDGE: Because I don't
17 have that.

18 MS. RHOADES: I don't either.

19 ADMINISTRATIVE LAW JUDGE: And that's my
20 accounting.

21 MR. MILLER: We might as well make this part
22 of the mix.

23 ADMINISTRATIVE LAW JUDGE: Okay.

24 MR. MILLER: I believe Mr. Boothby can explain

1 some of the additions to these that make them vary
2 slightly from what was originally given here, but it
3 was for purposes of complying with the court rules on
4 exhibits, but Mr. Boothby can explain.

5 MR. BOOTHBY: As I recall the requirements of
6 the Department in offering exhibits that are combined,
7 combined group of documents in one exhibit, you have to
8 indicate the number of pages. Because this related to
9 books that were given away, and we do have, and we'll
10 make that available, two boxes of books that this
11 particular exhibit makes reference to. What is listed
12 is the number, as I understand it, the number of pages
13 in each of these books.

14 Now, it may not have any particular value in
15 this proceeding, but we were merely attempting to
16 comply with the requirements of the Department in
17 listing the number of pages, and they were prepared by
18 Mr. Riva, and he has a tape on it showing the number of
19 pages in the books.

20 MS. RHOADES: I'm continuing with my
21 objection. I don't understand what they did, why they
22 did it.

23 Secondly, this document, I think the witness
24 testified was prepared for purposes of litigation.

1 It's inappropriate.

2 ADMINISTRATIVE LAW JUDGE: Go ahead.

3 MR. MILLER: Well, I was just going to say as
4 to the first point, it seems to me that what happened
5 here is reasonably clear. We have the same documents
6 that we originally gave you, Merry. Merely either on
7 the left-hand column or the right-hand column we've
8 listed the number of pages that appear in the book or
9 the document that's on the list here.

10 As these may be, these books may be in fact
11 exhibits themselves if the Court chooses to look at
12 them, so I'm not sure why there would be an objection
13 on that basis.

14 ADMINISTRATIVE LAW JUDGE: I'd like to see the
15 original document that was given.

16 MS. RHOADES: And this one, we didn't get it
17 all, the one that's 18, magazines. We didn't get any
18 of that.

19 MR. MILLER: You don't have that at all?

20 MS. RHOADES: Don't believe so.

21 MR. MILLER: Well, if you can verify that I'm
22 certainly willing to withdraw that document.

23 MS. RHOADES: This is what we had, Your Honor,
24 produced to us.

1 MR. MILLER: So this would --

2 MS. RHOADES: There is notes, free offering.
3 Also, that wasn't disclosed to us, asterisks beside
4 it.

5 ADMINISTRATIVE LAW JUDGE: Okay. So basically
6 you have the same document.

7 MS. RHOADES: But they've added like this,
8 notes free offering, also, here are the asterisks on
9 the side.

10 MR. MILLER: What are we comparing it with? I
11 guess I'm not certain, Merry.

12 ADMINISTRATIVE LAW JUDGE: This is what was
13 provided to you, is that correct?

14 MS. RHOADES: No. This is what is provided to
15 us, right there.

16 ADMINISTRATIVE LAW JUDGE: Okay. I'm sorry.

17 MR. MILLER: Yeah, I was confused too.

18 ADMINISTRATIVE LAW JUDGE: Okay. This is this
19 document then?

20 MR. MILLER: Yes.

21 ADMINISTRATIVE LAW JUDGE: Right?

22 MS. RHOADES: Uh-huh.

23 MR. MILLER: And I tell you what and maybe
24 this would be a simple solution is, I'm certainly happy

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1 to use the document that was given to Merry.

2 ADMINISTRATIVE LAW JUDGE: That was what I was
3 going to suggest, is if you'd just use this without all
4 of these additional.

5 MS. RHOADES: I'm still going to object
6 because it's done for purposes of litigation. It's not
7 a document of business records. No other documents
8 created by them.

9 It's clearly done in anticipation of
10 litigation.

11 MR. MILLER: I'm not certain why, Your Honor,
12 that would invalidate a particular exhibit. We have
13 these records that we could go back and make
14 available. They didn't become relevant until these
15 questions were asked in litigation.

16 They were asked of us, so we went and Mr.
17 Shelton supervised the -- the putting together of these
18 lists, so we could know precisely what documents we'd
19 given away, and I believe we've laid a foundation for
20 that, and I'm not sure why in fact it was generated
21 during this process invalidates it.

22 MS. RHOADES: First of all, what should have
23 been generated, what was produced to us should not have
24 been documents that they put together pursuant to a

1 discovery request.

