

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

THREE ANGELS BROADCASTING NETWORK,

Plaintiff

v.

No. 04 MR 15

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

Defendants

Barbara S. Rowe
Administrative Law Judge

VOLUME TWO 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

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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

TABLE OF CONTENTS

I	Transcript	000001-000739
II	Department Exhibits.....	000740-000755
III	Applicant's Exhibits.....	000756-000841
IV	Intervener's Exhibits	000842-001087
V	Notices, Motion, Orders	001088-001412
VI	Briefs	001413-001530
VII	Offers of Proof	001531-001709
VIII	Administrative Decision.....	001710-001757

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

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

6 Applicant,)

7 and)

DOCKET NO. 00-28-01

DOCKET NO. 01-28-07

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 Continued Hearing held on September 24, 2002,
18 at the Offices of the Illinois Department of Revenue,
19 101 West 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

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000211

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6 Appeared on behalf of the Respondent.

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11 Appeared on behalf of the Applicant.

12

13 MR. LEE BOOTHBY
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18 Appeared on behalf of the Applicant.

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21 MR. D. MICHAEL RIVA
22 Attorney at Law
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26 Appeared on behalf of the Applicant.

27

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29 MS. MERRY RHOADES
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35 Appeared on behalf of the Intervenors.

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7 Appeared on behalf of the Intervenors.

8 ALSO PRESENT:

9 Mr. Danny Shelton
10 Mr. John Robinson
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1	<u>I N D E X</u>	PAGE NUMBER
2	WITNESS	
3	DANNY SHELTON	
4	Further Direct Examination by Mr. Miller	216
5	Cross Examination by Ms. Rhoades	231
6	Redirect Examination by Mr. Miller	405
7	Recross Examination by Ms. Rhoades	413
8		
9	LARRY EWING	
10	Direct Examination by Mr. Miller	420
11	Cross Examination by Ms. Rhoades	457
12		
13	ALAN LOVEJOY	
14	Direct Examination by Mr. Miller	469
15	Further Direct Examination by Mr. Miller	486
16	Cross Examination by Ms. Rhoades	487
17	Examination by Mr. Steinkamp	488
18	Redirect Examination by Mr. Miller	490
19	Further Examination by Mr. Steinkamp	493
20		
21	WALTER THOMPSON	
22	Direct Examination by Mr. Boothby	494
23	Cross Examination by Ms. Petty	524
24		
25	BILL BISHOP	
26	Direct Examination by Mr. Miller	529
27	Cross Examination by Ms. Petty	536
28		
29	<u>E X H I B I T S</u>	
30	NUMBER	ADMITTED INTO EVIDENCE
31	Intervenor's Exhibit Numbers 1 & 2	311
32	Intervenor's Exhibit Number 3	313
33	Intervenor's Exhibit Number 4	331
34	Intervenor's Exhibit Numbers 5-9	418
35	Intervenor's Exhibit Number 10	345
36	Intervenor's Exhibit Number 11	348
37	Intervenor's Exhibit Number 12	359

000214

1 ADMINISTRATIVE LAW JUDGE: We will reconvene
2 then In the Matter of Three Angels Broadcasting
3 Network, Incorporated versus the Department of
4 Revenue.

5 MR. MILLER: We have anew. Can we call Mr.
6 Shelton back to the stand? He'll be cross examined
7 today.

8 ADMINISTRATIVE LAW JUDGE: Yes.

9 MR. MILLER: But we also have managed, we
10 believe, to get a working copy of the videotape.

11 ADMINISTRATIVE LAW JUDGE: Okay.

12 Do you want to show that first, do you
13 think?

14 MR. MILLER: I thought we could start with
15 that and then that would allow them to deal with it
16 immediately on cross.

17 ADMINISTRATIVE LAW JUDGE: Okay. Let me go
18 ahead and swear Mr. Shelton in.

19 (The Witness was sworn
20 by the ALJ.)

21 DANNY SHELTON

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

1 ADMINISTRATIVE LAW JUDGE: Go ahead and
2 proceed with the video.

3 MR. MILLER: There seems to be a couple of
4 questions of foundation of the video. If I may ask a
5 further question to Mr. Shelton.

6 FURTHER DIRECT EXAMINATION

7 BY MR. MILLER:

8 Q. Mr. Shelton, who made these videos?

9 A. Three Angels Broadcasting Network.

10 Q. And do you know for what purpose they were
11 made?

12 A. We show them on air just so people see what
13 we're doing and how far we're reaching and understand
14 the concept a little better, like the satellites.

15 Q. And do you distribute them at all?

16 A. Yes, we do.

17 Q. To who?

18 A. Well, to any potential viewer, anybody who
19 wants to see them. We distribute them to cable
20 stations, any television station that's interested in
21 seeing again the programs and what we do, we show
22 that. We send them to potential donors.

23 Q. Why do you send them to these people and
24 these stations?

1 A. Well, hopefully when we send them to the
2 stations they will see the quality of the programming
3 that we do, the content of the programming that we do
4 and want to feel that that's some public use on their
5 channel.

6 And with the donors we send them to people
7 who are looking, want to see about our ministry that
8 maybe haven't had an opportunity to watch it and they
9 want to see what we do.

10 Q. Now, are they meant to express the purposes
11 of Three Angels?

12 A. Yes.

13 MR. MILLER: I'd like to show this to the
14 court.

15 (The videotape was viewed at this time.)

16 MR. MILLER: Your Honor, at this point I would
17 like to proffer both of these videotapes as exhibits
18 and as evidence for this court into the record.

19 I will say that I proffer them as actual
20 evidence of what Three Angels broadcasts over its
21 system. This is not testimony to be cross examined.

22 This is in fact what is going out over the
23 air of Three ABN, and it also represents Three ABN's
24 public representations of its purpose. So it certainly

1 goes to the state of mind of the leaders and officials
2 of Three ABN, and as to what they are communicating
3 publicly as to its purpose, and I would think that
4 would have relevance as to the Court's determination.

5 ADMINISTRATIVE LAW JUDGE: Is that Number 8
6 then?

7 MR. BOOTHBY: Yes.

8 MR. MILLER: This would be Number 8.

9 ADMINISTRATIVE LAW JUDGE: And the other video
10 is eleven?

11 MR. MILLER: Is Number 11.

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 MR. MILLER: So we have eight. Was this the
14 one that didn't work? Do we have a new one up here,
15 Mike?

16 MR. RIVA: The first one you put in there
17 didn't work.

18 ADMINISTRATIVE LAW JUDGE: I realize that, but
19 that's not the one that was set up there.

20 MR. MILLER: The one yesterday didn't work.

21 MS. RHOADES: Those are the ones from
22 yesterday and I put those up there. We had taken those
23 out and I returned those. I set them back up there.

24 ADMINISTRATIVE LAW JUDGE: Thank you. I didn't

1 know where they came from. All I knew is they were
2 here.

3 MR. MILLER: Is there any objection to --

4 MS. RHOADES: There are objections on both
5 counts to both videos and I'd like to take them one at
6 a time.

7 ADMINISTRATIVE LAW JUDGE: All right.

8 MS. RHOADES: Judge, starting with Video
9 Number 8, first of all, appropriate foundation has not
10 been laid with respect to the admissibility of that
11 document.

12 We have no testimony as to when it was
13 created and the person who created it, who wrote the
14 transcript for that, none of that, which goes to
15 reliability of the statements that are contained in
16 there.

17 Secondly, it's irrelevant. We're here for
18 the use of the subject and what the property is
19 physically used for. I failed to see anything that was
20 on that videotape that describes exactly what the
21 actual property was located for.

22 He also makes statements, Mr. Miller, and I
23 find it very interesting saying, we're offering it for
24 these purposes, and we understand it can't be cross

1 examined.

2 I think there is a fundamental problem with
3 that. Not only that, it's self-serving and it is
4 nothing more than mere advertising. It's not
5 evidence. It's advertising. So, those would be my
6 objections to Number 8.

7 ADMINISTRATIVE LAW JUDGE: Okay.

8 MR. MILLER: If I may respond to the
9 objection, Your Honor?

10 ADMINISTRATIVE LAW JUDGE: Yes.

11 MR. MILLER: The foundation is that this is
12 actually aired on -- we have testimony that these
13 materials were put together by Three ABN and aired over
14 Three ABN's broadcast system.

15 The issue is not for truth or lack of truth
16 that the claims made in the videotape themselves. The
17 question is, how is Three ABN representing itself to
18 the community, what is actually going out over its
19 airways.

20 The claims whether true or false in the
21 statement itself are not what they're being offered
22 for. What they're being offered for are the public
23 express purposes that Three ABN is holding itself out
24 to the community, and it is absolute evidence of that.

000220

1 If, as Mr. Shelton says, they do play this
2 over the air and they distribute it to potential
3 viewers and broadcasting organizations, there is no
4 need to cross examine the video.

5 As the importance of the video is the
6 representations and the state of mind. It goes to
7 showing Three ABN's state of mind and its purposes in
8 holding these purposes out to the public, and that's --
9 that's the reason they're being proffered.

10 So I believe the opposition has missed the
11 point of what they're being offered for. It's a --
12 hearsay exception goes to the state of mind in
13 representations as to purpose.

14 MS. RHOADES: And if I could just respond to
15 that.

16 ADMINISTRATIVE LAW JUDGE: Uh-huh.

17 MS. RHOADES: Then if that's the purpose for
18 which they're tendering, it's totally irrelevant what
19 they believe that, they think that their message that
20 they're conveying. I can come in here and say anything
21 that I think my message is conveying. The issue is
22 what is the actual use of the property and it's totally
23 irrelevant.

24 MR. MILLER: Well, Your Honor, the actual use

1 of the property is to, part of the actual use of the
2 property is to make programming and to broadcast that
3 programming. And certainly the question of what kind
4 of programming is being broadcast must be related to
5 how the property is being used. And, therefore, this
6 shows how the property is being used, what kind of
7 programs are put together there, what kind of programs
8 are being aired from that location.

9 I just don't understand how Three ABN's
10 programming and broadcasting can be irrelevant to the
11 use of the property as that's what the property is
12 there for.

13 We've had that testimony, all those buildings
14 are being used to support and further the broadcast
15 ministry of Three ABN.

16 How can that be irrelevant?

17 MS. RHOADES: I didn't hear any broadcast
18 ministry on that video. I saw a bunch of satellites
19 and how they beam them up. That's not the property
20 itself. These are on satellites elsewhere. It has
21 absolutely nothing to do with programming. I didn't
22 see it.

23 ADMINISTRATIVE LAW JUDGE: I'm going to rule
24 to admit the videos for the limited use of the fact

1 that the satellite does beam it from the property in
2 question and so, therefore, they are relevant in that
3 regard.

4 As far as, I didn't see any programming or
5 anything else, and I do agree that they are
6 advertising. However, it is some substantiation of the
7 fact that in fact there are beams going out to the
8 satellites and that's part of the use of the property,
9 but I'm only admitting it for that use.

10 MS. RHOADES: Then if I can, Your Honor, for
11 that purpose, Mr. Shelton has already testified as to
12 that. To the extent then this is clearly duplicative.

13 ADMINISTRATIVE LAW JUDGE: I don't think it's
14 duplicative just because it's a video image that I can
15 see and tell what the heck is going on. It's difficult
16 for me. Maybe I'm just stupid, but it's difficult for
17 me to be able to visualize exactly how and what
18 different satellites are going where, and things like
19 that, so I didn't think it was duplicative. I think it
20 was just a reinforcement.

21 MS. RHOADES: Then is it more of a
22 demonstrative exhibit, Your Honor?

23 ADMINISTRATIVE LAW JUDGE: Yes.

24 MS. RHOADES: Then why don't we indicate that

1 it's for demonstrative and for that purpose only?

2 ADMINISTRATIVE LAW JUDGE: That's a good
3 idea.

4 Is that --

5 MR. MILLER: Demonstrative as to illustrating
6 Mr. Shelton's testimony?

7 ADMINISTRATIVE LAW JUDGE: Yes, I think so.

8 MS. RHOADES: I thought it was my
9 understanding that it was demonstrative for your
10 purposes as to how the whole satellite system works,
11 not with respect to Mr. Shelton's testimony, because
12 otherwise --

13 ADMINISTRATIVE LAW JUDGE: I understand where
14 you're coming from.

15 No, it's not demonstrative for Mr. Shelton's
16 testimony. It's demonstrative to explain exactly how
17 the satellite system works. Okay?

18 MR. MILLER: Okay.

19 MS. RHOADES: And -- and just so I make sure I
20 get this clear for the purposes of the record. I don't
21 want to have any confusion. That's only on there for
22 demonstrative purposes and the only purposes which are
23 considered for your purposes in rendering a decision is
24 actually how the satellite systems work, is that

1 correct?

2 ADMINISTRATIVE LAW JUDGE: That's correct.

3 MR. MILLER: To understand Your Honor's
4 ruling, am I to understand that what is actually aired
5 over the satellite system is irrelevant to the question
6 of Applicant's religious purposes?

7 ADMINISTRATIVE LAW JUDGE: No, that is not
8 what I'm saying. What I'm saying is, the only reason
9 I'm admitting these into evidence is to show how the
10 programming works itself.

11 MR. MILLER: But if this is something that's
12 aired over their -- over their network on a regular
13 basis, why isn't it evidence of what they do with their
14 property and what they air from their property?

15 ADMINISTRATIVE LAW JUDGE: Because it doesn't
16 establish the use of the property. All it establishes
17 is that there are satellite signals sent out.

18 MR. MILLER: But if Mr. Shelton has testified
19 the property was used to make these.

20 ADMINISTRATIVE LAW JUDGE: That is open to
21 cross examination by the Intervenors. That's not what
22 I'm admitting these exhibits under.

23 MR. MILLER: All right.

24 ADMINISTRATIVE LAW JUDGE: Okay.

1 MR. MILLER: Okay.

2 ADMINISTRATIVE LAW JUDGE: Does everyone
3 understand?

4 MS. RHOADES: And I would -- I don't think we
5 talked about Number 11.

6 ADMINISTRATIVE LAW JUDGE: Uh-huh.

7 MS. RHOADES: I reference that as far as aid
8 and I would make those same objections and the same
9 basis with respect to Exhibit Number 11 that has been
10 proffered.

11 MR. MILLER: Well, I understand Your Honor's
12 comments to include both videos. They both talk about
13 the systems and the way they operate.

14 ADMINISTRATIVE LAW JUDGE: I think eleven goes
15 more to the business itself than eight did as far as
16 the nature of the programming.

17 Eleven went more to the nature of Applicant's
18 business than the programming itself.

19 MR. MILLER: Uh-huh.

20 ADMINISTRATIVE LAW JUDGE: Which eight did not
21 so. I thought we were just talking about eight. I'm
22 sorry, I should have been more clear.

23 MR. MILLER: You said videotapes and --

24 ADMINISTRATIVE LAW JUDGE: I know I said

1 videos and I didn't -- we've had a number of eights
2 too.

3 MR. MILLER: Then I will proffer the dialog
4 for the one that has been admitted. You asked for a
5 transcript.

6 ADMINISTRATIVE LAW JUDGE: Yes.

7 MR. MILLER: And this should go along with
8 that.

9 ADMINISTRATIVE LAW JUDGE: Now I see the
10 nature of the Applicant's Exhibit Number 11 is
11 different than the Applicant's Exhibit 8.

12 MR. MILLER: Uh-huh.

13 ADMINISTRATIVE LAW JUDGE: Because it does go
14 to the nature itself of the business, and you have
15 objected.

16 MS. RHOADES: I have objected. First of all,
17 on the basis of foundation, again for the same
18 concerns, that it has not been authenticated
19 appropriately.

20 Secondly, we don't know who made the
21 transcript and it's also not subject to cross
22 examination per Mr. Miller's own statements.

23 Secondly, it is nothing again but advertising
24 and it contained innumerous amounts of self-serving

1 type of statements. I don't know how Your Honor is
2 going to go back and be able to figure out. I mean, if
3 we did that I think we'd have to go through the video
4 one by one and decide what parts are going to be
5 stricken out as self-serving.

6 I think yesterday you had acknowledged that
7 parts of it were self-serving statements. I think
8 we've got to have a record on what is, what isn't,
9 those things.

10 And, secondly, Mr. Shelton has testified and
11 to the extent it's in, it's merely duplicative
12 testimony as to the nature of the program. He talked
13 about the same things that are in that video. He
14 talked about health programming, children's
15 programming, whatever it was. He's talked about it.

16 That doesn't convey those, what goes on at
17 that property adequately.

18 MR. MILLER: Your Honor, I don't know. I
19 guess most testimony is self-serving to some degree,
20 but this is not, you know, I believe this falls clearly
21 within a hearsay exception. It is not being offered
22 for the truth of the matters therein stated. It's
23 being offered to show the court how ABN holds itself
24 out to the public. It's programming.

1 We've had testimony that the tape itself was
2 made at the facility under issue, not for purposes of
3 this litigation, but to explain and describe the
4 activities of Three ABN to its viewers. It's aired
5 from the property at issue.

6 It is part of in fact the programming. It
7 is -- there seems to be a lot of concern that
8 activities that take place at the property. It is
9 distilled, in essence, an activity that happens at the
10 property and is aired, and I would think that it would
11 have tremendous relevance as to the purposes that Three
12 ABN, Angels is holding itself out for to the public,
13 and I would urge that it be admitted on that basis.

14 MS. RHOADES: And I would again indicate that
15 he is saying that it's just for the purposes of how
16 Three ABN holds itself out, as he made that same
17 statement with respect to Exhibit Number 8, then that
18 would make this duplicative of.

19 Mr. Shelton has also repeatedly testified as
20 to how he believes Three ABN holds itself out.

21 He's trying to get it in before the court for
22 the purposes of the matters asserted therein, not the
23 exception for which he's trying to say.

24 MR. MILLER: Well, I appreciate counsel

1 telling me why I'm making my argument, but the fact of
2 the matter is, this is about a media broadcast station
3 and a good part of that has to be what it is sending
4 out over the air, and this is not duplicative as Your
5 Honor has noted of the earlier tape. It's different,
6 different materials, and it's certainly not -- Mr.
7 Shelton can only speak in words.

8 He can't actually tell, show the court what's
9 going out over the air. This does.

10 ADMINISTRATIVE LAW JUDGE: And I'm going to
11 rule that Exhibit Number 11 is not admissible, and is
12 not admitted into evidence. I think by admitting eight
13 we can see the quality of the work that its done. We
14 can also see the quality of what Applicant produces,
15 but I think this is too self-serving.

16 We do have Mr. Shelton here. He can be cross
17 examined. You can't cross examine the videotape as to
18 what the Applicant's activities are.

19 (At this time Offer of Proof Number
20 1 was given and has been removed
21 from this transcript at the request
22 of the ALJ.)

23 MR. MILLER: Well, I believe that at this
24 point the witness is ready to be proffered to the other

1 side.

2 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

3 MS. RHOADES: Thank you. Good morning, Mr.

4 Shelton.

5 How are you this morning?

6 THE WITNESS: Good morning. Fine, thank you.

7 And you?

8 MS. RHOADES: I'm doing good. It's a nice day

9 outside.

10 THE WITNESS: Beautiful.

11 Can we actually have this outside?

12 MS. RHOADES: We talked about that actually

13 coming in.

14 CROSS EXAMINATION

15 BY MS. RHOADES:

16 Q. A couple of things that I kind of want to get
17 clarified from your earlier testimony, Mr. Shelton, and
18 maybe you can help us clarify some matters.

19 You talked -- you were showed a demonstrative
20 exhibit with regard to the layout of your main
21 facilities, correct?

22 We had an actual physical layout?

23 A. Yes.

24 Q. Was that for purposes of what the Hearing

1 Officer did, was that actually drawn to scale, do you
2 know?

3 A. Well, I think it was to scale except that I
4 mentioned yesterday where it shows the BOS, that we run
5 out of paper at the top, so it kind of showed it long
6 and narrow, but most of it, I think it was like quarter
7 inch scale.

8 Q. Did you prepare that exhibit?

9 A. No. I asked one of my carpenters there to do
10 it.

11 Q. And who was that carpenter that you asked to
12 do that?

13 A. David Turner.

14 Q. And when did you ask Mr. Turner to do that?

15 MR. MILLER: I'll object to this, Your Honor,
16 as the references to the -- the illustration we used
17 yesterday, it hasn't been proffered as evidence. The
18 foundation I laid was, does this represent and would it
19 be helpful to your testimony.

20 I think the questions that are being asked
21 would go to if we were trying to submit this as
22 evidence.

23 MS. RHOADES: And I would, for the purposes
24 state, Your Honor, that they showed visually a picture

1 and I think I've got a right to have testimony before
2 you when you think about the demonstrative information
3 that was provided to understand how it was prepared.

4 ADMINISTRATIVE LAW JUDGE: I'll go ahead and
5 allow the questions as far as preparation, but only for
6 that limited.

7 MS. RHOADES: Okay. Now, the main facility
8 that you discussed has approximately 30,000 square
9 feet?

10 THE WITNESS: I think so, yes.

11 Q. And it has an upstairs and a downstairs, two
12 levels as you discussed yesterday?

13 A. Two levels, uh-huh.

14 Q. Now, --

15 A. It actually has that small third level.

16 Q. Okay. So we've got a small third level?

17 A. Uh-huh.

18 Q. Now, with regard to the entrance, do you
19 recall what the size of the entrance way is for the
20 facility?

21 MR. MILLER: I'll object as to relevance, Your
22 Honor.

23 MS. RHOADES: I think this goes to the actual
24 use of the facility, the layout of it, what each part

1 of that building is used for of the overall complex of
2 the facility. It's directly what the facility is used
3 for. How much is administrative offices, what part of
4 it is production studios, what part of it is used for
5 advertising, what part of it is used for specific
6 purposes.

7 MR. MILLER: Your Honor, if the foundation
8 could be laid that there was some activity that was not
9 further then the exempt purpose and then once that was
10 established then the square footage of that portion
11 perhaps, but I don't want to walk through the building
12 room by room and asking the square footage of each of
13 the rooms I think until that's established. I don't
14 see the relevance of the question at this point.

15 MS. RHOADES: First of all, Your Honor, I find
16 it interesting that Mr. Miller is trying to shift the
17 burden of this hearing to the Intervenors side when
18 it's his burden to prove what the facility is used
19 for.

20 I think we've got a right to inquire and
21 present evidence for the purposes of the record exactly
22 what the facilities are located, the size of the rooms,
23 the square footage that each part of that building is
24 used for.

1 ADMINISTRATIVE LAW JUDGE: There's case law in
2 Illinois that portions of buildings can qualify and
3 other portions cannot, and I think I do see the
4 relevance, and you are suggesting that it be done
5 backwards.

6 But I do think that counsel has an
7 opportunity, should have an opportunity to establish
8 the area, the square footage of the building and what
9 the areas are used for, so I'm going to overrule the
10 objection.

11 MS. RHOADES: Okay. When you -- first when
12 you walk into the building there is the entrance way?

13 THE WITNESS: Yes, ma'am, reception area.

14 Q. And what's contained in that area that's in
15 the reception area?

16 A. We have, of course the receptionist, either
17 one or two women who are answering phones, the
18 telephone operators that receive the calls from our 800
19 number, otherwise people who call in to the ministry,
20 for instance, if they want prayer, they call in and
21 then the telephone operator extends it up to the people
22 who are pastors, or if they want to talk to production
23 or whoever.

24 So there is the telephone, is mainly the

1 telephone set up, but it has a couch and a chair and TV
2 monitor with Three ABN showing where people can, it has
3 a drinking fountain. It has two rest rooms, so that
4 the people who are coming visiting. We have visitors
5 who come that support or are interested in Three ABN
6 from around the world to come and visit the station on
7 a regular basis.

8 Q. Okay. Now, on your literature you have a
9 1-800 number that you put out on various literatures?

10 A. Yes, ma'am.

11 Q. What's is that that 1-800 number that's put
12 on there?

13 A. 1-800-753-3326.

14 Q. And on that 1-800, if I were to call that
15 1-800 number would that take me to the reception desk?

16 A. I believe that it does.

17 Q. So it goes to the receptionist before it goes
18 anywhere else in the building?

19 A. We have an automated system, and I don't know
20 how that works to tell you the truth. I do know that
21 they come in and the receptionist is there, but there
22 are calls that when she's busy, that she, two or three
23 receptionists or whoever, how many is out there, if
24 they can't physically take them all, so then a

1 recording will ask them to wait or ask them, if they
2 know a number, to punch in a number and it can take
3 them somewhere else.

4 Q. And what is the size of that entry way, if
5 you recall?

6 A. Well, these naturally are just going to be,
7 it's a huge building, so approximately 24 x 30.

8 Q. Okay. I want to show you, do you recall
9 having a deposition taken, Mr. Shelton, on July the
10 11th, 2002?

11 Do you recall having a deposition taken?

12 A. Yes.

13 Q. Do you recall being asked a question with
14 regard to the size of the locations?

15 MR. BOOTHBY: Just a minute. Let us get the
16 deposition.

17 What page?

18 MS. RHOADES: Page, we're somewhere around 67,
19 68.

20 MR. BOOTHBY: Do you have a copy of the
21 deposition for the witness?

22 MS. RHOADES: For the witness? No, I don't.
23 He can use my copy.

24 I'm going to move on. I'll come back to this

1 in just a minute.

2 Now, with respect to the next section, after
3 you walk in the entrance way, what is then located to
4 your left?

5 THE WITNESS: The financial office.

6 Q. And do you recall what the approximate
7 dimensions of the financial offices are?

8 A. I think it's about 42 x 44.

9 Q. And who in fact inhabits that area?

10 A. Larry Ewing, our Financial Director, and his
11 employees that all work in the finances. I think there
12 is about five or six other employees there.

13 Q. Then if you walk into -- after from the
14 reception area and instead you turn right instead of
15 left?

16 A. Yes.

17 Q. What's located in that area?

18 A. That's the administrative area.

19 Q. And who were -- who are the individuals that
20 are housed in the administrative area?

21 A. Mollie Steenson, my secretary. Dee
22 Hildebrand, who is Production Manager, Lora Ford,
23 Martha. I have over a hundred workers, so I'm sorry,
24 some of them I don't actually know their names so well,

1 but Martha that works for Mollie is in there and
2 sometimes Barbara Nolan that works for Mollie also.

3 And Mollie's an administrative secretary for
4 me, and then it has a kitchen for employees for the
5 entire downstairs when they have lunch can come and
6 have a microwave and refrigerator and a little table,
7 and they can eat. It also has a bathroom and it has
8 Linda's office and my office.

9 Q. And what is the size of your office dimension
10 wise?

11 A. 16 x 20.

12 Q. And what is the size of your wife Linda
13 Shelton's office?

14 A. Probably the same.

15 Q. And what about the size of Mollie Steenson's
16 area, work area?

17 A. 12 x 14.

18 Q. Now, I asked you earlier about the size of
19 the entrance way.

20 Do you recall having a deposition taken on
21 January the 11th, 2002, and I'm looking at Page 70?

22 THE WITNESS: Yes.

23 MS. PETTY: July.

24 MS. RHOADES: I'm sorry, July. Excuse me.

1 ADMINISTRATIVE LAW JUDGE: Even I caught that
2 one.

3 MS. RHOADES: Yeah, July.

4 With respect to that, do you recall being
5 asked a question with regard to the particular
6 facilities and the particular areas of what the square
7 footage of those are?

8 THE WITNESS: Yes.

9 Q. And do you recall specifically asking what
10 the size of the areas are with respect to the entrance
11 way?

12 A. I'm sorry, say that again.

13 Q. Do you recall giving a statement or any
14 testimony with regard to the size of the entrance way?

15 A. I remember you asking me I think all the
16 rooms, so I'm sure it would include the entrance way.

17 Q. And do you recall giving an answer of
18 approximately 30 x 50?

19 A. No, I don't.

20 Q. Let me show you what is the deposition
21 transcript from July 11.

22 MR. MILLER: Your Honor, I have an objection
23 to this line of questioning. If opposing counsel would
24 like, I'm sure we could get the blueprint of the

1 facility that would show precisely the measurements of
2 the building, but Mr. Shelton, the foundation has not
3 been laid that he knows the precise square footage of
4 each of the rooms.

5 He's being asked to give a general estimate.
6 I just think it's silly that we handle estimate of the
7 room size of a few feet different than one at the time
8 of the deposition, because no, he's made no claims to
9 being -- having absolute knowledge of the precise
10 square footage of that building.

11 MS. RHOADES: I think with respect to that he
12 testified to it. I asked for approximations, but this
13 is more than just a little bit of square footage that's
14 off, and I think it goes to impeachment. He knew back
15 in July and then today our testimony has changed.

16 MR. MILLER: Your Honor.

17 ADMINISTRATIVE LAW JUDGE: This is not a
18 criminal matter. This is a property tax exemption
19 hearing, and as far as approximations, yes, he was a
20 carpenter, but that doesn't -- I can't tell you what
21 size this room is, and I think most people do not have
22 that kind of visual acuity, and if they do, more power
23 to them.

24 But I don't think this is appropriate as a

1 type of impeachment so, therefore, your objection is
2 sustained.

3 MR. MILLER: Thank you, Your Honor.

4 ADMINISTRATIVE LAW JUDGE: And you didn't even
5 make it yet, so maybe you should.

6 MR. MILLER: I object. Well, no, I did. I
7 said I objected to this line of questioning.

8 ADMINISTRATIVE LAW JUDGE: Okay.

9 MS. RHOADES: Now, the next area then, when
10 you go from your offices, I think you said the next
11 area was the main production facility, if you go back
12 out in the main area, the main production facilities?

13 THE WITNESS: As I come into the reception
14 area again?

15 Q. Yeah.

16 A. And I walk out straight, that's production,
17 yes.

18 Q. Okay. And basically do you have any
19 estimates with regard to the size of that particular
20 production facility?

21 A. I'm leery now.

22 ADMINISTRATIVE LAW JUDGE: Just give an
23 approximation. I mean --

24 THE WITNESS: Well, I knew the figures in '91,

1 that's been eleven years since we built the building
2 so, I mean, I've heard of them and gone over them and I
3 helped design the building, but it's been so many
4 years.

5 The production is broken up into numbers of
6 rooms, so I don't know.

7 Are you talking about individually? Are you
8 talking about --

9 MS. RHOADES: I want to talk about in total,
10 and what you call the production facility in total, Mr.
11 Shelton, and then we can get down to the different
12 components within that total.

13 MR. MILLER: I'm going to object. I believe
14 it calls for the witness to speculate.

15 ADMINISTRATIVE LAW JUDGE: I don't see that as
16 speculation. I just -- she's asking for an
17 approximation.

18 MR. MILLER: As long as she's asking for a
19 very general approximation maybe it's not speculation.

20 ADMINISTRATIVE LAW JUDGE: I think it's
21 relevant, but I do believe that's what you're asking,
22 is that correct?

23 MS. RHOADES: I am. I asked for an
24 approximation.

1 ADMINISTRATIVE LAW JUDGE: Okay.

2 THE WITNESS: 30 x 60.

3 Q. The entire main production facilities?

4 A. Well, production is different. You have to
5 specify when you say studios. We look at production as
6 one section. Studios A and B as another section.

7 If you're just talking about where we do the
8 editing, where we do the actual control rooms, that's
9 what I'm giving you, so I'm unclear.

10 Q. Let's go down and break it down then. Then
11 you have two studios, correct?

12 A. Yes, we do.

13 Q. A Studio A and Studio B I believe is how you
14 designated it as you testified yesterday?

15 A. That's correct.

16 Q. And these two studios, Studio A and Studio B
17 are on a single floor?

18 A. Yes.

19 Q. And with regard to Studio A, can you give us
20 an approximate size dimension of Studio A?

21 A. 60 x 62.

22 Q. And what would be an approximate dimension
23 then of Studio B?

24 A. 60 x 90.

1 Q. Now, with regard to the diagram, as I recall
2 looking at it yesterday, because we don't have any
3 layouts in evidence with regard to what's actually the
4 layout of the facility, there was a center section
5 between Studio A and Studio B?

6 A. That's right.

7 Q. What is contained in that center section?

8 A. That's the production area.

9 Q. Okay. And when you talk about production
10 area, can you tell us what activities occur with
11 respect to the production area?

12 A. That's where I mentioned yesterday, a room
13 that you might see when you watch CNN News, where you
14 have the desk, you have the monitors all up on the
15 wall, you have people sitting with switches and
16 headphones and people running graphics, and they're all
17 watching the people in the studio.

18 When my wife and I are doing in the set,
19 there are a number of people, including audio people
20 who are all in that and talking to the people on the
21 cameras and the floor director telling them what
22 cameras to go to and how to move the cameras to zoom
23 in, zoom out. That's production.

24 And each one -- each production, each studio

1 has a production room. So in that production area
2 you're looking at a production control room for Studio
3 A and a production control room for Studio B.

4 Q. Now, with respect to the production control
5 room for Studio A, approximately what's the size of the
6 square footage of that facility?

7 A. Can I think for just a second?

8 Q. You can think.

9 A. All right. You scared me after the first
10 one. Got me leery now.

11 Okay. Twenty feet wide, 16 hallway. Twenty
12 by -- did you ask me the question of the whole
13 production?

14 We didn't give the whole production section
15 yet, did we?

16 Q. That's correct.

17 A. Okay. Based on that I'm going to say, the
18 production, including the audio, which is part of that,
19 20 x 30.

20 Q. Now, with respect to Studio A --

21 A. It may not be 20 x 30. It might be closer to
22 18 x 24. I don't know.

23 Q. Now, with respect to Studio A?

24 A. Yes, ma'am.

1 Q. What kind of things go on in, what kind of
2 programming is produced in Studio A?

3 A. It's programming that we believe is
4 consistent with our Articles of Incorporation and
5 mission of Three Angels Broadcasting Network, and the
6 term religious, Christian programming may be more
7 appropriate. That all the programming that we do
8 there, you want to know specifically?

9 My wife and I do a daily program where we
10 interview missionary people from the General Conference
11 of Seventh-day Adventist from the different
12 conferences. Their missionaries overseas.

13 We -- people who have physicians who come and
14 teach about health programmings and our bodies are
15 created by God, and if we operate a certain way we can
16 live healthy and happier. They're all programs that
17 are, you're asking me my opinion, is a Christian
18 programming consistent with the mission of Three ABN,
19 so we do on the one set interviews.

20 We also, on Studio A we also have a set for
21 music. We have a piano. Guests come and sing gospel
22 music, then we have a little set for vegetarian cooking
23 programs, and then we have a little set that looks like
24 a front porch of a house that we sit in every day

1 usually with our little dog.

2 My wife's little dog Fluffy likes to sit on
3 the porch, and then we do our intro to our programs to
4 say who our guests, hello and welcome, who our guests
5 are going to be, and what people can look for that
6 today, who are our musical guests, and then we do a
7 scripture and little mini bible study and a prayer, and
8 then we go to our music.

9 Q. Now, with regard to all of those activities
10 that you've identified here that occur with respect to
11 Studio A, does Three ABN have any documents which
12 indicate exactly what time allocations are used for
13 purposes of cooking shows, health shows, Three ABN
14 presents, your music programs, those kind of
15 activities?

16 A. Do we have what?

17 Q. Do you have any documents at Three ABN that
18 identify those things?

19 A. Do I have any? Let me see if I get it
20 right.

21 Do I have any documents that allocate a
22 certain --

23 Q. That show, for example, I mean, if I can
24 rephrase my question for the witness, Your Honor?

1 ADMINISTRATIVE LAW JUDGE: Uh-huh.

2 MS. RHOADES: For example, does Three ABN
3 maintain any documents which indicate that for
4 approximately X number of hours or X number of minutes
5 or X number of days, however they decide to classify
6 it, the property is used for a cooking show?

7 THE WITNESS: I don't believe so.

8 Q. Then my question to you is and, Mr. Shelton,
9 there are no records that show exactly the time that's
10 allocated for specific purposes on that property, other
11 than your general statements as you've made here in
12 testimony?

13 A. Other than I have a television schedule every
14 month and I have the history of that for years that we
15 can go back and it will, if you're interested in
16 figuring up the hours, that's all documented of course
17 for each, for health, for music, for whatever.

18 Q. But that wouldn't document actually the use
19 of the property, would it, Mr. Shelton? Because don't
20 you do some editing of some tapes?

21 A. On that property.

22 Q. Okay. So with respect to the editing, so I
23 may actually film something for two hours, but when I
24 put it on a program it may actually only be for 45

1 minutes, correct?

2 A. Oh, sure.

3 Q. So, therefore, you have no -- you can't
4 provide to this court any information as to
5 specifically what kind of programming and the length of
6 time it goes on on that programming on that,
7 particularly on Studio A as we've been talking about?

8 A. Yeah. I -- I guess I don't know what you're,
9 what you're getting, what you're wanting me to say.
10 I'm happy to answer your questions, but I don't think I
11 understand what you're wanting me to say or what you're
12 trying to get me to say. I guess that's my problem.

13 Q. My simple question is, do you have any
14 evidence or do you maintain records or can you provide
15 any testimony to this court with respect to
16 specifically the amount of time on each of the various
17 activities and programming that you say is done at
18 Three ABN, how much time of -- on each of those
19 specific various categories that that property is used
20 for?

21 And we're talking about the five acres that's
22 the subject of this litigation, during the years 2000
23 and 2001.

24 MR. MILLER: Well, I'll object, Your Honor, as

1 to the relevancy of this, insofar as, once again, there
2 has been no foundation laid or evidence produced that
3 there is any program that takes place there that does
4 anything but further the exempt purposes of Three ABN.

5 It would seem that it might be relevant if a
6 particular activity had been identified that should be
7 carved out, but that hasn't been shown. I'm not sure
8 why this line of questioning would be relevant apart
9 from that.

10 ADMINISTRATIVE LAW JUDGE: If you'd like to
11 lay a foundation for the differences --

12 MS. RHOADES: Sure.

13 ADMINISTRATIVE LAW JUDGE: -- and the types of
14 programming.

15 MS. RHOADES: Could I take just a second?

16 ADMINISTRATIVE LAW JUDGE: Sure.

17 MS. RHOADES: Thanks.

18 (Discussion off the record.)

19 MS. RHOADES: Mr. Shelton, are there any
20 records that allocate, let me backtrack.

21 Now, you've indicated -- what are the areas
22 of programming, general programming that is done by
23 Three ABN?

24 I think we've talked about --

1 THE WITNESS: Christian programming.

2 Q. But I think you've specified them and has
3 attempted to provide testimony that you do for health,
4 you do a live programming, you do music. Those kinds
5 of categories of services that you provide on that
6 property, identify those for me.

7 A. The type of programming that we do?

8 Q. Uh-huh.

9 A. We do Christian programming in, all of it is
10 in my opinion is Christian of course, but musical. All
11 the music for instance that's ever sang and ever has
12 been, and as long as I'm there and have my wits about
13 me will always be singing the gospel. That's what we
14 have committed to do and what my Board has directed and
15 what I'm happy to make sure of.

16 The programs that we do, the preaching are
17 all preaching of the Gospel that Jesus Christ is Lord
18 and Savior and he came to save us and we can be saved
19 if we want to. That happens on that ground on that
20 particular set, Studio A, which I'm happy about that.

21 We have thoughts for the days, which are
22 pastors do small little mini sermons there. My wife
23 and I, every day she does a little mini bible study,
24 which literally takes the scriptures and encourages

1 people their thoughts, not so much teachings as
2 encouraging from psalms and from others. That
3 happens.

4 Then we do vegetarian cooking programs where
5 we describe how our bodies, and we have physicians come
6 in to tell us how our bodies are created. For
7 instance, we don't put sugar in our gas tanks, so why
8 do we want to put too much of it in our body. This
9 type of thing in relationship to our creator.

10 So if you're asking me what kind of programs,
11 I mean, I say Christian because, a Seventh-day
12 Adventist's health is part of our Christian message to
13 the world.

14 Q. Now, in your Three ABN promo that you
15 proffered as Exhibit Number 11, you indicate that you
16 have a health message.

17 Is that part of the programming that's done?

18 A. Yes, ma'am.

19 Q. How about signs --

20 MR. MILLER: Objection to -- I don't believe
21 11 was admitted into evidence. In fact, it was argued
22 strenuously by counsel and now she's asking about
23 evidence that she herself had excluded.

24 MS. RHOADES: First of all, we can still get

1 into that I think for the purposes of impeachment and
2 not for the purposes of admissibility. And to clarify,
3 and to have the witness clarify what his answers are.

4 What we have here, Your Honor, and it's very
5 frustrating on this side.

6 MR. MILLER: Your Honor, she's opened the door
7 to the exhibit. I mean, it's either evidence or not.
8 If she wants to use it as evidence for impeachment, it
9 comes in for what it is. We're happy with that of
10 course.

11 THE WITNESS: What are we impeaching?

12 ADMINISTRATIVE LAW JUDGE: The ruling on
13 Exhibit Number 11, as far as I said it was
14 nonadmissible and now she's opening the door to --

15 MS. RHOADES: I think where we're at, Your
16 Honor, is that all we hear is all of it's religious.
17 It's all Christian, but we have nothing that indicates
18 exactly what that is, and they have not presented
19 anything, and this witness is clearly not wanting to
20 present what those various activities are.

21 Let me ask, maybe I'll just rephrase the
22 question.

23 ADMINISTRATIVE LAW JUDGE: Okay.

24 MS. RHOADES: With respect to your

1 programming, do you have certain health topics?

2 THE WITNESS: Yes, we do.

3 Q. And with respect to those health topics you
4 produce on the property of Three Angels Broadcasting
5 Network, the property subject to the litigation for the
6 years 2000 and 2001, certain programs with respect to
7 health, correct?

8 MR. MILLER: I'll object to this line of
9 questioning, Your Honor, for the very simple reason
10 that we believed because of the State's position that
11 the question of health programming and its religious
12 nature was going to be relevant in this proceeding, and
13 because of that we had identified certain expert
14 witnesses to talk about health programming, the
15 temperance message, health performing with the relation
16 to the teachings of the Seventh-day Adventist Church
17 and the understandings of the bible.

18 A motion was filed where the State and the
19 Intervenors both claimed that those issues were
20 entirely irrelevant to this case and to the issues that
21 were -- that were going to be brought before Your
22 Honor, and now I find my witness undergoing a line of
23 questioning that is directly in that particular area.

24 THE WITNESS: Uh-huh.

1 MR. MILLER: I find that we have been denied
2 testimony of witnesses on that very topic, extensible
3 on the basis that it's irrelevant and, therefore, I
4 would use the argument that has been made by the State
5 to the line of questioning here.

6 MS. RHOADES: I think, Your Honor, with
7 respect to the objection I will withdraw the question.

8 ADMINISTRATIVE LAW JUDGE: All right.

9 MS. RHOADES: And that will take care of the
10 objection and those issues raised by Mr. Miller.

11 I will ask, if I can continue with my line of
12 questioning?

13 ADMINISTRATIVE LAW JUDGE: Okay.

14 MS. RHOADES: In the year 2000, Mr. Shelton,
15 what percentage of time was Studio A used for what you
16 call sabbath services?

17 THE WITNESS: I mean, I don't call sabbath --
18 explain that to me. Tell me what you mean.

19 Q. I think yesterday you used the words, you
20 used the words that the Seventh-day Adventist use
21 sabbath services and they use the word sabbath, sabbath
22 school.

23 What is -- how does the Seventh-day Adventist
24 define the word sabbath services?

1 THE WITNESS: I don't know --

2 Q. Do you recall testifying to that yesterday?

3 MR. MILLER: Objection.

4 MS. RHOADES: I would ask that, first of all,
5 I want to, for purposes of the record, that counsel is
6 coaching the witness with respect to --

7 MR. MILLER: I'll object then as to the
8 relevance of the question. I don't know where it's
9 going.

10 ADMINISTRATIVE LAW JUDGE: I'm going to
11 overrule your objection, because I don't know where
12 it's going either, but he did use the terminology
13 yesterday and I'd like it defined.

14 THE WITNESS: Okay. Sabbath is described in
15 the bible and we can go to Exodus, the 20th Chapter.
16 We can also start in Genesis Creation, and where we get
17 the term sabbath services is, the Lord says, in the
18 evening and the morning where the first day, you look
19 at Genesis and God created an evening and morning of
20 the second day and God created it and it goes down the
21 sixth day after he created Adam and Eve. And on the
22 seventh day it says, in the evening and the morning.
23 So according to the bible we don't have midnight to
24 midnight. We have evening to evening, and the evening

1 and the morning were the first days. So starting
2 Friday evening at sundown starts a sabbath period, a 24
3 hour period that the Lord says for us to set that day
4 aside, don't do any work in it, don't buy, don't sell,
5 get away from the world.

6 In other words, focus on me and, for
7 instance, during this sabbath services we don't do our
8 regular shopping or our regular what have you's. So
9 the sabbath services are services that's held on
10 Saturday, which is the seventh day of the week.

11 Now sabbath morning when we're at church
12 services we have, similar to a Sunday school, so some
13 may know it as Sunday school, where you have teachings
14 of the bible, then after that you have the worship
15 service where you have your preaching and your regular
16 service similar to any other protestant church.

17 And so that sabbath services are where you're
18 preaching on, during your preaching time, so that
19 happens on sabbath every week.

20 MS. RHOADES: Now, with respect to -- I want
21 to make sure that I get it clear because I don't know
22 that I understand the definition necessarily of sabbath
23 services.

24 What occurs during that period that you've

1 just defined as sabbath services? I think you said
2 from Friday evening until Saturday morning?

3 A. The sabbath, I'm explaining it to you.
4 That's the sabbath, Friday evening sundown to Saturday
5 evening. What happens on the sabbath services on
6 Saturday morning are the preaching, the teaching, and
7 the music.

8 Q. Okay. Could you please define for me then,
9 is there -- with regard to -- you said you had a
10 worship service?

11 A. Yes.

12 Q. What are the components of a worship service?

13 A. Well, usually music, preaching, and teaching.

14 Q. Are baptisms part of this worship service?

15 A. Could be, not very often.

16 Q. Would you have any type of what would be
17 commonly referred to as a sacrament or a communion or a
18 Lord's supper?

19 A. Periodically.

20 You're talking now at an Adventist Church?

21 You have to tell me. Are you referring to
22 what happens at a Seventh-day Adventist Church?

23 Q. Just generally, is there any set schedule for
24 having --

1 A. Every several months maybe.

2 Q. Okay. Now, with respect to Studio A?

3 A. Yes.

4 Q. Do you have, for the year 2000, any documents
5 at Three ABN that allocates the percentage for which
6 Studio A is used for the purposes of preaching?

7 Does Three ABN maintain those records?

8 MR. MILLER: Your Honor, I'm coming back to my
9 foundation objection. I'm not sure the foundation has
10 been laid as to the relevance of these particular
11 activities in that building.

12 MS. RHOADES: I think those are the subject
13 matter of this whole litigation, Your Honor.

14 ADMINISTRATIVE LAW JUDGE: I would agree.

15 MR. MILLER: Your Honor, I think that the --
16 in fact, the State has made clear that the programming,
17 the events that take place there are not at issue as
18 far as their religiosity.

19 We were told they wouldn't be an inquiry into
20 whether certain activities were religious or not, so
21 that's why Denny Fortin from the seminary and Ted
22 Wilson were, as I understand it, prevented from coming
23 to attempt to make distinctions between now preaching
24 apparently and the health message as far as being

1 religious activities is something I think the State has
2 foreclosed itself from, because of the motion they
3 filed excluding our witnesses on those topics.

4 So I fail to see how the foundation has been
5 laid as to -- as to any of the activities that have
6 taken place in that building as being secular in
7 nature.

8 MS. RHOADES: I'm just going to repeat my -- I
9 think this is the subject matter of this property. I
10 don't think that the State has taken that position.
11 We're not getting into the religious.

12 What the message is, I'm asking if they have
13 any indications as to the percentage of time that that
14 particular property is used for different activities.
15 That's all I'm asking.

16 ADMINISTRATIVE LAW JUDGE: Yeah. I think she's
17 asking a different question than what you're alluding
18 to, and I'm going to go ahead and allow it.

19 MR. MILLER: My objection continues for the
20 record.

21 ADMINISTRATIVE LAW JUDGE: I understand.

22 MR. MILLER: Okay.

23 THE WITNESS: So ask me one more time.

24 MS. RHOADES: Could we have it repeated for

1 the purposes of the court reporter?

2 (Whereupon the requested
3 portion of the record was read
4 back by the Reporter.)

5 THE WITNESS: No.

6 MS. RHOADES: Now, with respect to the year,
7 calendar year 2001, does Three ABN maintain any records
8 with regard to the percentage of time that Studio A is
9 used for preaching?

10 A. As I mentioned earlier, I just want to make
11 sure I get this clear, all of my -- after we produce
12 the programs, what actually shows on the air is all
13 documented so, yes, we can go back and say how much
14 preaching was done on Studio A, because everybody in
15 150 or however many, it's not that, but thousands of
16 people have our TV guides that show what preaching went
17 on and what happened so, yes.

18 Can we figure it up? Yes. If you're asking
19 me, do we in advance plan it? No different than on my
20 case, how many hours are allocated to this testimony to
21 that, we don't know, but it just happens and then
22 afterwards you have a record. That's what I'm trying
23 to get at, so if that makes any sense.

24 ADMINISTRATIVE LAW JUDGE: Uh-huh.

1 MS. RHOADES: Now, Mr. Shelton, another
2 question for you.

3 Doesn't the offices of Three ABN close at
4 noon on Friday?

5 THE WITNESS: Yes.

6 Q. So, therefore, and you've defined sabbath
7 from sundown on Friday until sunset on Saturday,
8 correct?

9 A. That's correct.

10 Q. And during those periods of times Three ABN,
11 there is no programs produced on the property of Three
12 ABN during that time, correct?

13 A. You want to know produce or are we trying to
14 find out --

15 Q. I'm talking about produced?

16 A. We produce -- do we work seven days a week?
17 No. We don't produce on Sunday either.

18 Q. My question is very specific.

19 From, in the year 2000, did Three ABN close
20 its offices at noon on Friday?

21 A. Yes.

22 Q. Now, with respect to the -- and when does it
23 then subsequently reopen?

24 A. The administrative offices? Because see,

1 here, let me do this.

2 Actually some of the people go home at noon,
3 but the pastors, no, the offices aren't closed and in
4 fact they're there until midnight Friday night
5 answering phones, but in general, yes, the
6 administrative, the secretaries, the business..

7 But the programs we produce ahead of time are
8 aired on sabbath so we have sabbath services from that
9 studio.

10 The people at home see services every sabbath
11 coming from that studio.

12 Q. But with respect to that particular parcel of
13 property?

14 A. Yes.

15 Q. There are no shows that are produced on
16 Friday from noon until the start -- the following
17 Monday, correct?

18 A. Not always. Sometimes we do do programs on
19 Saturday. We do live programs.

20 Q. So then your earlier statement that you close
21 at noon isn't an accurate statement or is it?

22 A. No. I'm explaining that to you that some
23 parts. You asked me about the administrative part I
24 believe is what you said.

1 Q. No, no.

2 I asked about -- I was asking about the
3 production studios.

4 If you misunderstood my question then I
5 apologize.

6 A. Well, I'm sorry. I misunderstood it when I
7 heard the administration building.

8 The production in general is very simple. In
9 general we close at noon except for pastoral in that
10 building, that still is there until I think usually
11 midnight Friday nights to answer questions.

12 Our workers work nine hours a day four days a
13 week and four on Friday. I give them that option or
14 they could have worked eight hours a day and we could
15 have closed that. They still get their 40 hours in,
16 but what happens is, in general we travel weekends
17 on -- where Studio A that my wife and I use, we're in
18 churches every weekend, but there are times that we
19 stay there and we do special live events from maybe
20 sabbath morning or sabbath afternoon.

21 Which in the year 2000 and 2001 I think we do
22 have record as we go back to, there is on more than one
23 occasion we did in the afternoon have live services
24 there on sabbath, yes.

1 Q. Now, with respect to those, do you maintain
2 any documents or have you maintained any documents with
3 respect to when those were in fact used during the term
4 that you defined as sabbath?

5 A. The television schedule is the record that I
6 could go back and show you so, yeah. Every program
7 that we do is documented, so we keep the TV schedules,
8 so I'm sure we can go back and show you just exactly
9 when we did sabbath services there.

10 Q. Now, with respect to those particular TV
11 schedules however, Mr. Shelton, they don't show -- they
12 show when particular programs are aired.

13 It doesn't show when they were produced,
14 correct?

15 A. Well, if it says live, some of them say live,
16 so it tells you exactly when it's produced. The ones
17 we do on Saturday should say live and it will tell you
18 exactly when they're produced.

19 Q. Now, with respect to Three ABN Live, which is
20 one of your shows, correct?

21 A. Yes.

22 Q. And that is in fact aired at other times
23 other than when it is live, correct?

24 A. That's right. And then we put up prerecorded

1 during the show to show that it's not actually live.

2 Q. So, in fact, to make a statement that -- that
3 your program schedules would necessarily show that your
4 program schedules show Three ABN Live, but it may be
5 actually a recorded program?

6 A. The program is entitled Three ABN Live. It
7 doesn't mean it's live when it's shown. It is live
8 when we first do it on Thursday nights, but we repeat
9 the program, so when it's repeated we put, have our
10 master control put up prerecorded, because we don't
11 want people -- we're asking them to call in questions
12 and now at two in the morning we don't have any people
13 there to answer the phone, so we put prerecorded so
14 they won't be calling in.

15 We're not, I guess maybe that answers you. I
16 don't know.

17 Q. So the answer, I want to go back and make
18 sure we've got it.

19 The answer as I understood it is that you
20 don't maintain any records that shows specifically what
21 those studios were used at any given time?

22 MR. MILLER: Objection. I believe that
23 mischaracterizes the witness's testimony.

24 ADMINISTRATIVE LAW JUDGE: Objection

1 sustained. I think --

2 MS. RHOADES: Well, let me rephrase it.

3 Mr. Shelton, do you have any records that
4 show or indicate the specific time that each part of
5 that Studio A was used in the year 2000?

6 THE WITNESS: Of each part?

7 Q. I'm sorry, strike the word part.

8 That Studio A was used in the year 2000?

9 MR. MILLER: Objection, asked and answered.
10 Seems to me we've gone over this ground a couple of
11 times.

12 ADMINISTRATIVE LAW JUDGE: But I think there
13 are have been a couple different discrepancies as far
14 as the responses. I'm going to go ahead and let the
15 question to make it clear.

16 MR. MILLER: Okay.

17 MS. RHOADES: Do you need it repeated, Mr.
18 Shelton?

19 THE WITNESS: I'm sorry, I do. I've never
20 been accused of being the sharpest knife in the drawer
21 so.

22 Q. With respect to the year 2000, calendar year
23 2000?

24 A. Yes, ma'am.

1 Q. Three ABN does not have any specific
2 documents which indicate the times, the specific times
3 in which the studios were used for specific purposes?

4 A. Again, that's mostly true, but are you
5 wanting me to say yes or no? Is that what you're
6 trying to get me to do?

7 Q. It's a yes or no question.

8 A. Well, it's yes some of the time and no some
9 of the time, because I do have some records as I just
10 told you that are documented, that show when these
11 programs, what happened there, and so I do -- I'm not
12 trying to give you a hard time, I'm just telling you if
13 I have to say, because I don't -- myself I don't see
14 the relevancy in any of it.

15 In other words, whether we put a percentage
16 or didn't I guess that must be something, I don't
17 know. It's all Christian programming, so I'm not
18 trying to hide anything.

19 I just don't understand. It's like -- I
20 don't mean this disrespectful, but it's like, well, so
21 what, what percentage you did. It's all under in our
22 opinion, so I'm not trying to hide any of that, but I
23 think it is.

24 I would like to be able to say yes or no we

1 don't keep any records, though we do, because of our
2 television schedules.

3 So, Your Honor, I'm having a hard time. What
4 do you want me to say? You're the boss. You're the
5 one that needs to be convinced, so you tell me which
6 way your leaning and I'll go with you.

7 ADMINISTRATIVE LAW JUDGE: Not quite the way
8 we do things here.

9 MS. RHOADES: I mean, it was a very specific
10 question.

11 ADMINISTRATIVE LAW JUDGE: Yes.

12 MS. RHOADES: Do you keep any of those
13 records?

14 ADMINISTRATIVE LAW JUDGE: You have to answer
15 that yes or no honestly.

16 You've given --

17 THE WITNESS: All the TV guides, those
18 records.

19 ADMINISTRATIVE LAW JUDGE: You've given all
20 the qualifications of the other areas, so I certainly
21 understand that. But I think you need to either answer
22 the question with a yes or a no.

23 MR. MILLER: Objection, Your Honor. I mean,
24 he's given qualifications, which show that he can't

1 answer it yes or no because it's an absolute.

2 ADMINISTRATIVE LAW JUDGE: I understand, but I
3 think for the record that he should answer the
4 question.

5 THE WITNESS: It's really hard. I'm going to
6 have to think a second, because I have nothing to hide,
7 so I'm not trying to evade you, avoid you, or evade
8 you, whatever you say, but, on the other hand, I do
9 have some records.

10 But you're asking me if I have to keep all of
11 the records and all I can say is yes to, I have some
12 records and no, the majority I don't have.

13 Can I do that?

14 MS. RHOADES: And I'm going to ask that the
15 answer be stricken as it's not responsive to the
16 question.

17 THE WITNESS: Help me.

18 ADMINISTRATIVE LAW JUDGE: They're the ones --

19 THE WITNESS: Well, I don't know. I mean, --

20 MR. MILLER: I think that's the answer.

21 THE WITNESS: We're wanting -- you told me
22 yesterday you're the one we're trying to impress. We
23 want you --

24 ADMINISTRATIVE LAW JUDGE: No, you're trying

1 to convince me.

2 THE WITNESS: Convince you. Yeah, I'm sorry,
3 not impress. You're the one we're trying to convince
4 so you hear what I'm saying.

5 ADMINISTRATIVE LAW JUDGE: But you have to
6 answer the question that was asked, and just because it
7 may not look exactly good to you, but you still have to
8 answer the question.

9 MR. MILLER: What is the question again?

10 ADMINISTRATIVE LAW JUDGE: The question
11 again?

12 MS. RHOADES: Could the court reporter read it
13 back?

14 (Whereupon the requested
15 portion of the record was read
16 back by the Reporter.)

17 MS. RHOADES: That's the question I would like
18 answered.

19 THE WITNESS: Can I go one more before I
20 answer?

21 ADMINISTRATIVE LAW JUDGE: No.
22 Either yes or no.

23 THE WITNESS: No. It's tough.

24 MS. RHOADES: Now, with respect to the

1 calendar year 2000, does Three ABN keep or maintain any
2 records that shows the specific time that Studio A was
3 used for the various programs produced in the facility
4 during 2000 -- 2001? Excuse me.

5 A. I just did which one?

6 Q. 2000.

7 A. 2000. And this is 2001?

8 Q. Yes.

9 A. And based on that, the answer would be the
10 same.

11 Q. So the answer would be no?

12 A. No.

13 Q. Now, we're going to go back.

14 A. I want to go back to television.

15 Q. Now we're going to go back. Mr. Shelton, I
16 think you've described what occurs with respect to
17 Studio A.

18 What kind of programming or activities then
19 occur with respect to Studio B?

20 A. Studio B is all religious programming,
21 Christian programming, all with a total Christian slant
22 about Jesus is the only answer for this world today.

23 Q. Okay. Now, when you start saying that, I
24 need to have specifics. When you say what those are,

1 when you're using that word, religious programming, can
2 you identify what in your view those religious programs
3 consist of?

4 A. We have a little church. It looks like the
5 front of a church that I mentioned yesterday with the
6 pulpit. We have preachers come in and preach the word,
7 just as you would hear on a sabbath morning or Sunday
8 morning you would hear.

9 From there we produce programs of talking
10 about Christian subjects, different type of subjects
11 I'm sure there. We have a program that's an exercise
12 program where the leader talks about the health and how
13 important it is to have exercise and how God created
14 our bodies to exercise, and so we bring it in
15 relationship with -- to the spiritual end so,
16 therefore, we classify it again as our church teaches
17 health. That's part of it, and that's mainly all
18 that's there because the studio is not finished.

19 So as I mentioned yesterday, the only time we
20 can use it is when our remote truck -- we're in the
21 process of finishing it, but right now we haven't
22 produced a lot of programming in 2000 and 2001, but
23 it's not full time in operation as this other but soon
24 will be.

1 Q. Now, you indicate it wasn't full time then
2 with respect to Studio B during the year 2000, do you
3 maintain any documents to show these specific amounts
4 of time that Studio B was used during the calendar year
5 2000?

6 A. No.

7 Q. Now, the same question with respect to the
8 year 2001.

9 A. No.

10 MS. RHOADES: Okay. Thank you. Your Honor,
11 if we can take a break. I'd like to get some water.

12 ADMINISTRATIVE LAW JUDGE: That will be fine.

13 (Whereupon a short recess
14 was taken.)

15 ADMINISTRATIVE LAW JUDGE: Back on the
16 record. I'll remind you you're still under oath.

17 MS. RHOADES: Mr. Shelton, we've talked -- oh,
18 yeah. Also for the purposes of the record, I would
19 like to advise the Hearing Officer that Mr. Miller and
20 Mr. Shelton were conferring during the time of the
21 break.

22 My understanding is that that is
23 inappropriate while the witness is still sworn and
24 under testimony. We would like a direction that that

1 not occur further, as it leads to witness coaching,
2 etcetera.

3 ADMINISTRATIVE LAW JUDGE: All right.

4 MS. RHOADES: Thank you.

5 ADMINISTRATIVE LAW JUDGE: However, I did tell
6 Mr. Miller to reassure his client. I didn't tell him
7 to -- so that may have been exactly what that was.

8 MS. RHOADES: Yeah.

9 And I know it happened yesterday too and I
10 just didn't say anything about it, but I wanted to
11 today.

12 Mr. Shelton, we've talked about now in the
13 main facilities, so that we've gotten the landscape
14 covered. We've talked about the entrance way. We've
15 talked about the administrative offices. We've talked
16 about the Financial Department. We've talked about
17 Studio A and Studio B, and then in the center between
18 Studio A and Studio B is what you call I think the
19 production --

20 THE WITNESS: Yes.

21 Q. -- center?

22 A. Uh-huh.

23 Q. Now, are there any other components of the
24 production center other than we have discussed here

1 today?

2 A. Yes.

3 Q. Okay. What other production, what other
4 components are in that production center then?

5 A. We have one, two, three, at least three
6 editing bays.

7 Q. Okay. And with -- any other items on that
8 you --

9 A. You want me to explain all of them?

10 We have editing bays. We've talked about
11 Control Room A and B, then we have an engineering room
12 that just houses a lot of equipment for the phone
13 system, as well as for the television to be able to
14 transmit and to uplink, take our signal from where
15 we're speaking through the lines and outside, up to the
16 transmitter and up to satellite, so we have that room.

17 We also have an engineering room where
18 equipment is broken, we have to fix it. The tape
19 machine goes bad while we're on air or off air. We
20 have to fix it, then we have our Director of
21 Broadcasting, Moses Premo. He's over engineering. His
22 office is there. His secretary Flo is there, and then
23 we have a green room we call it. It's a little waiting
24 room for guests getting ready to come on the set who's

1 not actually on, but we're going to add someone else.

2 They sit and also a makeup room where they
3 try to make us look better before we go on the air and
4 then we have a couple, I think probably closets for
5 maintenance supplies, and now -- what, you're talking
6 about 2000 and 2001?

7 Q. Yes, 2000 and 2001?

8 A. Okay.

9 Q. And anything else in that -- in that center
10 section between, as best I can put it, between Studio A
11 and Studio B after you enter from the entrance way?

12 A. Okay.

13 Q. Anything else in that area?

14 A. Well, when you come in the hallway and we go
15 over it again. Come into the hallway, to the right is
16 Studio A, which also incorporates the audio. To the
17 left is the green room. In front of that as I walk
18 down the hall is the editing bay. To the left, as I go
19 continue down the hall to the left is the room that's
20 the equipment room that I was mentioning to take the
21 signals to satellite.

22 When I pass that then I'm to the engineering
23 work room I believe. It's the engineering work room. I
24 think there is one small office I believe for the

1 engineering, people who work in engineering that do the
2 equipment to do their paperwork. They store the
3 paperwork, and then the actual room where they work.

4 Then at the end of the hallway is Moses
5 Premo's office and Flo is right to the end.

6 So now if I come back to the front and head
7 down to the right I have my Production Control Room A
8 and audio, then I have a little space in between that
9 that people go in and work on equipment from behind,
10 and then Studio B and then directly behind Studio B, as
11 I continue to head out towards the BOS there is an
12 editing bay, and as I round the corner there is, go
13 down, there is another editing bay on the right, then I
14 believe there is a closet or two on the right, and then
15 on the left there's a makeup room and I can't
16 remember. That's most of it.

17 Q. Okay. Now, with respect to the areas, if you
18 can give us an approximation in square feet of that
19 area of the production center, which is from the
20 entrance way area back all the way to BOS Auditorium,
21 excluding the two Studio A and Studio B, because you've
22 given us the square footage for those, and what is the
23 remaining section?

24 A. Okay. So everything I just described to you,

1 you want to know that square footage. Well, I believe
2 it's 60, approximately -- the building, the main
3 building is 60 feet and the Studio A and B, and it
4 incorporates all of that. That production area
5 actually then would be, I don't know, 40 or 50 x 60,
6 maybe 50 x 60.

7 But actually the engineering rooms now go out
8 and were in 2000 and 2001 as I think about it, I was
9 thinking it was all in the 60 foot wide, but I think it
10 probably would be extended to maybe 80 feet wide or 80
11 feet in length and probably 50 feet long. Again, it's
12 hard to sit here and think about it.

13 Q. Okay. Now, then as I understand from the
14 facility you go back into the BOS Auditorium area?

15 A. BOS, uh-huh.

16 Q. Now, can you tell us -- give us a physical
17 description of the BOS Auditorium?

18 I think you talked about it in somewhat
19 generalities but if you could kind of tell us
20 specifically how the layout of it is?

21 A. In 2000 and 2001 BOS Auditorium as you walked
22 in there is a large stage, that stage area. I believe
23 the building itself was either 90 x 115 or 75 x 115.
24 I'm thinking 90 x 115 is the building. At the front of

1 that is a large stage that might be 30 x 60 or
2 something like that.

3 It has a couple of side rooms so that
4 ministers before they go out to do the live programs or
5 speakers or singers can prepare.

6 There is a couple of bathrooms. I believe
7 one on either side of that, then you just have a big --
8 the rest of it is for seating, other than the back end
9 there is an area that has some bathrooms for men and
10 women, two or three stalls apiece I believe, and it's a
11 room maybe 12 x 30 or something. I'm not sure, two
12 stories, because up above the bathrooms is where the
13 audio men, the audio control that sit in the back of
14 the building and control the audio for the rest of it,
15 so I think that's basically it.

16 Q. Okay. Now, is that all of the facilities
17 that you have and what you call your main facility on
18 the subject property?

19 A. Well, that's the first floor.

20 Q. The first floor.

21 And then what is above it on the second
22 floor?

23 A. Okay. Yeah, that's -- that would describe.
24 I think we've described that. There is, actually part

1 of BOS Auditorium there is a door that's connected with
2 what I talked about Moses Premo, the engineering and
3 all of that. There is an outside door entry and there
4 might be an area there that I'm not sure of how big it
5 is, 15 x 20 or 30 or what have you, that is brought to
6 bring supplies in and out if you're going to bring the
7 PA system or we have to move the piano in and out to
8 the stage, so there is that part of it also.

9 Q. Okay. And then you go up to the second floor
10 and what's housed on the second floor?

11 A. Okay. When you go upstairs, as soon as you
12 get to the top of the stairs there is a graphics room
13 where this video, the videos that you saw were created
14 there for the most part.

15 As you turn to the right there is a kitchen
16 area that also serves as a Board room where we have our
17 Board meetings, but it also serves as a kitchen and
18 dining area. We have a small kitchen for the workers
19 for the upstairs part of the building.

20 We have two bathrooms. We have a small area
21 that's for the construction manager's office, the
22 purchasing agent actually. He works as a purchasing
23 agent for materials, his office.

24 And then as we go down to the left we have a

1 combination that's a graphics and desk top publishing
2 office. As we go past that, I believe the next two
3 offices that house two people apiece are pastoral
4 ministers where we have our pastors who are there as
5 we've already discussed is their offices, and I think
6 there is at least four pastors.

7 Across the hall from them is two production
8 offices for our producer of our Three ABN presents
9 program for our Director.

10 As we head on down to the right there is an
11 area that has a fax and a phone, computer for, that has
12 the bible and what have you for ministers or people who
13 are coming that need to look up some information or
14 they need to have somebody fax them some information.

15 There is a little area there and then above
16 the BOS stage, I believe in two thousand one and two we
17 have what's Marketing Department. We have two offices
18 on the right. We have one I believe office on the
19 left, and in 2000 and 2001 that's all that was there.

20 Q. Okay. Now, with respect to you identified,
21 first of all, can you give us an overall square footage
22 of the second floor, to the best of your knowledge?

23 A. Well, it's directly over the bottom floor, so
24 I can't remember if it was 50 by, the main section, but

1 once again, the marketing goes out beyond it, so we
2 know we're probably at least 40 feet wide by 60 feet
3 long, added another 20 feet to that, so maybe 80, maybe
4 40 x -- 40 x 80 or 50 x 80 is my guess.

5 Q. Now, what is the approximate size to the best
6 of your recollection of the pastoral department
7 offices?

8 A. Oh, 14 x 18.

9 Q. Now, with respect to that, then you also have
10 a marketing department?

11 A. Yes, ma'am.

12 Q. When was the marketing department first
13 started, Mr. Shelton?

14 A. You know, I don't know. I think '99 maybe.
15 I don't -- I actually don't remember.

16 Q. Okay. And what is the purpose of the
17 marketing department?

18 What exactly does the marketing department
19 do?

20 A. The marketing department takes the calls of
21 people and helps -- they're the ones that promote the
22 videos, such as this when cable companies have an
23 interest in showing Three ABN they are programming.
24 They call and find out where they can get our

1 programming, so our Marketing Department gets their
2 names, addresses, and sends them materials, such as you
3 just saw, to send to them so that they can see whether
4 they want to show our programming or not.

5 They also handle, if we're going to churches,
6 they also handle newspaper or radio coverage of
7 people. When we go to certain areas also, they hear
8 that we're coming. So if they see us in a certain
9 downlink area people will want to do radio interviews
10 with us while we're -- this Thursday night if I'm out
11 of Court we'll be in Pacific Union College in
12 California, so there is marketing that happens and the
13 marketing department will line up with, if there is any
14 local or television news coverage, the fact that we're
15 there, and so they just do, that's in general and they,
16 cable and downlink and what have you information.

17 Q. Do you have an individual who is in charge of
18 your marketing department?

19 A. I do.

20 Q. And who is that individual?

21 A. He's Eugene Warfel. He's a pastor.

22 Q. And are any other outside entities consulted
23 or assist Three ABN in their advertising or marketing
24 of their products?

1 A. Say that one more time.

2 Q. Does, in the year, let me rephrase.

3 In the years 2000 and 2001?

4 A. Okay.

5 Q. Did Three ABN consult with any type of
6 outside advertising or marketing agents to assist you
7 in advertising your services?

8 A. I'm sure that we did.

9 Q. Okay. And do you have any idea who those are
10 and to the extent that you have expended money towards
11 that?

12 A. No, other than I just mentioned newspapers,
13 that if we're going somewhere, to run an ad so people
14 invite people to our meeting that we hold on the
15 weekends where we preach and teach and sing.

16 Other than cable stations that want to see
17 Three ABN or we want them to show us, so we do
18 connections. That's usually the outside people we're
19 dealing with.

20 Q. Do you know how many people you employ in
21 your marketing department?

22 A. Let's see, one, two, three, four I believe.

23 Q. Now, you indicated that there is a small
24 third floor --

1 A. Yes.

2 Q. -- area to the main building?

3 A. Yes.

4 Q. And what is the approximate size of that
5 third floor square footage wise?

6 A. 16 x 20. I haven't been up there in a long
7 time. I would have to guess 16 x 20, maybe a little
8 bigger. I'm not sure.

9 Q. Now, in the calendar years 2000 and 2001, on
10 the main facility was there a place where Three ABN
11 stored satellite dish receivers?

12 A. Temporarily we did. If we were full, if the
13 Call Center was full, we would store them. When the
14 BOS wasn't being used, we would store them there.

15 Q. Okay. And with respect to those,
16 approximately what percentage or what square footage of
17 the property was used for storing the satellite dish
18 receiver systems?

19 A. Well, it always varied because they mail them
20 out every day, and so it might be, in the auditorium
21 might be a 50 foot by 50 foot. Sometimes it might be a
22 10 x 10. It might be -- I doubt it's more than 50 x 50
23 but it could have been, but just an estimate.

24 Q. So then there weren't constantly productions

1 going on in the BOS Auditorium, because during certain
2 times you would have to have, that facility was used
3 for storage for the satellite systems, correct?

4 A. No, because it didn't affect the production
5 at all, because that would only be if we invited the
6 public, which when we did invite the public we cleared
7 it out.

8 But when we had our Net series that we talked
9 about yesterday, Net 2000, Pentecost 2000 we called it,
10 but other than that, the stage was there and we didn't
11 have an audience so it didn't make any difference if
12 there were dishes there or not, because the people --
13 we produced the music and it was mostly done for music
14 guests on the BOS stage.

15 Q. Now, with respect to, we've talked about the
16 main building, and you have a second building which I
17 think you typically referred to it as the Call Center?

18 A. Yes.

19 Q. Can you please describe for us what the Call
20 Center is?

21 A. Yes. The Call Center is where we receive the
22 calls, most of the calls for the shipping and the
23 receiving. It's where -- the Call Center houses the
24 products that we giveaway or we sell, such as CDs and

1 tapes, cassettes, books.

2 We also have a small printing, where we print
3 out a number of items that we send out. We, in fact
4 some of the little books or some of the whatever we
5 print up, many of those we do ourselves rather than use
6 outside printing.

7 It houses an office where the Call Center
8 manager is. It has a couple of bathrooms. It also has
9 a small kitchen for the employees, and then it has a
10 larger open area that's divided by small dividers,
11 portable dividers where people answer phones for people
12 who are calling in their requests for whatever it is
13 that they would like to order, and then we have a
14 person who is a technician who takes calls when people
15 with satellites are having problems installing them
16 that they purchased that he answers the phones and
17 tells them how to get their satellite on-line.

18 Q. Now, with respect to -- you just mentioned
19 the -- I just lost my train of thought.

20 With respect to the Call Center, and how many
21 employees are employed by the Call Center or employed
22 in the Call Center area for the year 2000, do you
23 recall?

24 A. I don't know exactly. I'm going to guess

1 approximately or estimate, the reason, we have
2 volunteers who come and they'll spend months at a time
3 and sometimes just a week or a few days, so when I go
4 over there I have a combination of volunteers who are
5 there just helping or actual workers, and so depends on
6 how many volunteers that we have do we need actual
7 people doing that, or can we use them in other areas.

8 So at any given time that would change, but
9 I'm going to say up to, I'm guessing, ten, probably an
10 estimate would be 10 to 12 full-time people, maybe
11 less.

12 Q. Now, when a call comes in and somebody wants
13 either something that you are giving away, that you are
14 advertizing as giveaway or a product for purchase, can
15 you please tell us how that part of the transaction is
16 done, from the second you get a call, clear through to
17 the shipping of the item requested?

18 A. Yes, I think I can do that. I did it
19 yesterday, so I should be familiar with it.

20 They receive the call. The person who
21 answers the call takes the order, and so once they get
22 the order, depending on what that is, whether it's a
23 book, whether it's a CD, they take this order then to
24 Christa Benz. Christa is the manager of the shipping

1 and receiving in that department.

2 If it's books, CDs or tapes, then Christa
3 then farms that out, if you will, to any number of
4 people that she has, where we have everything stored
5 and so they will pack the materials. Somebody else
6 will make the labels, usually somebody else would make
7 the labels with the name and the address.

8 They also then take this information and
9 someone else puts it in a computer to keep a record of
10 each person that calls and what their orders are. So
11 we keep the records, so we have somebody answering the
12 phone, somebody putting in the computer, somebody
13 actually printing out the name and address where it's
14 to be mailed, somebody actually packaging it in the
15 envelope or the box if they want, depending on how much
16 or how many they want.

17 And then we have somebody from, usually the
18 guys will come in if it's a larger order and then they
19 carry it out to the shipping and loading dock.

20 If it was satellite systems, for instance, if
21 the person wants a satellite then usually they have to
22 carry that out to the loading dock and also -- so
23 basically that's it. Then there is a record of when
24 something gets shipped. We keep a record from the UPS

000291

1 of when something left, so that we have record of that
2 and a tracking number, and they take care of that. So
3 from the time it comes in until the time that it goes
4 out, I think that's the most of it.

5 Q. And when the individuals -- then, Mr.
6 Shelton, when an individual calls in and orders, is
7 there a specific order form that is filled out by the
8 individual receiving the call, a paper pencil form?

9 A. Yes, uh-huh.

10 Q. Mr. Shelton, are you familiar with those
11 forms that are used by your employees in filling out an
12 order?

13 A. Some of them I've probably seen and others
14 I'm sure I haven't seen.

15 Q. Let the record reflect that I'm showing
16 opposing counseling what's been identified as
17 Intervenor's Exhibits 1-4.

18 MR. BOOTHBY: Just one question just so I
19 know. This would be then Intervenor's, because we did
20 have Department's 1 and 2, so there'll be those three
21 categories then if I understand?

22 ADMINISTRATIVE LAW JUDGE: That's correct.
23 And that's why I wanted to make sure that everybody
24 knew they needed to have them identified and numbered

1 so that we know which party they came from.

2 MS. RHOADES: I have, for purpose of the
3 record, I used a blue stick-it for Respondent's to put
4 in Intervenor's for purposes of clarification of the
5 record.

6 Mr. Shelton, can you look at the document
7 that's been identified as Respondent's Exhibit Number
8 1, and could you please tell me if you're familiar with
9 that form?

10 THE WITNESS: Actually, I'm not that familiar
11 with it. I may have seen it, but I don't handle. It's
12 not a day to day thing that I handle. I have seen the
13 document, but as far as --

14 Q. Do you know if that's a document that is
15 maintained by Three Angels Broadcasting Network?

16 A. Yes, I think it is.

17 Q. And was that document provided to us during
18 the course of discovery?

19 A. I believe it was.

20 Q. Okay. And did you sign an affidavit
21 indicating that those are records of Three ABN?

22 A. Yes.

23 MS. RHOADES: Now, with respect to that form
24 or, first of all, Your Honor, I'd move for admission

1 for Respondent's or Intervenor's Exhibit Number 1.

2 ADMINISTRATIVE LAW JUDGE: Any objection?

3 MR. MILLER: Well, I would just object on
4 the relevance grounds at this point.

5 What's the purpose of it? I'm not --

6 MS. RHOADES: I think the purpose of it is to
7 show the profit making enterprise of this entity.

8 MR. MILLER: This doesn't show anything about
9 that, Your Honor.

10 MS. RHOADES: Well, we're going to ask him
11 questions about it.

12 ADMINISTRATIVE LAW JUDGE: Why don't we go
13 ahead and reserve the admission into evidence of this
14 document until the use of it has been established?

15 MS. RHOADES: Now, Mr. Shelton, with regard to
16 that particular document, do you know, is that a
17 document that's filled out if someone requests a
18 satellite system from Three ABN?

19 THE WITNESS: Yes.

20 Q. And when it says PAN, what does that PAN
21 mean, PAN?

22 A. That's our own satellite system.

23 Q. Okay. And then it has 300A.

24 What does that reference?

1 A. That's the receiver.

2 Q. Okay. Now, with respect to this particular
3 document, is this what is, an individual is to fill out
4 whenever, the person taking the satellite order is to
5 fill out if they have a request for one?

6 MR. MILLER: Asked and answered.

7 ADMINISTRATIVE LAW JUDGE: I believe that's
8 true, so go ahead.

9 MS. RHOADES: Now, with regard to --

10 ADMINISTRATIVE LAW JUDGE: I'll sustain that
11 objection and go ahead and continue.

12 MS. RHOADES: That's fine.

13 Now, with respect to this particular document
14 are they to indicate the amount and quantity that an
15 individual wants to purchase?

16 THE WITNESS: Yes.

17 Q. And is there any indication on there for
18 anybody to fill out that indicates that they can have
19 this at either no charge or no cost --

20 A. No.

21 Q. -- for anybody to indicate on that form?

22 Mr. Shelton, are you aware of any time in
23 which any satellite has been provided to anyone at no
24 charge or no cost that's requested one, a satellite

1 dish?

2 A. Yes.

3 Q. And do you have any records with respect to
4 that?

5 A. Yes. I can get those records, because those
6 that we've sent them to, there are some people called,
7 who called and said they couldn't afford them and they
8 really wanted the program or grandma was sick and the
9 family didn't have anything, could we help them, so we
10 have given some away.

11 Q. With respect to -- what are the policies with
12 respect to Three Angels Broadcasting Network with
13 regard to, adopted by the Board of Directors, with
14 regard to giving those items away at free or no cost?

15 A. The policy is to get the message into all the
16 world and do it in the best way that we know how to do
17 it, and so we just use judgment as to -- we can't, of
18 course, give everything away. We couldn't stay in
19 business.

20 But if we see time, from time to time real
21 legitimate, we don't just take that call. We'll call a
22 pastor of a church. We ask them to refer us, do you
23 have a pastor and said pastor, we call the pastor and
24 say, is this person in financially a bad way, is

1 grandma really sick and dying, is this situation and if
2 the pastor says yes, we even will say to the pastor,
3 what if we -- you pay half the price, the church, our
4 cost because we're losing.

5 We lose \$50 on each one of these anyway, not
6 to even -- that's just on the cost of it for the price
7 that we so call retail them, so can you help us with
8 the cost of this. If they say no, we have given some
9 away, not huge amounts, but we have given some away.

10 Q. Now, with respect to any documents, we've
11 asked for items that have been given away by Three
12 Angels Broadcasting.

13 Do you have any of those documents that have
14 been produced to us that indicate what has been given
15 away as far as satellites for the years 2000/2001?

16 A. I don't know.

17 Q. Well, we asked that pursuant to our 237.
18 request as far as giveaways, and I would like to have,
19 if he's got it here, we'd asked for him to bring it, to
20 produce it to us.

21 A. It's something I don't know what we have here
22 and what we don't. We have an awful lot of material
23 here so it could be here or --

24 Q. Let me ask you this.

1 What document indicates that you have given
2 away a satellite system for at no cost?

3 A. The document is, that Mollie would have, my
4 secretary with the request. We keep it with the
5 request for when we then ship. The shipping department
6 wouldn't have it. It wouldn't show on this. For
7 instance, they wouldn't show what --

8 Q. So let's assume I call in and I want a
9 satellite dish. Okay?

10 A. Okay.

11 Q. And I say, I can't afford to pay for this
12 satellite dish.

13 What happens to my call? Where does it go?

14 A. It goes to Mollie.

15 Q. And then it goes to Mollie. Then what does
16 Mollie do with it, do you know?

17 A. She takes it to me.

18 Q. And so you are the sole determiner whether or
19 not that item is going to be given away?

20 A. I decide under the direction of the Board.
21 Though there is no policy that says giveaway. The
22 policy of all of this is, and should I say our
23 overwhelming, if you look at our whole ministry is to
24 give away books, is to give away. So the Board knows

1 that we give away and approves of us giving books and
2 literature, but they don't micromanage, so they let me
3 make the decisions to know that I'm not going to give
4 the ship away but under certain cases I do.

5 Q. I want to make this clear. The Board of
6 Directors has no policy that tells you under what terms
7 and conditions you can or cannot give away items at no
8 or reduced cost?

9 MR. MILLER: Objection.

10 ADMINISTRATIVE LAW JUDGE: The basis of the
11 objection?

12 MR. MILLER: Relevance.

13 ADMINISTRATIVE LAW JUDGE: I think it's
14 relevant.

15 MS. RHOADES: Thank you.

16 THE WITNESS: Ask that again. I'm sorry.

17 MS. RHOADES: If you could repeat the
18 question.

19 (Whereupon the requested
20 portion of the record was read
21 back by the Reporter.)

22 THE WITNESS: There is no such -- as far as I
23 know there is no such policy that itemizes, you can
24 give this at cost and not that cost. They say as long

1 as it agrees with our fundamental beliefs of
2 Seventh-day Adventist and we can afford to do it, we
3 try to help, because we're not a profit making and so,
4 therefore, we have to make enough to keep going and
5 through our donations we can continue to do that.

6 MS. RHOADES: And in the year 2000 how many of
7 those satellite systems did you giveaway?

8 A. It would be a guess, probably six, five or
9 six.

10 Q. And what are you basing that guess on?

11 A. Just from my remembrance of Mollie coming to
12 me and asking me on certain circumstances.

13 Q. And when Mollie would have done that it would
14 have been at the time or are you talking about just
15 most recently?

16 A. No. I haven't talked to Mollie about it at
17 all recently.

18 Q. Now, with respect to 2001, how many
19 satellites have you given away at free or no, at
20 reduced cost?

21 A. I would guess the same amount.

22 Q. And, again, what is the basis of that
23 recollection or that information that you're providing
24 to us here today?

1 A. The same, just my memory.

2 Q. And you have no documents before you, you've
3 not provided any documents prior to your testimony
4 relative to that issue?

5 A. Do I have documents here with me today?

6 Q. I said, do you have -- have you reviewed any
7 documents prior to your testimony here today with
8 respect to confirming your testimony that you have
9 given away five or six satellite dishes in the year
10 2001?

11 A. Not that my mind remembers. I don't remember
12 reviewing, though I've looked at hundreds and hundreds
13 of pages as you know of interrogatories, and so I
14 frankly can't, you know, line item each one.

15 Q. And do you ever recall providing a copy of
16 any of those statements to us whenever you've reviewed
17 any of those documents?

18 MR. MILLER: Objection. That mischaracterizes
19 the witness's testimony. He said he has reviewed
20 hundreds of pages of documents that hadn't been
21 delivered to the other side, and he didn't know if
22 these documents were part of that. He didn't say he
23 reviewed these other documents.

24 MS. RHOADES: That's what I asked him, if they

1 were part of them.

2 MR. BOOTHBY: Counsel, can you refer us to the
3 request for documents that you're referring to?

4 MS. RHOADES: I'm just asking him a question.

5 ADMINISTRATIVE LAW JUDGE: It's a general
6 question. I don't think it's a specific document that
7 she's referring to.

8 MS. RHOADES: That's all I'm asking.

9 ADMINISTRATIVE LAW JUDGE: And I'm going to
10 ask you to read the question back.

11 (Whereupon the requested
12 portion of the record was read
13 back by the Reporter.)