2 What we asked for them is to produce
3 documents, and they would have been business records
4 that have already been in existence of the entity.
5 This was not in existence. They made it up.

6 MR. MILLER: Well, Your Honor, that's
7 perfectly right. In fact, we had a conference call.

8 MR. BOOTHBY: They were Answers to
9 Interrogatories.

10 MR. MILLER: I'm sorry, they were Answers to
11 Interrogatories. We had a conference call and much of
12 this information we indicated we didn't have in the
13 form that it was asked for, but we were willing to put
14 it together to respond to the interrogatories and we
15 did.

16 Now, if there is some questioning the basis
17 of the information, they had this information earlier.
18 They used it in deposition. They had abilities to
19 investigate it. I'm not sure of the particular rule
20 that says, something that was -- that was created
21 during a litigation process is somehow not -- not
22 usable in a case.

23 MS. RHOADES: I mean, it's hearsay. It's not
24 a business record. I mean, that's the problem, is that

1 we admit business records, that's fine, but this isn't
2 a business record.

3 ADMINISTRATIVE LAW JUDGE: That is a
4 compilation that they gave you in response to
5 interrogatories, is that correct?

6 MR. MILLER: Yes, that is correct.

7 ADMINISTRATIVE LAW JUDGE: You do have the
8 other documents that are listed here that refer, and
9 you're planning on submitting some of those?

10 MR. MILLER: Yes. We're going to offer.

11 MS. RHOADES: Can I ask a question?

12 Have we gotten on the record that Mr. Shelton
13 is in fact the author of this document, because it
14 prohibits us from cross examining whoever was the
15 author? We don't know who is the author.

16 MR. MILLER: It was done under his
17 supervision.

18 MS. RHOADES: It doesn't matter. He didn't
19 prepare it.

20 ADMINISTRATIVE LAW JUDGE: Well, I think
21 that's getting a little too technical. I believe that
22 this was done in response to interrogatories from the
23 Intervenors that there are going to be some documents
24 submitted to verify that in fact these do come from

1 actual documents that were not prepared in anticipation
2 of litigation.

3 This document itself was. However, they did
4 it in response to your interrogatories, so I'm going to
5 go ahead and state that the original document that you
6 have, not the one that was prepared and additional
7 information added to them, if you can make those into
8 Applicant's Exhibits 19, I believe 20, and 21.

9 MS. RHOADES: Could I ask that those be
10 photocopied, Your Honor, so I can have them returned
11 for my record?

12 ADMINISTRATIVE LAW JUDGE: Sure, of course. So
13 that you have something as well.

14 MR. MILLER: Can we take a five minute break?

15 ADMINISTRATIVE LAW JUDGE: Let's go ahead.

16 (Whereupon a short recess
17 was taken.)

18 ADMINISTRATIVE LAW JUDGE: Back on the record.

19 MR. MILLER: Mr. Shelton, I'm going to give
20 you four documents, and these four documents are
21 labeled Applicant's Numbers 18, 19, 20, and 21.

22 Do you have copies of those?

23 THE WITNESS: Uh-huh.

24 Q. Can you briefly review those documents and

1 tell me what they describe?

2 A. Yes. These -- the one, particular one I have
3 is the free offers that people requested in the year
4 2000 that were giveaways for spiritual growth.

5 Q. What exhibit number was that?

6 A. Eighteen, I think.

7 Q. Okay.

8 A. And 19 is the live offers, where we'll do a
9 two hour live on Thursday nights. Those are the offers
10 that we gave away during the year 2000.

11 Q. And what are the numbers on the right-hand
12 column?

13 A. That's the estimated --

14 MS. RHOADES: I'm going to object again,
15 because we're testifying off of a document that's not
16 been admitted into evidence and we haven't verified
17 that this witness, that he prepared this document for
18 purposes of our cross examination with him.

19 MR. MILLER: I thought we dealt with this,
20 Your Honor, and you ruled that the --

21 ADMINISTRATIVE LAW JUDGE: I think at that
22 point I was trying to figure out exactly what document
23 had been submitted to the Intervenors.

24 For the record, we have substituted different

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1 Exhibits 18, 19, 20, and 21. I think we did establish
2 also previously that Mr. Shelton oversaw the
3 preparation of these documents. If you'd like to lay
4 some foundation.