14 ADMINISTRATIVE LAW JUDGE: You're asking
15 specifically for 2001?

16 MS. RHOADES: I'm asking though, whenever
17 they've provided documents to us if any of those
18 documents that, if he recalls them being those
19 documents that have been provided.

20 Does that make sense? I think I've talked
21 myself around the circle.

22 MR. MILLER: I'll object, Your Honor. I mean,
23 we provided documents. They have the documents. I
24 don't know why this witness knows anymore than they do

1 what documents have been provided to them.

2 MS. RHOADES: But I guess I'm not testifying.
3 He is.

4 I want to know if in fact he ever recalls
5 providing those statements to us of satellites that
6 have been given away at free or reduced cost to us.

7 ADMINISTRATIVE LAW JUDGE: You're asking if
8 he's seen any documents --

9 MS. RHOADES: That he's provided to us, if he
10 recalls providing that to us?

11 THE WITNESS: I don't remember seeing that,
12 though I could have. As I said, I've looked at
13 hundreds and I can't remember every line item on
14 those. We've provided you a lot of information here
15 already that I didn't really remember, though I've seen
16 it.

17 Q. Now, you also talked about that you do some
18 printing of your own internal literature for
19 distribution on, I think you say the secondary
20 building?

21 A. The Call Center.

22 Q. Call Center area?

23 A. Yes, ma'am.

24 Q. What percentage of the property is that

1 attributable to?

2 A. Of the Call Center --

3 Q. Of that Call Center?

4 A. -- or the five acres?

5 Q. The Call Center?

6 A. It'd be a small percentage. Guessing, ten
7 percent maybe of the building.

8 Q. Now, with respect to that part of the
9 building for the year 2000, do you have any documents
10 with respect to, or any documents that would indicate
11 the amount of time that that facility was used for
12 items that were subsequently given away at no cost,
13 that the pamphlets and the books that you've referred
14 to in your testimony?

15 A. Okay. Say it -- I'm sorry, say that one
16 again.

17 Q. In the year 2000, do you have any records at
18 Three Angels Broadcasting Network which would indicate
19 the amount of time that that particular parcel of the
20 property was used, I'm talking about the printing
21 facility in the Call Center, was used for purposes of
22 literature that was distributed by Three Angels
23 Broadcasting at either no or reduced cost?

24 I'm talking about the booklets, the

1 pamphlets, those kind of things, not your catalogs
2 or --

3 A. My guess is that we do. My guess is that we
4 do.

5 Q. And where would those documents be?

6 A. They would be ultimately, probably either
7 Mollie has them or knows where to get them from the
8 Call Center. They do keep -- they do keep me informed
9 and they really try, because I'm wanting to know, is
10 this worth it to do this printing, so they try to keep
11 hours.

12 They give me lists all the time of man hours
13 of what they've done or what's being printed and how
14 much, and so I know the items that we give away, for
15 instance, versus items that we don't give away, so my
16 educated guess is that there are records, yes.

17 Q. And do you recall whether or not those
18 documents have ever been provided to us?

19 A. I don't recall. As I said, I think we had
20 several hundred pages and I did read them way back
21 when, but I -- I just don't know what to tell you. I
22 don't.

23 Have I -- I remember it in my mind, but my
24 answer is going to be no probably to a lot of those

000305

1 because we did provide you.

2 Q. And some of those, and some of those
3 documents that are produced in the printing center are
4 also items in which you charge a fee for?

5 A. That I don't know. It's possible that we
6 do. Most of the things there are literature or, I know
7 we give some items away. That you'd have to ask
8 somebody I think besides me.

9 Q. And who would that person we'd have to ask
10 be?

11 A. Well, I think Mollie Steenson.

12 Q. Okay. Now, I want to show you what has been
13 marked here as, I want to go back here to Respondent's
14 or Intervenor's Exhibit Number 1.

15 And does this show overall some of the
16 activities that are occurring on the property as far as
17 the information that's taken, what is specifically used
18 in this Call Center area, the information that's
19 gathered?

20 MR. MILLER: Objection, Your Honor, I mean the
21 document speaks for itself.

22 MS. RHOADES: I think that the document shows
23 exactly. I mean, I think it's a representative of what
24 goes on in the area of the Call Center and that

1 information is obtained there and that's what I'm
2 trying to get this witness to testify to.

3 MR. MILLER: Well, perhaps I'm
4 misunderstanding the question. I thought the question
5 was about the document.

6 If the question is about what happens at the
7 Call Center, that would be a different matter.

8 ADMINISTRATIVE LAW JUDGE: I thought it was
9 about what happened at the Call Center is the way I
10 interpreted this and I think she's trying to lay the
11 foundation that you had asked for previously about this
12 document.

13 MS. RHOADES: That's correct, and then --

14 ADMINISTRATIVE LAW JUDGE: Overrule the
15 objection.

16 MS. RHOADES: Then with respect to this
17 document and this document, after the information come
18 in to the Call Center, this document is filled out, and
19 so this document is fairly representative of the
20 information that is obtained in part respects from
21 activities of the Call Center, correct?

22 THE WITNESS: Yes, uh-huh.

23 Q. Now, with respect to that particular
24 document, you do charge or have available so people can

1 call in and pay for their satellite system via credit
2 cards?

3 A. Yes.

4 Q. And what three credit cards does Three ABN
5 accept?

6 A. I believe it's Visa and Master, and I'm not
7 sure if the other one is American Express.

8 Q. I think it's --

9 A. Maybe it says.

10 Q. Does the form indicate Discover?

11 A. It might be Discover.

12 Visa, Mastercard, and Discover. It does,
13 thank you.

14 Q. And do those particular credit card companies
15 require Three ABN to pay them?

16 Are you required to pay them fees for the use
17 of those credit cards?

18 A. I should refer that to Larry Ewing my
19 Financial Director.

20 Q. Okay.

21 A. This is something I really do very little
22 with, so I couldn't give you an accurate answer.

23 Q. Okay. Now, I want to show you what has been
24 marked as Intervenor's Exhibit Number 2.

1 Are you familiar with this document?

2 A. Yes.

3 Q. And is that a document that was produced to
4 us during the course of discovery?

5 A. Yes.

6 Q. And is that a document that's normally kept
7 within the course of business of Three Angels
8 Broadcasting Network?

9 A. Yes.

10 Q. And is that a document that's been created
11 and used by Three Angels Broadcasting Network?

12 A. Yes.

13 Q. And with regard to this one then, and this
14 shows Three ABN digital satellite system, and is that a
15 different satellite system than the first one, which
16 was the PAN?

17 A. Oh, it would be for the same. I think it's
18 the same. We only have the two systems. The Sky
19 Angel, which is next we're looking at, and this. They
20 may have changed over one year versus the other,
21 changed the heading to say PAN Sat or Three ABN, but
22 it's talking about the same system I believe.

23 Q. Talking about the same system. One may have
24 been in use for part of the year 2000 and another for

1 part of the year 2001?

2 A. Yeah, that's my guess.

3 Q. But the forms are substantially similar and
4 the same?

5 A. Yes, they are. One I notice is making
6 available a 30 inch and the other one only 30 and 36,
7 and the other is saying 36 inch, so it's possible they,
8 from different areas of the world, country even, you
9 can't, certain dishes won't fit certain areas, so maybe
10 they fill this one out when it's just a 30. I believe
11 it's the same system.

12 MS. RHOADES: Okay. Again, I would move for
13 admission of Intervenor's Exhibit Numbers 1 and 2.

14 ADMINISTRATIVE LAW JUDGE: Any objection?

15 MR. MILLER: No objection.

16 ADMINISTRATIVE LAW JUDGE: Let the record --
17 excuse me.

18 Mr. Steinkamp, I'm assuming that you wouldn't
19 have any objection?

20 MR. STEINKAMP: If I have an objection I'll
21 speak up.

22 ADMINISTRATIVE LAW JUDGE: Thank you.

23 Let the record reflect that Intervenor's
24 Exhibit Numbers 1 and 2 are admitted into evidence.

1 (Intervenor's Exhibit Numbers
2 1 & 2 were admitted into evidence.)

3 MS. RHOADES: Okay. Now, let's go onto
4 Intervenor's Exhibit Number 3, and again, are you
5 familiar with that document?

6 THE WITNESS: Yes.

7 Q. And is that a document that's kept in the
8 normal course of business by Three Angels Broadcasting
9 Network?

10 A. I believe so.

11 Q. And is this a document that has been produced
12 to us for purposes of discovery?

13 A. Yes.

14 Q. What is the heading on that particular
15 document?

16 A. Sky Angel Order Form.

17 Q. And is that a document that's regularly used
18 by employees of the Three Angels Broadcasting Network?

19 A. In the Call Center, yes.

20 MS. RHOADES: In the Call Center.

21 I move for admission of Intervenor's Exhibit
22 Number 3.

23 MR. MILLER: Well, I'll object. There seems
24 to be an attempt to use a business record exception,

1 but there is two legs to that. One, it must be a
2 business record that is used in the ordinary course of
3 business.

4 The second part is, that in fact it was used
5 in the ordinary course of business, and this is a blank
6 form. So it wasn't used in the ordinary course of
7 business and I don't believe it falls within the
8 exception because of that.

9 MS. RHOADES: First of all, if I can please go
10 and remind Your Honor about our request to produce. We
11 asked for all of the forms that were filled out by the
12 individuals that sold satellite systems, and the order
13 of this court was to in fact, they're only ordered to
14 produce us the forms. That to produce us that
15 information would be confidential.

16 We asked for a protective order and were
17 denied that. This is a form. It's used by them. The
18 witness testified that it is in fact used by them.
19 We're not asking if it's filled out. It's a form
20 that's used. It's a business record.

21 ADMINISTRATIVE LAW JUDGE: I'm going to go
22 ahead and allow you to ask him a couple more questions
23 as far as, has this form been used, just to establish
24 in fact, if you don't mind.

000312

1 MS. RHOADES: Sure.

2 Mr. Shelton, is that a form that was used in
3 the years 2000 and 2001?

4 THE WITNESS: Yes, I believe.

5 Q. And is that form, in fact I think you
6 testified earlier was used by Call Center employees?

7 A. Yes.

8 Q. Okay. And is that a form that's readily
9 available to your employees for use?

10 A. Yes, I believe.

11 Q. In the Call Center I guess?

12 A. Was it during the 2000 and 2001 I think, yes.

13 MS. RHOADES: Okay. I ask that it be
14 admitted.

15 ADMINISTRATIVE LAW JUDGE: And I'm going to
16 overrule your objection and I'm going to allow the
17 admission into evidence Intervenor's Exhibit Number 3.

18 (Intervenor's Exhibit Number 3 was
19 admitted into evidence.)

20 MS. RHOADES: Now, I want to go back to a
21 reference on Exhibit Number 3. That indicates a Sky
22 Angel Order Form.

23 Could you, I think you've explained a little
24 bit about Sky Angel, but could you tell us what

1 actually Sky Angel is?

2 THE WITNESS: Sky Angel is a DVS system direct
3 broadcast to home system and Sky Angel has
4 approximately 20 to 24 television religious channels
5 which Three ABN is one of those 24 hours a day, and
6 they also have I think 10 or 15 radio channels.

7 Q. Now, with respect to Sky Angel, is that a
8 product that is produced or done on the site of Three
9 Angels Broadcasting Network in other words, or is it a
10 separate company or entity that provides Sky Angel?

11 A. No, that's not. Sky Angel is a separate
12 company from Three ABN. It's not an Adventist or a
13 Three ABN company.

14 Q. So it's a separate entity and they have a
15 product that they market?

16 A. They're a nonprofit, just like we are.

17 Q. But they've got a product?

18 A. Yes.

19 Q. That they sell at a cost, and they may have
20 some at free and reduced cost, but they have a product
21 that they sell?

22 MR. MILLER: Your Honor, there is lack of
23 foundation here regarding Mr. Shelton's knowledge of
24 Sky Angel's business and what they do at cost or

1 reduced cost.

2 I don't think we have a foundation for his
3 knowledge regarding those things.

4 ADMINISTRATIVE LAW JUDGE: I'm going to
5 sustain his objection. If you want to --

6 MS. RHOADES: Let me ask you this question.

7 Mr. Shelton, with respect to Sky Angel in and
8 of itself, it is something that you in fact sell to
9 other people to subscribe to Sky Angel, correct?

10 MR. MILLER: Objection. I think that's vague
11 and confusing.

12 ADMINISTRATIVE LAW JUDGE: I'm going to
13 sustain his objection. If you can rephrase it so that
14 it's a little bit clearer as far as what you're getting
15 at.

16 MS. RHOADES: Sure.

17 First of all, with respect to Sky Angel, to
18 be able to get Sky Angel does one have to pay a fee for
19 Sky Angel services?

20 THE WITNESS: Yes.

21 Q. Okay. And how much is that fee that is
22 charged for Sky Angel services, if you know?

23 A. Okay. It's not clear. Can we -- because can
24 I -- can you make it clearer to me?

1 We're talking about two different things.
2 They have a programming that you're paying for. You're
3 not -- they don't own the system that, what we call Sky
4 Angel is actually the dish network equipment which is
5 not owned by Sky Angel.

6 The only thing that Sky Angel sells is their
7 programming, if you want to subscribe to their
8 programming.

9 Q. And do you market or assist in the sale of
10 the Sky Angel programming?

11 A. We make available. If people want to
12 purchase Sky Angel services, we tell them how to call
13 Sky Angel and obtain that service. We don't make any
14 money from Sky Angel services.

15 Q. But do you advertise for Sky Angel services
16 on your brochures, your literature, your newsletters,
17 on your broadcast station?

18 A. Yes. We tell people how they can obtain that
19 service.

20 Q. And then you also -- the form that you've got
21 there in front of you then is for the purposes of a
22 satellite dish, a satellite system?

23 A. Yes.

24 Q. Actually the receiver and actually the

1 satellite and the things that hook up in between?

2 A. Yes, the heading.

3 MR. MILLER: Objection. I think it misstates
4 the witness's testimony. He testified to the receiver,
5 not to the satellite.

6 MR. BOOTHBY: Why don't you repeat the
7 question?

8 ADMINISTRATIVE LAW JUDGE: I think that's a
9 good idea.

10 (Whereupon the requested
11 portion of the record was read
12 back by the Reporter.)

13 MR. MILLER: He mentions no sale, the sale of
14 the satellite. It mischaracterizes his testimony.

15 ADMINISTRATIVE LAW JUDGE: I'm going to
16 sustain your objection and we'll let you rephrase your
17 question.

18 MS. RHOADES: With respect to the order form
19 on the Sky Angel Order Form that's been marked as
20 Intervenor's Exhibit Number 3, Mr. Shelton.

21 THE WITNESS: Uh-huh.

22 Q. What components does one get when one places
23 an order for that product?

24 A. Okay. What you actually receive is an 18 or

1 24 inch dish, a small dish, plus a receiver. That's a
2 product of Dish Network receiver.

3 Q. Okay. Now, with respect then to this product
4 that you sell, only enables somebody to be able to get
5 the Sky Angel programming, is that correct?

6 A. It can get other programming with the same
7 system if they choose.

8 Q. And what kind of other programming can they
9 get with that same system if they so choose, do you
10 know?

11 A. I don't know all the programming. Dish
12 Network themselves has -- you can subscribe to any
13 number of packages that I'm not familiar with, but when
14 you purchase this through, you have to purchase the
15 system from, this dish system, but then you purchase
16 the programming from Sky Angel Network themselves in
17 Florida. That's who you're actually buying it from.

18 So I don't know if that makes it clear to you
19 or not.

20 Q. Okay. So then with respect to -- with
21 respect to the actual Sky Angel programming then, you
22 just refer them on for the actual programming
23 mechanisms subscribed to some other entity, you refer
24 that out, is that correct?

1 A. Well --

2 Q. I just want to get this clear because I think
3 it's a confusing area.

4 A. In my mind, if you want to hear my mind, my
5 mind is, we don't make any money off of that. Whether
6 my accounting office receives the money and then sends
7 it to Sky Angel, whether there is a technical,
8 something technically that they receive it and send it
9 to them or whether the people send us this price and
10 then send the money directly to Sky Angel, because the
11 unit may say X amount of hundreds of dollars for this.
12 I don't know that technical part.

13 I do know that we sell this, the equipment
14 and then Sky Angel sells the programming. How that,
15 the technical part of that works, financial, I don't
16 know. I'm sorry.

17 Q. With respect to then the Sky Angel
18 programming for the years, for the year 2000, do you
19 have any knowledge or information whether or not Three
20 ABN collected any fees either on behalf of Sky Angel
21 itself with respect to Sky Angel programming?

22 A. I'm not sure. I mean, it's possible that we
23 did. That's what I was just saying. It's possible we
24 received it and then we sent it on. I'd have to refer

1 that to somebody else.

2 Q. Okay. Now, with respect to the year 2001,
3 did -- do you have any knowledge whether or not Three
4 Angels Broadcasting Network received any funds for Sky
5 Angel programming, whether or not you subsequently
6 turned all of it over, part of it over, whatever it may
7 be?

8 But did you actually receive funds for Sky
9 Angel programming on your property?

10 A. When you say funds, are you talking about
11 the --

12 Q. The subscription price?

13 A. The subscription price that they send into
14 us?

15 Q. Yes.

16 A. I mean, my -- if you just want, you know, my
17 mind, the estimate is that we did, but I don't know
18 that for a fact how they handled that and I don't deal
19 with all of that stuff.

20 Q. Do you know how much Three Angels
21 Broadcasting charges for the Sky Angel equipment that's
22 listed on Intervenor's Exhibit Number 3?

23 MR. MILLER: Objection, vague, time period.

24 MS. RHOADES: Well, for the year 2000, do you

1 know how much was charged for the 18 inch dish system
2 as contained on the Sky Angel Order Form on
3 Intervenor's Exhibit Number 3?

4 THE WITNESS: For the equipment itself not
5 including the programming?

6 Q. That's correct.

7 A. I don't. I just have a guess and I can't
8 remember if it's 149 or 169 or something. I don't know
9 those figures.

10 Q. So you don't know the exact amount of moneys
11 that, and actually you charge people for that 18 inch
12 dish system in the year 2000?

13 A. Yeah, that's true. I don't know exact
14 dollars.

15 Q. Now, do you know the exact amount of dollars
16 for the year 2001 that someone paid for the 18 inch
17 dish system as indicated on Sky Angel Order Form which
18 is identified as Intervenor's Exhibit Number 3?

19 A. I don't know the exact dollars.

20 Q. Now, with respect to the 24 inch dish system
21 that's indicated on the Sky Angel Order Form, which is
22 Intervenor's Exhibit Number 3, do you have any idea for
23 the year 2000 how much was charged for that?

24 A. I'm sorry, my mind was on the -- asking how

1 much that cost now.

2 But I think this is a different question,
3 isn't it?

4 Q. No, same question.

5 A. Okay. Say it again, I'm sorry.

6 ADMINISTRATIVE LAW JUDGE: It's for the 24
7 inch?

8 MS. RHOADES: For the 24 inch?

9 THE WITNESS: Do I know how much that 24 inch
10 system, how much we sold it for?

11 Q. That's correct.

12 ADMINISTRATIVE LAW JUDGE: In the year 2000?

13 MS. RHOADES: In the year 2000?

14 THE WITNESS: Yeah, I don't exactly know the
15 exact number.

16 Q. In the year 2000 or 2001 do you know how much
17 Three Angels Broadcasting Network sold the 24 inch dish
18 system as indicated in the Sky Angel Order Form, which
19 is Intervenor's Exhibit Number 3?

20 A. Not offhand. Of course we have the records,
21 but I don't have it in my mind.

22 Q. Okay. Now, with respect to these items, when
23 did you begin selling Sky Angel, the dishes, the dish
24 that -- let me strike that.

1 With respect to the 18 inch dish system, do
2 you recall what year you started selling that?

3 A. I don't. I'm guessing '98, in that area.
4 It's been a few years probably.

5 Q. And with respect to 1998, do you have any
6 idea, has the price increased since that time?

7 A. I thought we weren't talking about '98.

8 Q. I'm just asking, since '98 to 2001 whether
9 the price has increased?

10 MR. MILLER: Objection, relevance.

11 MS. RHOADES: I think it's relevant with
12 respect to whether or not this is done with a view to a
13 profit, on whether or not there has been price
14 increases and how those price increases have been
15 done.

16 ADMINISTRATIVE LAW JUDGE: I still don't see
17 the relevancy, so I'm going to sustain your objection.

18 MS. RHOADES: Now, with respect to the year
19 2000, what documents does Three ABN possess to show
20 that the actual cost, the actual cost of the Sky Angel
21 18 inch dish system was?

22 THE WITNESS: Do we have -- are you asking do
23 we have documents?

24 Q. I'm asking do you have any documents?

1 A. Yes.

2 Q. And what are those documents?

3 A. What are the documents?

4 Q. What are the documents?

5 A. That show what we paid for the dishes and
6 that?

7 Q. Uh-huh.

8 A. I'm sure that would be, that whoever we
9 purchased those dishes from, of course the invoices
10 would. There would be invoices from the company that
11 we bought them from that would show how much we paid
12 for them.

13 Q. And what companies did you purchase those
14 from, do you recall?

15 A. No. I actually don't know if we buy directly
16 from Dish Network or if we buy this, who we buy them
17 through.

18 Q. Now yesterday, Mr. Shelton, you testified
19 that you're selling these dish systems I think you said
20 at below cost.

21 Is that accurate? Is that a correct
22 summarization of your testimony?

23 MR. MILLER: Objection. I think it
24 mischaracterizes it, but I'll let the witness

1 characterize it as he likes.

2 THE WITNESS: There is two. Well, you're
3 grouping them together. There is two separate
4 systems. Can we talk about -- you want to --

5 MS. RHOADES: We can talk about the separate
6 systems. That's fine.

7 A. Okay. The Sky Angel, I'm sorry, the other
8 dish, the digital Three ABN PAN Dish, when this -- we
9 first started selling these the price was \$350 per unit
10 was our cost on those particular dishes. We sold them
11 I believe for that cost, but now I'm talking before
12 2000.

13 But 2000 and 2001, during those periods, I
14 made a call to my engineer or met with my engineer and
15 said, the purchase guy, the guy who actually purchases
16 them said, I would like to get them down to \$299, so
17 I'm willing to lose \$50 on them, because when people
18 get them and they watch Three ABN and they support us
19 and it helps get them out, so the advertized price is
20 299; so we actually sold them below cost, not to
21 mention that we didn't pay all their overhead for
22 shipping, handling, and receiving, and all of that.

23 So at some point I believe we'll find in
24 2000/2001 we lowered prices from 350, our invoice cost

1 that we paid, to \$299.

2 Q. Now, with respect to 2000/2001 you indicated
3 you lowered your cost from the original, but did any of
4 the satellite services subsequently lower their cost to
5 you?

6 A. We lowered -- to the best of my recollection,
7 we lowered our cost before that our prices were ever
8 lowered to us. I'm not sure if we're talking about
9 2002 or 2001. We since have renegotiated, made some
10 changes and now we're offering them for even less, like
11 199 or something like that.

12 But during the 2002 or 2000 and 2001, my mind
13 tells me, Larry, again I'm going to have to, if you
14 want the exact figures, we would probably save some
15 time by when you speak to Larry a little bit later on I
16 understand today, Larry Ewing or whenever, my financial
17 director, because I just -- too big a business to know
18 all the details. I know what my intentions are and
19 what I've told them to do and our intentions was to
20 sell them below cost.

21 Q. Now, with respect to -- with respect to Mr.
22 Ewing, he was not employed by Three ABN during the
23 years 2000 and 2001, correct?

24 A. He was in 2001 I believe.

1 Q. Do you know when he was employed in 2001?

2 A. Summer or fall I believe. I think he's been
3 here over a year, so maybe -- maybe earlier.

4 Q. Now, I want to show you what has been -- now,
5 when you purchase these systems on the Sky Angel Order
6 Form, are those specific packages in which Sky Angel
7 provides to you to sell or are they separate components
8 that you put together yourself?

9 A. I believe they offer an 18 inch and a 24 inch
10 system whichever you want, but again I don't know that.

11 Q. Okay. So they would -- so if I understand
12 what I think you're trying to tell me, is that Sky
13 Angel makes available a total package of a receiver, a
14 dish system, an 18 inch system and a 24 inch dish
15 system, and they sell it to you for X cost, and then
16 you sell it for X cost, whether it be same or different
17 or higher or lower, is that correct?

18 A. I believe that's true. They put packages
19 together at a certain price.

20 Q. Okay. Now, I want to show you what has been
21 marked as Intervenor's Exhibit Number 4, and are you
22 familiar with that document?

23 A. The credit card order form?

24 Q. Uh-huh.

1 A. Yeah, only through the interrogatories.

2 Q. Okay. And with respect to that form, do you
3 have any knowledge as to what that form is used for?

4 A. Well, it says right at the top credit card
5 order form.

6 Q. Do you know on what occasion that form is
7 used?

8 A. If people are purchasing or if they want to
9 make a donation they can just make a donation to a
10 credit card.

11 Q. And is that an -- is that a document that's
12 used regularly in the course of business by Three
13 Angels Broadcasting employees?

14 A. I would think so.

15 Q. And is that a form document that's readily
16 made available to them for their use?

17 A. You mean to employees?

18 Q. To employees?

19 A. In the accounting department?

20 Q. Uh-huh.

21 A. To employees in accounting department, yes.
22 I suppose this would be made available to them.

23 Q. And why do -- why is that document used at
24 Three Angels Broadcasting Network?

1 A. Well --

2 MR. BOOTHBY: Asked and answered.

3 MS. RHOADES: I don't know that it has.

4 ADMINISTRATIVE LAW JUDGE: No, I don't. I
5 think it's --

6 MR. BOOTHBY: It's for sales and donations.

7 MS. RHOADES: Can I also make a statement? I
8 think it's Mr. Miller's objection as well and not Mr.
9 Boothby's.

10 MR. MILLER: Asked and answered.

11 ADMINISTRATIVE LAW JUDGE: Thank you, Mr.
12 Miller, but I don't think the exact question that she
13 asked was answered. I think it was a different form of
14 the question, but I appreciate that.

15 If you'd like to answer the question.

16 THE WITNESS: Okay.

17 ADMINISTRATIVE LAW JUDGE: So I'm overruling
18 the objection.

19 MR. MILLER: Could you read the question
20 back?

21 (Whereupon the requested
22 portion of the record was read
23 back by the Reporter.)

24 THE WITNESS: Why is this document used?

1 It would be to take donations by credit card
2 for sales of whatever, it says video cassettes, CDs or
3 books or donations is what this particular one says.

4 MS. RHOADES: Now, with respect to that
5 document, do you have any information whether that
6 document was used by Three Angels Broadcasting Network
7 in the years 2000/2001?

8 A. I would suspect that it was.

9 MS. RHOADES: At this time I think, Your
10 Honor, I need to move for admission of both
11 Intervenor's Exhibit Numbers 3 and 4.

12 ADMINISTRATIVE LAW JUDGE: Three has already
13 been admitted.

14 MS. RHOADES: Number 4 then, I'm sorry.

15 ADMINISTRATIVE LAW JUDGE: Is there any
16 objection to the admission into evidence of
17 Intervenor's Exhibit Number 4?

18 MR. MILLER: Only relevance.

19 ADMINISTRATIVE LAW JUDGE: All right. I think
20 it's relevant, so I state that Intervenor's Exhibit
21 Number 4 is admitted into evidence.

22 I'm assuming, Mr. Steinkamp, you have no
23 objection?

24 MR. STEINKAMP: No.

1 (Intervenor's Exhibit Number 4 was
2 admitted into evidence.)

3 MS. RHOADES: Mr. Shelton, you testified
4 earlier that in the year 2000 you believe that you gave
5 away five or six satellite systems to somebody who
6 couldn't afford it and who asked for one.

7 Is that what your --

8 THE WITNESS: Yes.

9 Q. And with respect to those five or six, can
10 you identify for us here today which of those systems
11 were given away?

12 A. That would have been the Three ABN system,
13 the Three ABN dish system.

14 Q. If you can refer back to the exhibits that
15 have been provided to you, what system in particular
16 are you referring to?

17 A. Well, it's not the Sky Angel. It's one of
18 these other two forms, which I think is the same system
19 being sold.

20 Q. So it would be either Intervenor's Exhibit
21 Number 1 or Intervenor's Exhibit Number 2?

22 A. If that's the Number, 1 and 2, yes, I think
23 so.

24 Q. Okay. Now, with respect to the year 2001,

1 can you identify for us which of those systems were
2 given away at free or reduced costs of the five or six
3 that you mentioned?

4 A. It would be the same system, that Three ABN
5 system.

6 Q. Now, you've mentioned numerous times that you
7 have items that are available for purchase.

8 A. Yes.

9 Q. Could you please explain to us in the year
10 2000 items -- what the procedures are at Three ABN for
11 determining what products are going to be sold at a
12 price?

13 Just how you come up with a list of products
14 that you're going to sell? How did you do that for the
15 year 2000?

16 A. We do that in cooperation with pastoral
17 ministries, as well as I'm sure Mollie, myself, my wife
18 Linda did all the books or CDs or tapes that we're
19 going to sell or give away are consistent with the
20 mission of Three Angels Broadcasting Network and the
21 Seventh-day Adventist Church.

22 Q. Now, on those lists of documents that or the
23 documents that you would sell, be it a video cassette,
24 a CD, or a cassette tape, are any of those that you

1 sell information that's not produced on-site at Three
2 ABN?

3 A. Yes.

4 Q. And could you kind of give us an overview of
5 what those products are that are sold that are not done
6 at the site of Three ABN, general categories?

7 A. You want to give me a list or something to go
8 over? There is a number of books.

9 Do you have something I can look at?

10 Q. Let me go ahead then and mark for
11 identification, if you'll give us a second.

12 (Discussion off the record.)

13 ADMINISTRATIVE LAW JUDGE: Let's break for
14 lunch and be back at 1:00.

15 (Whereupon a lunch recess
16 was taken.)

17 MR. MILLER: Mr. Shelton wanted to tell the
18 court something.

19 ADMINISTRATIVE LAW JUDGE: Back on the
20 record. Mr. Shelton, I remind you that you are under
21 oath.

22 I believe there was something you wanted to
23 tell the court.

24 THE WITNESS: Yes. This morning it bothered

1 me, as you could tell, when I had to say yes or no, but
2 I couldn't honestly say and kept having a hard time.

3 I got to thinking about it so at lunch I
4 grabbed my cell phone and I called my Production
5 Manager, Dee Hildebrand, and I said, Dee, do you have
6 records of everything that's gone on in that studio,
7 because the -- where I felt the hard spot was, I said,
8 our TV calendar or schedule would show.

9 But her comment was, but it takes you hours
10 to produce, but what the calendar shows is not accurate
11 because it was less time. Maybe two hours of
12 production made one hour of programming, which is
13 true.

14 So I called Dee and I said, do you have a
15 record of every, no matter if it took four hours and
16 got one, I know the TV schedules, but do you have a
17 record of that for the years 2000 and 2001. I'm
18 talking about everything that went on in that studio,
19 and she said, absolutely, and I have it all the way
20 back from '97.

21 So there is nothing that went on in that
22 studio that I don't know about, and everything is
23 designated within the studio whether it was music from
24 one to three and then three to five vegetarian cooking

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1 or whatever it was. So for the Court's sake I wanted
2 to say, I do have. That's different than what I said
3 this morning.

4 I felt like I had to say no because I didn't
5 know, but now I do know and she says she can produce
6 those records for you.

7 MS. RHOADES: First of all, I'm going to
8 object because I think that's hearsay testimony to the
9 extent he's now testifying what Dee Hildebrand just
10 told him.

11 Secondly, we already asked the question and
12 it was asked and answered and there was no question
13 pending when he makes this statement to the court.
14 It's an odd offer at this time.

15 ADMINISTRATIVE LAW JUDGE: I can understand,
16 but I think what he wanted to do is clarify his answer,
17 and he did feel uncomfortable at the time, so I'll go
18 ahead and make it as part of the record.

19 But as far as the amount of weight anyone
20 gives to that statement is left up to briefing or
21 whatever.

22 MS. RHOADES: Thank you. All right.

23 We have, Your Honor, for purposes of
24 admission of documents, Respondent's or Intervenor's

1 Exhibits 6, 7, 8, and 9.

2 ADMINISTRATIVE LAW JUDGE: Thank you.

3 MR. MILLER: Five through nine.

4 MS. RHOADES: I'm sorry, 5-9. Five, six,
5 seven, eight, and nine.

6 Okay. Mr. Shelton, when we last left off I
7 want to show you what, let's just go to Exhibit,
8 Intervenor's Exhibit Number 6, and I asked you a
9 question whether or not you sold either videos, CDs, or
10 tapes from -- from any other program that's not
11 produced or filmed or taped on the properties of Three
12 ABN that's the subject of this dispute, and I think
13 your answer was yes.

14 Is that an accurate statement?

15 THE WITNESS: Do we sell tapes from other
16 people that other people produce?

17 Q. That are produced off-site of the Three ABN
18 Center?

19 A. Do we sell programs that's produced by Three
20 ABN off the Three ABN Center?

21 Q. No.

22 Do you sell tapes that are produced by
23 another entity and produced off of Three ABN Center?

24 A. Is this going to help me?

1 Do I look through it and see?

2 Q. It's the catalog.

3 A. I was asking you for a, yes, a list, and this
4 is the list I was asking you for.

5 Q. That's my understanding, it was a list you
6 were asking me for.

7 A. Okay. Because I know mostly what we sell is
8 what we do, but we might. It's possible we sell for
9 somebody else.

10 Q. Let me direct your attention, maybe we can go
11 this way. Turn to Page 17.

12 A. Page 17?

13 Q. Uh-huh. Seventeen up at the top. I think
14 it's Bates Stamped at the bottom 200140.

15 You don't have a Bates Stamped copy, Judge,
16 but that's an original.

17 MR. MILLER: Is this for Exhibit 6?

18 THE WITNESS: I don't have that.

19 ADMINISTRATIVE LAW JUDGE: I don't even have a
20 six because he's using mine. No, that's okay. Go
21 ahead. You need to look at it too.

22 MR. MILLER: I don't see a bates stamp.

23 MS. RHOADES: You got handed the wrong
24 exhibit.

1 MR. MILLER: I've got six.

2 THE WITNESS: I'm not supposed to be looking
3 at six?

4 MS. RHOADES: Yeah, look at six. On this one
5 it says 24H up in the upper left-hand corner with a
6 Bates Stamp Number 300099.

7 MR. MILLER: What's the heading on it?

8 MS. RHOADES: Worship services.

9 Do you see those entries there?

10 THE WITNESS: Yes.

11 Q. Now, with respect to these entries, are these
12 tapes that are produced or services that are done on
13 the site of Three Angels Broadcasting Network, which is
14 the subject of this property tax litigation?

15 A. No, no.

16 Q. And are they -- how do these tapes in fact
17 get to Three Angels Broadcasting Network?

18 A. How do they get there?

19 Q. Yeah.

20 How do you end up with them?

21 A. I know it makes me sound ignorant, but I'm
22 not really sure who. I actually think this is
23 something my wife does more than I do. Linda, she's
24 really over programming and as to who decides what

1 comes there, I really don't make that decision on this,
2 so I don't really.

3 Q. Is this considered to be a program that is
4 produced by Three Angels Broadcasting Network, the
5 Glendale Community Adventist Fellowship?

6 A. No. It's a program that's produced by John
7 Carter Ministries.

8 Q. And with respect to those that are produced
9 by John Carter Ministries, it indicates on there that
10 for 60 minutes, \$16.50 each includes shipping, any two
11 sermons are \$22, includes shipping.

12 Do you see that?

13 A. Yes.

14 Q. On Page 24H?

15 Now, with respect to that particular entry,
16 who receives the money off of these tapes that are
17 sold?

18 A. It appears from this that we do, that Three
19 ABN does.

20 Q. So none of that money then subsequently goes
21 back to John Carter Ministries?

22 A. Oh, I'm sure it does. None of these would be
23 free. In other words, these people aren't providing me
24 tapes to sell for nothing I'm sure, so I'm sure that

1 that is not something that Three ABN keeps.

2 You're asking me if Three ABN keeps \$16.50
3 with no investment?

4 Q. Uh-huh.

5 A. I can assure you that we are not making
6 \$16.50 and not putting a lot of money into it however
7 we're doing it.

8 Q. Are you paying back John Carter Ministries?

9 I believe you said the name was John Carter
10 Ministries, back any portion of those proceedings?

11 A. There is any number of ways, if I can
12 elaborate, that this could be happening. It could be
13 happening that --

14 MR. MILLER: Objection. This witness is
15 speculating at this point.

16 THE WITNESS: Oh.

17 ADMINISTRATIVE LAW JUDGE: Objection
18 sustained. He said he doesn't know.

19 MS. RHOADES: Okay.

20 Do you know any possible ways that money
21 would be reimbursed back to a provider or programming
22 during the years 2000 and 2001?

23 MR. MILLER: Objection.

24 MS. RHOADES: I asked him if he knew of any.

1 ADMINISTRATIVE LAW JUDGE: That was the
2 question.

3 MR. MILLER: Any possible ways?

4 MS. RHOADES: Uh-huh.

5 MR. MILLER: Well, I think that calls for
6 speculation, Your Honor. Does he know if it was done
7 would be the question.

8 ADMINISTRATIVE LAW JUDGE: Well; would you
9 mind rephrasing it that way?

10 MS. RHOADES: No.

11 ADMINISTRATIVE LAW JUDGE: Okay.

12 MS. RHOADES: My question is, do you know of
13 any ways in which moneys would be paid back to, for
14 example, John Carter Ministries for your charges that
15 you made for them for the tapes, that you charge others
16 for the tapes?

17 THE WITNESS: No, I don't. I don't know
18 that. I was about to speculate on some ways that I can
19 see we'd do it, but I don't know that. But I believe
20 that I'd have to refer that one to Larry Ewing.

21 Q. Now, with respect to these catalogs that have
22 been previously marked as Exhibits 5, 6, 7, 8, and 9,
23 how are those distributed to individuals, Mr. Shelton?

24 A. All of these individual catalogs?

1 Q. How does one get a catalog?

2 A. I believe that they're available on request.
3 If somebody wants to request one, they can. We would
4 mail them one.

5 Q. And how does someone know that you have
6 catalogs that are available upon request?

7 A. Through our newsletters or possibly, I don't
8 recall on there, but there may be on air or through the
9 Internet. It's possible through the Internet. We have
10 a web page.

11 Q. Now, with respect to individuals, do you
12 maintain a mailing list?

13 A. Yes, we do.

14 Q. And how do individuals get placed on your
15 mailing list?

16 A. Either by request or people who send
17 donations.

18 Q. And when they send donations then what kind
19 of other literature is provided to those individuals if
20 they get on a mailing list?

21 What type of routine mailings do you send out
22 to them?

23 A. Routine mailings, as far as I know is just a
24 newsletter.

1 Q. Now, with respect to donations that are
2 received by Three Angels Broadcasting Network, are
3 those contributions listed in two categories,
4 restricted and unrestricted funds?

5 A. Yes.

6 Q. And could you please tell us for purposes of
7 the record what unrestricted funds are, Mr. Shelton?

8 A. Yes. Unrestricted funds are donations that
9 come in to Three Angels Broadcasting Network that
10 people don't specify what they want it used for.

11 If they ordered a CD then that would be
12 strictly for the CD. If they made a gift to Russia and
13 says, I want this money to go help build a church in
14 Russia, then we restrict that and don't use it for
15 operations.

16 Q. Now, when you ask someone to donate to a
17 restricted fund, how is that presented to individuals
18 through your broadcasting?

19 A. Very simply, that if I'm helping to raise
20 funds for, as we have done in Russia and Russia is a
21 real situation, we say we're building a Christian
22 Cultural Center in Russia or recently we helped build
23 orphanages in India and Bangladesh, so we say, if you'd
24 like to support this, you may send a love gift and mark

1 on your gift that you want it to go to India or
2 Bangladesh or Russia or wherever.

3 Q. Now, Mr. Shelton, I'm going to show you what
4 is marked as Respondent's or Intervenor's Exhibit
5 Number 10 and ask you if you know what this document
6 is?

7 A. It says it's Three Angels Broadcasting
8 Network Restricted Net Assets Year Ended December 31,
9 2001.

10 Q. And do you know if this is a document that is
11 maintained and kept in the normal course of business by
12 Three Angels Broadcasting Network?

13 A. I believe that it is, yes.

14 Q. And with respect to this document, is this
15 one of the documents that would be regularly and
16 routinely shared with the Three Angels Broadcasting
17 Board of Directors?

18 A. Yes.

19 Q. And with respect to this particular document,
20 is it for the relevant periods of 2000 and 2001
21 calendar years?

22 A. This particular document is, as I have it in
23 my hand, says 2001.

24 MS. RHOADES: Okay. Now, with respect to -- I

1 move for admission of Intervenor's Exhibit Number 10.

2 ADMINISTRATIVE LAW JUDGE: Any objection?

3 MR. MILLER: No.

4 MS. RHOADES: Now, I want you to --

5 ADMINISTRATIVE LAW JUDGE: Let the record
6 reflect Intervenor's Exhibit Number 10 is admitted into
7 evidence.

8 Would you please initial and date that?

9 (Intervenor's Exhibit Number
10 10 was admitted into evidence.)

11 MS. RHOADES: Now, with respect to
12 Intervenor's Exhibit Number 10, does, on the left-hand
13 or in the second column from the right, it shows
14 12/31/2000.

15 Does that represent the amount of restricted
16 funds available for each of those categories that were
17 remaining at the end of calendar year 2000?

18 THE WITNESS: I believe..

19 Q. Okay. And then in the next column it shows
20 the amount of contributions made for each of those
21 funds for the subsequent year, 2001?

22 A. Yes.

23 Q. And then it shows the total amount that was
24 transferred or, in fact, given to those particular

1 entities as listed, correct, for that calendar year?

2 A. It says transferred, so I think so.

3 Q. So, for example, sometime during the calendar
4 year 2001 \$23,196.66 was transferred to Boies-Caldwell?

5 A. Yes.

6 Q. Okay. Now, you mentioned your Russia
7 project.

8 With respect to Russia, were all of the
9 moneys that you raised from that project done via
10 restricted funds, do you know?

11 A. All of the money that we requested was
12 restricted funds. There were moneys that -- is that
13 what you're asking?

14 Q. Uh-huh.

15 A. Did all the money that we asked for Russia,
16 did we send it to Russia?

17 Is that what you want to make sure we did?

18 Q. Uh-huh.

19 A. Yeah. All the money that was raised for
20 Russia by asking for donations, we didn't keep any of
21 it even for administration. We sent it on to Russia, a
22 hundred percent of it.

23 Q. Now, my next question to you then is for
24 general contributions, which are unrestricted funds,

1 did any amount of those get sent directly over to
2 Russia that you know of?

3 A. Yeah. Well, I believe they did. Again, I
4 should -- I'm trying to answer questions that I'm not
5 sure, but my -- my understanding, we have auditors that
6 you'll be talking to and CPA, but my understanding is
7 that sometimes if money was needed for Russia that
8 wasn't donated that we took it out of general funds
9 that was donated for whatever purposes, to help support
10 Three ABN around the world.

11 Q. Now, I want to show you what we have marked
12 here as Intervenor's Exhibit Number 11, and do you know
13 what this document represents?