5 MS. RHOADES: That's correct.

6 ADMINISTRATIVE LAW JUDGE: Is that for these
7 documents?

8 MR. MILLER: You oversaw the preparation of
9 these documents, did you?

10 THE WITNESS: Yes, sir.

11 Q. Did you review these documents when they were
12 prepared?

13 A. Yes.

14 Q. And did you give these documents to your
15 lawyers?

16 A. Yes, I did.

17 Q. To response to Answers to Interrogatories?

18 A. To Interrogatories, yes.

19 Q. And do they accurately reflect, to your
20 knowledge, the giveaways?

21 A. To the best of my knowledge they do, yes.

22 ADMINISTRATIVE LAW JUDGE: Now, do you want to
23 offer these into evidence?

24 MR. MILLER: Yes, I would like to.

1 ADMINISTRATIVE LAW JUDGE: Okay. Is there
2 any --

3 MS. RHOADES: And I'm going to object on the
4 basis that not appropriate foundation has been laid.
5 He might have overseen what was -- how those documents
6 were prepared, but he didn't actually prepare the
7 documents for purposes of accuracy and authenticity.

8 There is clearly a question, Your Honor, as
9 to the reliability of that document. We don't know,
10 and I can't ask him those questions because he didn't
11 prepare it.

12 ADMINISTRATIVE LAW JUDGE: I understand that.
13 Can we leave it that he will in fact be able
14 to testify as to how this was prepared and what the
15 basis was, and can we get on, moving forward, so if we
16 leave that open for you for cross examination, so that
17 you can in fact ask him questions and that he can go a
18 little bit beyond what he himself prepared?

19 MS. RHOADES: Then I would reserve -- request
20 that you respectfully reserve admission of the
21 documents subject to that.

22 ADMINISTRATIVE LAW JUDGE: I will reserve
23 admission of Applicant's Exhibits 18, 19, 20, and 21
24 until such time as cross examination has been conducted

1 regarding these documents.

2 MR. BOOTHBY: Just for clarification, Your
3 Honor. I don't know, did we offer and was Exhibit
4 Number 16 admitted and the same for 17?

5 ADMINISTRATIVE LAW JUDGE: No, they have not
6 been admitted.

7 MR. BOOTHBY: That's what I thought. Sixteen
8 and seventeen have not been admitted.

9 MR. MILLER: There's still an outstanding
10 question of whether those were requested or provided
11 was the issue.

12 ADMINISTRATIVE LAW JUDGE: I believe so, and
13 you were going to check and see if you could find the
14 documentation where you had requested them.

15 MS. RHOADES: And we did not.

16 ADMINISTRATIVE LAW JUDGE: Okay.

17 You have not requested them?

18 MS. RHOADES: We requested them. We got the
19 documents in a different form.

20 MR. MILLER: Maybe afterwards we can.

21 ADMINISTRATIVE LAW JUDGE: Okay. Because this
22 is going to take too much time and I'd rather get the
23 testimony of Mr. Shelton at this point and then go
24 ahead and go over the particulars.

1 MR. MILLER: We can probably agree on
2 documents that we both have once we get them.

3 So do the numbers down the right-hand side,
4 what do those numbers reflect to your knowledge?

5 THE WITNESS: They're the estimated amount of
6 each. For instance, on the 2000, the Exhibit 19, on
7 the Number 19, we estimated for January 6 when we did
8 the program that night, we gave a book away entitled
9 Amazing Love and we gave approximately 297 of them
10 away.

11 Q. Now, what kind of books and printed materials
12 do you give away?

13 Can you characterize the content of the books
14 on the list?

15 A. Every one of these books have passed our
16 review committee as to, set by the Board that actually
17 incorporate and work in coordination with our views and
18 mission of the Seventh-day Adventist Church in
19 disseminating the Gospel to the world.

20 Q. Is that true for all the materials and books
21 on all of the lists in front of you?

22 A. Yes, this is true.

23 Q. In 2000 and 2001 did Three Angels support or
24 give money or other items to the local community that

1 it is placed in?

2 A. Yes, we did.

3 Q. Such as what?

4 A. Well, we helped -- we gave the, 2000, I
5 believe the 2001 we gave the West Frankfort Community
6 High School \$20,000 for their Athletic Department.

7 We gave the city of West Frankfort some
8 buildings that we had downtown worth around seventy to
9 eighty thousand dollars. We donated those. We started
10 that. We didn't get the legal things done, but we
11 verbally gave them to them in 2000. They are completed
12 now.

13 We gave the Benton High School \$3500 for
14 equipment for their sports program, and I'm not sure.
15 We gave Thompsonville High School, but I don't know if
16 it was '99 or 2000 we gave them almost \$5,000 for a
17 softball field.

18 Q. And why do you make these kind of gifts?

19 A. Because we're happy to be in the community
20 and we want the community to know that they we're not
21 just ministering to people around the world, but we
22 believe in the community and support the community of
23 theirs.

24 We've given another, close to I think the

1 last year 2001, I think we gave almost a hundred
2 thousand dollars to local, whether it's senior citizens
3 or cheerleaders. We gave West Frankfort cheerleaders
4 what have you when they would call us or teachers would
5 come by and coaches and say we're in a jam, and we need
6 this for the community park, for the beautification for
7 the Community Center there. We've given money to those
8 type of things.

9 Q. How many employees does Three Angels have or
10 did they have in 2000 and 2001 approximately?

11 A. One hundred there at the, we're talking about
12 at our facilities in Southern Illinois, not around the
13 world, the Philippines or Russia. I mean, I had
14 employees, but are you talking about worldwide?

15 Like I had approximately 40, 30 to 40
16 full-time Russian employees. Also I have a couple in,
17 four employees I think in California. I have -- and I
18 don't know if the Philippines, yeah, the Philippines I
19 had some employees in the Philippines in 2001 also.

20 Q. Of the employees in Southern Illinois how
21 many of them are salaried employees?

22 A. You know, I'd have to look.

23 Versus hourly?

24 Q. Approximately?

1 A. I don't know. I want to say a third of them
2 may be salary. That's just a guess I can make. I'd
3 have to look at a --

4 Q. What is the highest salary that's received at
5 the organization?

6 A. The highest salary I believe is mine.

7 Q. You earlier testified that was about?

8 A. Well, 50,000. Right now it was 49. I think
9 it was 50 before or 49 to 50, somewhere in there.

10 Q. And of the hourly wages for the hourly
11 employees, what range of hourly pay is received?

12 A. From six whatever. I think we usually start
13 around \$6.50 to \$10.00, \$11.00 an hour, and then if
14 they go higher than that we usually put them on salary.

15 Q. And in your experience Three ABN during 2000
16 and 2001 did any of the net revenues of Three ABN go to
17 the personal inurement of the employees of Three ABN?

18 A. No.

19 Q. Does Three Angels own property other than
20 that described here today?

21 A. Yes, we do.

22 Q. About how much property does Three ABN own in
23 Illinois?

24 A. I think we own close, again it's an estimate,

1 of close to 400 acres.

2 Q. Before I leave the questions about the
3 employees, you mentioned salaries that you pay in
4 Russia.

5 A. Yes.

6 Q. Does Three Angels pay the salaries of those
7 individuals?

8 A. Yes, we do.

9 Q. Do they directly work as employees of the
10 Three Angels Broadcasting?

11 A. Our Russian branch, yes.

12 Q. Is that a separate corporation?

13 A. Yes.

14 Q. Okay. About how much -- did you answer the
15 question about how much land you have?

16 A. We have approximately, I want to say
17 approximately 400 acres, but we're actually selling a
18 hundred right now. We're waiting on the paperwork.

19 Q. What uses does Three Angels make on some of
20 these other properties?

21 A. Okay. We -- we have a church school and a
22 gymnasium where we have young people who many of those
23 are employees, that's open to the community, but many
24 of those are employees children that work there.

1 We have a large gym where we have camp
2 meetings in the summertime. We have as many as a
3 thousand people come to Three ABN to spend several days
4 with us for camp meetings.

5 We have a large -- we built through specific
6 donations given for that, we built a wilderness
7 tabernacle like Moses put up in the wilderness in the
8 out of court and the in of court and the most holy, how
9 the sacrifices took place, so we made a museum that's
10 not entirely finished, but it's 80 percent there. And
11 we have all the equipment that's been donated and all
12 the furniture for inside the building, so we had that
13 large structure. It's something like 200 by 80, that
14 building. The school and the gym is very similar in
15 size. We have that facility.

16 We also have a number of apartments. We
17 built three buildings that house eight apartments.
18 Some are two bedroom and some are one bedroom, and the
19 guests that are coming from around the world that speak
20 on Three ABN, for the most part those are used for
21 guests.

22 If we have a new worker who is coming and
23 they can't find, the community has 600 people, so the
24 housing is very hard to find, so we will usually

1 temporarily let them stay a month, two months, and
2 sometimes longer until they're able find a place in the
3 community to rent or to purchase.

4 We have the original uplink building, which
5 is 15,000 square feet or so building that. We still
6 have television studios two miles down the road. We
7 have radio network that we developed and just put in
8 all new radio studios, so that's where master control
9 presently is. It's being moved to the building that
10 you saw earlier or the confusion in the BOS, so we're
11 moving that -- that part of it there.

12 We have translation booths and translation
13 centers that we also have in the original on this 400
14 acres. We also have the control shack we call it,
15 which is a building and it's a number of large dishes,
16 up to 33 feet in diameter ten meter dishes that shoot
17 our signals around the world to satellite. We house
18 those on that property.