14 A. It says Itemized Donations for 2001.

15 Q. Is this a document that was prepared by Three
16 Angels Broadcasting Network?

17 A. I believe it was.

18 Q. And do you know if this document was provided
19 to us pursuant to discover upon a request of all
20 donations of Three ABN for the year 2001?

21 A. I believe that's true.

22 Q. Do you know who prepared this document?

23 A. I'm sure it was accounting.

24 Q. And it was under your direction and

1 supervision?

2 A. I'm sure that's true.

3 MS. RHOADES: I move for admission of
4 Intervenor's Exhibit Number 11.

5 ADMINISTRATIVE LAW JUDGE: Any objection?

6 MR. MILLER: No objection.

7 ADMINISTRATIVE LAW JUDGE: Let the record
8 reflect, and I need that exhibit not this one, because
9 that's got the original sticker.

10 MS. RHOADES: I'm sorry, I handed you --

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

14 (Intervenor's Exhibit Number 11 was
15 admitted into evidence.)

16 MS. RHOADES: Now, with respect to
17 Intervenor's Number 11, is there any indication on
18 there, can you tell me where it would indicate that you
19 sent money over to the Russia mission?

20 THE WITNESS: These are money that was sent.

21 MR. BOOTHBY: Just for the record, what
22 document is he looking at when he says these?

23 MS. RHOADES: Respondent's Exhibit Number 11.

24 THE WITNESS: Both pages.

1 These are donations that was sent, not within
2 Three ABN. Three ABN Russia is Three ABN. It's not an
3 outside entity. These are all outside entities that we
4 had records. We made you a record of all outside
5 donations of Three Angels Broadcasting. I have other
6 records that will show you thousands and thousands and
7 thousands of dollars have been sent to Russia in the
8 years 2000 and 2001. Tremendous amount of money.

9 I think we average ten or fifteen thousand a
10 month is sent to Russia, but we don't -- our
11 understanding of putting this for you was things that
12 we helped outside or we donated to ministries not
13 related to Three ABN Russia. It was related to Three
14 ABN so, of course, that would not be on this.

15 Q. Let me ask you this question, Mr. Shelton.

16 You indicated, I guess maybe I'm confused
17 from your testimony yesterday, because I think you
18 indicated that the Russian facility was actually owned
19 by a different entity other than Three Angels
20 Broadcasting Network, correct?

21 A. For legal reasons we can't call it Three
22 Angels Broadcasting, but I'm still the Director and the
23 President and I'm still -- it's still Three Angels but
24 it's Three Angels of Russia. But for legal purposes

1 the governments won't allow us to do it.

2 The same way with the Philippines, because I
3 have to have national board members too as well. So
4 Three ABN still funds this. No one else in the entire
5 world funds the Russian facility but Three ABN of
6 Southern Illinois.

7 Q. But my question is, where are the records
8 then that shows the transfer of funds to Three ABN
9 Russia?

10 A. Oh, we have lots of records of that but it
11 wouldn't be in here. I wouldn't have instructed anyone
12 to put that on here, because I would not even assume
13 that Three ABN Russia was an outside entity like the
14 Benton High School for instance.

15 Q. But yet you've testified here today that it's
16 a completely different entity for legal reasons?

17 A. Well, it's not a -- it's not sponsored. It's
18 not a different entity in that it's Three ABN Russia.
19 I do have records that say Three ABN Russia that are
20 accountings that will show you that it went there.

21 So while we can't say Three ABN and Russia
22 doesn't recognize us here. I have to have board
23 members. It's not a -- what I'm assuming you're trying
24 to show is that we are not honest with the money and,

000350

1 of course, that's not true.

2 What I'm saying is, if you want the truth,
3 I'm happy to show you and can get you the records that
4 will show you how much was sent to Russia. It's very
5 simple.

6 Q. Well, let me ask you -- let me ask you this
7 question.

8 When did the Russian facility open up, Mr.
9 Shelton?

10 A. Well, we've began building it I think around
11 1992 or 1993.

12 Q. You've indicated that you have been paying
13 for the employees for Russia, is that correct?

14 A. Yes.

15 Q. And when did you begin paying their salaries
16 for the employees that are related to the Russia
17 mission?

18 A. As soon as we hired employees over there,
19 which would have been in the nineties, early nineties,
20 probably by '93 or something like that we began to pay
21 Russian employees. Of course, we only had a few of
22 them to start it, so we've got more as we've grown,
23 just like we have here.

24 In '93 we didn't have as many workers as we

000351

1 do now.

2 Q. How many would you say right now that you
3 have over in Russia as far as employees?

4 MR. MILLER: Your Honor, I'm going to object
5 to this line of questioning. I'm not understanding the
6 relevance of it. It's not related to the property at
7 issue here. That was something that was, kept being
8 brought up as being a separate facility also, and I
9 don't know how it relates to the jurisdiction and
10 issues faced by this court.

11 MS. RHOADES: I think they brought it up, and
12 we have a right to inquire as to Russia and they've
13 made a big deal that they've been funneling moneys and
14 sending a lot of moneys to that entity.

15 I think what we intend to show is the list of
16 Three ABN employees and show for the calendar years
17 2000 and 2001 that not one of them is related to
18 Russia, and that's what's been produced to us.

19 I want to inquire as to those issues. I
20 mean, if they're saying they're funding it --

21 ADMINISTRATIVE LAW JUDGE: I think it has to
22 go to the funding, not the use of the property itself.
23 The financials are part of the questioning.

24 MR. MILLER: Well, we're going back to '92 and

1 '93, and I think that Mr. Shelton is testifying there
2 are records for 2000 and 2001 one that show massive
3 distribution of money to Russia, and we're happy to
4 provide those records.

5 I don't believe we were asked for them.

6 THE WITNESS: No, I didn't. She keeps saying,
7 did you instruct on even records that I knew that she
8 wanted, so I'm taking all the responsibility of all the
9 interrogatories but since I have on everything else,
10 though I don't look through. You know, I see them all,
11 but do I go through them? This is a very simple one.

12 I would not have instructed them to put
13 Russia because that is funded by us on a year in, year
14 out, month in, month out basis and every penny that's
15 ever come in for Russia we don't even take out
16 administrative costs.

17 Over the years probably \$2 million, as much
18 as that for Russian projects for the Russian Cultural
19 Center for wages. We've never taken out a penny for
20 that, so I wouldn't have put it. I don't look at it as
21 a separate.

22 I understand what she's trying to say for
23 legality, but now I can refer her to our auditor who
24 she will be talking to later on today or tomorrow, who

000353

1 actually set this up for us and the legal way for Three
2 ABN.

3 So I'm very comfortable everything is legal,
4 because our outside auditor said, this is the way you
5 must do it. We didn't tell him what to do. He told us
6 how to set this to make this all legal and still fund
7 Russia.

8 So I'm comfortable with the auditor, Alan
9 Lovejoy, talk to him about it because I'm not that
10 legal and I'm not that in the funding part of it. But
11 I can promise you everything every raised for Russia
12 has gone to Russia.

13 MS. RHOADES: And I'm talking about, and I
14 think we're talking about two separate things, because
15 you're talking about the restricted funds. I
16 acknowledge, Mr. Shelton, that the restricted funds
17 have gone on to Russia. I've gotten a document before
18 you.

19 This is a list that was produced, the list
20 that you've got before us as Exhibit Number 11 was the
21 list that was provided to us with respect to outside
22 donations to other entities?

23 A. Right.

24 Q. And I don't see on there Russia, that any

1 additional contributions from general funds were in
2 fact provided to them.

3 ADMINISTRATIVE LAW JUDGE: Okay. I still have
4 an objection before me.

5 MR. MILLER: My objection is that he said we
6 have those documents that we can provide, and I don't
7 understand why we need to find out about the operations
8 of Russia and when it began and all of these other
9 things.

10 ADMINISTRATIVE LAW JUDGE: I'm going to
11 sustain the objection on the operations for Russia. I
12 think some of this will be clarified or I hope it will
13 be clarified by the further testimony of their
14 financial officers, and that that's probably the more
15 appropriate area --

16 MR. MILLER: That's correct, Your Honor.

17 ADMINISTRATIVE LAW JUDGE: -- area for these
18 questions.

19 MS.. RHOADES: Mr. Shelton, in our
20 interrogatories we asked to specify from calendar years
21 1999, 2000, and 2001 all contributions, as to other
22 monetary amounts provided to any religious society,
23 church, religiously affiliated charitable or
24 not-for-profit organization by Three Angels

1 Broadcasting Network.

2 Then we asked for each contribution to
3 identify the religious society, church, religiously
4 affiliated charitable or not-for-profit organization
5 which such contribution gifts or other monetary amounts
6 were provided to, the dates of such contribution gifts
7 or other monetary amounts were provided to the
8 identified religious society, church, religiously
9 affiliated charitable or not-for-profit organization
10 and the account from which those contributions came.

11 And then your response was to attach
12 Attachment 4, which is the document that is before you
13 in Exhibit Number 11.

14 Do you recall that occurring?

15 THE WITNESS: Are you asking me right now if I
16 recall all of that?

17 Q. Uh-huh.

18 A. All of those interrogatories?

19 No, I don't. But I'm sure it was among there
20 if that's what you're wanting me to.

21 Q. Let me show you the Applicant's Objections to
22 Answers to Intervenor's First Set of Interrogatories.

23 MR. MILLER: Objection, Your Honor. I think
24 this is just harassing the witness. He's explained he

1 doesn't believe that this entity in Russia is a
2 separate organization that he would have listed under
3 the donations to other entities.

4 He viewed this as the operations of Three
5 ABN. It's a separate corporate shelf for legal
6 purposes, that he's the Chairman of the Board. There
7 is another Board in Russia. I think we've had the
8 explanation. I don't think it does any good for the
9 opposing counsel to flog my witness with the
10 interrogatories and the response and what she thinks
11 should have been provided.

12 We've had the explanation. The auditor is
13 going to testify to the funds. That's coming up. I
14 suggest we move on.

15 MS. RHOADES: I just want to get a
16 clarification between restricted and general
17 contributions and I don't know, Your Honor, that we've
18 gotten to that, and that's what I'm asking for.

19 MR. MILLER: That's not the question. It
20 didn't have anything to do with restricted and
21 unrestricted funds.

22 MS. RHOADES: I believe my initial line of
23 questioning was, did you use any of the unrestricted
24 funds toward your Russian mission and I think the

1 witness's answer was yes.

2 MR. MILLER: That's correct, and so you have
3 the answer. But this later question was a very
4 different one.

5 ADMINISTRATIVE LAW JUDGE: I'm going to
6 sustain your objection and let's move on.

7 I think you've established what you needed to
8 establish.

9 MS. RHOADES: Now, Mr. Ewing or, Mr. Shelton,
10 I want to show you what I have marked here as
11 Intervenor's Exhibit Number 12.

12 I'll give you the original this time, Judge.

13 ADMINISTRATIVE LAW JUDGE: Thank you.

14 MS. RHOADES: And ask if you can identify this
15 document?

16 THE WITNESS: It's itemized donations. It
17 says, Itemized Donations for the Year 2000.

18 Q. And, again, with respect to this document,
19 was that a document that was prepared and created by
20 Three Angels Broadcasting Network?

21 A. Yes.

22 Q. And it was done under your supervision?

23 A. Yes.

24 Q. And, in fact, was that provided to us in

1 Responses to Discovery Requests?

2 A. Yes.

3 MS. RHOADES: I move for admission of Exhibit
4 12.

5 ADMINISTRATIVE LAW JUDGE: Any objection?

6 MR. MILLER: We have no objection, Your
7 Honor.

8 ADMINISTRATIVE LAW JUDGE: Let the record
9 reflect Applicant's, excuse me, Intervenor's Exhibit
10 Number 12 is admitted into evidence.

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

13 MS. RHOADES: I'm going to switch gears on you
14 here just for a minute, Mr. Shelton, and ask you a
15 question with regard to, we've heard a lot about your
16 satellites and you talked a little bit about
17 transponders.

18 And is there a certain charge that is -- that
19 Three ABN pays per month for transponders?

20 THE WITNESS: Yes, ma'am.

21 Q. And how much is that?

22 A. There are a number of transponders that we're
23 using, and my estimated guess, which again Larry can
24 give you, I think is around \$200,000 per month,

1 \$200,000.

2 Q. Now, when you have made items available for
3 purchase, whether they be CDs, videocassettes, books,
4 or satellite dishes, at the time in which you
5 established the price of those items did you do any
6 type of time study or cost allocation studies to
7 determine the cost of those?

8 A. The first that I know we did that is back in
9 1991, and we took a rough view. We tried again not
10 to -- our goal is not to make money, but was not to
11 lose a lot of money either. We want to maintain our
12 business, so it's interesting you ask.

13 I just found yesterday a video catalog from
14 1991 and our prices are still the same. Eleven years,
15 we've never raised them. What we're charging on our
16 2002 catalog is the same prices that were in the 1991
17 catalog, so we at that time got, of course at that time
18 we paid much more money.

19 VHS tapes we used to pay as much to have them
20 made as six or seven dollars for those tapes if we had
21 them produced. If we produce them ourself we bought
22 the blanks of course. It was much less money, so we
23 tried to decide, should we make these, what should we
24 do, so we've ended up, considering the cost of the

000360

1 tape, considering the equipment that it costs to do it,
2 the amount of man hours, time to try to come up with
3 something that was reasonable, and at that time below
4 the market to do it, and what has happened is from that
5 time we've never raised our prices in eleven years,
6 which to me is showing that we aren't really in it to
7 make a profit.

8 Q. But for the years 2000 and 2001 did you do
9 any studies to determine whether or not those videos,
10 CDs, cassettes, any time studies, any cost allocation
11 studies with regard to what charges would be for those
12 CDs, books, videotapes?

13 A. No. I don't remember doing a time study on
14 them. We just always charged the same prices.

15 Q. Now, one of your -- you've indicated that
16 part of the Seventh-day Adventist religious practices
17 would be what you called foot washings.

18 You said you still do foot washings in the
19 church?

20 A. As part of the communion services.

21 Q. As part the communion services.

22 During the calendar year 2000, were there any
23 of those foot washings that occurred on the property of
24 Three Broadcasting Network?

1 A. Not that I remember, no.

2 Q. And for the year 2001 were there any of those
3 things related to the Lord's supper?

4 A. Otherwise I'm thinking there probably was
5 people washing their feet, but with the communion.

6 Q. But the communion part of it?

7 A. The communion services, as far as I know, we
8 didn't have any foot, religious communion services,
9 foot washing, yes.

10 Q. And the same thing for 2000, in question for
11 2001?

12 A. It would be the same answer.

13 Q. Now, you've referenced often times in here
14 this Pentecost 2000?

15 A. Uh-huh.

16 Q. And with respect to Pentecost 2000, didn't
17 that actually occur on the subject property in the year
18 1999 and not the year 2000?

19 A. Well, that's what I testified to earlier.
20 I'm not sure if that was '99. It was 2000, but it
21 seems that we went into January, but I don't, my
22 memory, I've had probably two or three dozen
23 evangelistic series that I've been involved with since
24 then, so I mentioned that yesterday. I'm not sure if

1 it was all of 2000 or some '99, or if it was actually
2 '99 and right up to 2000. But we entitled it 2000,
3 which makes me, my mind think it must have involved
4 2000, because I can't imagine us anyway.

5 Q. And approximately how many days did the
6 Pentecost 2000 run in the year 2000?

7 A. Oh, most of them run 30 to 40 days, these
8 evangelistics, so I assume 30 to 40 days.

9 Q. Now, one of the, also my understanding of
10 part of the religious practices of the Seventh-day
11 Adventist Church is baptism by immersion, is that
12 accurate?

13 A. Yes.

14 Q. Now, with respect to baptisms by immersion,
15 how many of those were held, do you know, on the
16 subject property during the calendar year 2000?

17 MR. MILLER: Your Honor, I just -- I do feel
18 the need to raise for the record an objection here that
19 the opposing counsel seems to be breaking out certain
20 religious services to determine their usage on the
21 property, and the only relevance this could have is if
22 she were contrasting it with other kinds of activities
23 on the property and arguing that one was religious and
24 one wasn't.

1 Now, the problem with that is that we were
2 anticipating this kind of argument and listed
3 witnesses, expert witnesses to address those questions,
4 to explain why, apparently that why the health message,
5 for instance is as much a religious ordinance if you
6 will for the Seventh-day Adventist as a foot washing,
7 and we were denied the ability to bring those witnesses
8 in on the basis, on the argument that those kind of
9 distinctions would not be made or challenged
10 apparently.

11 Those are -- that's the only argument that
12 they could make to make our witness irrelevant, and
13 this court ruled on those representations, that those
14 witnesses would be excluded and they have been.

15 And my concern at this point is, that this
16 line of questioning can only be relevant if in fact
17 that ruling is -- is based on erroneous premises, and
18 if this continues, then I believe the court needs to
19 agree that indeed my expert witnesses are relevant to
20 the issues in this case.

21 MS. RHOADES: And I would strongly disagree
22 with that. All I'm asking are, did these practices
23 take place on the property with respect to their --
24 what we made the Motion In Limine for was with regard

1 to individuals who were testifying what went on on that
2 property when they've never been on that property.
3 They're just talking in general terms.

4 I'm talking about physically on the property,
5 what practices occurred.

6 MR. MILLER: Well, Your Honor, you could also
7 ask if people do cartwheels and handsprings on the
8 property and they wouldn't ask that, because clearly
9 there is no relevance. Just because the activities are
10 on the property does not make them relevant to this
11 case.

12 The only thing that would make them relevant
13 is if the opposing side is attempting to draw a
14 distinction between practices which are religious,
15 i.e., foot washing and baptism, and practices which
16 they would seem to be setting up to argue are
17 nonreligious, and the premises is based on SDA's
18 teachings, those are how the questions are couched.

19 I heard Adventist involved in foot washing.
20 Well, if we're going down this line of questioning, it
21 seems to me we have the right to present an expert,
22 which the other side has frequently talked about, an
23 expert on adventist theology to talk about how the
24 activities at Three ABN are religious, not just the

1 foot washing.

2 So that's my concern here, that this whole
3 line of questioning is irrelevant under the terms that
4 the other side set out in their motion or it's relevant
5 and we shouldn't have had our witnesses excluded.

6 You can't have it both ways.

7 ADMINISTRATIVE LAW JUDGE: I think what I'm
8 going to accept his testimony on is what exactly took
9 place on the property. If you want to augment what
10 she's doing as far as other activities that also took
11 place, but I don't want to get into what I stated.

12 MR. MILLER: But my question is, what is the
13 relevance of this other than to show or to claim that
14 certain activities are religious and certain activities
15 are not?

16 ADMINISTRATIVE LAW JUDGE: By stating that in
17 fact foot washing took place does not show that it in
18 fact is a religious activity. I think all she's trying
19 to do is establish what took place and I'm not going to
20 take this testimony as, okay, this is religious and
21 this is not.

22 MR. MILLER: But you would agree if she asked
23 if they did back handsprings on the property that would
24 be irrelevant?

1 ADMINISTRATIVE LAW JUDGE: Yes, I definitely
2 would agree.

3 MR. MILLER: Because --

4 ADMINISTRATIVE LAW JUDGE: But there has been
5 no established testimony that back handsprings did take
6 place on the property. Whereas, there has been some
7 establishment that foot washings have.

8 MR. MILLER: That wasn't in the record at
9 all. No one ever stated that foot washings occurred on
10 the property. This was a line of question opposing
11 counsel was seeking to introduce. It goes beyond the
12 direct examination. There was no testimony about
13 baptism or foot washings taking place.

14 ADMINISTRATIVE LAW JUDGE: You're right.
15 You're absolutely right, because he just stated that
16 was part of the --

17 ADMINISTRATIVE LAW JUDGE: Okay. I'm going to
18 uphold your objection. I don't want the specifics of
19 things that just have to do with the Seventh-day
20 Adventist Church and not, that were part of the direct
21 examination:

22 I apologize for -- I appreciate your
23 clarifying that.

24 MR. MILLER: I move to strike the testimony

1 that related to that.

2 ADMINISTRATIVE LAW JUDGE: I think we'll
3 strike the testimony regarding the questioning of
4 activities of the church that in fact took place, when
5 all he did was just testify that is activities of the
6 church itself, not on the property.

7 MS. RHOADES: Now, with respect to Three
8 Angels Broadcasting Network, it holds itself as being a
9 nondenominational entity, correct?

10 THE WITNESS: Three Angels legally is its own
11 corporation. It's a 501(c)3), not legally a part of
12 the Seventh-day Adventist Church so, yes, we are.

13 Q. And you advertise in some respect on, for
14 example, your Internet site and some others that it is
15 in fact a nondenominational entity, correct?

16 A. We advertise that we're separate from the --
17 the point we're trying to make is, we're not part of
18 the Seventh-day Adventist Church, because we're not.

19 Q. Now, with respect to purchase of airtime by
20 other entities, Mr. Shelton, the General Conference of
21 the Seventh-day Adventist Church did in fact pay
22 airtime to Three Angels Broadcasting Network during
23 calendar year 2000, correct?

24 A. The General Conference did pay some airtime?

1 Q. Yes.

2 A. Yes, they did pay some.

3 Q. And the General Conference also paid some
4 airtime for -- to Three Angels Broadcasting Network for
5 the years 2000 during year 2001, correct?

6 A. Yes.

7 Q. And there were other entities as well that
8 paid airtime?

9 A. Yes.

10 Q. To Three Angels Broadcasting Network during
11 the years 2000 and 2001, correct?

12 A. Yes, that's true.

13 Q. Do you know how many -- do you know if there
14 was 791 hours of airtime that were sold to others by
15 Three Angels Broadcasting Network, I'm sorry, 2001?

16 A. Say that again. What was the two figures?

17 Q. Do you know if 791 total hours of airtime
18 were purchased by other entities other than Three
19 Angels Broadcasting Network for airing?

20 A. Off the top of my head would I know that?

21 No.

22 Q. Okay. Would there be a document that would
23 refresh your recollection?

24 A. I'm sure there is.

1 Q. If I showed you this document would this help
2 you refresh your recollection?

3 A. That would help me, yes.

4 MR. BOOTHBY: What document is that?

5 MS. RHOADES: It's the one that you introduced
6 as Exhibit 17, that's been excluded. I'm using it for
7 purposes of refreshing his recollection.

8 THE WITNESS: This is what they were charged
9 for, of course, they got much more showing. Every
10 program got two other times free at least, sometimes
11 more.

12 Q. Okay. So, in fact, there was 791 total
13 airtime hours purchased?

14 A. Yes, uh-huh.

15 ADMINISTRATIVE LAW JUDGE: Off the record for
16 a second.

17 (Whereupon a short recess
18 was taken.)

19 ADMINISTRATIVE LAW JUDGE: And for purposes of
20 the record, I want to make sure that everyone
21 understood, it was not excluded.

22 MR. MILLER: Thank you, Your Honor.

23 MS. RHOADES: Now, Mr. Shelton, you've
24 mentioned that you've got the Three Angels Broadcasting

1 I think you said it was New Guinea, you've got your
2 local Three Angels Broadcasting.

3 Are there any other subsidiary or related
4 corporations to Three Angels Broadcasting Network that
5 existed in the year 2000 and 2001?

6 THE WITNESS: 2000 I believe the Philippines.
7 Did we mention the Philippines? Russia, of
8 course.

9 I don't know if we were set up in 2001.
10 Yeah, 2001 we would have been I believe for New
11 Guinea. Russia, New Guinea, the Philippines, and let's
12 see.

13 Any other entities outside the United
14 States?

15 Q. Even in the United States that are affiliated
16 or associated with Three Angels Broadcasting Network
17 that it's either a spin off subsidiary or corporation?

18 A. I can't think of it right now. If you can
19 jog my memory, I'll be happy if there is something
20 else.

21 Q. I'm asking you, is there --

22 A. Not that I know of.

23 Q. -- is there any specific music label or
24 anything else like that?

1 A. In 2000 and 2001 I don't think so. We're in
2 the process of setting up one, but I don't know if we
3 had one actually set up in 2000 and 2001.

4 Q. Now, I want to show you what has been already
5 marked as Applicant's Exhibit, the 2001 Financial
6 Statement.

7 What exhibit was that?

8 Exhibit 15. And this document has already
9 been admitted and I want to refer you, Mr. Shelton, to
10 some items that are contained. I'll give that back to
11 you, Judge, and get me a copy.

12 And I want to refer you to the notes
13 contained in this report and particularly note number
14 five.

15 MR. MILLER: What page, please?

16 MS. RHOADES: Down at the bottom.

17 MR. MILLER: It has pages on the top
18 right-hand.

19 MS. RHOADES: Page 10 is the way you've got.
20 It's Page 8 in the upper right-hand corner.

21 THE WITNESS: So I'm looking at the right-hand
22 corner at what page?

23 Q. Page 8 in the upper right-hand corner.

24 A. Okay.

1 Q. Now, with respect to note number five there
2 is a statement that says, long-term debt, note payable
3 to individual, due within 30 days after demand.
4 Interest is seven percent due quarterly. Debt is
5 relieved in the event of a lender's death and shows
6 amount next to it of \$20,000.

7 A. Uh-huh.

8 Q. Do you see that entry in there?

9 A. Yes.

10 Q. Could you please tell us who the individual
11 is that the note is payable to?

12 A. If the individual dies?

13 Q. No. I'm asking the name of the individual
14 whom -- who has lent you this money.

15 A. Oh, these are, and again I'll, if we're going
16 to go in depth of this, I have to have my accountant do
17 it, but we have a Wills and Trust Department where
18 people give gifts, annuities, or revokable trusts, and
19 what happens is, it's not an individual who loans
20 money, but it goes on the books as a loan because
21 certainly whether it's irrevocable or revokable you're
22 liable for that and there is no individual that, for
23 instance, wrote us a check and said here's your loan
24 for \$20,000, but through the Wills and Trust Department

000373

1 the auditor and accountant felt that some of these are
2 best -- they have to be written up this way.

3 Q. Now, with respect to these though, it also
4 shows that there is an interest due and payable
5 quarterly, correct?

6 A. On a revocable trust and gift annuities
7 people put in, if they put in for instance \$20,000, the
8 government sets an interest according to the person's
9 age and they set the rate of interest according to
10 their age as how long they'll live.

11 It's their money that they gifted to us, but
12 then we give them the interest off of their money that
13 they give to us, and if they die prematurely, the whole
14 thing is ours so that's -- this is all about wills and
15 trusts here.

16 In other words, if you're looking at this
17 loan, this is not loans.

18 Q. Now, with respect to -- with respect to the
19 next one, there is a or the third one down it says note
20 payable to individual, due March 27, 2002, noninterest
21 bearing, debt is relieved in the event of lender's
22 death and this one has a specific day and it's in the
23 amount of \$800,000, Mr. Shelton?

24 A. That's right.

1 Q. Could you please explain this entry for us?

2 A. Sure can. This lady watched Three ABN and
3 she wanted to give us \$800,000 as a gift, but she just
4 wanted to make it a temporary loan until the end of the
5 year for whatever her reasons, and I don't. The
6 accountant can tell you more about that, but in January
7 of 2002 she forgave the loan and it's as a gift, so we
8 have that money at Three ABN.

9 Q. Okay. And that particular entry refers to
10 note number 16.

11 Could you please go to note number 16,
12 please?

13 A. Note 16?

14 Q. Uh-huh.

15 A. Of that same page?

16 Q. It's on Page 11, up at the top.

17 A. Page 11. Okay. 16.

18 Q. Uh-huh.

19 And does that then indicate that that debt
20 was a -- that the transaction you're referred to where
21 the individual forgave the note?

22 A. I'm looking at two different ones. I'm on
23 Page 11 at the right-hand corner and the Number 16
24 says --

1 Q. Subsequent events. It's the third
2 paragraph.

3 A. Oh, down to the third one?

4 Q. Yes.

5 A. Uh-huh. On January 2, 2002 the note payable
6 to an individual for \$800,000 was forgiven and recorded
7 as charitable, as a contribution of revenue, yes. Yes.

8 Q. Now, with respect to the note that's above
9 that on Note Number 16 on Page 11 of the audit report,
10 yesterday you testified that you had some property in
11 West Frankfort that was actually donated to the City of
12 West Frankfort.

13 Does this tell you the date that that
14 transaction actually occurred?

15 A. Yes. And yesterday I testified that we were
16 in the process of giving this for the last year or two,
17 but we didn't actually get it done until recently.

18 Q. So you actually showed interest or rental
19 income off of that property for both the years 2000 and
20 2001, correct?

21 A. Oh, yes. Yeah. The buildings in town we
22 show on our financial statements show that there is
23 rental income for 2000 and some of 2001 or maybe all of
24 2001.

000376

1 Q. Now, with respect to that particular
2 location, did there --

3 ADMINISTRATIVE LAW JUDGE: Excuse me. Let's go
4 off the record.

5 (Discussion off the record.)

6 MS. RHOADES: Now, with respect to that
7 particular piece of property, was one of the renters of
8 part of that property that you sold to the City or gave
9 to or donated to the City of West Frankfort house a
10 Subway restaurant?

11 THE WITNESS: Yes.

12 Q. Now, also, and I find it curious that on this
13 2001 audit report the auditor felt important to note on
14 subsequent events of June 2, 2002 transactions
15 involving Angels Enterprises, L.L.C.

16 MR. MILLER: Objection, Your Honor. This is
17 not dealing with the year 2001, but in fact it relates
18 to Board activities that took place in 2002.

19 MS. RHOADES: Your Honor, if I can, this is --
20 this is the 2001 audit report. The auditor found it
21 significant to put it in the audit report.

22 Secondly, this document has been quite a bit
23 of subject of our discussion, the fact that we didn't
24 get this until sometime around the first part of

1 September and have not been able to inquire as to
2 anybody because discovery was closed, what are the
3 natures of these transactions and relevancy and I'd
4 asked this court for leniency in doing so.

5 MR. MILLER: Well, Your Honor, all of that may
6 be true but that doesn't make an event that happened in
7 2002 relevant to a case that deals with 2000 and 2001.

8 ADMINISTRATIVE LAW JUDGE: I'm going to
9 overrule your objection just because I'd like some
10 clarification as to, if this is in fact the Board
11 approved forming it, if there were steps taken in 2001
12 and if the auditor felt was important enough that it
13 was included in the 2001 financial report. I'd just
14 like some clarification on it.

15 MR. MILLER: Can we get some foundation laid
16 of how it relates to 2001?

17 MS. RHOADES: Yeah.

18 ADMINISTRATIVE LAW JUDGE: That's what I
19 would.

20 MS. RHOADES: And I would --

21 ADMINISTRATIVE LAW JUDGE: And I think that's
22 what --

23 MS. RHOADES: And that's what I asked about
24 it, why it relates, why he felt it important to put it

1 in there.

2 MR. MILLER: Then I'd object as to
3 foundation. How does he know what the auditor -- the
4 auditor will be testifying and can be asked.

5 ADMINISTRATIVE LAW JUDGE: I'm going to
6 overrule your objection just to ask him if he knows
7 anything about it or just to clarify her question.

8 MR. MILLER: What's -- let's hear the question
9 again.

10 (Whereupon the requested
11 portion of the record was read
12 back by the Reporter.)

13 MS. RHOADES: Mr. Shelton, with respect to the
14 entry on the 2001 audit report, which is Intervenor's
15 or which is Applicant's Exhibit 15, there is a note in
16 there with respect to formation of a new corporation in
17 June of 2002.

18 Do you have any information as to why that
19 entry was contained in this particular audit report?

20 THE WITNESS: I think I do. The auditor may
21 tell you different, but I can only tell you what I
22 know, so if that's what you're wanting.

23 Q. I want to know what you know.

24 A. Okay. I'll tell you what I know about it.

1 Because of what we're doing and wanting to give this
2 real estate away to the City, that the City wanted, I
3 talked to my Board and said, I told our Board about our
4 case here and I said, it seems to me, my understanding
5 has always been that it doesn't make any difference.

6 I look at -- I look at all the other
7 television ministries and the Dobsons who do millions
8 and millions and bring in millions of dollars, it's not
9 how much money you bring in, but it's how its spent.

10 My understanding of Illinois law has always
11 been for nonprofit organization whether that's right or
12 wrong, but if that's a problem and it could end up
13 being some type of misrepresentation to the state, why
14 don't we form, not that we have any, we don't even have
15 anything, but if we did, why don't we form a separate
16 organization if we wanted to own buildings downtown,
17 for instance, then we would do it in a separate that
18 would show it as a profit since we're not a profit.

19 If we wanted to do a profit making business
20 then we can go into that, and so I think that's what
21 it's about.

22 Because our thing is, we're not profit. We
23 never have been profit and never tried to be, but if
24 this is misconstrued or owning or bringing in revenue,

1 as long as it's spent for, so I'm just saying to them,
2 if we're going to do anything that looks that way in
3 the future, let's form a corporation that would be --
4 show the state this was, over here we're renting
5 property. This is rentals for farmland, for instance.
6 This is totally charitable.

7 This is here. We believe it's all
8 charitable, but if it makes anyone happier or records
9 easier to look at, let's try to do what we can do to
10 comply to make things easy, so that's it.

11 We don't have anything up our sleeves. There
12 is no money ideas or profits that we have any ways of
13 making big money coming in or ever tried to. That's
14 just the truth.

15 Q. Okay. I want to show you now, Mr. Shelton,
16 what I've marked as Intervenor's Exhibit Number 13, and
17 ask if you could please identify this document?

18 A. Yes.

19 Q. And what -- this particular document, is that
20 a document that is maintained and kept by Three Angels
21 Broadcasting Network?

22 A. Yes.

23 Q. And is it a document that was prepared under
24 your direct supervision?

1 A. Yes.

2 Q. And with respect to this document was it also
3 produced to us in discovery by you?

4 A. Yes.

5 MS. RHOADES: Now, with respect to -- I move
6 for admission of Intervenor's Exhibit Number 13.

7 ADMINISTRATIVE LAW JUDGE: Any objection?

8 MR. MILLER: Yeah. I just want to voir dire
9 the witness for a moment about this document as the
10 basis of my objection.

11 Well, maybe I'll state my objection. I
12 understand that this document was prepared for purposes
13 of litigation. It is not a business record. Opposing
14 counsel seems very concerned about those kinds of
15 documents, and I would like to object on that basis.

16 ADMINISTRATIVE LAW JUDGE: Okay.

17 MS. RHOADES: I think when we asked for
18 documents with respect to leases, etcetera, this was
19 what we were provided, Your Honor, and it's their
20 document.

21 MR. MILLER: Just like the earlier document I
22 believe the court excluded, that was prepared --

23 MS. RHOADES: I don't think she's excluded any
24 on that basis.

1 MR. MILLER: Oh, is that right?

2 ADMINISTRATIVE LAW JUDGE: That's correct.
3 Everything is being held pending examination and
4 cross.

5 MR. MILLER: So maybe we can hold this one as
6 well.

7 ADMINISTRATIVE LAW JUDGE: Do you want to hold
8 this one as well?

9 Let's go ahead and hold Intervenor's Exhibit
10 Number 13.

11 MS. RHOADES: I'd like to be able to continue
12 to inquire the witness with respect to this document,
13 Your Honor.

14 ADMINISTRATIVE LAW JUDGE: That's fine.

15 MS. RHOADES: With respect to this particular
16 document, does it in fact show that there are several
17 agreements that are in fact verbal agreements with
18 individuals?

19 THE WITNESS: Verbal as well as contract?

20 Q. Uh-huh.

21 And there is only one written contract,
22 correct?

23 A. Okay.

24 Q. Is that correct?

1 A. I'm not sure if there's just one or if there
2 is two or three. I don't know that.

3 Q. And with respect to the column at the
4 right-hand side, does it indicate the amount of monthly
5 rental that is received off of the properties that are
6 listed on there?

7 A. Yes, it does. Uh-huh.

8 Q. I want to go back, Mr. Shelton, if I could
9 for a minute to that 2001 audit report, and something,
10 when I looked at it, kind of struck me.

11 During the year 2001 didn't Three Angels
12 Broadcasting Network purchase an aircraft?

13 A. Yes, we did.

14 Q. And with respect to that aircraft, was in
15 fact there, it has a list value of somewhere around
16 \$1.3 million?

17 A. Are you asking me?

18 Q. Uh-huh.

19 MR. MILLER: I object, Your Honor. I'm not
20 sure what this has to do with the property at issue in
21 this case.

22 MS. RHOADES: I think it's the use of the
23 revenues and what they're doing with the property and
24 the income.

1 ADMINISTRATIVE LAW JUDGE: Do you want to
2 respond?

3 MR. MILLER: Everything seems to be focussed
4 on the activities that take place at the property
5 itself.

6 ADMINISTRATIVE LAW JUDGE: That's one of the
7 issues. The other issue also comes in under the
8 charitable exemption and the finances of the Applicant
9 as well.

10 Okay. I'm going to go ahead and allow the
11 question based upon that.

12 MS. RHOADES: Now, with respect to the Exhibit
13 Number 15 that you have before you, Mr. Shelton?

14 THE WITNESS: This one, yeah.

15 Q. If you can hold on just a second. Ms. Petty
16 is being sufficient. She put my copy away.

17 Now, I want you to look at Page 7 of that
18 audit report as contained in the upper right-hand
19 corner of that document.

20 A. Page 7?

21 Q. Page 7, uh-huh.

22 A. Okay.

23 Q. And you see down there it says two fixed
24 assets?

1 A. Yes, uh-huh.

2 Q. And now underneath that on the one, two,
3 three, fourth, fifth, sixth, seventh entry down?

4 A. Uh-huh.

5 Q. It shows aircraft?

6 A. Yes.

7 Q. And then what does it show as far as the
8 value of that aircraft as of December 31, 2001?

9 A. \$1,346,893.43.

10 Q. And was there also a subsequent loan that was
11 taken out with respect to that particular aircraft and
12 the purpose of it?

13 A. Yeah, there was.

14 Q. And if you look down on Page 8, Item Number
15 5, the last entry on that page.

16 A. Yes.

17 Q. And does that indicate the amount that the
18 loan was taken out of, taken out in the amount of?

19 A. Yes, I believe, \$703,000.

20 Q. Now, my next question is, we asked for any
21 and all promissory notes, etcetera of Three Angels
22 Broadcasting Network for the years '99, 2000, and 2001.

23 Do you ever recall providing that document to
24 us?

000386

1 A. I don't know. I mean, I assume we did. Yes.

2 MR. MILLER: For the record, we did. It was
3 part of our discovery responses.

4 MS. RHOADES: Now, Mr. Shelton, did you have
5 occasion to put in various newspapers in and around the
6 West Frankfort, Thompsonville areas about Friday,
7 September 20, 2002, articles relating to this
8 proceeding?

9 THE WITNESS: Are we dealing with 2002?

10 Q. I'm asking -- it's -- I'm asking you if you
11 put in an article relating to these proceedings in a
12 newspaper in and around the Thompsonville, West
13 Frankfort area, and it appeared in the newspaper on
14 September 20, 2002?

15 A. Okay. I can answer that. Yes, we did.

16 Q. And I want to show you what I've had marked
17 here as Respondent's Exhibit Number 14, and ask if you
18 could please tell me if in fact that is the article
19 that you had placed in the West Frankfort Daily
20 American on September 20, 2002?

21 A. I believe it is. I didn't -- I haven't had a
22 chance to read it. I was gone, so we -- I didn't --
23 what you've given and what they sometimes put is
24 different, but I think this is what came out.

1 Q. Did in fact you pay for a full page ad to be
2 placed in the newspaper?

3 A. Yes, uh-huh.

4 Q. And with respect to that document at whose
5 direction was this ad requested to be placed in the
6 newspaper?

7 A. Who directed the newspaper to do it?

8 Q. Who directed, yeah, who asked -- from your
9 organization, who asked that this article be placed in
10 the newspaper?

11 A. Well, I didn't -- yeah, ultimately it came
12 back to me.

13 MS. RHOADES: I move for admission of Exhibit
14 14.

15 MR. MILLER: We'll object as to the relevancy
16 of the document.

17 MS. RHOADES: I think, first of all, it
18 clearly talks about the proceedings. It talks about
19 the use of the property in the year 2002, and I think
20 it makes certain admissions.

21 MR. MILLER: Your Honor --

22 MS. RHOADES: And he testified that he is the
23 one that had it put in. It's a corporation that we're
24 dealing with.

1 MR. MILLER: If indeed there are admissions in
2 this document that may be used against the witness then
3 certainly they can be brought forward and entered into
4 the record for that purpose. The document itself has
5 been created well in 2002. It's hearsay. The witness
6 is here and can testify to the items contained
7 therein.

8 If he's testifying inconsistently to things
9 that he's stated here, then certainly this could be
10 used as an admission, and that portion of it could be
11 read into the record, but I see no basis for turning
12 this entire document into the record.

13 MS. RHOADES: And I would reiterate, first of
14 all, I think I misspoke and I would indicate this is
15 for 2001/2002. It talks specifically about these
16 proceedings. It talks about the use of the subject
17 property. It was done at Mr. Shelton's direction and
18 placed in the newspaper. I think it's highly relevant
19 to the proceedings as to what their view is.

20 MR. MILLER: As I understand the relevancy of
21 these proceedings are testimony regarding what happened
22 in 2000 and 2001.

23 This is a piece of paper created in 2002 that
24 is made outside of court, and I don't see how it can

1 .come in except under the limited admission exception,
2 if a portion of it wants to be used to challenge Mr.
3 Shelton's testimony that is taking place here.

4 MS. RHOADES: And I would also state, Your
5 Honor, it's not any different then the documents they
6 created in 2002 that have been admitted today with
7 respect to property of 2001 and 2000.

8 ADMINISTRATIVE LAW JUDGE: Number one, I have
9 not seen this prior to right now.

10 MS. RHOADES: Obviously not.

11 ADMINISTRATIVE LAW JUDGE: I don't know if
12 this is complete even.

13 MS. RHOADES: We have the complete newspaper,
14 and fortunatèly we tried to get it on eight and a half
15 by eleven. Mr. Steinkamp tried to photocopy it and I
16 have the original article.

17 MR. STEINKAMP: It actually is complete.

18 ADMINISTRATIVE LAW JUDGE: Okay. It just looks
19 like it's cut off here and it's difficult to --

20 MS. RHOADES: I will have to defer to Mr.
21 Steinkamp because he was our photocopier on this.

22 MR. STEINKAMP: I will assert as an officer of
23 the court that in fact it is complete. I think you'll
24 see it overlaps.

000390

1 ADMINISTRATIVE LAW JUDGE: I'm going to
2 reserve a ruling on this just because I haven't even
3 had a chance to look at it much less I have no idea
4 what the relevancy is. I don't know what's contained
5 in here.

6 I agree with you that in fact newspaper
7 articles are hearsay, except that normally in property
8 tax matters it's often times the only way we can
9 establish evidence, so we've been letting them in just
10 because of that.

11 I don't know, so I'm going to reserve ruling
12 on this until I get a chance to at least look at it.

13 MS. RHOADES: Judge, we at this time don't
14 have any further cross examination of Mr. Shelton, so
15 what we would like to do is to have that, take a break
16 so you can review that so we know if we need to further
17 inquire of him before we decide to turn him over..

18 ADMINISTRATIVE LAW JUDGE: Okay. We'll take
19 about a ten minute break.

20 (Whereupon a short recess
21 was taken.)