19 We have a Three ABN sound center, which is a
20 state of the art digital recording studio where we
21 actually bring in the musicians and the backup singers
22 and put together these projects, and they're all
23 involved in that that helps with the sound, but
24 anyways, it's a music center in that particular

1 facility.

2 And let's see, think for a minute. I think,
3 oh, we have a medical center that we put in 2000 and
4 2001. That's really neat. It's a free clinic. We
5 have two doctors who donate their time. One is a
6 surgeon. He's our Board Chairman and he comes down a
7 few days a month and then our other doctor is an
8 adventist doctor from the local area who donates every
9 Wednesday and does free work for people in the
10 community, a lot of Three ABN employees, sometimes it's
11 their family or just somebody who needs some help.

12 They do minor surgery, and if the people have
13 insurance they'll turn that part to the insurance but
14 if they don't, they just work on them for free. Money
15 is no object, which we think is wonderful, and it's a
16 way to reach out to the community and we also give
17 preventative health.

18 We have seminars that we hold that we teach
19 people how to lower their cholesterol, their blood
20 pressures, and how to eat, do vegetarian cooking
21 instructions, that type of thing, and so that's done in
22 the medical facility.

23 And then we have another. We have -- we
24 purchased about three years ago an 80 acre, two 40 acre

1 parcels right next to our main property, which used to
2 house a lot of hogs, which we were glad to get rid of,
3 but now we have some large buildings and we use those
4 buildings for, again, for expansion of carpenters shop
5 and construction and for equipment for mowing lawns and
6 taking care of all of that.

7 And I'm probably leaving out something, but
8 we have gone tremendously since we started there on the
9 original two acres.

10 Q. Do you have properties that you presently own
11 but you're not utilizing directly for Three Angels
12 activities?

13 A. Yes, we do. When we originally started the
14 property, in that area it was three to five hundred
15 dollars an acre, and so my Board, some of my Board
16 members from throughout the area said, you need to
17 purchase, the way this thing is going, you should
18 purchase property now because soon it's going to be
19 very very expensive.

20 So two of my Board members went together and
21 bought 109 acre farm at that time with the house for
22 \$74,000, and so that was close to the original site for
23 expansion. It turned out that when we decided to
24 expand we wanted to move closer to the highway and so,

1 therefore, we haven't used that other than the one
2 house on it from time to time people stayed in.

3 But we just sold 69 of that acres and the
4 other 40 is up for sale because we don't need it
5 anymore, because we never did use it, so that part
6 we're selling and we bought a parcel closer about three
7 years ago close to all of the rest of this for
8 continued expansion and property.

9 Now people ask as much as \$3,000 and
10 sometimes \$4,000 an acre, which I don't buy and I don't
11 pay, but I've bought larger pieces at eleven to twelve
12 hundred dollars an acre sold for future expansion, and
13 I think we not only have all the property we need, but
14 we're selling what we don't need, because there is no
15 money in that farm property. There is very little.
16 It's not worth it.

17 Q. Do you get any income from this farm
18 property?

19 A. We do. Some of this is in the set-aside.
20 Again, I'm not sure of the name, but the government
21 set-aside that farmers do, and I think we may have a
22 couple of hundred acres or so in that, and it's very --
23 I don't know if it's 20,000 a year or if it's even that
24 much. I'd have to look at some figures, but we

1 don't -- we don't bring a lot of income.

2 Our total I would say from rentals, we have a
3 couple of places that we rent, from our rents and
4 everything I think is 30,000 or less, and that figure
5 goes down because we gave the buildings that we were
6 getting the most rent from, around \$1500 a month, to
7 the city of West Frankfort this past year.

8 So we don't have those buildings anymore and
9 we're selling a hundred and some acres, so we're not,
10 contrary to what we're hearing, we're not trying to buy
11 up all the land in Thompsonville. I really don't want
12 it. I just only want what we really need, because we
13 have paid taxes on those properties.

14 Q. What future plans do you have for Three ABN
15 that might implicate this property in the future?

16 MS. RHOADES: I'm going to object. I don't
17 know what the relevancy of the question is for what
18 future expansion or future use of the property, what's
19 the relevancy with regard to this property and the
20 exemption for 2000/2001?

21 MR. MILLER: Well, Your Honor, the belief, I
22 suppose we talked about the income from the rental
23 property. If they don't want to talk about that,
24 that's fine.

1 ADMINISTRATIVE LAW JUDGE: I'll sustain the
2 objection.

3 MR. MILLER: It's irrelevant. I'm happy not
4 to talk about it, believe me.

5 THE WITNESS: I don't get to say my plans for
6 the future.

7 Q. Well, as far as the purposes of Three ABN are
8 concerned, what present purposes does Three ABN have
9 for the future?

10 MS. RHOADES: Again, they think it is
11 irrelevant.

12 ADMINISTRATIVE LAW JUDGE: I'm going to go
13 ahead and sustain the objection. You don't get to.

14 THE WITNESS: Okay.

15 MR. MILLER: What would you say to someone --
16 do you believe that Three Angels is operating with a
17 view to a profit?

18 MS. RHOADES: Objection, foundation.

19 ADMINISTRATIVE LAW JUDGE: If you'd like to
20 rephrase it or --

21 MR. MILLER: Well, you know, do you oversee
22 the operations of Three Angels Broadcasting?

23 THE WITNESS: Yes.

24 Q. Are you involved with the Board meetings of

1 Three Angels Broadcasting?

2 A. Yes.

3 Q. And you are familiar with the financial
4 operations of Three Angels Broadcasting?

5 A. Yes, sir.

6 Q. And do you believe that Three Angels
7 Broadcasting is operated with a view to make a profit?

8 A. No.

9 Q. And why do you say that?

10 A. Well, if it weren't for our charitable
11 organizations we'd be losing millions every year,
12 because nothing is designed to make a profit.

13 Q. And what do you believe the primary purpose
14 of Three Angels Broadcasting is?

15 MS. RHOADES: Objection. I believe that was
16 asked and answered way when we first started this
17 hearing.

18 ADMINISTRATIVE LAW JUDGE: Sustained. I think
19 she's correct, that it's already part of the record.

20 MR. MILLER: Okay. All right. If you'll just
21 give me a moment. I'm fairly nearly done with this
22 witness.

23 ADMINISTRATIVE LAW JUDGE: Okay.

24

1 (Whereupon a short recess
2 was taken.)

3 ADMINISTRATIVE LAW JUDGE: Back on the record.

4 MR. MILLER: Oh, I do have one final
5 question.

6 These other properties that aren't being
7 utilized for Three ABN's purposes, are you paying taxes
8 on those properties?

9 THE WITNESS: Yes. We always have paid taxes
10 on those properties.

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

13 ADMINISTRATIVE LAW JUDGE: All right.

14 How are you planning on doing this?

15 MS. RHOADES: We will be doing the cross and
16 I'm looking at my watch and it's 4:00.

17 ADMINISTRATIVE LAW JUDGE: I know.

18 MS. RHOADES: And what you said earlier, plus
19 I would like to have some time obviously because of the
20 length of his testimony to get ready. I would just
21 suggest that we break for the day if that's okay.

22 ADMINISTRATIVE LAW JUDGE: That would be
23 wonderful.

24 Is it going to cause a problem down the road

1 as far as -- is three days going to be enough for
2 this?

3 MR. BOOTHBY: Could I ask a question?

4 ADMINISTRATIVE LAW JUDGE: Sure. This is off
5 the record.

6 (Discussion off the record.)

7 ADMINISTRATIVE LAW JUDGE: Let's go on the
8 record.

9 I think Linda Shelton should be made
10 available however you chose to, if you want to have her
11 added to your witness list as an adverse, as a hostile
12 witness, that's fine. If you want to make her
13 available as your witness, not duplicating the
14 testimony, however you choose to do that, that's fine,
15 but I think Linda Shelton should be made available.

16 Obviously her testimony is relevant and she
17 was an officer during the years in question and,
18 therefore, Linda Shelton should testify in this
19 matter.

20 Does anybody have any other --

21 MS. RHOADES: I have one other issue that we'd
22 like to address with the Hearing Officer.

23 There was the videotape, the one videotape
24 that we saw here today. We have not been provided a

1 copy of that. There is only one copy I believe of
2 that, and we would ask leave, Your Honor, to take that
3 with us this evening so we can review it.

4 ADMINISTRATIVE LAW JUDGE: There is only one
5 copy?

6 MR. MILLER: Well, there is five others
7 coming.

8 MR. BOOTHBY: But she wants to take the tape.

9 MS. RHOADES: For purposes of --

10 ADMINISTRATIVE LAW JUDGE: That's fine, but
11 what I'm concerned about is having already had one tape
12 not work this morning.