22 ADMINISTRATIVE LAW JUDGE: I've read the
23 newspaper article. There is nothing in there I haven't
24 heard or seen before today. If you want to continue,

1 I'm not going to admit it in evidence. It's hearsay.

2 It also duplicates all the testimony already
3 given as far as his opinion and why this happened.

4 The letter from the Tax Assessor or from the
5 Mayor's office is already in evidence. So I'm not
6 going to admit this, but if you want to continue
7 questioning Mr. Shelton --

8 MS. RHOADES: Okay.

9 ADMINISTRATIVE LAW JUDGE: -- you may.

10 MS. RHOADES: Thank you.

11 Some other questions I have for you, Mr.
12 Shelton, is with respect to, what other burdens of
13 government does in fact Three Angels take over?

14 You indicated you did sewers and roads.

15 Are there any other burdens of government
16 that Three Angels reduces?

17 THE WITNESS: In the county, I mean, in the
18 township that we're in?

19 Q. Yeah.

20 Any of them that you think that Three Angels
21 does as far as reducing the burden of government,
22 identify for me what you believe those to be.

23 MR. MILLER: I'll ask the relevancy of this
24 question, Your Honor.

1 MS. RHOADES: I think they're asking for a
2 charitable exemption and I believe that's one of the
3 standards under the case law, is whether or not they
4 reduce the burden of government.

5 MR. MILLER: Your Honor, I addressed this in
6 the brief that I filed earlier. I think Illinois case
7 law makes clear that not all steps that have been used
8 for charitable organizations are applicable to all
9 organizations, and I think particularly they were
10 dealing with a religious organization that you have
11 church state issues involved and that it should be
12 impossible and illegal for a religious organization,
13 let's use a church for example.

14 A church is a charitable organization clearly
15 but they don't relieve the burden of government because
16 by definition government is not meant to engage in
17 church exercise.

18 And I think if you go and you look at the
19 case law, look at the Inter-Varsity cases and the cases
20 that look at religious organizations, they don't speak
21 in terms of displacing a burden on the government, and
22 I think in fact that particular standard would be
23 entirely inappropriate for a religious charity and
24 indeed should be rejected.

1 MS. RHOADES: And I would say we can handle
2 this one of two ways, Your Honor. First of all, they
3 ask for a charitable exemption. That's one of the
4 factors. I'm entitled to inquire about that factor.

5 If he wants to make a stipulation that in
6 fact there are no other burdens of government that are
7 reduced, I'm more than happy to agree to that
8 stipulation.

9 Or the other option is for them to indicate
10 that they would like to only proceed with respect to a
11 charitable exemption or religious exemption and not
12 charitable. I think it can be handled one way or the
13 other.

14 MR. MILLER: No. I think the case law is
15 clear that religious organizations can qualify under
16 both the religious and charitable statutory sections
17 and I quote them both in the trial brief.

18 But the case law also makes clear that under
19 the charitable statutory heading, while -- for many
20 charitable organizations they are measured by relieving
21 the burdens of government. The case law makes clear
22 that not all of those factors are applicable for every
23 kind of institution.

24 And in doing the charitable analysis when

1 dealing with religious organizations, I have never
2 found that particular realm used or discussed.

3 ADMINISTRATIVE LAW JUDGE: I'm going to
4 overrule your objection, allow the questioning because
5 it is in the charitable realm, but I certainly
6 understand what you're saying, that it's not
7 appropriate for a religious organization.

8 However, there have been cases where a
9 religious organization, an extension of it has been
10 found to be a charitable organization and part of that
11 questioning had to go with relieving the governmental
12 burden, so I think it's appropriate in this instance,
13 knowing the religious organization structure of the
14 religious exemption found in the statute.

15 MR. MILLER: Okay.

16 My objection continues. I say okay because I
17 acknowledge your --

18 ADMINISTRATIVE LAW JUDGE: And I understand
19 your objection and as to a true church, I would think
20 your objection would be absolutely correct.

21 What you have asked for an exemption for is
22 under the religious and the charitable both, so I think
23 it's appropriate in that regard, so go ahead and --

24 MS. RHOADES: My question is again, Mr.

1 Shelton, what burdens of government are, in your
2 opinion, are relieved by Three Angels Broadcasting
3 Network for the years 2000 and 2001?

4 THE WITNESS: Well, I hadn't -- I've never
5 heard it termed that way. Yesterday I was just making
6 a response to the Mayor's letter that he wrote, which
7 was untrue, saying the services that he provided in the
8 village.

9 I reminded the court that we're not even in
10 that village and when I asked him for services they
11 give us none and tell me, well, you're not in our
12 village, and the city of Thompsonville has, as I
13 already testified, there city village is here. We're
14 out here. One highway runs at a diagonal this way and
15 the other here. We own the property in between.

16 When we went to put in our own sewers like
17 the rest of our property, we would just simply put in
18 an aerator system. When we did this they said, no, you
19 have to have engineering, so they got people from the
20 State who was foreign to me what that department is,
21 but with -- they have to design a sewer system.

22 Well, the sewer system to my surprise was at
23 least a hundred and fifty thousand dollars with two big
24 pump stations, and I'm saying, well, why, I only have a

000396

1 school with twelve students. I have a sanctuary
2 building that will be a museum but just people will
3 come off and on. I have a small medical clinic. I
4 have three apartment buildings. Why do I have to put
5 \$125,000 with two pump stations.

6 Well, I didn't find out until right before I
7 came here. I said to my construction team, why did I
8 pay all of this money. Why did we -- well, the state
9 said we had to. I said, why, and they said, well,
10 because Thompsonville's systems aren't connected
11 together. They needed a flow all the way through so,
12 therefore, you doing all of this and these pumps.

13 So I said, well, who maintains those pump
14 stations when the City of Thompsonville, now that I'm
15 handling all of their sewers. They said, well, we do,
16 and I said, you mean to tell me that.

17 They said, well, we have a contract with the
18 people who built them that when something goes wrong
19 and they're cleaned out and problems, that I'm paying
20 for it, and I said, am I paying the electricity and
21 where the box are to keep the things working. They
22 said, yes, and I said, well, that's news to me. I
23 didn't know that.

24 The water system is -- we're on a Rend Lake

1 system. Thompsonville, that he says that he supplies
2 the roads, the water, the lighting. I had no street
3 lights provided by the village of Thompsonville. I
4 provided my own off the building, and the water system,
5 I use a totally different system, which is Rend Lake
6 water.

7 Thompsonville system has nothing to do with
8 me, and then I not only have paid many thousand of
9 dollars over the years to have my roads oiled and
10 chipped. When they did the drive in front of my house,
11 they charged me \$200, and I found I'm the only person
12 in the county.

13 Because they go to each person's house on a
14 gravel road if they don't do the whole road and they do
15 a few hundred yards to keep the dust down, but they
16 made me pay for the two years. They didn't do it last
17 year, but I think two years prior to that they charged
18 me \$200 personally for it, and so, yes, it
19 gets -- that gets frustrating.

20 And you say, so any other burden, yes, I have
21 paid several thousands of dollars which we can look
22 that up for you. I didn't know that could be a credit
23 to us, but in oil and chipping for the county of
24 Franklin County.

000398

1 And other than the sewer, I don't know what
2 else we've done, other than a lot of charitable gifts
3 that we've given over the years to the school,
4 including Thompsonville.

5 Q. Now, with -- you have, and I want to go back
6 to this, yesterday, because I think it's very unclear
7 as how you define missionary work. You talk about
8 missionary work.

9 How do you define missionary work, first of
10 all?

11 A. Missionary work is when you're helping
12 someone besides yourself and you're doing it without
13 the clear distinction of trying to make a profit.

14 While you run a business, like Three ABN has
15 to be run as a business and that's why we have records
16 and why we do what we do and hire outside auditors, not
17 only because the state says and the government requires
18 it, because I want to know and I want to be a good
19 steward of the money that's given here.

20 So we then look at missionary work as
21 endeavors that we've helped, for instance, we feed --
22 help support an organization that's Asian Aid on here
23 that feeds 7,000 starving children every day. That's
24 missionary work.

1 We put hundreds of kids in beds for the first
2 time, giving them little dolls, give them, the little
3 girls their toothbrushes, give them, get them a new
4 dress and say this is you. We get them off the street
5 and bring them in to those. That's mission work.
6 That's missionary work.

7 Now, it's much broader than that. I can
8 preach. I can teach, but many of the, and I sit here
9 and I think about that. I say, you know, they're
10 worried about this little room and that little room,
11 but I know these other churches are playing Bingo and
12 they're playing basketball and they're doing all of
13 this. I'm not doing that in my facility.

14 I'm feeding hungry kids around the world, but
15 I'm not tax exempt, but nobody's questioning all these
16 other places around us and, therefore, it just seems to
17 me unfair.

18 That's why I'm outspoken about it and why I
19 decided to protest it. I thought surely if I have an
20 opportunity to come here and talk to the state the
21 state would understand, because of the amount of money
22 that we bring in to the area.

23 You did say if, I'm a benefit come to think
24 of it and when I say I, Three Angels Broadcasting. We

1 pay \$2 million out in salaries in a community of 600
2 people, a million and a half has gone into the local,
3 the local economy, local venders, as well as how these
4 people spend their millions that we pay them.

5 Real estate has gone up in Thompsonville more
6 than any other place in the county, and should we move
7 because of something like this, they have no idea.

8 That's why I wrote this ad, because the
9 public needs to know, because if West Frankfort city
10 officials are very upset, the other people in the
11 community are upset because I've said, I possibly will
12 do like Doctor Dobson. He moved several thousand
13 jobs.

14 I don't have that many, but I think it's
15 unfair that we do this, and so the community needs to
16 know what a vacuum this can cause, and we're trying to
17 show, because we've never asked for publicity.

18 We never tried to get publicity. In fact,
19 the newspaper calls me and they say, can we run this
20 story. We heard you just helped the senior citizens
21 two weeks ago. I said, I don't want to be there. You
22 want pictures, I said nobody needs to know, but they
23 needed a van so we bought them a van.

24 So our thing is the public does need to know

1 what's going on because they support what we're doing
2 and we don't want to go somewhere else, but I don't
3 feel that Three Angels Broadcasting has been taxed
4 assessed.

5 We're the only school probably I can say in
6 the county of everybody I've talked to, the only church
7 school who has been assessed taxes. Why isn't the
8 Catholic church assessed taxes? Why isn't the Baptist
9 church? Why isn't the, you know, why aren't any of
10 these other churches, church schools, why are they not
11 assessed taxes?

12 That's my problem. I'm a museum. I'm a
13 medical clinic. Why are we --

14 Q. I hate to interrupt, but I think we're way
15 off the question and ask that all of that be stricken.

16 My question was what burdens of government
17 does he reduce.

18 MR. MILLER: No, Your Honor.

19 MS. RHOADES: I don't think that's what he was
20 answering.

21 MR. MILLER: The question was about missionary
22 activities.

23 MS. RHOADES: I'm sorry, missionary
24 activities, Your Honor.

1 THE WITNESS: Yes, and that missionary is
2 helping those around me. That's what I just said, the
3 Senior Citizens and all of those. That is, they need a
4 van and it's Meals on Wheels. They couldn't afford to
5 feed 300 people, so I gave them the money to feed 300
6 people. To me that's missionary work, and so I don't
7 know.

8 If you ask me what all do we do, I can't tell
9 you.

10 Q. And with respect to part of your missionary
11 work you would say that that is in fact broadcasting
12 and producing shows, correct?

13 A. Oh, sure.

14 Q. And you would say that that is the fair
15 majority of the missionary work activities are
16 conducted on the Three ABN property subject to this
17 dispute?

18 A. Yes, absolutely.

19 Q. Now, Mr. Shelton, does Three Angels
20 Broadcasting Network also have a number of vehicles?

21 A. Yes, we do.

22 Q. That's owned by them?

23 A. Sure.

24 Q. Do you your wife Linda have use of any of

1 those vehicles?

2 A. There is one vehicle presently that Linda and
3 I have use of. It's a van.

4 Q. And what year and make and model of that van
5 is it?

6 A. It's -- it's a 2000 Ford van, Econoline.

7 Q. And it's a fairly new van?

8 A. Well, it's a 2000.

9 Q. And are there any other vehicles that you
10 have at your use, for example, a Dodge Durango?

11 A. No. We sold the Durango several months ago.

12 Q. Has that now been replaced by a Dodge Ram
13 truck?

14 A. No, it has not.

15 Q. There is a -- do you own a Dodge Ram truck,
16 Mr. Shelton?

17 A. Yes, I do, and I like it, four door and my
18 grandkids can ride in it.

19 Q. And is that your own personal vehicle?

20 A. That's my personal vehicle and I pay it with
21 my salary.

22 MS. RHOADES: I have no further questions for
23 Mr. Shelton at this time.

24 ADMINISTRATIVE LAW JUDGE: Mr. Steinkamp, do

1 you have any questions?

2 MR. STEINKAMP: No, I don't.

3 ADMINISTRATIVE LAW JUDGE: Okay. Anything on
4 redirect?

5 MR. MILLER: Just a few questions, Your Honor
6 on redirect.

7 REDIRECT EXAMINATION

8 BY MR. MILLER:

9 Q. Hello, Mr. Shelton.

10 A. Hello.

11 Q. We'll be through with this pretty quickly.

12 You testified regarding a plane that Three
13 Angels owns, and my question is, why did Three Angels
14 think it was a good idea to get a plane?

15 A. What we look at and the Board looks at is,
16 whatever we can do to be the best stewards of finances
17 and to get the message the farthest and to the most
18 people.

19 If I can take you back just a second. In '98
20 or '99 we used to rent planes and we would have 30, as
21 many as 30 boxes of equipment to go do all of these
22 meetings that we're talking about, and send 13 or 14
23 people to do all of this.

24 We then purchased a remote truck. Our remote

1 truck we bought in '98 or '99, is \$1.3 million, the
2 same amount as the airplane. Why did we buy that
3 remote truck? Because in the long run it gave us
4 better quality. It helped us to produce more programs
5 and put better programming on the air, which again
6 supports and to go to more places. So we purchased a
7 remote truck.

8 Then we purchased an uplink truck, because
9 everywhere we went to do live programs you have to rent
10 that time, you have to depend on suppliers or venders
11 to have something available, then you pay extreme
12 costs. So we bought an uplink truck to go with that.

13 The same way with the airplane. Right, this
14 year, in the year 2000, I'm traveling something like 45
15 to 47 weekends.

16 Q. You mean in 2002?

17 A. 2002, I'm sorry. Where in the year 2000, for
18 instance, I had like 20 weekends. If I can give you a
19 quick example. Last week I was in, where was I last
20 week? Eugene, Oregon this last weekend on Friday night
21 and Saturday.

22 The offering, this is an engagement that I
23 wouldn't have taken because I cannot work seven days a
24 week and what happens is, when I've been traveling

1 by -- St. Louis is several hours away, so I drive to
2 the airport, have to go early, then I fly wherever they
3 want to take you to get to a place like Eugene, Oregon
4 so that takes me Friday.

5 I speak all day Saturday. You stay overnight
6 and come back all day Sunday and back, so we limited my
7 going. But when I go, the offerings last Saturday was
8 over a hundred thousand dollars at a church that we
9 went, a larger church. It was probably \$105,000.

10 Had I not gone, I don't believe most of that
11 money wouldn't have come, because people come up and
12 say, boy, I heard you speak today. I was really
13 impressed with what you're doing. I want to support
14 Three Angels Broadcasting Network, therefore, they
15 gave.

16 The very first, after we bought the plane it
17 was really neat because the very first meeting that we
18 went to, a lady came up and handed me a check for a
19 hundred thousand dollars and said, I wasn't -- I had
20 this hundred thousand dollars. I sold some
21 apartments. I didn't know. Just happened to show up
22 here today. I was driving through. I'm an Adventist
23 and I heard your story and what you're doing, here's a
24 hundred thousand dollars.

000407

1 That told me, had I not been there, so what
2 I'm seeing is the more places I go, the more funds, the
3 more support we get for Three ABN so.

4 Q. Has the plane increased your ability to do
5 these weekend trips?

6 A. Oh, yeah, unbelievably, plus, I can come back
7 Saturday nights and actually get to spend Sunday home
8 and it gives me a rest and a break. Somebody said to
9 me, boy, that seems like a luxury. I said, I'll trade
10 you any day because, first of all, I don't like being
11 37,000 feet in the air in a tube in all kinds of
12 weather, because the weekends, just like Thursday
13 night, no matter what that weather is like, I'm going
14 to be in California.

15 Hopefully it's good but I have 2,000 or 3,000
16 people that's going to be waiting for programs and our
17 trucks are there and the satellites are all rented, so
18 I need to be there. But I don't enjoy being in an
19 airplane and being 37,000 feet in the air.

20 I'd rather be on the ground any day, and I'd
21 rather stay home, because I have four grandkids that I
22 love very much and when I'm gone weekends I miss them.
23 I miss them staying all night with me on the weekends.

24 I don't get an extra penny when I travel.

1 This is not a sob story but it is the honest truth. I
2 can look in the eye, Judge, and tell you that, that I
3 do it because I feel I need to do it for the benefit of
4 the ministry, and overall the plane will bring in more
5 money.

6 Not only Linda and I, it's not Linda and I
7 who travel. It holds seven people.. Normally it's full
8 when we go places, so the cost is more than just if we
9 rented, but the overall ability and the more weekends
10 that we can go, it's definitely a business benefit to
11 Three Angels to be a better steward of the money than
12 to do what we used to do.

13 The same way as buying the remote truck and
14 the uplink and going has been a real input and brought
15 in a lot more money, so that's why.

16 Q. Is the plane used exclusively for Three
17 Angels?

18 A. Exclusively. No vacations, no jet sitting.
19 Believe me, I want to stay home if I ever get an
20 opportunity.

21 Q. Thank you, Mr. Shelton.

22 And you walked through a fairly detailed and
23 lengthy description of square foot and description of
24 rooms in the first and second floors of the building a

1 little earlier on, and I don't want to revisit that
2 fortunately, but I do want to ask a question about the
3 programming that is made there.

4 Does your organization have standards or
5 criteria that programming must meet to be used at Three
6 ABN or be created at ABN?

7 A. Yes.

8 Q. And what are those standards or criteria?

9 A. Those standards, according to our Board and
10 Board policy will, first of all, meet the Christian
11 standard, and also meets the Seventh-day Adventist
12 Standard.

13 What I mean by that is, I believe God has
14 people in all churches and you're not saved by the name
15 over your doorpost. The Baptists believe in baptism by
16 immersion. Seventh-day Adventist, we believe in the
17 seventh sabbath, so we believe God has people in all
18 churches.

19 So, first of all, it's Christian. We have a
20 number of people who are on Three Angels Broadcasting
21 who are not Seventh-day Adventist. While we've been
22 talking a lot about Seventh-day Adventist, all they
23 really have to do to meet our criteria is give the
24 Gospel message in a way.

000410

1 Q. Would their messages be consistent with the
2 Seventh-day?

3 A. Very consistent, sure it is. About the Lord
4 Jesus Christ and you can only be saved through him and
5 his second coming. I tell everybody you're adventist
6 too because you believe in the second coming whether
7 you're Baptist, Methodist, or whoever. So the other is
8 the Seventh-day Adventist philosophy.

9 So the philosophy or theology, however you
10 want to say that, we call it 27 fundamental beliefs.
11 We want to maintain our message is going out consistent
12 Christian message with particularly the Adventist
13 viewpoint in connection and conjunction in working with
14 the Seventh-day Adventist Church.

15 Does that help you?

16 Q. Yes.

17 My question is, my follow-up question is, all
18 of these editing bays and control centers and computer
19 centers and buildings where all that technical work is
20 done for this programming, is all of that used only for
21 programming, producing programming that meets the
22 criteria you just outlined?

23 A. Oh, absolutely, definitely. There is
24 nothing, no cartoons, no anything secular in any sense

1 of the word. It all meets this. It's editing programs
2 that we've done to, if we've done three hours and only
3 have room for two, then we try to edit what we have to
4 but get it to fit the TV schedule time.

5 Q. Does Three Angels have a Public Relations
6 Department?

7 A. Well, our Public Relations Department is very
8 similar to, I guess they call it marketing but really
9 it's --

10 Q. So when you say marketing, what do you mean
11 by that term, marketing?

12 A. Well, they do the public relations as far as
13 getting ads in the newspapers if we're heading to, like
14 we are, contacting radio stations saying Danny and
15 Linda Shelton are going to be there from Three ABN.

16 They call the cable stations and so they're
17 PR and, frankly, that's what I do. Linda and I do
18 every weekend when I'm in church is, we're public
19 relations for Three Angels Broadcasting.

20 Q. Does this employee in the Call Center who
21 answers technical calls on satellites that you
22 testified to earlier?

23 A. Yes, sir.

24 Q. Are calls to that employee, are people

1 charged for the technical help they receive over the
2 telephone?

3 A. No, they're not.

4 MR. MILLER: Your Honor, I have no further
5 questions.

6 ADMINISTRATIVE LAW JUDGE: Okay.

7 MS. RHOADES: I have just one short question.

8 RE-CROSS EXAMINATION

9 BY MS. RHOADES:

10 Q. In addition to when you talked about
11 advertizing just a minute ago, Mr. Shelton, you also
12 have various billboards?

13 ADMINISTRATIVE LAW JUDGE: Could you speak
14 up?

15 MS. RHOADES: Yeah.

16 You also have various billboards, is that not
17 correct, Mr. Shelton, advertising Three Angels
18 Broadcasting Network?

19 THE WITNESS: We have one billboard
20 advertising the channel in St. Louis. I don't know of
21 any other billboards, but it helps people to know we're
22 in the St. Louis area and how they can watch us and
23 view us in St. Louis.

24 Q. As a matter of fact, it's right there at the

000413

1 Martin Luther King bridge, isn't it?

2 A. Yes, it is. You've seen it.

3 Q. I've seen it.

4 A. All right.

5 MS. RHOADES: I have no further questions.

6 THE WITNESS: And you said, I'm going to beat
7 that guy up when I see him.

8 MS. RHOADES: No, I never said that.

9 THE WITNESS: No, you didn't.

10 ADMINISTRATIVE LAW JUDGE: Anything else from
11 anyone else?

12 MR. MILLER: Just for the reservations about
13 the affidavits regarding the offers of proof on the, as
14 we discussed, we still have those coming, but we have
15 no further live testimony for Mr. Shelton.

16 ADMINISTRATIVE LAW JUDGE: That's fine. We
17 still have some exhibits that have not been admitted
18 into evidence.

19 Do we want to take those now or --

20 MS. RHOADES: Yes, I would. I thought that
21 they all were quite honestly.

22 ADMINISTRATIVE LAW JUDGE: Admitted?

23 MR. MILLER: There are still some that are
24 reserved, but I don't -- I mean, we have until the end

1 of our case to submit those and there could be other
2 witnesses --

3 ADMINISTRATIVE LAW JUDGE: That's correct, and
4 maybe something will help clear it up. If that's all
5 right?

6 MS. RHOADES: Yes. If I could make a statement
7 to get the admission in earlier is, I find it
8 interesting that they're saying it's prepared in
9 advance of litigation. The answer to that is, yes, it
10 is, but it's also an admission against interest by
11 them. It should be admitted for that purpose
12 irrespective of how they connect it up.

13 MR. MILLER: I'm not sure what we're talking
14 about, Your Honor.

15 ADMINISTRATIVE LAW JUDGE: I think --

16 MS. RHOADES: As just a generality.

17 ADMINISTRATIVE LAW JUDGE: Just a generality
18 regarding some of the exhibits that have not been
19 admitted into evidence yet, is that correct?

20 MS. RHOADES: That's correct.

21 ADMINISTRATIVE LAW JUDGE: It's just a general
22 statement that they're making.

23 MR. MILLER: Okay.

24 ADMINISTRATIVE LAW JUDGE: Do you want to

1 review the exhibits, which ones are and are not or is
2 everybody happy?

3 You are excused.

4 THE WITNESS: Thank you.

5 ADMINISTRATIVE LAW JUDGE: I have so far not
6 entered Applicant's Exhibits 5, 6, and 7, 10, 11, 16,
7 17, 18, 19, 20, and 21, is that correct?

8 MS. RHOADES: Yes.

9 MR. RIVA: Excuse me, Your Honor, after 11,
10 what did you say?

11 ADMINISTRATIVE LAW JUDGE: 11, 16, 17, 18, 19,
12 20, and 21.

13 Okay. Intervenor's Exhibits 1-4 were
14 admitted; 5-9 have not been admitted; 10, 11, and 12
15 are admitted; 13 has not been ruled on; 14 has been
16 ruled on and is not admitted.

17 Is that what everybody has?

18 MS. RHOADES: I'm sorry, we stipulated I
19 believe to 5, 6, 7, 8, and 9.

20 MR. STEINKAMP: There's a stipulation.

21 MS. RHOADES: Those were the catalogs that we
22 stipulated to.

23 ADMINISTRATIVE LAW JUDGE: Oh, okay. I didn't
24 realize that, so those are -- those are admitted.

1 MS. RHOADES: Yes.

2 ADMINISTRATIVE LAW JUDGE: You had discussed
3 stipulating and I don't know that that every became
4 part of the record.

5 MS. RHOADES: We would make that part of the
6 record right now.

7 ADMINISTRATIVE LAW JUDGE: If you don't mind,
8 just because I don't think you had discussed it, and I
9 think that's as far as it got and then you got into a
10 discussion.

11 MR. BOOTHBY: So, Your Honor, is 13 in?

12 ADMINISTRATIVE LAW JUDGE: Just a second.
13 Nine, eight, seven, six, and five have been stipulated
14 to and are admitted into evidence.

15 MR. BOOTHBY: Five is also?

16 ADMINISTRATIVE LAW JUDGE: Yes. They are all,
17 these are all Intervenor's Exhibits. They're the ones
18 you stipulated to their authenticity.

19 MR. MILLER: This is Intervenor's Exhibits?

20 ADMINISTRATIVE LAW JUDGE: Yes.

21 MR. MILLER: Do you have Intervenor's Exhibit
22 18 and 19?

23 ADMINISTRATIVE LAW JUDGE: No. I've got
24 through 14. Okay. They had some other numbers on some

1 things, and there also were two pieces of paper up here
2 but I have no idea where they came from or what they
3 were.

4 MS. RHOADES: Yeah, they weren't offered.

5 ADMINISTRATIVE LAW JUDGE: Okay. So if you
6 will initial and date these, please.

7 (Discussion off the record.)

8 ADMINISTRATIVE LAW JUDGE: Back on the
9 record. Intervenor's Exhibits 5-12 are admitted into
10 evidence.

11 (Intervenor's Exhibit Numbers 5-12
12 were admitted into evidence.)

13 MR. MILLER: Your Honor, we have Mr. Larry
14 Ewing here.

15 ADMINISTRATIVE LAW JUDGE: All right.

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

18 LARRY EWING

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: Judge Rowe, before they tender
24 these we'd like to do some voir dire of his knowledge

1 based on the property.

2 Because pursuant to deposition testimony, it
3 was disclosed that he was not employed by Three Angels
4 until January of 2002, which means he was not an
5 employee of the facility at the time of the subject
6 years of this litigation, and we don't know how he can
7 offer any testimony with regard to the use.

8 MR. MILLER: Well, Your Honor, I find this
9 extraordinary. We're not -- he's a fact witness and I
10 will certainly lay the foundation for his knowledge
11 appropriately and if they need to challenge that, I
12 think counsel knows how to do that. I'm not sure why
13 we'd need to do a voir dire ahead of time.

14 Do you want me to ask the questions, if
15 they're irrelevant, challenge them. If there's no
16 foundation, challenge them, but it's actually the
17 representation is not correct. He did work, Mr. Ewing
18 did work for Three Angels in 2001.

19 ADMINISTRATIVE LAW JUDGE: Let's just, he's
20 been sworn in, let's find out when he did start working
21 and then that would probably answer the question one
22 way or another.

23 MR. MILLER: Uh-huh.

24

1 DIRECT EXAMINATION

2 BY MR. MILLER:

3 Q. Good afternoon, Mr. Ewing.

4 A. Good afternoon.

5 Q. Can you give us your full name for the
6 record, please?

7 A. My name is Larry Dale Ewing.

8 Q. And where do you currently reside?

9 A. I reside in Thompsonville, Illinois.

10 Q. And who is your employer?

11 A. My employer is Three Angels Broadcasting
12 Network, Inc.

13 Q. And what is your position with Three Angels?

14 A. I'm the Director of Finance.

15 Q. And when did you take that position?

16 A. Actually I took that position January the
17 7th, 2002.18 Q. When did you move to Three Angels
19 Broadcasting?20 A. That's about the time when I moved to Three
21 Angels Broadcasting.22 Q. And in dealing with the, arriving at Three
23 Angels Broadcasting, what did you do to prepare
24 yourself for dealing with their financial reports?

1 A. The first thing I did was review the
2 financial statements for the year 2000 and reviewed the
3 working papers of the auditor. I requested working
4 papers for the year 2000, looked them over to
5 familiarize myself with the balances and the content of
6 the year 2000 audit.

7 Q. Okay.

8 A. And since then I have been working on the
9 2001 audit. I've prepared, did most of the accounting
10 for, you know, bank reconciling and putting together
11 the final figures for the 2001 audit financial
12 statement.

13 Q. Did you prepare the 2001 financial records
14 for Three ABN?

15 A. Yes, a good portion of them.

16 Q. Which were then subsequently audited?

17 A. Yes. I prepared them all for, coordinated
18 the preparation of all the working papers and that kind
19 of thing for the auditors.

20 Q. What did you do in the process of preparing
21 those 2001 financial records?

22 A. Well, you work through the whole 2001 year,
23 you know, all -- everything that happened for that
24 whole year. We also deal with the opening balances.

000421

1 In other words, the opening balance sheet is
2 very critical, knowing what's in the year 2000 balance
3 sheet and, you know, what --

4 Q. And do you view yourself as being highly
5 familiar with the 2001 financial records of Three
6 Angels?

7 A. Yes, I do.

8 MR. MILLER: Your Honor, I'd like to proffer
9 this individual as a witness regarding financial
10 records of 2001 and 2000 as he is someone who works
11 there and has in fact prepared the financial statements
12 for that year.

13 ADMINISTRATIVE LAW JUDGE: Okay.

14 MS. RHOADES: And I would renew again my
15 objection as, first of all, he did not come in until
16 January 2002, was not involved in the day to day
17 operations of the facility with respect to the years
18 2000/2001, cannot answer questions on how the financial
19 records and how the department operated, all of those
20 kinds of things that's relevant to his testimony.

21 He cannot provide any relevant testimony.
22 They've got an auditor coming in. The auditor can
23 testify as to what is contained in the audit reports.
24 I don't know what this witness is going to offer.

1 MR. MILLER: Well, there were a lot of
2 questions that Mr. Shelton couldn't answer about what
3 was contained in the financial records, where the
4 figures came from, how they were put together. This
5 gentleman knows the answer to those questions.

6 He knows what figures represent what expenses
7 and which categories and which figures represent money
8 overseas, and I believe he can testify as to the
9 factual foundation of that knowledge as he is the one
10 that reviewed the papers and receipts and figures to
11 answer that question.

12 MS. RHOADES: And I don't think, first of all,
13 he was not involved in the preparation of any of those
14 documents or the record keeping with respect to years
15 2000 and 2001. Anything that he would testify to would
16 be clearly speculation on his part as to how the
17 documents were maintained and what categories, how they
18 were all subsequently done.

19 MR. MILLER: You going to ask something?

20 ADMINISTRATIVE LAW JUDGE: You only did the
21 financial records -- you reviewed the financial records
22 for 2000, is that correct?

23 THE WITNESS: That's correct.

24 ADMINISTRATIVE LAW JUDGE: You prepared

1 financial statements?

2 THE WITNESS: Records for 2001.

3 ADMINISTRATIVE LAW JUDGE: For 2001?

4 THE WITNESS: That's correct.

5 ADMINISTRATIVE LAW JUDGE: But you did not
6 prepare the records for 2000, is that correct?

7 THE WITNESS: That's correct.

8 ADMINISTRATIVE LAW JUDGE: I think what I'm
9 going to do is allow his testimony for 2001 because he
10 did prepare those documents. I don't think he has any
11 firsthand knowledge of 2000, so I'm going to ask that
12 he not be asked questions about the 2000 year, the
13 financial records for 2000.

14 I think Ms. Rhoades is correct, that the
15 auditor can probably give the same information that he
16 would be able to give.

17 But for 2001 I do believe he has knowledge.
18 So your objection is stricken in part and allowed in
19 part, overruled in part, excuse me.

20 MR. MILLER: Mr. Ewing, can you give us a
21 brief overview of your educational background and
22 professional qualifications?

23 THE WITNESS: Yes. I obtained a Bachelor of
24 Commerce Degree from University of Calgary, and after

1 that I articulated with Coopers & Lybrand, Chartered
2 Accountants.

3 Coopers & Lybrand at that time was the
4 largest public accounting firm in the world. Recently
5 they have merged with Price Waterhouse, and currently
6 they're called Price Waterhouse Coopers.

7 ADMINISTRATIVE LAW JUDGE: Off the record,
8 please.

9 (Discussion off the record.)

10 MR. MILLER: What does it mean to articulate
11 with?

12 THE WITNESS: Article means to work in public
13 practice. In Canada you have to work in public
14 practice for at least a minimum of two years, depending
15 upon the province and the time you did it. It could be
16 three years.

17 At that time you take postgraduate courses
18 and get the experience you need to become a chartered
19 accountant. You also have to write the uniform final
20 exam, which is a very stringent exam. It's four days
21 long.

22 Q. Is that equivalent or similar to certified
23 public accountants?

24 A. That's right. They're reciprocal degrees.

1 Q. Do you have the American Certified Public
2 Accountant's degree?

3 A. Yes, I do. Late in 2001 I wrote the
4 reciprocal CPA exam in Canada and qualified and
5 received a pass mark early in 2002.

6 Q. And what did you do after you articulated with
7 the Coopers & Lybrand?

8 A. After I articulated with Coopers & Lybrand I
9 worked for a regional firm in British Columbia, had
10 offices in three smaller cities as an audit manager. I
11 worked primarily on municipal audits, but I also did --
12 I did all different types of auditing. I worked on
13 municipal, hospital, and credit unions, some
14 not-for-profit societies, like the United Way.

15 Q. And how long did you do that for?

16 A. Three years.

17 Q. And then what did you do?

18 A. After that I went into public practice for
19 myself and I've been in public practice.

20 Q. When you say public --

21 A. As a sole proprietor, an independent
22 chartered accountant for the past 18 years.

23 Q. When you say public practice, is that similar
24 to what we might call private practice?

000426

1 A. That's what it is.

2 Q. Okay. And what kind of clients did you have
3 during that 18 year period?

4 A. A variety, all sorts of different clients,
5 but primarily it was small business clients, small to
6 medium size businesses.

7 Q. Did you have any not-for-profit clients?

8 A. Yes, I did. I had the -- I had some, quite a
9 few not-for-profit clients. I had a Home Care
10 Society. I had the Cranbrook Food Bank, and I had an
11 Indian Banned Audit to mention a few.

12 Q. Did your not-for-profit clients lose money
13 every year?

14 MS. RHOADES: I'm going to object to this
15 relevancy.

16 ADMINISTRATIVE LAW JUDGE: Would you like to
17 address that?

18 MR. MILLER: There seems to be a -- no
19 arguments have been made but a lot of facts have been
20 elicited it seems to suggest that not-for-profit
21 organizations need to sell things below or at cost and
22 I'm wanting to find out in fact how not-for-profit
23 organizations operate generally.

24 ADMINISTRATIVE LAW JUDGE: I'm going to

1 sustain your objection, because I think the question
2 was, did any of your not-for-profit clients lose
3 money.

4 I think if you want to do some
5 generalizations about not-for-profits as such, that
6 would be all right, but asking specific.

7 MR. MILLER: Sure. I'll make it more
8 general.

9 Are you familiar with the not-for-profit
10 clients that make money?

11 MS. RHOADES: If I can, if I can again object
12 for the record. First of all, he's only established
13 the fact that he's been employed in Canada and under
14 the Canada system of what a not-for-profit is. We have
15 nothing with respect to U.S. We have nothing with
16 respect to Illinois not-for-profit corporations or the
17 standards.

18 Secondly and thirdly, he has not been
19 tendered or proffered to us as an opinion or an expert
20 witness, and that's the testimony that they're trying
21 to elicit from him at this time.

22 MR. MILLER: Well, I was asking facts about
23 the clients that he had in his experiences.

24 He has an American CPA. If you'd like me to

1 ask the question, are there not-for-profit
2 organizations similar between Canada and America, that
3 would be the foundation.

4 ADMINISTRATIVE LAW JUDGE: I think that might
5 be appropriate.

6 MS. RHOADES: And we'll continue my objection.

7 ADMINISTRATIVE LAW JUDGE: I understand.

8 MR. MILLER: With your CPA training are you
9 aware, are not-for-profit organizations in Canada and
10 America similar?

11 Are there similar standards involved?

12 THE WITNESS: Yes.

13 Q. And has your experience with not-for-profit
14 organizations been that they must always or they do
15 always lose money?

16 A. My experience has been that they, generally
17 speaking, want to have a positive bottom line.

18 In other words, they can't operate in the
19 black any better than profit organizations can, because
20 if they did, they wouldn't have the cash flow to
21 operate.

22 Q. I'm sorry, you said operate in the black?

23 A. Operate, they can't operate at a loss for
24 very long. They're like any other organization.

1 Q. So why are they called not-for-profit?

2 A. They're called not-for-profit --

3 MS. RHOADES: I'm going to object again to
4 this question, because he's asking him again opinion
5 and expert testimony and he's not been disclosed as
6 such. He can give us facts. I don't know what this
7 has to do with the facts for the subject property for
8 the year 2001.

9 MR. MILLER: Your Honor, I've laid a
10 foundation that his job is to run the finances for a
11 not-for-profit organization that has to meet certain
12 tests. He must be aware of those as an accountant both
13 here in Canada and America, and I'm simply asking him
14 how a profit or a net revenue relates to the
15 not-for-profit status.

16 ADMINISTRATIVE LAW JUDGE: I think there's
17 sufficient case law in not-for-profit as far as what
18 are the standards to consider what is a not-for-profit
19 organization.

20 So I think what we'd rather do is get into
21 what in fact the Applicant's financial records were for
22 2001 and kind of get away from this type of testimony.

23 MR. MILLER: Are you familiar with the audit
24 financials of Three Angels for the year 2001?

1 THE WITNESS: Yes, I am.

2 Q. And how are you familiar with those
3 financials?

4 A. I more or less completed the accounting for
5 the year 2001. I submitted them for review to the --
6 to the auditor, worked with the auditor, answered all
7 of his questions during the audit.

8 Q. I think it's Applicant's Exhibit 15 that I'm
9 directing the witness's attention to.

10 I'd like to direct your attention to Page 12
11 of this document with the main heading or the
12 subheading Television and Radio Broadcasting expenses,
13 and I think it's four, five line items from the bottom,
14 and there is a heading entitled special projects?

15 A. Right.

16 Q. And what is the amount associated with the
17 special projects?

18 A. 796,000, roughly.

19 Q. In putting this together did you become aware
20 of what that line represented?

21 A. Yes.

22 Q. And what does it represent?

23 A. That represents the amount that Three Angels
24 Broadcasting Network spent primarily in Russia and the

1 Philippines.

2 MS. RHOADES: I'm going to object with respect
3 to foundation of the question. We haven't established
4 what records he's reviewed, when he reviewed them, how
5 he knew what the general entries were, none of that.

6 ADMINISTRATIVE LAW JUDGE: If you'd like to
7 lay foundation.

8 MR. MILLER: Sure.

9 What documents did you review that related to
10 these special conduits?

11 THE WITNESS: I reviewed the general ledger,
12 the accounts payable ledger.

13 Q. And did those sources, what did those sources
14 indicate?

15 A. They indicated that these were payments made
16 for Russia and the Philippines. These were audited
17 also by our auditors.

18 Q. And why did you chose them to put them into
19 the special project categories?

20 A. They've always been put there. Year after
21 year they've been put there.

22 Q. Okay. Thank you.

23 In 2001 what was Three Angels gross revenue?

24 MS. RHOADES: And, again, I guess I would

1 object. First of all, he's testifying off the audit.
2 He's going to have the auditor in here who is the best
3 person to provide that testimony.

4 I mean, this witness is going to report the
5 numbers but he has no back up as to what it is, what's
6 in it.

7 MR. MILLER: Well, Your Honor, that's just not
8 true because, as has just been demonstrated, he is
9 familiar with the documents relating to Russia and the
10 Philippines and was able to explain a particular line
11 entry and what was involved with that line entry and
12 the auditor wouldn't necessarily know that.

13 MS. RHOADES: I don't think that was the
14 question. The question was, what was the revenue.

15 ADMINISTRATIVE LAW JUDGE: I think all he's
16 asking for is a statement from the financial statement,
17 so I'm going to go ahead and allow the question. I'll
18 overrule the objection.

19 THE WITNESS: The total revenue for the year
20 2001 was \$13,935,318.

21 MR. MILLER: Now, in putting these figures
22 together and reviewing the underlying documents did you
23 come to believe or do you believe that Three Angels
24 made money or lost money from its sales activities

1 during the year 2001?

2 MS. RHOADES: I'm going to object again with
3 respect to the foundation. I mean, he's asking him for
4 a conclusion with no supporting information.

5 ADMINISTRATIVE LAW JUDGE: If you'd like to
6 lay some foundation for it.

7 MR. MILLER: I'd be happy to do that.

8 Let's take each line item of revenue. The
9 documents show, and I'm looking at Page 4 in the
10 right-hand upper corner.

11 What does this -- there is a heading that
12 says revenues and other support. What does that
13 heading represent?

14 THE WITNESS: That represents all of the
15 revenue for Three Angels Broadcasting Network.

16 Q. And which items under that revenue would
17 relate to sales endeavors carried out by Three Angels?

18 A. The satellite sales and the video and other
19 sales are sales items.

20 Q. What about the airtime and production fees?

21 A. That would be a service. That would be a
22 service rendered to a third party.

23 Q. Okay. And perhaps I'm using the laymen's
24 terms and you're answering in accounting terms, but

1 that would represent airtime sold?

2 A. That's right. That's airtime sold to third
3 parties.

4 Q. Are there any other line items on here that
5 would represent, speaking in laymen's terms, sales by
6 Three ABN?

7 A. Yeah, rental income is another source of
8 third party income.

9 Q. Okay. Now, so the total income received from
10 sales would be approximately, somewhere between \$1.6
11 and \$1.8 million, is that right?

12 MS. RHOADES: Objection. That's a leading
13 question.

14 MR. MILLER: Well, maybe you can add the
15 figures for me then.

16 THE WITNESS: Sure.

17 Yeah, it's about one point, it's about \$2.7
18 million.

19 Q. Help me with the figures then. I must be
20 missing something.

21 A. I'm sorry. I'm sorry. I added one in there
22 that I shouldn't have.

23 It's \$1.7 million, yeah.

24 Q. It's \$1.7 million.

1 And were there costs associated with these
2 items of sale that you can point us to in this
3 document?

4 A. Yes, there were.

5 Q. And maybe we can go down the list starting
6 with the airtime and production fees, \$857,000.

7 What would be the costs associated with that
8 revenue?

9 MS. RHOADES: I'm going to object. I don't
10 think we have any foundation, any documents that show
11 that they have made any allocations of costs associated
12 with any of these activities for the year 2000 or
13 2001.