13 MR. BOOTHBY: We have more coming.

14 ADMINISTRATIVE LAW JUDGE: You've already got
15 them made?

16 MR. BOOTHBY: Yes.

17 ADMINISTRATIVE LAW JUDGE: I'm sorry, that was
18 my concern.

19 MR. BOOTHBY: We don't have any problem.

20 MR. MILLER: We're fine with that.

21 ADMINISTRATIVE LAW JUDGE: Off the record.

22 (Discussion off the record.)

23 MR. MILLER: Eleven has not been admitted into
24 evidence?

1 MR. BOOTHBY: No, eleven was admitted.

2 MR. RIVA: Yes, I believe it was.

3 MR. MILLER: I believe this one was admitted.

4 You accepted that one. That's 11 and 8 was broken and

5 there was a question about 8.

6 ADMINISTRATIVE LAW JUDGE: Okay. I've got 10

7 and 11 video.

8 MR. MILLER: That's this.

9 ADMINISTRATIVE LAW JUDGE: But I have it

10 not --

11 MR. MILLER: You have it not admitted?

12 ADMINISTRATIVE LAW JUDGE: And it's not

13 initialed.

14 MS. RHOADES: Yeah. That's why I don't think

15 it was ever admitted.

16 ADMINISTRATIVE LAW JUDGE: I don't believe it

17 was admitted into evidence.

18 MR. MILLER: Oh, you said we'll view it.

19 ADMINISTRATIVE LAW JUDGE: It's reserved as

20 well.

21 MS. RHOADES: We promise we'll try not to do

22 anything to harm these tonight but.

23 THE WITNESS: We have a lot more of them.

24 ADMINISTRATIVE LAW JUDGE: Let's make sure

1 everyone has the same numbers that I have as far as
2 what is admitted and not admitted.

3 MS. RHOADES: And, Judge, for purposes of the
4 record, are we also, the one documents that they
5 attempted to tender that we substituted, is there a way
6 we can indicate that those are also part of the record
7 even though they're not admitted as exhibits?

8 I'd like to have them as part of the record
9 to show the differentiation.

10 ADMINISTRATIVE LAW JUDGE: Yes.

11 And I think if someone does an offer of proof
12 or something to that affect, but let's -- can we just
13 double check with everyone that we have the same number
14 of exhibits admitted?

15 The Department's 1 and 2 are admitted into
16 evidence.

17 MS. RHOADES: Uh-huh.

18 ADMINISTRATIVE LAW JUDGE: Applicant's 1, 2,
19 3, and 4 are admitted. I have 5, 6, 7, 8, which is the
20 broken video, as not admitted. Nine is admitted. Now
21 I've got 10 is not admitted. Video is 11 and it's not
22 admitted.

23 MR. BOOTHBY: Ten was not admitted?

24 ADMINISTRATIVE LAW JUDGE: Ten was not

1 admitted.

2 MR. MILLER: No.

3 ADMINISTRATIVE LAW JUDGE: That is the
4 pastors. We reserved that as well I believe.

5 MS. PETTY: I thought it was used to refresh
6 his recollection.

7 ADMINISTRATIVE LAW JUDGE: Yeah, refresh his
8 recollection. Twelve is admitted into evidence.
9 Thirteen is admitted. Fourteen, fifteen, sixteen, and
10 seventeen, or fourteen is admitted.

11 MR. BOOTHBY: Fourteen is admitted?

12 ADMINISTRATIVE LAW JUDGE: Fourteen is
13 admitted. Fifteen is admitted.

14 MS. RHOADES: Uh-huh.

15 ADMINISTRATIVE LAW JUDGE: Sixteen, seventeen
16 and eighteen, nineteen, and twenty are not admitted,
17 and twenty-one are not admitted.

18 MS. RHOADES: That's what I've got.

19 ADMINISTRATIVE LAW JUDGE: Exhibit 15, it's
20 the book, there it is, and it is admitted.

21 Everyone has the same?

22 MR. MILLER: Yes.

23 There was one final matter, Your Honor, and
24 I'm not sure how you want to handle this. There is the

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1 motion regarding the constitutional issues that
2 Applicant have raised in this case. We understand Your
3 Honor's ruling on those motions but we are in a
4 position of needing to preserve our record for appeal.

5 We do believe that the constitution matters
6 in this case and applies to this case, and so the
7 question of equal treatment of the First Amendment of
8 the Federal constitution and the Illinois constitution,
9 as well as the State Religious Freedom Act makes us
10 believe that the comparison with similar organizations,
11 similar religious organizations are relevant, and had
12 your Judge's order come out the other way, Mr. Shelton
13 would have testified briefly to his knowledge regarding
14 another religious ministry here in Illinois, and I'm
15 needing to get that on the record in some way.

16 Obviously I could ask Mr. Shelton the
17 questions or I can make an offer of proof describing
18 what that testimony would be.

19 How would Your Honor prefer that I proceed?

20 ADMINISTRATIVE LAW JUDGE: I'd prefer you do
21 it as an offer of proof. I believe that it is -- I
22 can't rule on something at this point, but there are
23 provisions within our rules for offers of proof.

24 MR. BOOTHBY: May I just ask for a

1 clarification? I'm going to have some more tomorrow.

2 Would, Your Honor, for instance, when the
3 witness is present, one of the ways of having an offer
4 of proof is to actually have the witness actually
5 testify to whatever would normally be submitted as
6 evidence. That of course then is perhaps better than a
7 summarization by counsel of the testimony and
8 particularly if it's short in nature.

9 Some more offers of proof tomorrow will be by
10 way of, there is the deposition of Ted Wilson, which
11 we're -- which we may make an offer of proof. We may
12 also try to submit that. Well, we'll make an offer of
13 proof on that.

14 But there we have the actual transcript of
15 testimony, so we don't need to have the witness present
16 in order for the court to know exactly what the
17 testimony would be.

18 I'm just wondering how Your Honor wishes to
19 proceed, particularly as we have a witness here and
20 present and his testimony would be short.

21 Would it be better, would Your Honor prefer
22 to have that testimony actually on the record? He will
23 be here tomorrow too.

24 ADMINISTRATIVE LAW JUDGE: The only ways I've

1 had it done before was with affidavits and with
2 deposition.

3 MR. MILLER: Or summary?

4 ADMINISTRATIVE LAW JUDGE: And a short summary
5 I think would probably be more appropriate.

6 MR. BOOTHBY: I just noticed in the Illinois
7 Rules, apparently it does suggest that one of the ways
8 is through the testimony but --

9 ADMINISTRATIVE LAW JUDGE: I just haven't had
10 it done that way, but if that will work with everyone
11 even though we realize that it in fact has been
12 stricken from the record but not stricken. And I know
13 exactly, I mean, I understand your arguments and I, as
14 things in this particular area become dicey.

15 MR. MILLER: I'm a little concerned about the
16 procedure and practice manual here summarizing the
17 cases says, a summary of the expected testimony offered
18 in a conclusionary manner is an adequate offer of
19 proof. Counsel's unsupported speculation as to what a
20 witness may say is also insufficient.

21 ADMINISTRATIVE LAW JUDGE: As I say, what I've
22 gotten before has been affidavits as to what would have
23 been proffered.

24 MR. MILLER: Affidavit from the witness you

1 mean?

2 ADMINISTRATIVE LAW JUDGE: Yes. That would
3 have been instead of just a summary.

4 MR. MILLER: Okay.

5 MR. BOOTHBY: But you would be willing to take
6 the testimony if it's short?

7 MR. MILLER: Maybe we'll put together an
8 affidavit.

9 ADMINISTRATIVE LAW JUDGE: I'd rather have it
10 handled as an affidavit if you don't mind instead of
11 part, as part of the transcript of the testimony at the
12 hearing itself, just to keep it totally separate is my
13 preference.

14 MR. MILLER: At this point I'm just wanting to
15 make sure I keep my ability open to submit an affidavit
16 for Mr. Shelton regarding that topic before the
17 conclusion of the hearing.

18 ADMINISTRATIVE LAW JUDGE: Yes, yes. But
19 that's the way I would prefer it done instead of having
20 his testimony on the record as part of the transcript.

21 MR. MILLER: That's fine.

22 THE WITNESS: I'm not a legal person, but
23 you're saying you're getting tired of hearing me talk.

24 ADMINISTRATIVE LAW JUDGE: Not at all. I'm

1 trying to keep it as clean as I can as far as the
2 testimony that is offered into evidence here that I
3 feel like I can rely on.

4 THE WITNESS: I'm just kidding.

5 ADMINISTRATIVE LAW JUDGE: Is there anything
6 for anyone else?

7 Also, we do get a copy of the transcript
8 because the Department has a contract with Golembeck
9 Reporting. If you would like a copy of that, you need
10 to work that out with her. We won't be automatically
11 supplying that, so I just thought I'd let everybody
12 know. I forgot to say that in my introductory
13 comments.

14 Now, is there anything else that anyone wants
15 to handle before I go get wet?

16 MR. MILLER: What time do we do begin
17 tomorrow?

18 ADMINISTRATIVE LAW JUDGE: Nine o'clock.

19 All right. And I will have badges ready for
20 you again, same place.

21 Okay. Is there anything else anybody has?

22 MS. RHOADES: No.

23 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

24 (At this time the hearing was concluded for the day.)