14 MR. MILLER: Well, Your Honor, we're looking
15 at the 2001 audited financials, and I'm asking him if
16 in fact he can point us elsewhere to the document to
17 costs that would relate to this revenue stream.

18 ADMINISTRATIVE LAW JUDGE: I didn't get that
19 from your question. If that's in fact what your
20 question is, then go ahead and rephrase it, because I
21 didn't -- I'm going to sustain your objection, and if
22 you would like to rephrase that, because as I said, I
23 didn't understand it to be that either.

24 MR. MILLER: The question is -- I'm looking at

1 the first item of revenue related to sales on Page 4
2 airtime and production fees.

3 My question is, are there expenses associated
4 with that revenue that you can point us to in this
5 audited statement?

6 THE WITNESS: Yeah.

7 MS. RHOADES: And I'm going to object. There
8 hasn't been any foundation with respect to his basis of
9 knowledge for the year 2001 as to what was allocated
10 for that. He says he reviewed the records, but we
11 don't know what those records were, what the nature of
12 those records were, and what specifically he reviewed.

13 ADMINISTRATIVE LAW JUDGE: If you want to lay
14 some foundation for this, then we'll go on from there.

15 MR. MILLER: Sure.

16 Did you review documents in putting this
17 together that enabled you to determine if there were
18 expenses associated with this particular revenue?

19 THE WITNESS: Yes.

20 Q. And what were those documents?

21 A. I reviewed accounts payable documents,
22 cancelled checks, bank statements, the general ledger,
23 the accounts payable ledger.

24 I don't know what other areas you might want

1 to think about regarding expenses. Those are the main
2 areas.

3 Q. And did you summarize the findings on those
4 documents elsewhere in this particular financial
5 statement?

6 A. Yes.

7 MS. RHOADES: I'm going to object.

8 MR. MILLER: And where would that be?

9 MS. RHOADES: I'm going to object to this
10 because he said, did you summarize it. This isn't his
11 documents. That is the auditor's documents.

12 Is he preparing the audit for Three ABN,
13 Judge? Because that's what it sounds like.

14 MR. MILLER: Your Honor, if I may, do the --
15 when the auditor comes to audit the financial records,
16 what financials do they review?

17 THE WITNESS: They review the general ledger,
18 which is prepared by us, so these numbers come right
19 off the general ledger.

20 Q. And you prepared the numbers on the general
21 ledger?

22 A. And I prepared the general ledger numbers.

23 MS. RHOADES: I'm going to object. I want to
24 have specificity as to what numbers in the general

1 ledger he in fact prepared. He was not a member or an
2 employee of Three Angels Broadcasting for the year
3 2001.

4 MR. MILLER: Your Honor, I think we revisited
5 this a half a dozen times, that he has familiarity with
6 the records. I don't understand. If we were always
7 limited to having someone testify about a check or some
8 other paper that actually signed the check or created
9 the paper, we'd all be in real trouble.

10 Individuals come and they review these
11 records and they gain knowledge of them and they put
12 these kind of documents together.

13 The witness has testified that he's done
14 that. I believe I've laid the foundation for his
15 firsthand knowledge of these documents, where these
16 figures came from, but now that he's here, he's going
17 to explain to us the significance of those figures.

18 ADMINISTRATIVE LAW JUDGE: I'm going to
19 overrule the objection. I'm going to go ahead and
20 allow the testimony, because he has established that in
21 fact he helped create these numbers and the auditor
22 then comes, from the way I understand auditing, then
23 comes and double checks against what --

24 THE WITNESS: Exactly.

1 ADMINISTRATIVE LAW JUDGE: Is that correct?

2 THE WITNESS: That's exactly right.

3 ADMINISTRATIVE LAW JUDGE: So somebody had to
4 create the numbers to begin with.

5 MR. MILLER: To begin with, right.

6 Thank you, Your Honor.

7 So perhaps you can point us to the number or
8 numbers that would represent expenses associated with
9 those particular sales, for airtime and production
10 fees.

11 THE WITNESS: Right. Over on Page 12 we have
12 our television and radio broadcasting expenses, and
13 many of these relate to airtime, specifically to
14 airtime sales or fees.

15 Q. Can you give us a few of those that would?

16 A. Yes. The main ones that would relate,
17 probably almost all of them relate directly or
18 indirectly, but some of the more direct ones that
19 relate, airtime relates --

20 Q. Two point --

21 A. \$2.1 million, depreciation. Not all of that
22 figure would relate, but a large, the largest portion
23 of that figure would.

24 Q. \$1.5 million?

1 A. \$1.5 million. Downlink fees, those are fees
2 to broadcast, you know, in different locals, so that
3 relates to airtime to the broadcast of those programs.

4 Looking further down the list, broadcasting
5 supplies would relate and also wages. These wages are
6 specifically broadcast wages that would be separated
7 from other wages.

8 Q. What would be the rough total of all the
9 costs that you just outlined for us?

10 A. Well, you've got \$2.1, roughly \$5.5 million.

11 Q. \$5.5 million.

12 And would all of those expenses be fairly
13 associated with the -- with the revenue that you point
14 to us of about \$800,000?

15 A. They are associated, but they are the total
16 broadcasting expenses. And before this court I
17 discussed with Mollie Steenson --

18 MS. RHOADES: Objection to the extent that
19 we're getting into discussions with Mollie Steenson.

20 THE WITNESS: Okay.

21 ADMINISTRATIVE LAW JUDGE: Objection is
22 sustained.

23 MR. MILLER: Okay. I think the question would
24 be then, if all \$5 million would not necessarily be

1 associated with the \$800,000, what piece of information
2 would you need to know to determine how much of that \$5
3 million would be associated with costs to -- how much
4 of that, those \$5 million in expenses were associated
5 with bringing in the \$800,000 in income?

6 What would we need to know?

7 THE WITNESS: You would need to know the
8 proportion of time of broadcasting time that was spent
9 for airtime for airing, airtime fee programs as opposed
10 to Three Angels Broadcasting Network programs.

11 Q. Spell that out a little bit. You're saying,
12 you're suggesting there is two categories of program?

13 A. Yeah.

14 Q. The first is?

15 A. You'd need to know how much of our
16 programming time related to airtime fee sale time.

17 MR. MILLER: Okay. So -- Your Honor, I would
18 like to refer to the testimony of Mr. Shelton regarding
19 the percentage of airtime that was sold by Three Angels
20 versus the time that Three Angels itself used in asking
21 my next question to the witness. It's testimony that's
22 in the record and I believe using that testimony he
23 could then tell us the proportion of this figure that
24 should be compared with the actual income.

1 ADMINISTRATIVE LAW JUDGE: Okay.

2 MR. MILLER: Mr. Shelton testified that about
3 80 percent of airtime was Three ABN airtime, 20 percent
4 was either sold or otherwise at or below cost.

5 THE WITNESS: Right.

6 Q. So knowing that, that 20 percent of the
7 airtime is sold at or is sold to others, what
8 percentage of this approximately \$5 million would be
9 attributable then to the sold airtime?

10 A. \$1.1 million.

11 MS. RHOADES: I'm going to object to the
12 question, first of all, on the basis that sufficient
13 foundation has not been. I mean, they're trying to
14 make an allocation based upon percentages, but yet they
15 don't have any testimony in the record that that's an
16 appropriate method to make those calculations or those
17 determinations.

18 This witness will testify that there has not
19 been any time studies. There has been no other cost
20 allocations done, that all of this is done for the
21 purposes of this litigation.

22 MR. MILLER: I'm not sure I understand the
23 objection entirely.

24 MS. RHOADES: There is no foundation. Yeah,

1 they're doing it in hindsight. I mean, if he can
2 testify that they did this at the time that, of that
3 year and how they allocated cost for each of these
4 different things, that's fine, but they're doing
5 everything in hindsight.

6 ADMINISTRATIVE LAW JUDGE: I'm going to go
7 ahead and sustain the objection. I think, again, as
8 Ms. Rhoades stated, this is a recharacterization of
9 some figures after the fact, and let's just go ahead
10 and move on and ask specifics about the finances.

11 MR. MILLER: Okay. In your review of the
12 finances did then -- would these figures that you've
13 looked at, did Three ABN make any profit from its sale
14 of airtime?

15 THE WITNESS: No.

16 Q. I'd like to move on to income related to
17 satellite equipment.

18 What was the total income related to
19 satellite equipment in 2001?

20 A. The total income related to satellite
21 equipment in 2001 was \$618,832.

22 Q. And if you turn with me to Page 12 there is a
23 line item there under television and radio broadcasting
24 expense that says satellite purchases \$460,000.

1 What would that heading and figure represent?

2 A. That would represent the purchases of
3 satellite hardware for resale. Also included in there
4 would be any subscriptions that were given to Three
5 Angels Broadcasting Network for the Sky Angel systems.

6 Q. And --

7 A. Or actually that would be purchases from Sky
8 Angel of I think lifetime subscriptions that was
9 recognized in revenue in that \$618,000 worth of
10 revenue.

11 Q. And did, in reviewing the records, in putting
12 these figures together, were there any other documents
13 that you reviewed that indicated there were other
14 expenses associated with these satellite sales?

15 A. Yes. I reviewed the wages for the Call
16 Center. I had my assistant develop those wages and
17 those wages came to \$112,000.

18 MS. RHOADES: And I'm going to again object,
19 the same objection that I made earlier, Judge, that
20 this is all done after the fact. It was not done at
21 the time, and they had no connection that any of
22 this -- this analysis was done previously.

23 MR. MILLER: Well, Your Honor, accounting is
24 always done after the fact. Accounting is a process of

1 reviewing documents and invoices and receipts that have
2 been created and putting some order to them, and that's
3 what accountants do and that's certainly what auditors
4 do, and I certainly don't think that invalidates or
5 disqualifies testimony because of that.

6 MS. RHOADES: And I think, Judge, here's where
7 I think the issues are from a legal standpoint is, the
8 standard in Illinois is, it can't be done with a view
9 to a profit, which means that it is done prospectively
10 when you establish price, not whether you actually
11 produce a profit. That's what Illinois case law says.

12 , It doesn't matter whether you make a profit
13 or not make a profit. The question is, is the activity
14 done with a view to a profit. They're attempting to
15 come in with evidence with respect to this witness that
16 in fact they didn't make a profit, but they've not come
17 in and cannot prove any testimony as to what they've
18 done on the property previously to determine whether or
19 not these costs are reasonable or done with a view to a
20 profit. It's irrelevant and there's no foundation.

21 MR. MILLER: Your Honor, the case law I
22 believe is equally clear that whether there was a
23 profit or not isn't disqualifying one way or the other,
24 but it can be some evidence as to the intent and

1 purpose for which the business was run.

2 And so, in fact, it was, as I recall, we
3 earlier argued that in fact issues of profit and loss
4 should not be, should not be part of this case, and
5 Your Honor ruled that in fact they were relevant, and
6 they are part of this case.

7 We believe there is an Illinois Supreme Court
8 case that possibly sets out, you don't look at that at
9 all, but the court appears to have taken the position
10 that whether there is a profit or loss is of some
11 interest.

12 And certainly other jurisdictions have
13 indicated that profit or loss not disqualifying or
14 dispositive one way or the other can be some evidence
15 to show that an organization is not operated but with a
16 view to a profit.

17 ADMINISTRATIVE LAW JUDGE: I'm going to allow
18 this testimony as far as the breakdown of what
19 component parts come into play with each one of these
20 categories.

21 However, as far as proportions or any of
22 that, you can go ahead and discuss that in your briefs
23 and you can also discuss the profitability in your
24 briefs as well. That's a legal argument and I don't

1 think it's appropriate right now.

2 MR. MILLER: I think it was just being
3 proffered to show whether the testimony was relevant or
4 not. I'm not intending to be legal.

5 ADMINISTRATIVE LAW JUDGE: Okay. Well, it was
6 verging on it, as least from my perspective.

7 MR. MILLER: Okay. Okay. I forgot what my
8 last question was.

9 ADMINISTRATIVE LAW JUDGE: He answered there
10 was \$112,000 in wages.

11 MR. MILLER: My question is, are there other
12 expenses that came across that were associated with
13 these sales?

14 THE WITNESS: Yes, there are.

15 Q. And what was that?

16 A. One of the expenses is shipping these
17 satellite systems. In order to be sold, they have to
18 be shipped out from Three Angels Broadcasting Network,
19 and I reviewed the UPS invoices for that.

20 And the total UPS invoices were \$98,000 in
21 total.

22 MS. RHOADES: I'm going to object. I don't
23 know where that's at in the record. I don't believe he
24 has any documents before him to say what they exactly

1 were.

2 MR. MILLER: Your Honor, the same basis, as
3 he's answered the other questions which you've
4 sustained with his review of the records. These
5 particular records weren't asked for in discovery. My
6 witness, this is part of his job to do this. He's laid
7 a foundation. I'm coming to a point where I'm
8 objecting to the continuing objection that the same
9 over and over and you're suggesting that he can answer
10 these particular questions.

11 ADMINISTRATIVE LAW JUDGE: I'm going to go
12 ahead and rule that he can answer them, but as far as
13 specifics and numbers, unless you have some documentary
14 evidence to establish that, there is nothing here to
15 establish any numbers that he's come up with.

16 MR. MILLER: Well, can I point you to a -- can
17 you point us to a category on here that would give you
18 a sense of those expenses?

19 THE WITNESS: The -- over on Page 13 there is
20 postage expenses, \$528,000, and then that's where the
21 postage is relating -- relating to this item. And down
22 below under wages is where, wages on Page 13
23 \$1,219,000, that's where the Call Center wages are that
24 I alluded to earlier.

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1 Q. And taking into account those expenses, did
2 Three ABN make any money or profit on sales of
3 satellite dishes in 2001?

4 A. No.

5 Q. What about the next item of income? The
6 videos and other sales, that amount is \$251,000. What
7 is included in videos and other sales if you know from
8 your review of the records?

9 A. Included in that figure would be video sales,
10 CD sales, cassette sales, book sales. Those are the
11 primary sales areas.

12 Q. And other documents you've reviewed to arrive
13 at certain expenses associated with the distribution of
14 those items that you have then included in, and that
15 now appear in this audited financial statement?

16 A. One of the main areas of this financial
17 statement that relates to that category is on Page 13.
18 It says literature, \$105,000. That relates directly to
19 that sales category.

20 Q. Sales, and is there any other category which
21 relates to items that Three ABN distributed that year?

22 A. Three ABN also distributed newsletters, on
23 Page 12, \$173,000.

24 Q. In your opinion, did Three ABN, having

1 reviewed the papers and the numbers here, did Three ABN
2 make a profit on the materials, other than airtime and
3 satellites, we've covered those, all the other
4 materials that it distributed in the year 2001?

5 A. No.

6 MS. RHOADES: I'm going to object because I
7 don't think there has been proper foundation for this
8 witness with respect to, since he's identified these
9 categories, that with respect to his testimony as to
10 how much allocated it is, he can't give an opinion
11 whether there is a profit or a loss.

12 MR. MILLER: Your Honor, that would be true if
13 we were trying to break this down into a particular
14 level of CDs alone or videos alone or books alone, but
15 I believe these aggregate numbers show that when
16 they're lumped together, as has been set out here, that
17 in fact the loss is exceeding the profits on these
18 items.

19 It would be absolutely right if there was a
20 costing, if I was suggesting that there was a costing
21 and we could break down each of the categories, and I'm
22 not in a position to offer that.

23 But in the aggregate, these numbers made
24 clear what the witness has testified to I believe.

1 MS. RHOADES: So am I understanding your --
2 the witness's testimony then correctly, Mr. Miller,
3 that they are selling their newsletters?

4 MR. MILLER: No. I phrased the question, the
5 question I'd asked was, the items of Three Angels has
6 distributed would include videos, CDs, the magazines,
7 and the newsletters, some of those you sell, some of
8 those you don't. Those are all items Three ABN
9 distributes.

10 ADMINISTRATIVE LAW JUDGE: Beg your pardon?

11 MS. RHOADES: I don't think that that was what
12 the question was, Judge. I believe the question was
13 related to item number, on Page 4 of the report that
14 says, what is included in video and other sales. I
15 believe that was sales and attributed to revenues, and
16 now we're trying to attribute these revenues to other
17 items that aren't revenue producing.

18 ADMINISTRATIVE LAW JUDGE: I agree, and it
19 also didn't include the literature information, so I'm
20 going to go ahead and strike that part of the
21 testimony.

22 MR. MILLER: I think that's fine. I think I
23 have a factual basis.

24 ADMINISTRATIVE LAW JUDGE: I think, if I'm

1 understanding this correctly, what you're trying to do
2 is establish that there are other expenditures that go
3 with each one of these revenue producing items.

4 MR. MILLER: Items, right.

5 ADMINISTRATIVE LAW JUDGE: And you have
6 established that, at least to the court's
7 satisfaction. That it is not just, this is a totally
8 money coming in without any associated, and I think
9 that in that regard I think it's relevant, but I think
10 the rest of it, as far as particulars and proportions
11 and all of that other kind of stuff is irrelevant.

12 MR. MILLER: Okay. Well, I think I've
13 established the factual basis, and some of this is
14 argumentation, which would be for closing so.

15 ADMINISTRATIVE LAW JUDGE: I agree.

16 MR. MILLER: I think that's fine.

17 ADMINISTRATIVE LAW JUDGE: And I agree that
18 you needed to establish the factual basis, but I think
19 you've done that.

20 MR. MILLER: Okay.

21 In your review of the records and the
22 financials did you come across any evidence or
23 indication that any of the revenues of Three Angels
24 went to the personal profit or inurement of a private

1 individual?

2 THE WITNESS: No.

3 Q. Do you believe that Three Angels Broadcasting
4 is operated on a sacrificial basis?

5 A. Yes, I do.

6 MS. RHOADES: I'm going to object. First of
7 all, I don't know we have the definition of what
8 sacrificial basis is for which, by which this witness
9 is providing the testimony.

10 Secondly, he's getting into opinion and
11 expert testimony.

12 ADMINISTRATIVE LAW JUDGE: Sustained.

13 MR. MILLER: Is there anything about the
14 operations of Three ABN, Three Angels Broadcasting that
15 you would find inconsistent with a not-for-profit
16 organization?

17 MS. RHOADES: Same objection with respect to
18 he's asking for opinion or expert testimony.

19 MR. MILLER: Well, only, Your Honor, insofar
20 as he's qualified in both Canada and America as a
21 certified public accountant, and he's certainly
22 familiar with the standards and requirements of
23 not-for-profit organizations, and I think as a factual
24 matter and as a professional matter he could answer

1 that particular question.

2 ADMINISTRATIVE LAW JUDGE: And I'd agree. I
3 think, I see that this question is totally different
4 than the other one, unless you can explain to me why
5 you think it --

6 MS. RHOADES: First of all, I think they're
7 asking him to present opinion expert testimony on this
8 fact. He's presented to this court only as a fact
9 witness as to actual facts that have happened on the
10 property or actual facts that are reviewed, not his
11 opinions or conclusions with respect to things that
12 would take an expert opinion on.

13 He may have -- he may be a certified
14 accountant, but he has never been proffered to anybody
15 in that capacity.

16 MR. MILLER: I'm proffering him to the court
17 as a Certified Public Accountant, so let me begin now.

18 MS. RHOADES: As an expert witness.

19 ADMINISTRATIVE LAW JUDGE: And I don't see
20 this as an expert witness opinion. I just see it as
21 the accountant for the Applicant and his opinion, so
22 I'm going to go ahead and allow the question.

23 THE WITNESS: Could you rephrase it, I'm
24 sorry?

1 ADMINISTRATIVE LAW JUDGE: Rephrase it or
2 repeat it?

3 MR. MILLER: Is there anything about the
4 operations of Three Angels that you view as being
5 inconsistent with the operations of a not-for-profit
6 organization, charitable organization?

7 THE WITNESS: No.

8 ADMINISTRATIVE LAW JUDGE: And I'm going to
9 caution you. I think you said not-for-profit
10 organization, and once you put in the word charitable
11 that's a legal conclusion for the State of Illinois,
12 and I would like to strike.

13 MR. MILLER: Oh, those are two separate
14 items?

15 ADMINISTRATIVE LAW JUDGE: Yes, definitely is
16 for the State of Illinois.

17 I'll take that as an answer for a
18 not-for-profit organization?

19 THE WITNESS: Right.

20 ADMINISTRATIVE LAW JUDGE: And qualify that
21 for every one.

22 MR. MILLER: I didn't know they were
23 not-for-profit organizations that I guess were not --

24 ADMINISTRATIVE LAW JUDGE: That are not

1 charitable?

2 MR. MILLER: Yes.

3 ADMINISTRATIVE LAW JUDGE: Yes.

4 MR. MILLER: What's your salary, Mr. Ewing?

5 THE WITNESS: \$48,000 a year.

6 Q. And why did you come to Three Angels?

7 A. I came to Three Angels Broadcasting Network
8 because I've always wanted to work more directly in the
9 Lord's work and also I believed that Three Angels
10 Broadcasting Network is doing a great work to advance
11 the cause of God.

12 MR. MILLER: Thank you. I have no further
13 questions.

14 ADMINISTRATIVE LAW JUDGE: All right.

15 Anything on cross?

16 MR. RHOADES: Now, Mr. Ewing, I just have a
17 couple of brief questions.

18 CROSS EXAMINATION

19 BY MS. RHOADES:

20 Q. With respect to, you testified that a
21 purchase of satellite equipment, I believe it was
22 \$460,000 from the audit?

23 A. Yes.

24 Q. And would that also -- would there also be as

1 a remainder of that sum, satellite systems that were
2 leftover in inventory?

3 A. No. Those are inventoried out of that
4 figure. They're counted specifically at year end and
5 taken out.

6 Q. Okay. So that represents the actual purchase
7 that was used for that particular year?

8 A. That's correct.

9 Q. Is that what you're telling me?

10 Now, when you indicate testimony just for
11 purposes of the record of these associated expenditures
12 with some various revenue streams, like for instance
13 you talked about postage?

14 A. Yes.

15 Q. Those items, those -- you can't attribute all
16 of the postage in that line item correctly to videos,
17 CDs, and books, correct?

18 A. That's correct.

19 Q. And the same thing with regard to satellite
20 systems, you can't attribute all of that amount to
21 satellite systems, correct?

22 A. No.

23 Q. Okay. And the same thing would be true for
24 all of those other categories?

1 A. I think you misread that question, that last
2 question. When I said no, I meant that all of the
3 satellite system costs could be related to satellite
4 system income. Is that --

5 Q. No. I was talking about postage.

6 A. You're talking about postage previously?

7 Q. Uh-huh.

8 A. Not all of the postage relates to satellite
9 systems, but all of the satellite purchases relates to
10 satellite system.

11 Q. Right.

12 And not all of the employee allocations that
13 you referred to relate either to both the satellite
14 sales line item or the books, CDs line item, correct?

15 A. I only discussed specific -- I mentioned one
16 specific salary item was \$112,000 that related to
17 satellite systems.

18 MS. RHOADES: I'm going to object. That
19 wasn't in the testimony.

20 ADMINISTRATIVE LAW JUDGE: She's not just
21 talking about the satellite systems.

22 MS. RHOADES: That's correct.

23 THE WITNESS: Okay.

24 ADMINISTRATIVE LAW JUDGE: The satellite

1 systems were three questions ago.

2 THE WITNESS: Okay.

3 ADMINISTRATIVE LAW JUDGE: Then she moved on.

4 THE WITNESS: And she's talking about what
5 now?

6 ADMINISTRATIVE LAW JUDGE: Now she's talking
7 about the wages and the breakdown of the wages.

8 MR. MILLER: That's what he's talking about
9 too. He's talking about the breakdown of the wages as
10 to the satellites.

11 ADMINISTRATIVE LAW JUDGE: But I don't believe
12 that was her question is my --

13 MR. MILLER: I thought it was.

14 MS. RHOADES: That's correct. No, it wasn't.

15 ADMINISTRATIVE LAW JUDGE: I think she's --

16 MR. MILLER: Maybe she should ask the question
17 again.

18 ADMINISTRATIVE LAW JUDGE: Let's start again.

19 MS. RHOADES: When you testified, Mr. Ewing,
20 for example, you testified as to books, CDs, and
21 videos. Then you testified that you had certain items
22 that, on the expenditure side that related to that
23 item, correct?

24 THE WITNESS: Right.

1 Q. All of those entries for those specific items
2 cannot all be attributed to books, CDs, and cassettes,
3 correct?

4 A. Do you remember which items I related to?

5 Q. Yeah.

6 You said wages at \$1,219,693.23?

7 A. And I related that to --

8 MR. MILLER: I object. I think that.
9 mischaracterizes the witness's testimony. If she wants
10 to ask questions, please ask, but I think we're
11 creating confusion here.

12 ADMINISTRATIVE LAW JUDGE: I think there is
13 confusion, and I wasn't confused before I didn't
14 think.

15 But why don't you just go one by one if you
16 don't mind, and if you don't --

17 MS. RHOADES: Okay.

18 ADMINISTRATIVE LAW JUDGE: I think that will
19 help clarify it.

20 MS. RHOADES: Sure.

21 Let me just ask, let me just maybe ask a
22 general question.

23 With regard to those items that are contained
24 on Page 12 of the audited financial report, which of

1 those items relate directly and exclusively with no
2 other costs associated to any program with the sales of
3 CDs, videocassettes, and tape recordings?

4 Are there any?

5 THE WITNESS: No.

6 Q. Okay. Now, with respect to again Page 12,
7 which of those on Page 12, those expenditures that are
8 listed are directly attributable to satellite sales?

9 A. The satellite purchases.

10 Q. Okay.

11 A. And portions of the other expenses.

12 Q. They're portions, but not the entirety of the
13 expenses, correct?

14 A. That's correct.

15 Q. Okay. Now, with respect to the items that
16 are contained on Page 12 of the audit report, how many
17 of those expenditures that are listed in the right-hand
18 column are directly attributable to purchase airtime
19 services?

20 A. Airtime.

21 Q. So all of that in airtime, \$2,139,050.50 is
22 all related to the revenue of people who pay airtime to
23 Three ABN?

24 Do you understand what I'm saying?

1 A. Yes, I understand what you're saying, and I
2 think that your questions are -- I think your questions
3 are leaving out too much. You're too restrictive.

4 ADMINISTRATIVE LAW JUDGE: She's allowed to
5 ask the questions.

6 THE WITNESS: That's fine.

7 MS. RHOADES: And I want you to answer the
8 question.

9 A. No, not all of those expenses relate to the
10 airtime that was sold.

11 Q. Okay.. Now, with respect to on Page 13, are
12 any of these expenses as listed on -- in the right-hand
13 column solely attributed to the sale of CDs, books, and
14 videos?

15 A. No.

16 Q. With respect to Page 13 of the audit report
17 for 2001, are any of these expenses -- are all of these
18 expenses related in this column, are all of them
19 attributed to -- strike that question. I'm going to
20 start rephrasing it. I'm getting myself confused
21 again.

22 With respect to the items on Page 13 of the
23 audit report, are there any of these allocated line
24 items that are directly attributed and only those

1 entries are related to the satellite sales?

2 A. No.

3 Q. No other program services in there.

4 Okay. Now on Page 13 of the audit report
5 there are no -- are there any other -- strike that.

6 On Page 13, are there any other expenditure
7 listed that is solely and exclusively attributed to
8 satellite sales?

9 A. No.

10 Q. And with respect to Page 13, are any of these
11 line items contained on Page 13 directly a direct
12 expense with respect to airtime revenues?

13 A. No.

14 Q. You testified that you don't believe that
15 there was any personal inurement to any member of the
16 Three ABN Board of Directors or staff members, correct,
17 Mr. Ewing?

18 A. Right.

19 Q. Now, you are also the person who handles the
20 automobiles --

21 A. That's correct.

22 Q. -- for Three ABN?

23 And could you please explain to the court
24 what the procedure is for someone to be able to check

1 out an automobile that's used by Three ABN?

2 MR. MILLER: I'll object to this. There has
3 been noted Mr. Ewing didn't get there until 2002 and he
4 wasn't in charge of that process in 2001 and we don't
5 have a foundation.

6 MS. RHOADES: And my statement is, he's been
7 able to testify as to the financial records and how
8 things were done.

9 Let me ask you this. Did you change the
10 procedure when you came in in 2002 on how people
11 checked out vehicles?

12 MR. MILLER: And I'll object, because there is
13 no foundation as to whether he knew what it was in 2000
14 and 2001.

15 MS. RHOADES: He would know if he changed the
16 procedures.

17 ADMINISTRATIVE LAW JUDGE: I'm going to allow
18 the question about changing procedures, but I'm not
19 going to allow the question about how things were done
20 in 2001, because you have no firsthand knowledge about
21 that.

22 THE WITNESS: Okay. Do you want me to
23 answer?

24 ADMINISTRATIVE LAW JUDGE: Just answer the

1 question as to whether you changed procedures.

2 THE WITNESS: No, I never changed the vehicle
3 procedures.

4 MS. RHOADES: So then you knew what the
5 procedures were for the year 2001, correct?

6 MR. MILLER: I'll object. I don't think the
7 foundation has been laid yet. It's not clear when he
8 took this over in 2002.

9 For instance, I think it would be necessary
10 to show that it could have been changed in the few days
11 of 2002 before he took it over. I mean, I agree if he
12 started January 1, 2002 and he didn't change the
13 procedure, but maybe we need to lay that foundation.

14 ADMINISTRATIVE LAW JUDGE: I think go ahead
15 and lay the foundation and then we'll --

16 MS. RHOADES: Okay. Are you aware of any
17 changes in the procedures from December 31, 2001 to
18 January 7, 2002 with respect to how automobiles or how
19 automobiles are allocated to individuals?

20 THE WITNESS: No, I'm not aware of any
21 changes.

22 Q. Okay. Now, with respect to -- what are --
23 what are the procedures that are in effect?

24 MR. MILLER: Well, I'll object. Again I don't

1 think that was proper foundation. I don't know if
2 changes were made either, but that doesn't mean that
3 I'm comfortable to testify to that. He needs to know
4 affirmatively that they haven't been changed.

5 I think the question would be, was he in
6 charge of it as of December 31, 2000.

7 MS. RHOADES: Let me ask this question. Were
8 you aware of what the procedures were for 2001?

9 THE WITNESS: Not really. I don't really
10 handle that that much. I'd be glad to answer questions
11 on it, but I'm not -- it's handled by my staff and I
12 don't really get involved in it.

13 I know certain portions. I mean, I'm
14 observant. I'm in the Accounting Department. Maybe
15 you could be a little more specific. I don't handle --
16 I don't handle the vehicles, but I'm there and I see
17 sort of what goes on.

18 Is that what you want to know about?

19 ADMINISTRATIVE LAW JUDGE: Do you want --

20 MR. MILLER: He doesn't know. I mean, I'll
21 object to the form. It's speculation. He says he
22 doesn't know.

23 ADMINISTRATIVE LAW JUDGE: But he also said
24 that his employees handle it.

1 MR. MILLER: In 2002.

2 ADMINISTRATIVE LAW JUDGE: But I thought we'd
3 already established in fact there has been no change.

4 MR. MILLER: No. I'm still objecting. I
5 don't think we have. We don't know.

6 When did he actually take it over?

7 ADMINISTRATIVE LAW JUDGE: Let's go ahead and
8 ask.

9 MS. RHOADES: Okay. Just let me ask this
10 question. With respect to the procedures, or are you
11 aware of whether or not that there is a Dodge Durango
12 that was owned by Three Angels Broadcasting in the year
13 2001?

14 MR. MILLER: Well, he is --

15 MS. RHOADES: He should know that. He's
16 reviewed the records.

17 THE WITNESS: I'm not aware that we owned a
18 Dodge Durango in 2001.

19 MS. RHOADES: I have no further questions.

20 ADMINISTRATIVE LAW JUDGE: Okay.

21 Anything on redirect?

22 MR. MILLER: I have no further questions, Your
23 Honor.

24 ADMINISTRATIVE LAW JUDGE: Okay. This witness

1 is excused.

2 THE WITNESS: Thank you.

3 ADMINISTRATIVE LAW JUDGE: Next?

4 MR. MILLER: We have Mr. Alan Lovejoy we'd
5 like to call to the witness stand.

6 (The Witness was sworn
7 by the ALJ.)

8 ALAN LOVEJOY

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

12 ADMINISTRATIVE LAW JUDGE: Mr. Lovejoy, please
13 have a seat.

14 MR. MILLER: Welcome to the courtroom and
15 we're happy you are here with us.

16 DIRECT EXAMINATION

17 BY MR. MILLER:

18 Q. Mr. Lovejoy, can you please state your full
19 name and address for the record?

20 A. My name is Brian Alan Lovejoy. My address is
21 305 Gateway Road, Marion, Illinois.

22 Q. Can you give us your educational background,
23 Mr. Lovejoy?

24 A. I received a Bachelor of Science Degree in

1 Accounting from Southern Illinois University in
2 December of 1983. I received my CPA certificate in
3 February of 1985.

4 Q. And what have you done since that time?
5 What jobs have you held?

6 A. I started with the accounting firm of Gray,
7 Hunter & Stenn in 1984. I've been with them ever
8 since. On January 1 of 1999 I was promoted to
9 partner.

10 Q. And what kinds of activities or work
11 experience have you done with your firm?

12 A. I've worked on many different types of
13 audits. I've worked on several nonprofit audits dating
14 back to the midnineteen eighties.

15 Q. And have you had any seminars or continuing
16 education regarding not-for-profit institutions?

17 A. Yes. In May of this year I had a 12 hour
18 course on nonprofit audits. I also had another one the
19 prior fall, and I had another one the prior June I
20 believe.

21 Q. And are you familiar with the operating
22 requirements for not-for-profit status under both
23 federal and Illinois laws and guidelines?

24 A. Yes.

1 Q. And do you audit not-for-profit institutions
2 on a regular basis?

3 A. I do.

4 Q. Here in the State of Illinois?

5 A. Yes.

6 Q. And have you audited the Three Angels
7 organization that we are dealing with in this
8 proceeding?

9 A. I have audited them for the past five years
10 or so.

11 MR. MILLER: I'd like to proffer Mr. Lovejoy
12 both as a fact witness who has firsthand knowledge of
13 Three ABN's operations and as a professional expert
14 witness who can give professional opinions regarding
15 not-for-profit issues as a certified public accountant
16 in the State of Illinois.

17 MS. RHOADES: And we would object with respect
18 to the expert witness or opinion witness standard. I
19 believe the Department of Revenue rules specifically
20 require that they follow Supreme Court Rules with
21 respect to disclosure. They cannot produce that those
22 were disclosed.

23 As a matter of fact, during the course of his
24 deposition he was asked that question, or if he was

1 asked if he was to present any opinion or expert
2 testimony and he was advised he was not.

3 MR. MILLER: I think the questions he were
4 asked were a fair bit narrower than that, Your Honor.
5 But the only opinions I will be asking him are opinions
6 about the operations of Three ABN underneath and
7 relating to the standards for not-for-profit
8 organizations in Illinois.

9 So I'm not -- I'm not asking him to be an
10 expert witness who is unfamiliar with the facts of this
11 case and he's coming as an outside expert with the
12 rules that allow him to make opinions based purely on
13 the examination of the records after the fact.

14 MS. RHOADES: With respect to his disclosure,
15 here's what we've been disclosed. He will testify
16 concerning the financial affairs of the organization
17 and as to the substantial burden on Applicant's
18 religious activities in the event the tax exemption is
19 denied.

20 He will further testify that the corporation
21 has issued no capital stock, nor shareholders, that
22 funds are derived from charity and held in trust for
23 purposes expressed in the organization's corporate
24 charter, that charity is disbursed for such purpose,

1 and that there is no personal inurement. They did not
2 disclose him for these purposes.

3 Also, we specifically asked in interrogatory
4 to them, to disclose any and all expert opinion
5 witnesses and the answer that we got provided to us is,
6 we don't have any at this time, and we have never had
7 that supplemented to us.

8 MR. MILLER: All I'm asking, Your Honor, is
9 that in doing the audit relating to these issues of
10 personal inurement and other issues, in producing the
11 audit opinion he provides his expert opinion regarding
12 whether Three ABN is meeting these standards or not,
13 and I want him to be able to present those to the
14 court.

15 They in fact are contained at least in part
16 in the audited statement that you have in front of you,
17 and will relate to the issues that were in fact
18 disclosed in the witness statement.

19 MS. RHOADES: I would refer Your Honor to 86
20 Illinois Administrative Code Section 200.125, which
21 governs discovery, and in particular that rule's
22 subpart G says: An expert or opinion witness when
23 requested by interrogatory served, all parties are
24 under the duty to disclose the identity of opinion

1 witness as that term is defined by Supreme Court Rules,
2 and further disclose the subject matter of any intended
3 testimony of such witness.

4 MR. MILLER: Well, I think we have --

5 MS. RHOADES: The Department's own rules.

6 MR. MILLER: I mean, the subject matter was
7 discussed, and I'm happy to limit his opinions to
8 those -- to those issues.

9 ADMINISTRATIVE LAW JUDGE: I don't think he --
10 what I'm hearing from counsel for the Applicant is that
11 he's not tendering him as a quote, expert witness. All
12 he's doing is tendering him on his opinion that is
13 included in this exhibit as to whether the Applicant
14 adheres to what are, and this is something -- let's go
15 off the record for a second.

16 (Discussion off the record.)

17 ADMINISTRATIVE LAW JUDGE: Going back on the
18 record. Regarding the testimony of this witness, it's
19 going to be regarding the financial statements that he
20 did audit and the opinion expressed in there, and in
21 that regard, I'm going to go ahead and allow the
22 testimony.

23 However, I agree with counsel for the
24 Intervenor that he has not been tendered as a quote,

1 expert witness, and should not be answering questions
2 in that regard.

3 MR. MILLER: Someone to talk about the
4 professional opinions he's rendered in this -- for this
5 entity.

6 ADMINISTRATIVE LAW JUDGE: That's correct.

7 MR. MILLER: Mr. Lovejoy, are you familiar --
8 did you audit the organization Three Angels
9 Broadcasting in the year 2000?

10 THE WITNESS: Yes, I did.

11 Q. And did you do the same for the year 2001?

12 A. Yes.

13 Q. And what -- what do you do? What did you do
14 in auditing the Three Angels?

15 What process do you go through?

16 A. We go through a process of, first, we plan
17 the audit and then we go in and we do a field work,
18 which consists generally of examining various documents
19 to support their assets and liabilities on their
20 balance sheet, as well as their revenues and expenses
21 on their income statement.

22 Q. Do you go and look at any of the physical
23 assets themselves?

24 A. Yes.

1 Q. And did you do so in the case of Three
2 Angels?

3 A. Yes.

4 Q. What kind of assets did you review?

5 A. We look at their fixed assets, as far as
6 their buildings and structures. We confirm other
7 assets, such as investments, cash held in bank. We
8 look at annuity documents, trust documents on hand.

9 Q. And undertaking this activity do you -- do
10 you look out for items in their operations that may be
11 inconsistent with their tax exempt not-for-profit
12 status?

13 A. Yes.

14 Q. And in 2000 did you find any such items in
15 your examination?

16 A. No, I did not.

17 Q. In reviewing the financial figures in
18 documents, did you come to an understanding or an
19 opinion regarding -- have you come to an understanding
20 or opinion regarding whether or not Three Angels made a
21 profit from its sales activities during the year 2000?

22 A. They did not.

23 Q. And the same question as to the year 2001.
24 In reviewing these documents and doing your audit did

1 you arrive at an opinion about whether Three Angels
2 made a profit in the year 2001 from its sales
3 activities?

4 A. No, they did not.

5 Q. And what were those -- what are your opinions
6 based on?

7 A. I actually did an analysis of their revenues
8 received from sales of items, and I also offset
9 directly related expenses against those items, and the
10 bottom line was that they had a loss in both years.

11 MS. RHOADES: I'm going to object to the
12 testimony of this witness. He's not referring to the
13 audit. My understanding is that he was to confine his
14 to the opinions of what were contained in the audit.
15 He has gone far beyond the auditing analysis and is
16 testifying as an expert witness. That's what his
17 testimony just was.

18 MR. MILLER: I just asked him if his opinion
19 was based on what was done in the audit and the
20 financials and I believe that he indicated that it was,
21 and that based on that he had arrived at these
22 conclusions. It's opinion testimony.

23 MS. RHOADES: Can we have the -- can we have
24 the court reporter read that back, because I believe it

1 was allocating expenses.

2 (Whereupon the requested
3 portion of the record was read
4 back by the Reporter.)

5 MS. RHOADES: Judge, we just went through with
6 Mr. Ewing with respect to this very same issue, and
7 it's not any different with respect to this witness,
8 and to the extent they're tendering it for that purpose
9 is way beyond the audit. The audit does not specify
10 and break it down as to direct expenses that are
11 related to a specific line item.

12 With respect to 2001, we did not even, we got
13 that as a late disclosure for the purposes of this
14 hearing, and did not have an opportunity to inquire as
15 to that even, so now he's expressing opinions that
16 weren't even disclosed to us.

17 MR. MILLER: These are fact testimony. This
18 is based on materials that he's gathered during his
19 review of Three ABN. I mean, if all I could ask him
20 were things that he would, that actually were in this
21 document, then I would just submit this document to the
22 court.

23 I'm asking him within the perimeters of this
24 document for questions that have now become relevant

1 during this hearing, what these facts mean, and he's
2 testifying to that. I don't believe it's an -- it's
3 not an expert opinion. It's an -- it's based on a
4 factual review.

5 MS. RHOADES: And, again, I would refer the
6 Judge to my statement as to what was disclosed to us.
7 None of that was disclosed to us.

8 ADMINISTRATIVE LAW JUDGE: I think I'm going
9 to sustain the objection and let's just move on. I
10 think the document speaks for itself as far as
11 different categories, and I think common sense can
12 attribute certain of these areas to other areas of
13 expenditure to areas of income.

14 MR. MILLER: Have you attempted to breakdown,
15 based on the figures in the financial statements and in
16 doing your audit, in your -- strike that.

17 What are work papers?

18 THE WITNESS: That's the evidence of our
19 audit.

20 Q. And what do they consist of?

21 A. They consist of all of our documentation that
22 we've examined.

23 Q. And did you create work papers in this, in
24 this case?

1 A. Yes.

2 Q. In the audit of Three ABN in 2000 and 2001?

3 A. Yes.

4 Q. And did the other side ask you for those work
5 papers?

6 A. No.

7 Q. Based on the auditor's financials and the
8 work papers, have you been able to assess whether or
9 not Three Angels made a profit during the year 2000?

10 A. I have been able to make that.

11 MS. RHOADES: Objection. That's been asked and
12 answered.

13 MR. MILLER: Okay. Have you been able to
14 summarize?

15 MS. RHOADES: He asked if they made a profit.

16 MR. MILLER: Have you been able to summarize?

17 ADMINISTRATIVE LAW JUDGE: I think that was
18 what you objected to before though, and I think he's
19 asked it in a different manner, and I don't -- I don't
20 think the answer was accepted previously, so I --

21 MR. MILLER: Have you been able to summarize
22 those findings in any convenient way?

23 THE WITNESS: Yes.

24 Q. We have an exhibit.

1 Who created this document, Mr. Lovejoy?

2 A. I did.

3 Q. And what did you -- where did you get the
4 figures that are in here?

5 A. From the audit work papers and the audit
6 reports.

7 Q. And what do these figures show?

8 MS. RHOADES: Objection, foundation. We don't
9 know when it was created.

10 MR. MILLER: He testified that he created it.

11 MS. RHOADES: He testified he created it, but
12 he didn't say when it was created.

13 MR. MILLER: When was it created?

14 THE WITNESS: Yesterday.

15 MS. RHOADES: I'm sorry, Judge, I mean, I
16 object to any line of questioning on this document.
17 They created it yesterday. It's created after the
18 fact. It was created in anticipation of litigation.
19 Nothing else but that. It's hearsay.

20 MR. MILLER: Your Honor, it's a summary of
21 testimony. It summarizes underlying evidence and
22 information that would otherwise be admissible. I
23 don't sense that the court wants us to drag all the
24 financials records from Three Angels Broadcasting over

1 here and dump them before the court.

2 ADMINISTRATIVE LAW JUDGE: I appreciate that.

3 MR. MILLER: Mr. Lovejoy is an outside
4 independent professional who has gone through those
5 records, and based on the financial, audited
6 financials, which the other side has received, and
7 based on the work papers which the other side didn't
8 ask for, he has created this summary.

9 If the court would like the underlying work
10 papers, I imagine certainly Three Angels would allow
11 them to come to the court, but I believe that summaries
12 of underlying evidence are certainly an appropriate way
13 of bringing evidence before the court.

14 MS. RHOADES: I'm going to renew my
15 objection. It's done in anticipation of litigation.
16 It's purely self-serving. There is no basis. There is
17 no foundation. It was not previously disclosed.

18 This witness was deposed on this very subject
19 and claimed that he had no knowledge of it, and now
20 today, on a day before trial, we have knowledge.

21 ADMINISTRATIVE LAW JUDGE: No. This is the
22 day of trial.

23 MS. RHOADES: The day of trial.

24 MR. MILLER: The second day of trial. It's

1 just a fact. It's just fact testimony that's come in a
2 summarized form. He could have been asked to produce
3 work papers, asked specific questions about his work
4 papers. This is not opinion. This is proof of his
5 factual investigation.

6 MS. RHOADES: Well, for example, he comes up
7 with 20 percent. Where does he come up with 20 percent
8 at? From information provided by Mr. Shelton. It's
9 not his own independent work.

10 MR. MILLER: Certainly the depreciation is his
11 own independent work, the 20 percent figure.

12 MS. RHOADES: So they didn't depreciate any of
13 their property in previous times when they filed tax
14 returns?

15 Well, bring in the tax returns, Mr. Miller.

16 MR. MILLER: I'm not sure I understand your
17 comment.

18 MS. RHOADES: Well, you got depreciation
19 here. They filed depreciation with respect to on their
20 tax returns.

21 MR. MILLER: Yes.

22 MS. RHOADES: I mean --

23 ADMINISTRATIVE LAW JUDGE: I guess I don't see
24 that this document in fact adds anything to this

1 hearing, and in fact it could be very detrimental
2 because it's a summary without the underlying
3 information. And I understand that they did not
4 request the work papers, however, I think this goes
5 beyond what the work papers. I think there is just too
6 much.

7 MR. MILLER: Well, perhaps -- oh, I see.

8 ADMINISTRATIVE LAW JUDGE: If you want to do
9 an offer of proof or something for this, that would be
10 fine, but I just have a problem with this particular
11 document.

12 MR. MILLER: Why don't I make an offer of
13 proof?

14 I'd like to make an offer of proof and do so
15 and the Illinois law seems clear on this, that I can do
16 that by asking the questions that I would ask and
17 then --

18 ADMINISTRATIVE LAW JUDGE: Having them
19 objected to and then --

20 MR. MILLER: No, no. The objection is at the
21 beginning and it's on the record. If you will just
22 allow me.

23 ADMINISTRATIVE LAW JUDGE: So you'd prefer to
24 do it that way rather than --

1 MR. BOOTHBY: I think the fact it's going to
2 shorter and simpler, and as I understand it, I really
3 do appreciate what you did.

4 It seemed to indicate that would also give an
5 opportunity for the other side to place their
6 objections on, and in the event a court later on should
7 agree with our position then everything would be
8 there:

9 ADMINISTRATIVE LAW JUDGE: That's fine. I
10 have a problem in having it in the transcript just
11 because then the court has to make sure that they
12 separate that out. That's my own personal preference
13 and that's why, but you're right, it can be done either
14 way.

15 Let's just go ahead and under the
16 understanding that I really don't think that this is
17 coming in. But go ahead and ask the questions and you
18 can do the cross and, but it's going in strictly as an
19 offer of proof.

20 MR. MILLER: Uh-huh.

21

22

23

24

1 (At this time Offer of Proof
2 Number 2 was given and has
3 been removed from this
4 transcript at the request
5 of the ALJ.)

6 MR. MILLER: I just have a final question.

7 FURTHER DIRECT EXAMINATION

8 BY MR. MILLER:

9 Q. In doing the audit in 2000 and 2001 did
10 anything come to your attention in the operations or
11 finances of Three Angels Broadcasting that would be
12 inconsistent with its not-for-profit status under
13 Illinois law?

14 A. No, it did not.

15 ADMINISTRATIVE LAW JUDGE: Now, did you want
16 that included within the offer of proof or --

17 MR. MILLER: No, no, no.

18 MS. RHOADES: That was outside. I thought it
19 was.

20 ADMINISTRATIVE LAW JUDGE: I thought it was
21 too and that's why I want to make sure that is
22 separate.

23 MR. MILLER: It's outside.

24 ADMINISTRATIVE LAW JUDGE: And outside the

1 offer of proof. So the offer of proof has been
2 concluded, is that correct?

3 MR. MILLER: That was from Steinkamp's
4 testimony.

5 ADMINISTRATIVE LAW JUDGE: I didn't know if
6 you had anything on redirect on that.

7 Just for clarity for the court reporter and
8 anyone that reads this transcript, the offer of proof
9 was concluded with Mr. Steinkamp's question and then
10 your question was outside that.

11 MR. MILLER: Yes.

12 ADMINISTRATIVE LAW JUDGE: All right.

13 MR. MILLER: I have nothing further.

14 ADMINISTRATIVE LAW JUDGE: All right.

15 And do you have anything?

16 MS. RHOADES: I have just a few brief
17 questions if I may.

18 CROSS EXAMINATION

19 BY MS. RHOADES:

20 Q. Now, you indicated I believe, Mr. Lovejoy,
21 that you have done the audits for Three ABN for
22 approximately five years, is that correct?

23 A. Approximately, yes.

24 Q. During those period of five years in which

1 you conducted audits of Three ABN, prior to yesterday
2 are you aware of any practices where Three ABN has
3 allocated such costs in such a manner that you have
4 done here today?

5 A. No.

6 MS. RHOADES: I have no further questions. I
7 believe Mr. Steinkamp does.

8 EXAMINATION

9 BY MR. STEINKAMP:

10 Q. I notice in the financial statement for 2001
11 that the accumulated assets, and I believe these are
12 the liquid assets not including real estate, am I
13 correct on that assumption?

14 A. I may need to look at the document.

15 Q. The figure I'm referring to is the bottom.
16 Let me get them.

17 ADMINISTRATIVE LAW JUDGE: Is this 2001?

18 MR. STEINKAMP: I'm talking about 2001.

19 ADMINISTRATIVE LAW JUDGE: All right.

20 MR. STEINKAMP: I'm talking about statement of
21 financial position. This is your Page 3 dated December
22 31, 2001?

23 THE WITNESS: Yes.

24 Q. Under total assets the figure there is, as I

1 read it, \$42,350,373.94.

2 Those -- first of all, do those assets
3 include the real estate that Three ABN owns?

4 A. It does.

5 Q. All of the real estate?

6 A. Yes.

7 Q. Okay. Does that amount of assets, which is
8 something like, well, it's over three times annual
9 revenues, does that concern you as an accumulation of
10 assets for a not-for-profit or 501(c)(3)?

11 A. No, and I'll explain that. If you look under
12 revokable trusts you'll see a figure of \$16 million,
13 \$16,229,000. And if you look under long-term
14 liabilities you'll see an offset amount that says
15 \$16,229,000. That's a direct offset of that asset and
16 liability.

17 Those merely represent trusts to Three ABN
18 which may be revoked at any point in time, so there is
19 no asset there for them to distribute.

20 Q. Are those revokable trusts, those are
21 revokable for income tax purposes I presume, but is
22 the, I forget the terminology. There is something
23 called a crummy trust.

24 Are you aware of that?

1 A. It's not a crummy trust.

2 Q. No.

3 It's a --

4 A. I'm not sure. I don't recall what you want.

5 Q. My point is, is that they're revokable but
6 seldom are revoked?

7 A. These were revokable. These may be revokable
8 at any time and they have been and are.

9 MR. STEINKAMP: All right. I have no other
10 questions.

11 THE WITNESS: Okay.

12 ADMINISTRATIVE LAW JUDGE: Anything else on
13 redirect?

14 MR. MILLER: Yes.

15 REDIRECT EXAMINATION

16 BY MR. MILLER:

17 Q. Mr. Lovejoy, \$42 million does seem like a lot
18 of money, and I think you pointed out that the \$16
19 million is your testimony that Three ABN doesn't
20 actually have, isn't able to use those moneys at the
21 present time?

22 A. That's correct.

23 Q. Are there any other moneys represented here
24 that Three ABN, Three Angels would not be able to use

1 at the present time?

2 A. Yes. The investment of \$2.8 million, the
3 majority of that represents money coming from
4 charitable related unit trust agreements. Those are
5 temporarily restricted assets, and they cannot be used
6 until the donor dies.

7 Q. And what are -- what are the charitable gift
8 annuities of seven and a half million dollars?

9 A. That represents money that donors have sent
10 in to acquire a charitable gift annuity. An agreement,
11 Three ABN has agreed to pay them an annuity for the
12 rest of their life. That's listed down here under the
13 long-term liabilities of charitable gift annuities of
14 \$4,008,000, and also under the short-term liabilities
15 they have a current liability of \$397,000.

16 So you would have to offset those liabilities
17 against the \$7.6 million in assets to estimate what
18 could be used by Three ABN.

19 Q. So in laymen's terms, this total, let's look
20 at these other assets figure of \$27 million.

21 How much of that \$27 million would actually
22 be available to Three ABN presently?

23 A. Maybe around four to five million dollars.

24 Q. And those would be primarily what?

1 A. The gift annuity, the difference between the
2 gift annuity assets and liability of approximately half
3 of the investments, all of the deposits, none of the
4 revokable trusts.

5 Q. Now, the figure under total current assets,
6 where it says cash restricted to investment and
7 equipment, property and equipment unless accumulated
8 depreciation. There was a figure of \$11 million there?

9 A. The \$11.8 million represents the net book
10 value of the fixed assets of the organization. The
11 \$122,000 represents donor restricted cash to be used by
12 Three ABN to purchase equipment.

13 Q. I see.

14 And in current assets there is cash of \$2.6
15 million, is that right?

16 A. Yes.

17 Q. Would these other items under here be
18 available for use presently or as of the date of this
19 document?

20 A. Not as of the date of the document, but
21 apparently in the short-term it would be available.

22 Q. Do you know the approximate monthly operating
23 cost of Three ABN?

24 A. No, I don't.

1 MR. MILLER: I have no further questions.

2 ADMINISTRATIVE LAW JUDGE: Okay.

3 Anything else?

4 MS. RHOADES: No further questions.

5 FURTHER EXAMINATION

6 BY MR. STEINKAMP:

7 Q. How much of that \$42 million can be borrowed
8 against just to complete?

9 A. I don't know if I'm able to answer that.

10 MR. STEINKAMP: Okay. That's fine.

11 ADMINISTRATIVE LAW JUDGE: Okay. The witness
12 is excused. Thank you.

13 Did we want to take a break? Do you want me
14 to get Mr. Thompson? How do you want to handle this?

15 MR. MILLER: Let's just keep going.

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

18 DR. WALTER THOMPSON

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: For the record,
23 before we get started with this witness, Applicant has
24 given me a copy of Intervenor's Exhibit Number 9, which

1 is an original. I'm going to substitute the original
2 for the photocopy.

3 MS. RHOADES: No objection.

4 ADMINISTRATIVE LAW JUDGE: If you'll initial
5 and date that, please.

6 Proceed with your witness.

7 MR. BOOTHBY: We swore the witness in?

8 ADMINISTRATIVE LAW JUDGE: He's already sworn
9 in.

10 DIRECT EXAMINATION

11 BY MR. BOOTHBY:

12 Q. Would you state your full name, please?

13 A. Walter Carol Thompson.

14 Q. And where do you reside, Doctor Thompson?

15 A. In Burr Ridge, Illinois.

16 Q. And what is your -- what is your educational
17 background?

18 A. I'm a physician. I graduated from Loma Linda
19 University Medical School in Loma Linda, California.

20 Q. Doctor Thompson, this is kind of a large room
21 and it's difficult I think to hear, and if you could
22 speak just a little louder, it would be helpful for
23 us.

24 A. I will try.

1 Q. All right. Thank you.

2 A. So I took my medical school training at Loma
3 Linda and I went back there six years later and took a
4 general surgery residency. So I'm a general surgeon in
5 the American College of Surgeons. Also, family
6 practice for six years and a member, lifetime member of
7 the Academy of Family Practice.

8 Q. And where did you receive your undergraduate
9 training?

10 A. I was graduated from Barron Springs at Andrew
11 University, at Barron Springs, Michigan.

12 Q. Now, that institution, Andrews University, is
13 that a church related institution?

14 A. Yes, it is.

15 Q. And who is it, what organization operates
16 that?

17 A. Seventh-day Adventist Church.

18 Q. At Loma Linda University, is that a church
19 affiliated institute?

20 A. That's also operated by Seventh-day Adventist
21 Church, right.

22 Q. And are you a member of a religious
23 denomination?

24 A. I'm baptized in the Seventh-day Adventist

1 Church, right.

2 Q. And how long have you been a member of the
3 Seventh-day Adventist Church?

4 A. Since I was a child. I was just a little
5 kid.

6 Q. And what is your -- do you have a current
7 position with Three Angels Broadcasting Network?

8 A. I'm presently Chairman of the Board for Three
9 ABN.

10 Q. Okay. Let me find out first from you, when
11 was it that you first became aware of Three Angels
12 Broadcasting?

13 A. I was in church service at Hinsdale where the
14 hospital and church are across the street from each
15 other and I worship at Hinsdale Church, Seventh-day
16 Adventist Church, and Danny came there when he first
17 had the dream of Three ABN and presented his dream, and
18 it just struck a note in my heart, and so I've been --
19 I went to him afterward and talked to him and said I'd
20 be -- I was working stained glass at the time.

21 I said, I'll make some windows for your
22 building when you get ready, and so he said go ahead
23 and told me to do it, so that's the beginning of it.
24 That's where it all got started.

1 Q. And approximately when was that?

2 MS. PETTY: I'm sorry, Your Honor. I'm going
3 to object. I think that was nonresponsive. He asked
4 him when he first became involved with Three ABN.

5 MR. BOOTHBY: Well, I think he said when he,
6 Danny came, but I'll go back.

7 ADMINISTRATIVE LAW JUDGE: If you want to,
8 yeah, just for clarification purposes. The objection
9 is sustained.

10 MR. BOOTHBY: Approximately when did this
11 occur timewise?

12 THE WITNESS: Well, probably 1984 or 1985.

13 Q. All right. And then you've just related but
14 perhaps you could do that again because we had the
15 objection sustained.

16 At that time, as I understand it, you had --
17 you met Danny Shelton, is that correct?

18 A. Correct.

19 Q. And what occurred at that meeting?

20 Again, would you just tell us again?

21 A. I heard the story. I heard the possibility
22 of media broadcasting around the world and it just
23 struck me, this is what I got to get involved in, and
24 so that's.

1 Q. Was there a reason why that particular dream
2 of Danny Shelton interested you at that time?

3 MS. PETTY: I'm going to object, Your Honor.
4 I think this is all irrelevant to what the use of the
5 property was for 2000 and 2001.

6 MR. BOOTHBY: It's background information. I
7 think --

8 MS. PETTY: And I realize that, and I've been
9 sort of biting my tongue, but given the lateness of the
10 hour, we can move on.

11 ADMINISTRATIVE LAW JUDGE: Let's let him
12 finish up as far as general information but.

13 MR. BOOTHBY: I won't go much further.

14 ADMINISTRATIVE LAW JUDGE: That would be my
15 admonition.

16 MR. BOOTHBY: Had you been involved in other
17 projects, lay projects for the Adventist Church?

18 THE WITNESS: Yes. I've been working with
19 Your Story Hour, which is a radio broadcasting ministry
20 that's worldwide that's been 50 years. I've been with
21 that for many years and a number of other media and
22 intercity projects.

23 Q. Was that -- were they all affiliated with the
24 Adventist Church as a lay organization serving the

1 church?

2 A. Right, yes.

3 Q. Okay. Now, did you also make a donation to
4 the Three ABN project when you first met with Danny
5 Shelton?

6 A. I don't know if it was the first occasion
7 but, yes, early on I made a financial donation to the
8 organization. Yes.

9 Q. And how much was that?

10 A. I think \$5,000.

11 Q. Okay. And shortly after that did you have
12 further involvement with the Three Angels Broadcasting?

13 A. Within a year or so I was invited to join the
14 Board.

15 Q. Did you in fact accept that invitation to
16 join the Board?

17 A. I did.

18 Q. And for what period of time did you serve as
19 a member of the Board prior to becoming Chair of the
20 Board?

21 A. I served as a member until I became Chair and
22 I would guess it was probably eight, more or less eight
23 years ago that I became Chair.

24 Q. When you became a member of the Board and

1 served on the Board did you receive reimbursement for
2 your travel expenses as a member of the Board?

3 A. No.

4 Q. Have you ever received reimbursement for
5 travel?

6 A. No.

7 Q. Up to the, at least up through 2001?

8 A. No.

9 Q. Do any of the members receive reimbursement
10 for travel to and from Board meetings?

11 A. No.

12 MS. PETTY: Objection. Foundation as to his
13 knowledge of what other Board members receive.

14 ADMINISTRATIVE LAW JUDGE: Sustained.

15 MR. BOOTHBY: Well, you're currently Chair of
16 the Board, are you not?

17 THE WITNESS: Right.

18 Q. Do you know whether there is a policy of the
19 Board as to whether Board members will receive
20 reimbursement for travel expenses?

21 A. Yes. The policy is that we do not.

22 Q. Do you receive any kind of compensation as a
23 member of the Board?

24 A. No.

1 Q. And how about the other Board members, is
2 there a policy on that?

3 A. There is no compensation at all.

4 Q. All right. In addition to being the Chairman
5 of the Board of Three Angels Broadcasting have you also
6 been involved with reference to the type of programming
7 that is aired on the Three ABN?

8 A. Yes.

9 Q. And what, do you have a particular area of
10 concern that you have been involved with during that
11 period of time?

12 A. I have been basically responsible for the
13 health programming.

14 Q. And that is because of what?

15 A. From a child I have been taught and I believe
16 that health is a vital part of religion and that, you
17 know, Paul in the Gospel, in the writings of the bible
18 talks about our body as a temple of God, and all my
19 life this has been the focus of my life.

20 Writings that are the basis for Adventism
21 very strongly specifies that the mind is directly
22 related to the health.

23 In other words, our ability of our mind to
24 contemplate spiritual things is related to our health

1 and this has been a dominant teaching from Adventism
2 from day one.

3 Q. Now, Loma Linda University trains Adventist
4 positions, is that correct?

5 A. Yes.

6 Q. Do you know whether, as I understand, it's an
7 Adventist institution?

8 A. Right.

9 Q. Do you have knowledge, based upon their
10 mission statement as to what the reason the church has
11 such an institution?

12 A. Sure. The model overlooking the anatomy lab
13 when I started medical school says to make man whole --

14 MS. PETTY: Your Honor, I'm sorry, I'm going
15 to object. I think this is irrelevant testimony.

16 MR. BOOTHBY: Your Honor, as I understand it
17 there were questions raised earlier on concerning the
18 type of activities that were conducted on the premises
19 of Three ABN, for instance, foot washing and baptism
20 and so forth, and this witness can testify as to why,
21 we're going to suggest that he may testify concerning
22 why Three ABN is involved in the health area.

23 MS. PETTY: But, Your Honor, those objections
24 were sustained, so we weren't allowed to get into those

1 questions so.

2 MR. BOOTHBY: Are the -- is the Intervenor and
3 the Department willing to stipulate that the health
4 programming of Three ABN is religious?

5 MS. PETTY: I don't think we're ready to
6 stipulate.

7 MR. STEINKAMP: I would answer that in this
8 way. It isn't important to the activities that go on
9 on the property, whether or not the particular set of
10 doctrines that the Seventh-day Adventist Church are
11 being carried out, they are not.

12 What's important is, what are the activities,
13 and do those activities under the law of the state as
14 voiced by courts and the statutes amount to exempt
15 activities.

16 So, you know, we certainly wouldn't stipulate
17 to what is religious activity. That's the answer I'd
18 give.

19 MR. BOOTHBY: I think the testimony is
20 particularly relevant in light of the, I think in the
21 case we cited in counsel's trial brief, which
22 incorporated the case that we had previously mentioned
23 in our brief early on in our Motion In Limine, the New
24 York case where the purpose of a religious organization

1 as to what is religious or not is not subject to
2 challenge, only whether the -- whether the, whether
3 it's made in good faith or not.

4 MR. STEINKAMP: Yes, Your Honor, and we
5 answered that in one of our earlier briefs and said
6 that that's one thing, it's a New York case, and the
7 other thing is that that case went to the
8 organizational aspect of the issue and not to the
9 activity aspect, and it's very clear.

10 I read that New York case carefully, and it's
11 very clear that that case had to do with organization
12 and not activity, so I don't think it's relevant here.
13 I don't think it is dispositive of our issue.

14 MR. BOOTHBY: May it please the court, as we
15 pointed out in our trial brief the Illinois court
16 specifically adopted that New York case as law in the
17 State of Illinois.

18 MR. STEINKAMP: Nevertheless, even if they
19 did, I don't think they did.

20 ADMINISTRATIVE LAW JUDGE: I don't think they
21 did and I would agree with Mr. Steinkamp.

22 MR. MILLER: I have a cite for Your Honor.

23 ADMINISTRATIVE LAW JUDGE: I read the New York
24 case, if you want me to.

1 MR. MILLER: I have an Illinois case.

2 ADMINISTRATIVE LAW JUDGE: Okay. Go ahead and
3 give it to me.

4 What's the name of the case?

5 MR. MILLER: Fairview Haven versus the
6 Department.

7 ADMINISTRATIVE LAW JUDGE: I know Fairview
8 Haven very well. I don't believe that Fairview Haven
9 adopted that entire New York case as its -- as law in
10 Illinois.

11 What I'd like you to do is limit your --
12 limit his testimony to the use of the property that he
13 knows of. If it relates to health issues, that's fine,
14 but I'd like to get into that instead of into the
15 religious aspects of health and the correlation of the
16 health and religious in, as far as your diet and things
17 like that are concerned.

18 MR. MILLER: May I quote to the court from
19 Fairview Haven?

20 ADMINISTRATIVE LAW JUDGE: That's fine,
21 Fairview Haven.

22 MR. MILLER: It says, in the tax context the
23 first amendment requires the court to accept the
24 entity's characterization of its activities and beliefs

1 as religious as long as the characterization is in good
2 faith, and then it cites that, the Holy Spirit case
3 from New York.

4 Further it says, the format set forth in Holy
5 Spirit is persuasive and has been followed. It says,
6 first the court must accept the organization's
7 characterization of the purpose of its activities, and
8 second, determine whether the property is in fact
9 exclusively used for the religious purposes.

10 MR. STEINKAMP: Your Honor, that says it all
11 right there, doesn't it?

12 MS. RHOADES: Uh-huh.

13 MR. STEINKAMP: There are two issues. The
14 organization and the activities and it said, first will
15 accept an organization's good faith statement of its
16 religious beliefs.

17 MR. MILLER: Of its activities.

18 MR. STEINKAMP: No.

19 MR. MILLER: Let me read it again.

20 First, the court must accept the
21 organization's characterization of the purpose of its
22 activities.

23 MR. STEINKAMP: Purpose, purpose.

24 MR. MILLER: Of its activities.

1 MR. STEINKAMP: And second.

2 MR. MILLER: Determine whether the property is
3 in fact exclusively used for the religious purposes.

4 ADMINISTRATIVE LAW JUDGE: I see an inference
5 there. This is also a legal argument and this is not
6 the appropriate place for it now to do this. As I
7 said --

8 MR. MILLER: With all due respect, Your Honor,
9 the legal standard does relate to the issue of
10 relevance, so we're not moving to closing any
11 argument. There is a legal point being made as to the
12 relevance of this testimony, therefore, it has to be
13 determined what the legal standard is to determine
14 what's relevant.

15 MR. STEINKAMP: Well, I think Your Honor has
16 already done that.

17 ADMINISTRATIVE LAW JUDGE: Yes, and I think
18 you're arguing.

19 MR. MILLER: I was bringing a case to Your
20 Honor's attention.

21 ADMINISTRATIVE LAW JUDGE: I understand and I
22 think there are two standards there and I think you're
23 reading religious into the first standard and I don't
24 think the word religious is in there.

1 MR. MILLER: Well, in the earlier statement of
2 the court it says, the first amendment requires the
3 court to accept the entity's characterization of its
4 activities and beliefs as religious as long as the
5 characterization is in good faith.

6 ADMINISTRATIVE LAW JUDGE: I don't read it the
7 way you're reading it.

8 MR. MILLER: I'm just reading it. I'm not
9 characterizing it.

10 ADMINISTRATIVE LAW JUDGE: I understand that,
11 but I don't see it, and as I said, I'm certainly
12 willing to be persuaded, but I think a brief is the
13 proper avenue to persuade me in that particular
14 characterization.

15 MR. MILLER: Well, it would be helpful for us
16 to understand. I mean, we don't want to put on
17 testimony that's irrelevant. We are also time
18 sensitive, and so it would be helpful for us to
19 understand then how the court is viewing the question
20 of health programming and whether we need to
21 demonstrate that it's religious or not.

22 ADMINISTRATIVE LAW JUDGE: I think you do need
23 to demonstrate that it's religious.

24 MR. MILLER: Well, then that is precisely why

1 this line of questioning is being followed, and indeed
2 that is precisely why we had proffered Doctor Denny
3 Fortin to talk about the relationship to health to the
4 religious doctrine beliefs of the Seventh-day Adventist
5 Church.

6 It goes precisely to answer the question that
7 Your Honor suggests needs to be answered.

8 MR. STEINKAMP: Your Honor, if I might try
9 here.

10 ADMINISTRATIVE LAW JUDGE: Yes.

11 MR. STEINKAMP: It goes to the sincerity of
12 the organization's belief that its activities are
13 religious, and that's what I've said at the beginning.

14 In other words, we have never argued that the
15 Seventh-day Adventist Church believes various things
16 that its, you know, what Mr. -- the Doctor has
17 expressed here.

18 The only thing we would contest is whether
19 the activities, the actual activities on the property
20 conform to the law of exemption in the State of
21 Illinois.

22 MR. MILLER: Which is whether they're
23 religious, right?

24 MR. STEINKAMP: Not necessarily. You may

1 sincerely believe that they are religious and they may
2 be religious as far as your organization goes, but they
3 may not be acceptably religious from a point of view
4 from the property tax law in Illinois.

5 MR. MILLER: That's my point. There is a
6 definition of religion that is going to have to be
7 brought before this court and if we are not allowed to
8 bring and help shape that definition of religion where
9 is it going to come from?

10 MR. STEINKAMP: But, Your Honor, he's
11 trying --

12 ADMINISTRATIVE LAW JUDGE: But religion has
13 already been defined in, by case law. Mainly religion
14 is Sunday school and recognized religious services.

15 MR. MILLER: But I think the case law is very
16 clear. You're referring to the 1911 case.

17 ADMINISTRATIVE LAW JUDGE: Uh-huh.

18 MR. MILLER: From the Supreme Court, and the
19 Supreme Court has subsequently made clear that that
20 wasn't meant to be an all inclusive determination of
21 what religious activities were and, further narrow it,
22 was meant to be illustrative and in subsequent cases
23 has indicated that it was from publishing to running
24 clubs on college campus are religious.

1 And in any case, the Fairview Haven case says
2 that the characterization by the organization's
3 activities is religious, needs to be accepted unless it
4 can be demonstrated otherwise.

5 MR. STEINKAMP: Your Honor, what we're talking
6 about here, we're not talking about the ultimate issue
7 in this case. We're talking about the relevance of
8 this witness's testimony.

9 We have never questioned what, and we don't
10 think it's an issue as to what the Seventh-day
11 Adventist Church believes should be a religious
12 activity.

13 The only thing that we are concerned with is,
14 is the activity that's being carried out on the
15 property in conformity with the state law and,
16 therefore, what -- what the sincerity of their beliefs
17 is is not an issue and that's not relevant.

18 MR. MILLER: But the Illinois case law says
19 that the standard of religion in Illinois turns to a
20 large degree on the beliefs and understandings of the
21 religious claimant who is making a claim.

22 MR. STEINKAMP: Where does it say religious?

23 MR. MILLER: In --

24 MR. STEINKAMP: Where does it say that?

1 MR. MILLER: -- the Fairview Haven.

2 MR. STEINKAMP: It doesn't say that.

3 ADMINISTRATIVE LAW JUDGE: That is your
4 interpretation of Fairview Haven. I will offer -- you
5 can do an offer of proof. You can do it however you
6 would like to handle this. I'd like to get on with the
7 testimony.

8 MR. MILLER: We'll do an offer of proof.

9 MR. BOOTHBY: You going to?

10 MR. MILLER: No, I don't want to do it.

11 MR. BOOTHBY: We'll do an offer of proof with
12 reference to this item, the specific item, then we'll
13 go back on the record. So we'll do a separate item on
14 the offer of proof with the Doctor on the teachings and
15 beliefs of the Adventist Church as to the health
16 message, and then we'll go back on the record.

17 (At this time Offer of
18 Proof Number 3 was given and
19 has been removed from this
20 transcript at the request of
21 the ALJ.)

22 MR. BOOTHBY: We'll go off the separate record
23 and back on the record.

24 ADMINISTRATIVE LAW JUDGE: That's correct.

1 MR. BOOTHBY: Thank you, Your Honor.

2 I want to show you a document which has been
3 previously marked as Intervenor's Exhibit, what
4 number?

5 ADMINISTRATIVE LAW JUDGE: 2001, yes. It's
6 Number 7.

7 MR. BOOTHBY: Intervenor's Exhibit Number 7,
8 and I note that there is a section in the catalog of
9 the various videos and other items that are offered for
10 sale by Three ABN under the topic of health and
11 life-style topics.

12 THE WITNESS: Okay.

13 Q. Are you familiar with the various videos, at
14 least some of the videos that have been produced by
15 Three ABN on the topic of health and life-style topics?

16 A. I am, yes.

17 Q. And have you viewed any of the programs that
18 are contained within these videos?

19 A. I review all of the programming before it's
20 aired, at least all the new programming. If I know the
21 people, I know what they're doing, I do not
22 necessarily, but I review all the videos otherwise.

23 Q. And why do you review the videos before they
24 are aired?

1 A. To make sure that they are representative of
2 what we're -- of scientific knowledge and relevance.

3 Q. Are you only also reviewing -- do you review
4 them only for the scientific information that's
5 contained in the -- in the video itself, or do you look
6 for other things also as may relate to Adventist
7 teaching?

8 A. Certainly if there was anything that I ran
9 across that was contrary to Adventist teaching that
10 would be tagged and eliminated.

11 Q. Now, the programming that Three ABN airs as
12 to health and life-style topics, can you -- can you
13 just briefly, without going into a lot of detail, tell
14 me, is there an -- is there anything contained in
15 there, in these videos that are not part of the
16 spiritual message of the church?

17 MS. PETTY: Objection, Your Honor, this is all
18 calling for opinion testimony, and he's not been
19 disclosed as an opinion witness or an expert witness.

20 MR. BOOTHBY: I'm not asking him to. I'm just
21 asking him to testify factually as to what the content
22 is.

23 MS. PETTY: But this is asking him to conclude
24 based on a review that is within the same message or

1 consistent with the message, and for the same reasons
2 we objected earlier on the relevance grounds, that this
3 is getting back to the original point. We're not
4 questioning the sincerity. It's just irrelevant.

5 MR. BOOTHBY: We want to know what's in the
6 programming.

7 ADMINISTRATIVE LAW JUDGE: I think what
8 they're doing is just asking if he reviews the program
9 and what the basic contents of the programs and --

10 MS. PETTY: Well, the last question he asked
11 was whether he agreed that this was consistent with the
12 teachings of the Seventh-day Adventist Church.

13 MR. BOOTHBY: No, no, no. That wasn't my
14 question.

15 I'll withdraw that question and ask it again.

16 ADMINISTRATIVE LAW JUDGE: Let's go ahead and
17 rephrase it, and we'll see if that works.

18 MR. BOOTHBY: Okay.

19 Do the videos that you review, before they
20 are aired on Three ABN as they relate to health and
21 life-style topics which you preview, do they contain
22 within each programming a spiritual as well as a
23 medical message?

24 THE WITNESS: Yes, they do.

1 Q. Now, I notice, for instance, that in the
2 catalog it carries some videos that either you have
3 been the host of or guest during the time of the
4 programming, is that -- do you recall those videos?

5 A. Right, yes.

6 Q. And, for example, there are a series of
7 videos that appear on page, starting with Page 32 where
8 you are the host. This is on Page 32, and then over
9 on -- well, at least on Page 32.

10 Do you recall making videos?

11 A. Yes. Yes, I do.

12 Q. And in those video programs can you tell me
13 whether you brought in a spiritual dimension in each of
14 those programs?

15 A. Yes, I did.

16 Q. Now, there was a video that related, for
17 instance, to Loma Linda University.

18 Do you recall making a video concerning Loma
19 Linda University?

20 A. We had professional people from Loma Linda
21 doing videos. I don't know if we made any specifically
22 about Loma Linda.

23 Q. All right. Now, as Chair of the Board did
24 you also -- were you also aware whether there was a

1 review of the other videos that were made as to the
2 contents prior to them being aired?

3 A. All of our programming is edited or previewed
4 before it goes on the air.

5 Q. And can you tell me besides yourself who it
6 is that looks through, looks over these videos and
7 previews them?

8 A. Primarily it is our chaplain staff that do
9 this. There are, if there were any questions, some of
10 those may be referred on to Board members to review.

11 Q. And why are -- why are these videos previewed
12 by the -- by the chaplains?

13 What's the purpose of that? What is the
14 Board's reasoning for that?

15 A. Well, I guess they probably have as good of
16 understanding of the teaching that we're trying to
17 convey as anybody would so.

18 Q. So as I understand it, so the purpose is to
19 make sure that the videos represent the churches
20 teachings?

21 A. Correct.

22 Q. I don't know whether I asked this question or
23 not, but the videos that you were involved in, did you
24 receive any compensation for making those videos?

1 A. No. I paid a few bucks for it. No, I
2 didn't.

3 Q. And you receive no compensation from Three
4 ABN?

5 A. No.

6 Q. What did you mean by that, just so that's
7 clear?

8 A. I paid the way for people to come and do
9 programming and all of those kinds of things.

10 Q. In other words, you have paid money out of
11 your own pocket for some of these videos to be made?

12 A: They were my expense, yeah.

13 Q: Okay. Along that same line, you had already
14 indicated that you had made an early donation to Three
15 ABN before you were a member of the Board?

16 A. Right.

17 Q. Have you made other donations during the
18 years?

19 A. Yes.

20 Q. Would that have continued up until at least
21 your retirement as a physician?

22 A. Right.

23 Q. Now, have you made any overseas trips on
24 behalf of Three ABN?

1 A. Yes.

2 Q. And have you been overseas perhaps on other
3 trips where you have been at Three ABN's events
4 overseas?

5 A. Yes.

6 Q. For instance, as I understand it, Three ABN
7 has a facility in Novgorod in Russia, is that correct?

8 A. Yes.

9 Q. Have you ever been there?

10 A. I've been there several times, yes.

11 Q. Have you viewed the facility there?

12 A. Yes.

13 MS. PETTY: Your Honor, I'm going to make an
14 objection here. I think this is all cumulative. This
15 is going beyond the scope of the use of this property.

16 ADMINISTRATIVE LAW JUDGE: I'm going to
17 sustain the objection.

18 MR. BOOTHBY: My understanding was they were
19 questioning the finances, the moneys that were spent
20 and sent overseas to Russia, and questioning as to
21 whether moneys actually went there.

22 MR. STEINKAMP: No, that was not, anybody was
23 questioning that.

24 ADMINISTRATIVE LAW JUDGE: No. I believe the

1 characterization of a financial statement more than
2 anything else is where that went, so I don't think that
3 they're questioning that finances did go to Russia.

4 MR. MILLER: I believe -- I believe that was
5 the implication.

6 MR. STEINKAMP: Well, the implication isn't
7 what you said though. You can't take implication. I
8 mean, that's the problem.

9 MR. MILLER: The point is it's --

10 MR. STEINKAMP: No, the point was, what was
11 being -- what did Three ABN spend on Russia as opposed
12 to what was spent directly by givers through these
13 restricted donations.

14 It was never, and I think that the witness
15 took it as some question about honesty of the financial
16 statements as well, but actually those questions went
17 to the issue of whether or not revenues from Three ABN
18 were being spent on missionary work, not whether there
19 was a lack of veracity in the statements of the
20 witness.

21 MR. MILLER: No, I understand that. But that
22 would mean then, if there is such a facility and there
23 are these employees there that Three ABN sends the
24 money to, this witness can testify to that.

1 MR. STEINKAMP: It's already been testified
2 to.

3 MR. MILLER: As I understood it, there was an
4 attempt to impeach the veracity of that testimony.

5 MR. STEINKAMP: It wasn't but, I mean, it's
6 getting late and I -- nobody is --

7 ADMINISTRATIVE LAW JUDGE: I have not gotten
8 that impression at all. I didn't. Now, I can only
9 speak from my interpretation, but I did not get that
10 impression at all, so I don't think that's at issue, at
11 least not in my --

12 MR. BOOTHBY: Have moneys which were generated
13 from the Three ABN facilities of which are -- which is
14 on the property, which is the subject of this
15 particular proceeding, been sent to mission Novgorod
16 Russia?

17 Have moneys generated from the facilities in
18 Illinois which is the subject of this litigation been
19 sent to the facility in Russia to maintain that
20 program, to your knowledge?

21 THE WITNESS: Yes, they've been sent there for
22 support.

23 Q. And have you seen those facilities?

24 A. Yes.

1 Q. And does the facility there maintain
2 employees which are paid by Three ABN?

3 A. Yes.

4 Q. And does the building there have also
5 administrative offices for the Adventist Church?

6 A. Yes.

7 Q. And does it also have a church or a chapel
8 located in that building?

9 A. Yes.

10 Q. Have you also been in India at the time of
11 any Three ABN activities?

12 A. Yes.

13 MS. PETTY: Objection, Your Honor,
14 irrelevant.

15 ADMINISTRATIVE LAW JUDGE: I think you need to
16 lay a foundation as to how this might be relevant.

17 MR. BOOTHBY: Have moneys been generated from
18 the Three ABN facilities in Illinois which is the
19 subject of this litigation and used for the purpose of
20 missionary work in India?

21 THE WITNESS: Yes.

22 MS. PETTY: Objection, cumulative.

23 ADMINISTRATIVE LAW JUDGE: Cumulative in.

24 MS. PETTY: In that this has all been

1 presented through Danny Shelton the past few days.

2 MR. BOOTHBY: I don't think this witness will
3 duplicate that testimony.

4 ADMINISTRATIVE LAW JUDGE: I'll let you go
5 ahead and ask questions, but I would want --

6 MR. BOOTHBY: Were you present at these
7 activities in India?

8 THE WITNESS: Yes.

9 Q. Would you, just in two minutes describe what
10 you were there for and what happened there?

11 A. We were conducting meetings.

12 MS. PETTY: Objection, Your Honor, foundation,
13 or as to when this occurred.

14 MR. BOOTHBY: When did this occur?

15 THE WITNESS: This was in January of 2001, and
16 we were conducting meetings, public meetings in a
17 public place, actually an outdoor place of, I think 21
18 nights or something like that running three weeks.

19 I was giving a 20 minute health talk at the
20 beginning of each of these meetings, instructing the
21 Indian people on preventative medicine primarily and
22 tying that into spiritual relationship objectives.

23 We were speaking to 15, probably about
24 15,000, up to the last night we had about 60,000 people

1 there that we were speaking to. It was a big crowd,
2 well received, and it was the local city. It was
3 broadcasting on cameras and broadcast on television.
4 It made a big impact on that city.

5 Q. And have you been, without going into detail,
6 have you been in other cities overseas where similar
7 activities were conducted as a result of money
8 generated from the facilities at Three ABN in Southern
9 Illinois?

10 A. I've been overseas a number of occasions
11 where Three ABN has been a partner to what's happening,
12 yes.

13 MR. BOOTHBY: I'll pass the witness.

14 MS. PETTY: Thank you.

15 CROSS EXAMINATION

16 BY MS. PETTY:

17 Q. Doctor Thompson, you frequently have medical
18 shows on Three ABN Network or Three Angels Broadcasting
19 Network, is that true?

20 A. I occasionally help host live programs. In
21 the past I have done a lot of programming.

22 Q. Okay. So the -- how much programming have
23 you conducted for Three Angels Broadcasting in 2001 and
24 2000?

1 A. Personally I've been involved in probably
2 half a dozen live programs.

3 Q. And they, Three Angels Broadcasting sells
4 your series, video series on health?

5 A. They're available, yes.

6 Q. And they're available for a price, is that
7 true?

8 A. I believe that's right.

9 Q. Do you have any input into how much is
10 charged for your video series?

11 MR. BOOTHBY: Goes beyond direct.

12 MS. PETTY: This is coming from their catalog.

13 MR. MILLER: It's beyond the scope.

14 MS. PETTY: They referred to it.

15 ADMINISTRATIVE LAW JUDGE: It's in the
16 catalog.

17 MR. MILLER: It goes beyond the scope of
18 direct examination is I think the objection.

19 MS. RHOADES: Can I interject here?

20 ADMINISTRATIVE LAW JUDGE: Yes.

21 MS. RHOADES: I thought we were having one
22 person speak and Mr. Miller keeps interjecting
23 throughout this process. It's Mr. Boothby's witness.

24 MR. STEINKAMP: I think we've both violated

1 that.

2 ADMINISTRATIVE LAW JUDGE: I think both sides
3 have equally done that, so if you can try to keep it to
4 whoever is the person who is directly responsible for
5 cross or direct.

6 But I think, as Mr. Steinkamp
7 said, --

8 MS. PETTY: He also testified as to whether or
9 not he receives any compensation for his video sales,
10 so I'm just inquiring into that line of questioning.

11 MR. BOOTHBY: If they want to ask him whether
12 he's received any compensation as a result of the
13 videos sales, I have no objection to that.

14 ADMINISTRATIVE LAW JUDGE: But also he's the
15 Chairman of the Board and I think the question is
16 relevant as far as if he has any input as far as the,
17 what's charged for these videos. I'm going to go ahead
18 and allow the question.

19 MS. PETTY: Do you need me to repeat the
20 question?

21 THE WITNESS: Yes.

22 Q. Doctor Thompson, do you have any input into
23 anybody of what price is charged for your video series
24 that's sold through the Three Angels Broadcasting

1 Network catalogs?

2 A. I have really not been involved in pricing
3 them.

4 Q. Okay. And you've testified that you do not
5 receive any of the proceedings from the sale of your
6 actual videos?

7 A. Correct.

8 Q. Now, with regard to these catalogs that you
9 also reviewed, I noticed May Chung is also a Board
10 Member, is she not?

11 A. Yes.

12 Q. And she hosts a show called Adventures in
13 Peace and Happiness?

14 A. Right.

15 Q. Now, Three Angels Broadcasting also sells her
16 video series, is that true?

17 A. I believe that's right.

18 Q. Are you aware as Chairman of the Board as to
19 whether Ms. Chung has any input into the setting of the
20 prices for the sale of her videos?

21 A. She does not.

22 Q. Are you aware as Chairman of the Board
23 whether or not Ms. Chung receives compensation for, or
24 any of the proceeds from the sale of those videos?

1 A. She does not.

2 Q. Have you ever made a loan to Three Angels
3 Broadcasting?

4 A. Yes.

5 Q. Have they been interest bearing loans?

6 A. No.

7 Q. Is it fair to say that the Board in general
8 does not like to micromanage operations of Three Angels
9 Broadcasting?

10 A. That's my policy, yes.

11 Q. Has the Board ever been involved in setting
12 the prices for the sale of the items that they sell?

13 A. No.

14 MS. PETTY: No further questions.

15 ADMINISTRATIVE LAW JUDGE: Okay.

16 Anything on redirect?

17 MR. BOOTHBY: Nothing.

18 ADMINISTRATIVE LAW JUDGE: Okay. This witness
19 is excused.

20

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24

1 (The Witness was sworn
2 by the ALJ.)

3 BILLY BISHOP

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

7 MS. PETTY: Your Honor, I apologize. I'd like
8 to just make an objection for the record. We would
9 renew our objection to strike this witness's testimony
10 as not being disclosed. This witness was never
11 disclosed to us in their witness list.

12 MR. MILLER: Your Honor already ruled on
13 this. We had a discussion about it. We switched our
14 witness who wasn't otherwise deposed and the testimony
15 will be the same.

16 ADMINISTRATIVE LAW JUDGE: And I understand,
17 and I am overruling your objection for the same reasons
18 I overruled it before. It is certainly noted for the
19 record.

20 DIRECT EXAMINATION

21 BY MR. MILLER:

22 Q. Father Bishop, can you give us your full name
23 and present address for the record, please?

24 A. My name is Billy Eugene Bishop. I live at

1 1207 East St. Louis Street in West Frankfort, Illinois.

2 Q. And what is your present employer and
3 position with that employer?

4 A. I'm on the pastoral staff at Three ABN.

5 Q. And prior to coming to Three ABN what was
6 your line of work?

7 A. I was a minister in the Seventh-day Adventist
8 Church.

9 Q. Were you a licensed minister?

10 A. I was a licensed minister.

11 Q. And who extended you those credentials?

12 A. Presently you mean?

13 Q. Well, no, at the time?

14 A. Oh, that was the -- at the time it was the
15 Florida Conference.

16 Q. And presently do you hold credentials?

17 A. Yes, I do. From the Southern Union of the
18 Seventh-day Adventist Church, North American Division.

19 Q. And how many years have you worked as a
20 Seventh-day Adventist pastor or the --

21 A. As a pastor, approximately 15 years. Prior
22 to that I was doing other denominational work.

23 Q. And how long have you been at the Three
24 Angels site?

1 A. I've been there eleven months.

2 Q. And were you there for a good portion of
3 2001?

4 A. For -- yes, for November and December. I
5 went to work at Three ABN November the 1st, 2001.

6 Q. For the period of time you were there in 2001
7 how big was the pastoral staff?

8 A. There were four of us when I joined. I was
9 the fourth one. There was a vacancy there which I took
10 and made a total of four.

11 Q. And what were your --

12 (Mr. Miller's telephone rang
13 at this time.)

14 MR. MILLER: Excuse me, Your Honor.

15 What were your job responsibilities and
16 description during that time?

17 THE WITNESS: During, at Three ABN?

18 Q. Uh-huh.

19 A. We answer phones for prayer call worldwide.
20 We get calls from basically many parts of the world,
21 such as an example would be, Monday I got one from
22 Iran, so the person became a Christian and wanted
23 prayer because he needed some security, and we get from
24 many islands and all over the world actually. That's

1 one of our responsibilities.

2 Q. What is the primary activities you do on the
3 call line?

4 A. Is to pray with people. It's the primary
5 activity.

6 Q. And do you have certain shifts that you work
7 in carrying out this activity?

8 A. Yes.

9 Q. Can you describe those?

10 A. I work from eight in the morning until five
11 in the evening three times a week, and then from four
12 in the afternoon to twelve o'clock at night one week
13 out of the month.

14 Q. How many hours a week do you work?

15 A. Forty hours a week.

16 Q. What other responsibilities do you have at
17 Three ABN?

18 A. Well, in addition to taking prayer calls we
19 view all the tapes that come in for content to see if
20 they are up to our standards in terms of teaching and
21 philosophy and also see if they're representative of --

22 Q. Can you briefly describe those standards?
23 What criteria are you using in viewing those
24 tapes?

1 A. Well, the criteria, we -- we make sure that
2 they are doctrinal correct. We even, the sabbath, we
3 believe in the sabbath, the state of the dead, and
4 Christian witnessing and Christian life in general.

5 Q. And the doctrines of which organization?

6 A. Of the Seventh-day Adventist Church.

7 Q. And how many hours a week do you spend
8 reviewing tapes and videos for this purpose?

9 A. Probably about three to four hours a day.

10 Q. Do your duties take you outside of the Three
11 ABN facility there?

12 A. There are times when I go to the school and
13 the other pastors, we take our turn conducting worship
14 activities at the school and also at the church nearby.

15 Q. Do you conduct worship services at the main
16 facilities there?

17 A. Yes.

18 Q. And what kind of worship services are those?

19 A. Well, regular 11:00 preaching service and
20 worship service.

21 Q. Would that be at the -- where would the 11:00
22 preaching service take place?

23 A. At the local church nearby.

24 Q. Does Three ABN own that church?

1 A. They own the building, yes.

2 Q. I'm asking also about worship services at the
3 broadcasting headquarters where your pastoral offices
4 are.

5 Do worship services, do you lead --

6 A. We have worship service every morning and
7 once a week we have a corporate worship service.

8 Q. And how frequently will you lead out in
9 worship there at the headquarters?

10 A. At the headquarters, usually one or two times
11 a week.

12 Q. And these daily worship services, how long do
13 they frequently last?

14 A. I'd say 15 minutes.

15 Q. And what about the weekly worship services?

16 A. At the church?

17 Q. No. At the -- you said they were weekly
18 services?

19 A. At the corporate?

20 Q. Yes.

21 A. About the same period of time.

22 Q. When you say worship service, what do you
23 include?

24 What comes under that umbrella?

1 A. Well, we have a little message. You might
2 call it a sermonet and we have prayer.

3 Q. What is your salary at Three Angels?

4 A. \$21,000 a year.

5 Q. And what were you paid as a Seventh-day
6 Adventist minister roughly?

7 A. Roughly it would be around thirty.

8 MR. MILLER: Just give me a moment, Your
9 Honor.

10 As a Seventh-day Adventist pastor do you
11 receive other benefits beyond a salary?

12 A. I had a program, which is a retirement
13 program, also have a medical program.

14 Q. Do you have other benefits with your salary
15 presently?

16 A. Yes.

17 Q. And what are those?

18 A. Those are medical and no retirement, but
19 medical and dental.

20 Q. So, but you don't have a retirement program?

21 A. No.

22 MR. MILLER: I have no further questions for
23 this witness, Your Honor.

24 ADMINISTRATIVE LAW JUDGE: Okay.

1 MS. PETTY: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MS. PETTY:

4 Q. Pastor Bishop, are you on the Board of
5 Directors?

6 A. No.

7 Q. I just have a few questions regarding your
8 job as in the pastoral staff.

9 ADMINISTRATIVE LAW JUDGE: Just out of
10 politeness, this is Joanne Petty. She's the attorney
11 for the Intervenors.

12 MS. PETTY: I'm sorry. I represent the
13 Intervenors.

14 ADMINISTRATIVE LAW JUDGE: I should have been
15 better about introducing people.

16 MS. PETTY: It's just I'm so ingrained in this
17 I just forgot all manners.

18 ADMINISTRATIVE LAW JUDGE: I apologize.

19 MS. PETTY: My name is Joanne Petty. We
20 represent the Intervenors in this case, and I just have
21 a few questions regarding your job as part of the
22 pastoral staff with Three Angels Broadcasting.

23 You testified you work 40 hours a week?

24 THE WITNESS: Yeah.

1 Q. Where on the premises is the -- is your
2 office located?

3 A. It's on the second floor of the main
4 building.

5 Q. And there are four pastors?

6 A. Yes, there are.

7 Q. And are all four of you housed in the same
8 office?

9 A. No. There is two offices and two pastors in
10 the two offices.

11 Q. And are both offices on the second floor?

12 A. They're both side by side on the second
13 floor.

14 Q. When you answer phone calls, when people call
15 in to pray are they -- do you take those phone calls in
16 those offices?

17 A. Yes, we do.

18 Q. Now, you testified about worship services
19 that occurred at a church nearby?

20 A. Uh-huh. It's owned by Three ABN.

21 Q. That's not on the -- that's not on the site
22 where the headquarters or the main production facility
23 is, right?

24 A. No. It's, I think probably I'd say a mile or

1 so --

2 Q. Okay.

3 A. -- off the premises. I'm not exactly sure
4 about that.

5 Q. Well, you also talked about holding other
6 types of worship services actually at the main
7 production facility?

8 A. Yes, the departmental worship services.

9 Q. So you said these are about one or two times
10 a week for about 15 minutes?

11 A. Yeah, we take turns.

12 Q. Who is invited to attend these worship
13 services?

14 A. There are about three different departments
15 there. There is graphics, there is marketing, and
16 there is pastoral in that particular worship service.

17 Q. Are any members of the public invited to
18 attend those worship services?

19 A. Well, they're not invited, but they're
20 welcome.

21 Q. Would they know about the fact that you're
22 holding these little mini worship services?

23 MR. MILLER: I think the question calls for
24 speculation.

000538

1 ADMINISTRATIVE LAW JUDGE: I agree.

2 MS. PETTY: Do you advertise or let members of
3 the community know that you hold these --

4 THE WITNESS: No, we don't advertise.

5 Q. Let me just finish the question so we have a
6 clean record.

7 Do you know whether or not the organization
8 broadcasts or alerts members of the community that
9 you're holding mini worship services during the week at
10 the headquarters of Three Angels Broadcasting?

11 A. Do I -- I'm sorry, I don't quite understand
12 what your question is.

13 Q. Do you know whether or not Three Angels
14 Broadcasting alerts members of the community that there
15 are worship services available at the headquarters?

16 A. At the headquarters?

17 Q. Right.

18 A. We have a lot of visitors that come in. Yes,
19 there are a lot of volunteers that come in there that
20 work. They attend the service at the corporate worship
21 service once a week.

22 ADMINISTRATIVE LAW JUDGE: That wasn't the --
23 would you like to answer the question?

24 She said, and I believe it's, do you alert

1 the community?

2 MR. MILLER: Does Three ABN, and I'm going to
3 object for lack of foundation and it's calling for
4 speculation.

5 MR. STEINKAMP: I think she asked him whether
6 he knows whether. I think that was her question.

7 MS. PETTY: I did. That was my question.

8 ADMINISTRATIVE LAW JUDGE: I apologize. I was
9 trying to get the other words in.

10 All right.

11 MS. PETTY: Pastor Bishop, do you know whether
12 or not Three Angels Broadcasting Network alerts members
13 of the community that Three Angels Broadcasting Network
14 or you are holding worship services on the property at
15 the main production facility?

16 THE WITNESS: I do not know.

17 Q. Do you -- do you know whether or not any
18 sabbath services are held at the main production
19 facility?

20 A. I don't know of any.

21 Q. Have you attended any sabbath services there?

22 A. No, I have not.

23 Q. What about baptisms?

24 A. Since I've been there I have baptized one

1 candidate.

2 Q. At the production facility?

3 A. Not at the production center, but at the
4 local church that Three ABN owns.

5 Q. And what -- and what about foot washings at
6 the main production facility?

7 A. Not that I know of.

8 Q. Any marriage ceremonies?

9 A. I've conducted two but not there at the
10 center nor in the church. It was in the community.

11 Q. So it would be fair to say that there would
12 be no sabbath services or baptisms, foot washings, or
13 marriage ceremonies occurring at the main production
14 facility while you were there or when you were there to
15 be able to observe those activities?

16 A. Well, I can certainly see it taking place if
17 there were requests for it.

18 Q. Do you know whether any requests were ever --

19 A. But I haven't had any requests since I've
20 been there for me to be a part in it. It would be
21 available I'm sure to them if they were requested.

22 MS. PETTY: Those are all the questions I
23 have.

24 MR. MILLER: We have nothing further, Your

1 Honor, with this witness.

2 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

3 We'll reconvene until tomorrow morning at

4 8:30.

5 (The hearing was concluded for the day.)

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000542

1 STATE OF ILLINOIS)
) SS.
 2 COUNTY OF SANGAMON)
 3

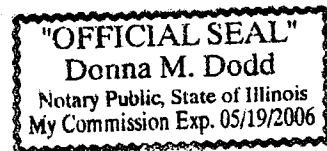
4 I, Donna M. Dodd, do hereby certify that I am
 5 a Certified Shorthand Reporter and Notary Public within
 6 and for the County of Sangamon and State of Illinois,
 7 and that I reported in shorthand the proceedings had on
 8 the hearing of the above-entitled cause on September
 9 24, 2002, and that the foregoing is a true and accurate
 10 transcript of my shorthand notes so taken.

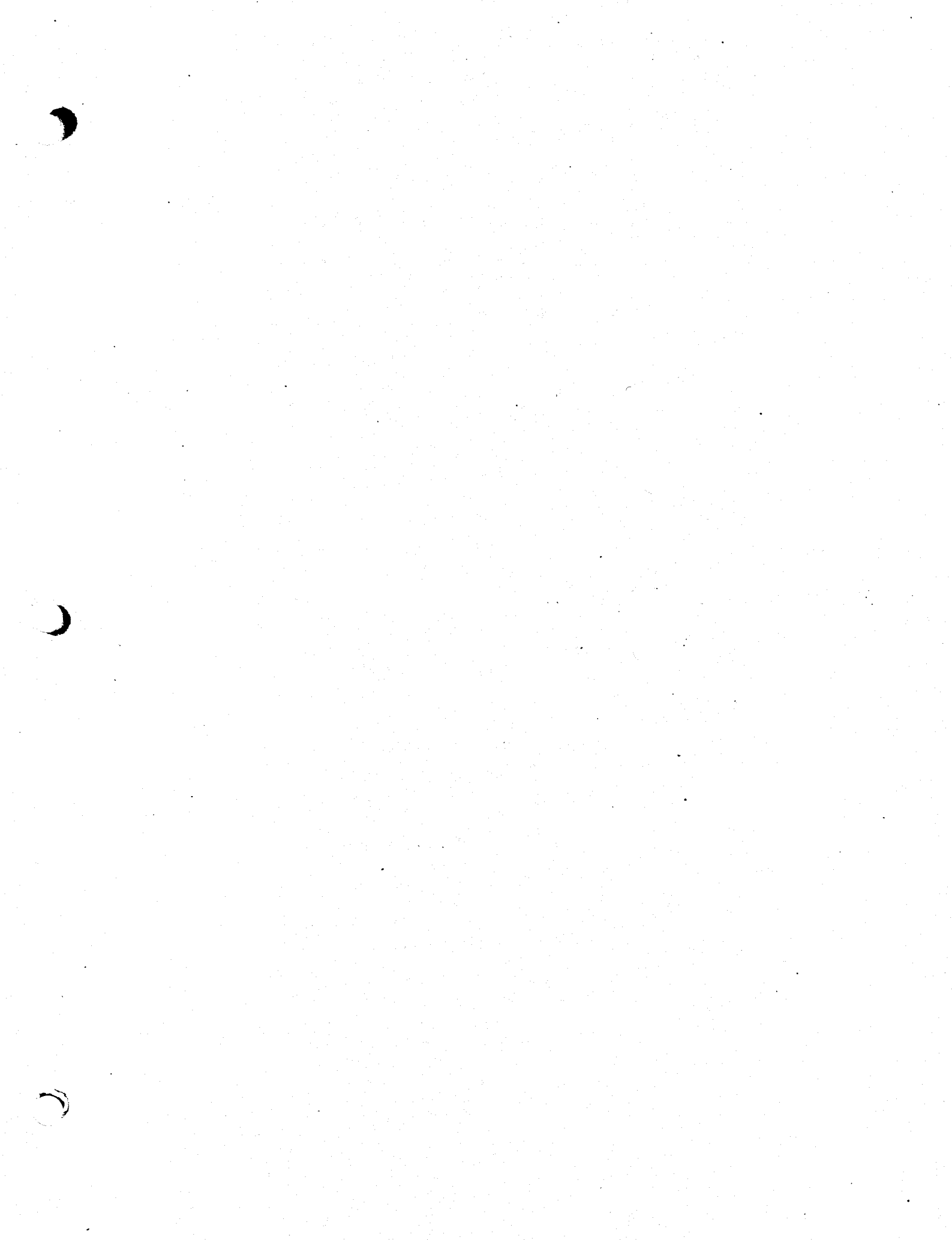
11 Dated this 21st day of October, A.D., 2002.

12 *Donna M. Dodd*

13 Notary Public and
 14 Certified Shorthand Reporter
 License No. 084-003912

15 My Commission Expires:
 16 May 19, 2006





STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS

THREE ANGELS BROADCASTING NETWORK,)
INC.,)

Applicant,)

DOCKET NO. 00-28-01

and)

DOCKET NO. 01-28-07

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

Respondent.)

and)

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

Intervenors.)

Continued Hearing held on September 25, 2002,
at the Offices of the Illinois Department of Revenue,
101 West Jefferson Street, Basement Conference Room,
Springfield, Illinois, scheduled for the hour of 10:00
A.M.

PRESENT:

MS. BARBARA ROWE,
Administrative Law Judge

MS. DONNA M. DODD, CSR

GOLEMBECK REPORTING SERVICE
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000544

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

16 Appeared on behalf of the Applicant.

17 MR. D. MICHAEL RIVA
18 Attorney at Law
19 226 East Main
20 West Frankfort, Illinois 62896

21 Appeared on behalf of the Applicant.

22 MS. MERRY RHOADES
23 Robbins, Schwartz, Nicholas,
24 Lifton & Taylor, Ltd.
25 230 Regency Centre
26 Collinsville, Illinois 62234-4635

27 Appeared on behalf of the Intervenors.

28

1 APPEARANCES CONTINUED:

2 MS. JOANNE H. PETTY
3 Robbins, Schwartz, Nicholas,
4 Lifton & Taylor, Ltd.
5 20 North Clark, Suite 900
6 Chicago, Illinois 60602-4115

7 Appeared on behalf of the Intervenors.

8

9 ALSO PRESENT:

10 Mr. Danny Shelton
11 Mr. John Robinson
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000546

	<u>I N D E X</u>	
1	WITNESS	PAGE NUMBER
2		
3	KENNETH DENSLOW	
	Direct Examination by Mr. Miller	549
4	Cross Examination by Ms. Petty	562
	Redirect Examination by Mr. Miller	567
5		
6		
	MOLLIE STEENSON	
7	Direct Examination by Mr. Miller	567
	Cross Examination by Ms. Petty	576
8		
9		
	LINDA SHELTON	
10	Direct Examination by Mr. Miller	590
	Cross Examination by Ms. Petty	602
11	Examination by Mr. Steinkamp	626
	Redirect Examination by Mr. Miller	640
12	Recross Examination by Ms. Petty	643
	Redirect Examination by Mr. Miller	645
13		
14		
	CYNTHIA HUMM	
15	Direct Examination by Ms. Rhoades	655
	Cross Examination by Mr. Boothby	659
16		
17		
18		
19		
20		
21		
22		
23		
24		

E X H I B I T S

NUMBER	ADMITTED INTO EVIDENCE
3	Applicant's Exhibit Numbers 5-8 648
4	Applicant's Exhibit Number 10 (Removed)
5	Applicant's Exhibit Number 11 (Not admitted)
6	Applicant's Exhibit Numbers 16 & 17 651
7	Applicant's Exhibit Numbers 18-21 652
8	Applicant's Exhibit Number 24 602
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Intervener's Exhibit Number 13 678

000548

1 ADMINISTRATIVE LAW JUDGE ROWE: We're back on
2 the record.

3 (The Witness was sworn
4 by the ALJ.)

5 KENNETH A. DENSLow

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

9 DIRECT EXAMINATION

10 BY MR. MILLER:

11 Q. Good morning, Elder Denslow.

12 A. Good morning.

13 Q. Can you tell us your full name and present
14 address?

15 A. Yes. Kenneth Alan Denslow, 7124 Philadelphia
16 Avenue, West Monte, Illinois. That's my residence.

17 Q. And who is your present employer, Elder
18 Denslow?

19 A. Illinois Conference of the Seventh-day
20 Adventist.

21 Q. And what is your position?

22 A. President.

23 Q. And how long have you held that position?

24 A. Since January.

000549

1 Q. And how long did you work for the Illinois
2 Conference prior to that?

3 A. I began working for the Illinois Conference
4 in December of 1992.

5 Q. And are you a credentialed ordained minister?

6 A. Yes, I am.

7 Q. Of which organization?

8 A. The Illinois Conference.

9 Q. And the name of the church?

10 A. Is the Illinois Conference of Seventh-day
11 Adventist Church.

12 Q. Can you briefly describe to us your
13 educational and professional background?

14 A. My educational background, I have a Bachelor
15 of Arts Degree in Religion, a Masters of Divinity
16 Degree in Theology, and I'm short of a dissertation for
17 a Doctor in Ministry Degree from of Fuller Theological
18 Seminary.

19 Q. And what organization runs the seminary where
20 you got your Masters in Theology?

21 A. Seventh-day Adventist Church.

22 Q. And how long have you been a pastor of the
23 Seventh-day Adventist Church?

24 A. I was ordained in December of 1986.

1 Q. And do you have any connection with Three
2 Angels Broadcasting Network?

3 A. Yes, I do on several fronts. The most
4 prominent is I'm a Board member.

5 Q. And how long have you been a Board member?

6 A. I've been a Board member since the early part
7 of this year. I've at this point only been able to
8 attend one Board meeting.

9 Q. In the years 2000 and 2001 what were -- what
10 was your position with the Illinois Conference?

11 A. I was the Executive Secretary, the second
12 officer of the Illinois Conference.

13 Q. And in that position did you have
14 opportunities to -- to work with or observe the
15 activities of Three Angels Broadcasting?

16 A. Yes.

17 Q. And how so?

18 A. We had a number of events that were done in
19 cooperation with Three Angels Broadcasting.

20 Q. And were you involved in these events?

21 A. Yes.

22 Q. Can you describe those events to me, the ones
23 that occurred in 2000 and 2001?

24 A. In 2000 we have, each year we have town hall

1 meetings that are conducted, usually in various parts
2 of the state. We will meet at a particular church and
3 invite the members of that area to come in. There were
4 two years, one of them being in 2000.

5 Q. What happens at a town hall meeting?

6 A. At a town hall meeting we give reports.

7 Q. We being?

8 A. The Conference leadership. We give reports
9 on statistical reports. We give the financials, talk
10 about strategies for the future in our Conference, try
11 to provide some motivation for the mission of the
12 church to our membership.

13 Q. And who will attend these meetings?

14 A. It's open to all members of the Seventh-day
15 Adventist Church.

16 Q. And in 2000 and 2001 how was Three ABN
17 involved in these type of meetings?

18 A. In the year 2000 they provided an uplink for
19 us from one of the churches in the Chicago area that
20 went out to all of our churches. They were able to
21 receive it via satellite, and we were able to avoid the
22 time and expense of traveling around the state.

23 Q. And it was up -- they provided an uplink and
24 then where was that signal distributed to?

1 A. Our churches, most of our churches have
2 satellite receivers.

3 Q. How many locations would have it been
4 broadcast to?

5 A. We had a potential of about 80 percent of our
6 churches have downlink sites or have satellite
7 receivers, and we have the potential of about 80 sites.

8 Q. And did Three Angels charge you for this
9 service?

10 A. There were some charges that they incurred.
11 They had to --

12 MS. PETTY: Objection, Your Honor. I don't
13 think this witness has the basic knowledge or is the
14 appropriate person to talk about the charges incurred
15 by Three ABN since he didn't join the Board until this
16 year.

17 MR. MILLER: Your Honor, he represents the
18 organization that would have paid the moneys if there
19 had been charges.

20 MS. PETTY: Well, if there is appropriate
21 foundation.

22 ADMINISTRATIVE LAW JUDGE: All right.

23 MR. MILLER: Do you represent -- did you work
24 for the Illinois Conference at the time?

1 THE WITNESS: Yes, I did.

2 Q. Were you familiar with the financial
3 arrangements that the Conference made to hold these
4 types of meetings?

5 A. I was in charge of the financial
6 arrangements.

7 Q. Thank you.

8 And did Three ABN charge you any money for
9 its operations in this event?

10 A. They charged us, they passed through invoices
11 to us from an uplink company. This was prior to the
12 time that they owned an uplink truck, the actual truck
13 that sends the signal up. They had to rent an uplink
14 truck and they passed through that charge to us.

15 In addition, that day we had our worship
16 services that Saturday. They uplinked those live on
17 their satellite channel.

18 MS. PETTY: Objection. This is nonresponsive
19 to the question.

20 ADMINISTRATIVE LAW JUDGE: Sustained.

21 MR. MILLER: I believe it is, Your Honor.
22 He's talking about --

23 ADMINISTRATIVE LAW JUDGE: I think the
24 question was, was the charges.

1 MR. MILLER: The charges.

2 Is your answer going to relate to the
3 charges?

4 THE WITNESS: Yes.

5 MR. MILLER: Please let the witness answer the
6 question. If it's not, it can be stricken.

7 ADMINISTRATIVE LAW JUDGE: Answer the question
8 and then.

9 THE WITNESS: The morning services were on the
10 Three ABN channel and, therefore, there was no charge.
11 In the evening, since what we were doing was not of
12 general interest around the world, only to our
13 constituency, the program was not on Three ABN's
14 channel, although they provided the production and the
15 uplink.

16 Satellite time had to be bought and that was
17 sent through to us as a direct invoice from the
18 satellite provider.

19 MR. MILLER: So --

20 A. So the charges that we -- that we paid were
21 those that they directly incurred from other vendors.

22 Q. So do you believe that you paid for their
23 operations?

24 A. No.

1 Q. You had to pay when they incurred additional
2 costs, is that what I am understanding?

3 A. Yes.

4 Q. You're saying that happened in 2000.

5 Did that happen in 2001 as well?

6 A. No, it did not.

7 Q. What else occurred during this 2000 and 2001
8 period?

9 A. In addition to that, in the year 2000, in
10 September of 2000 we had an event that was uplinked.
11 It was called Net 2000. There was a series of bible
12 lectures that originated in Chicago for distribution
13 around our state and indeed around the world, and it
14 was a cooperative effort between the Illinois
15 Conference of Seventh-day Adventist and the North
16 American Division of Seventh-day Adventist in
17 cooperation with Three ABN.

18 Q. How many weeks did that program last?

19 A. Almost five weeks.

20 Q. And how many days a week did that occur?

21 A. Five days a week.

22 Q. And do you know -- do you know how widely
23 that was disseminated, the broadcast from that meeting?

24 A. It was -- it was available around the world.

1 Q. And did Three Angels charge your
2 organization, to your knowledge, for those meetings?

3 A. They provided the uplink gratis, the
4 production and uplink gratis.

5 Q. For free?

6 A. Yeah.

7 Q. Were there any other events that come to your
8 mind in 2000 and 2001?

9 A. We -- we have a yearly gathering that in
10 our -- in our culture we call camp meeting, and it's --
11 it comes -- we have three of them in our Conference,
12 one for each region of the state and they hosted the
13 Southern Illinois.

14 Q. And where did they host it?

15 A. At their -- at their property.

16 Q. The headquarters facilities?

17 A. Uh-huh, yeah.

18 Q. And how long does that camp meeting last?

19 A. It's just a weekend.

20 Q. What kind of activities take place?

21 A. It's all religious meetings.

22 Q. And when you say religious meetings, can you
23 describe for us the content of those religious
24 meetings?

1 A. They're -- it's preaching, singing, praying.

2 Q. Would that include worship services?

3 A. Absolutely, yes.

4 Q. Did that happen in both 2000 and 2001?

5 A. I believe it was in October of 2000 and in
6 September of 2001. I'm not -- I'm not a hundred
7 percent sure on the dates.

8 Q. Does the church benefit from any of Three
9 Angels properties beyond what you described already?

10 A. There are two ways that I could mention. We
11 have a church in Thompsonville that is a regular part
12 of our Conference. Most of our churches own
13 properties, but they're held in our corporations,
14 corporations for the whole state.

15 In this particular case this church meets in
16 a facility that they do not own. It's owned by Three
17 Angels Broadcasting, and to my knowledge that property
18 is provided free of charge.

19 And the other -- the other property was, we
20 have a small school there also in Thompsonville and
21 Three ABN actually built a building that is used both
22 for their events but also to house that school.

23 It has two classrooms, a kitchen, and an
24 auditorium/gymnasium.

1 Q. Who operates that school?

2 A. The Illinois Conference of Seventh-day
3 Adventist.

4 Q. And it provides the teachers?

5 A. Yes.

6 Q. Who provides the teachers?

7 A. Yeah. We hire the teachers.

8 Q. And do you pay Three Angels for the use of
9 the building and the school itself?

10 A. Not to my knowledge. I'm not aware of any
11 payment made.

12 Q. Does Three Angels support any church
13 personnel or evangelist through the Illinois
14 Conference?

15 A. Yes. There is a -- there is an evangelist
16 that's well-known in the Adventist circuit around North
17 America and really outside of North America called
18 Kenneth Cox.

19 MS. PETTY: I'm sorry, Your Honor. I'm just
20 going to have to make an objection. This is all going
21 beyond the scope of any disclosure of the witness's
22 testimony.

23 MR. MILLER: I believe this witness is
24 proffered to talk about the relationship between Three

1 Angels and the church.

2 MS. PETTY: It's not -- I'm not challenging
3 his knowledge or on foundation. It's just it's never
4 been disclosed.

5 MR. MILLER: Your Honor, they didn't take his
6 deposition. I'm not sure being it's on the general
7 description seems to be well within the topic that
8 we've discussed so far.

9 ADMINISTRATIVE LAW JUDGE: I'm going to go
10 ahead and allow the question.

11 MR. MILLER: Continue, please.

12 THE WITNESS: Kenneth Cox is the evangelist
13 who works around the world. He has a relationship with
14 Three Angels Broadcasting that also is tied in with
15 us.

16 There is an ordained minister on his, on that
17 staff. Three ABN provides subsidies to that ministry.
18 That ministry in turns provides services to the
19 Seventh-day Adventist Church, and because they are --
20 there are ordained ministers on the staff, we handle
21 the payroll so we can credential. That's how our
22 system is set up.

23 Q. So is the money sent to the Illinois
24 Conference?

1 A. Money comes from us from Kenneth Cox's
2 ministry to pay for credentials, individuals, and then
3 we are able at that point to credential them.

4 Q. And you're saying that that money originates
5 with Three Angels?

6 A. Some of it does.

7 Q. About how much?

8 A. It's a hundred thousand dollars.

9 Q. A year?

10 A. A year.

11 MS. PETTY: Objection, Your Honor. We just
12 don't have any records to substantiate that.

13 MR. MILLER: Well, Your Honor, testimony can
14 come out in a number of different forms. One of it is
15 oral. It is what it is and it can be challenged I
16 suppose.

17 MS. PETTY: It's for foundation. My objection
18 would be based on foundation.

19 MR. MILLER: The witness can testify from
20 knowledge and memory, Your Honor. I'm not sure I
21 understand the objection.

22 ADMINISTRATIVE LAW JUDGE: I think she's
23 stating the foundation hasn't been laid as far as, is
24 that correct?

1 MS. PETTY: Yes.

2 MR. MILLER: I believe I asked Elder Denslow
3 if he was aware and familiar in regard to work with the
4 financials of the Illinois Conference and we're talking
5 about moneys coming to and from the organization in
6 question.

7 ADMINISTRATIVE LAW JUDGE: I'm going to
8 overrule the objection.

9 MR. MILLER: I think the answer was made, so
10 the answer will stand as it was given.

11 ADMINISTRATIVE LAW JUDGE: Uh-huh.

12 MR. MILLER: And I have no further questions.

13 ADMINISTRATIVE LAW JUDGE: Okay.

14 CROSS EXAMINATION

15 BY MS. PETTY:

16 Q. These town hall meetings that were uplinked
17 by satellite by Three ABN, they occurred in town halls
18 in Illinois?

19 A. No. They -- it originated from our church in
20 Hinsdale, Illinois, and they were received at churches
21 throughout the State of Illinois.

22 Q. So the --

23 A. The town hall, the designation town hall is
24 simply a --

1 Q. Just what you designate it?

2 A. Yes. It's just a designation for the type of
3 meeting that it is.

4 Q. So these meetings did not occur on Three ABN
5 property, is that correct?

6 A. No, they did not.

7 Q. How much did Three ABN charge you for the
8 uplink for that town hall meeting in 2000?

9 A. They didn't charge us anything.

10 Q. How much did you pay for it?

11 A. How much did we pay the other companies?

12 Q. They passed through invoices to you?

13 A. From other companies?

14 Q. For the provision of the satellite uplink?

15 A. Yeah. We were given invoices from other
16 companies.

17 Q. And how much was that?

18 A. I don't recall. It was in the -- it was
19 probably in the range of three or four thousand
20 dollars.

21 Q. And you also bought satellite time because it
22 was not of general interest to all Three ABN viewers?

23 A. That was -- that's correct.

24 Q. How much was that charge?

1 A. That would be inclusive with the other figure
2 that I gave you.

3 Q. Okay. Does the Illinois Conference or does
4 the General Conference of Seventh-day Adventist
5 generally have a policy to hold title on their churches
6 for the land?

7 MR. MILLER: I'll object as to the relevancy.

8 MS. PETTY: I'm just inquiring. . I just don't
9 have any idea what this witness is going to say, so.

10 MR. MILLER: I don't know if that makes it
11 relevant, Your Honor.

12 MS. PETTY: I would just ask for some
13 latitude.

14 ADMINISTRATIVE LAW JUDGE: And I see the
15 relevancy, so I'm going to overrule your objection just
16 as to understanding.

17 MR. MILLER: Maybe you could explain to us the
18 relevancy.

19 ADMINISTRATIVE LAW JUDGE: Because Three ABN
20 owns the property in question, and I think you're
21 trying to make a distinction between Seventh-day
22 Adventist and Three ABN.

23 MS. PETTY; Right.

24 ADMINISTRATIVE LAW JUDGE: And there is a

1 contract between the two, so there is a definite
2 correlation.

3 MR. MILLER: My objection continues for the
4 record.

5 ADMINISTRATIVE LAW JUDGE: I understand but.
6 All right.

7 MS. PETTY: Do you need me to repeat the
8 question?

9 THE WITNESS: Please.

10 Q. Does the Illinois Conference of Seventh-day
11 Adventist or the General Conference of the Seventh-day
12 Adventist generally have a policy to hold title on the
13 land that their churches sit on?

14 A. Generally speaking. There are exceptions.
15 For instance, we have a university in Barron Springs,
16 Michigan that has a church on the property of the
17 University and the University owns the church but the
18 congregation is a part of the Michigan Conference of
19 Seventh-day Adventist.

20 We also have other churches that do not own
21 property. They would be in a similar landlord sort of
22 situation with other congregations who own churches
23 that meet on Sunday and they rent their facility.

24 This is the only one in our Conference that

1 receives those properties for free.

2 Q. Now, you also said there is a church in
3 Thompsonville and a school in Thompsonville for the
4 Seventh-day Adventist?

5 A. Uh-huh.

6 Q. Do you -- this -- those properties are not on
7 the property that's in question here, is that true?

8 A. I don't know. I'm not -- I'm not --

9 MR. MILLER: I'll object. Yeah. I'll object
10 there is no foundation that's been laid as far as the
11 witness's knowledge as to the properties at issue.

12 MS. PETTY: You're on the Board of Directors
13 of Three ABN?

14 THE WITNESS: I've met with one, at one Board
15 meeting in which this specific property under question
16 were not explained to us at that meeting.

17 Q. Okay. So you don't have any knowledge --

18 A. I don't.

19 Q. -- whether or not this church or the school
20 is on the property that's in question here?

21 A. No, I don't.

22 Q. Is -- so, do you know whether or not these
23 camp meetings that occurred for the weekend, which
24 property that occurred on?

1 A. I know which property they occurred on, yes.

2 MS. PETTY: I have no further questions.

3 ADMINISTRATIVE LAW JUDGE: Okay. Anything
4 else?

5 MR. MILLER: Yes.

6 REDIRECT EXAMINATION

7 BY MR. MILLER:

8 Q. And which property did the camp meetings
9 occur on?

10 A. They occurred in the school
11 gymnasium/auditorium, as well as the church.

12 MR. MILLER: Okay. Thank you.

13 No further questions.

14 MS. PETTY: That's fine.

15 ADMINISTRATIVE LAW JUDGE: Okay.

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

18 MOLLIE STEENSON

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

22 DIRECT EXAMINATION

23 BY MR. MILLER:

24 Q. Good morning, Mrs. Steenson. It's nice to

1 see you this morning.

2 A. Thank you.

3 Q. And can you tell us your full name and
4 address for the record, please?

5 A. Mollie Steenson, 400 East Ninth, Johnston
6 City, Illinois.

7 Q. Who is your current employer, Ms. Steenson?

8 A. Three Angels Broadcasting Network.

9 Q. And what is your current position?

10 A. Department Coordinator.

11 Q. And can you briefly describe what that
12 position involves?

13 A. For the departments that answers directly to
14 Danny Shelton, they -- I coordinate their needs to meet
15 with him and the areas that, you know, relate directly
16 with him. I'm a coordinator.

17 Q. And what would those departments be?

18 A. The department that I work with directly is
19 the Call Center, Marketing, Pastoral, Construction, and
20 Accounting, and Master Control.

21 Q. And what did you do before you came to --
22 maybe I can ask you, how long have you been at Three
23 Angels?

24 A. Seven years.

000568

1 Q. And did you -- what position did you hold in
2 the year 2000 and 2001?

3 A. Assistant to the President and Office
4 Manager.

5 Q. And did you oversee these similar operations
6 at that time?

7 A. All of the departments that answer directly
8 to Danny, they would have come to me for appointments
9 and so forth, but I have now more of an administrative
10 role where they're concerned.

11 Q. What did you do before you came to Three
12 Angels?

13 A. I was an associate pastor at Praise World
14 Outreach.

15 Q. Were you an ordained minister?

16 A. Yes.

17 Q. Do you still, and did you in 2000 and 2001
18 still carry out ministerial activities?

19 A. Yes.

20 Q. What were those activities?

21 A. I fill the pulpit periodically and I teach
22 and I conduct worship services.

23 Q. And do you conduct worship services at Three
24 Angels Broadcasting?

1 A. The morning worship services, yes.

2 Q. Is it at the main headquarters facility?

3 A. Yes.

4 Q. How frequently are there worship services
5 there?

6 A. Every day.

7 Q. And how frequently do you lead worship
8 services?

9 A. Oh, I would estimate four or five times a
10 year. Although the worship service that's every Monday
11 morning, I have the oversight of that. Although I
12 don't always lead out in the worship service on Monday
13 morning, I do make sure that someone is scheduled to
14 have that responsibility.

15 Q. Is the Monday morning service different in
16 some way?

17 A. The Monday morning worship service, every
18 employee is invited to it. It's in the production
19 facility.

20 Whereas on a daily basis, each department has
21 worship throughout the ministry.

22 Q. Now, do you yourself appear on the Three
23 Angels Broadcasting broadcast?

24 A. Yes, I do.

1 Q. And what do you do?

2 A. I have a 15 minute program.

3 Q. What does it consist of?

4 A. I read the bible. His Words are Live is the

5 name of the program and I read the bible on that.

6 Q. Just read through the bible, is that right?

7 A. Yes.

8 Q. With any commentary?

9 A. Some at the beginning, some at the end, but
10 basically it's just reading the scripture.

11 Q. And how frequently does it appear on Three
12 Angels?

13 A. Currently it is appearing twice a week.

14 Q. Did you do this during 2000 and 2001?

15 A. Yes.

16 Q. Does Three Angels provide sabbath morning
17 services every sabbath morning to your knowledge?

18 A. Yes, yes.

19 Q. How so?

20 A. On Three ABN we have programming on sabbath
21 morning and that programming was taped prior to sabbath
22 morning.

23 Q. And where was it taped?

24 A. In the production facility.

000571

1 Q. And when is it actually broadcast?

2 A. Well, the programming that is produced in the
3 production building is aired every day, but that
4 includes sabbath as well.

5 Q. And do you know if some people watch that
6 programming on Saturday mornings?

7 A. Yes. We get a lot of response from viewers
8 that watch Three ABN programming.

9 MS. PETTY: Objection, foundation.

10 MR. MILLER: What form did these responses
11 take?

12 THE WITNESS: Phone calls, letters, E-mails.

13 Q. And have you read these yourself?

14 A. Yes, I have, and personally people will, that
15 I meet personally will give me that information as
16 well.

17 Q. Okay. And what do these letters tell you
18 about sabbath morning services?

19 A. A lot.

20 MS. PETTY: Objection, hearsay.

21 MR. MILLER: Your Honor, I believe it would
22 fall under a state of mind exception to the hearsay
23 rule, which shows that Three Angels purpose is to
24 provide sabbath morning worship service in their view

1 is actually being fulfilled by the feedback that they
2 receive and, therefore, they believe they're fulfilling
3 and carrying out those purposes in good faith.

4 MS. PETTY: I don't think that falls under the
5 exception at all. I think Mr. Miller has
6 mischaracterized the state of mind exception to the
7 hearsay rule.

8 ADMINISTRATIVE LAW JUDGE: I'm going to
9 sustain the objection. I agree with your analysis,
10 state of mind. If you want to --

11 MR. MILLER: Can you tell me why?

12 ADMINISTRATIVE LAW JUDGE: It doesn't fall
13 under that exception.

14 MR. MILLER: As to the state of mind?

15 ADMINISTRATIVE LAW JUDGE: As to the state of
16 mind.

17 MR. MILLER: Regarding their purpose?

18 ADMINISTRATIVE LAW JUDGE: I don't see the
19 correlation.

20 MR. MILLER: Okay.

21 Let me ask you, Ms. Steenson, do you -- is
22 one of the areas that you oversee the sales and
23 distribution of videotapes?

24 THE WITNESS: I oversee the Call Center where

1 that is carried out.

2 Q. Where that takes place.

3 Do you know if Three Angels videotapes are
4 copyrighted materials?

5 A. They are not.

6 Q. And what does this mean?

7 A. Well, quite often we get phone calls from
8 people that want to make copies of the programming that
9 they see on Three ABN, and actually both Danny and
10 Linda quite often encourage the viewers to copy the
11 programming they see on Three ABN as a witnessing tool,
12 as an evangelistic tool, to share the programs of Three
13 ABN that they copy in their home with their friends,
14 with their relatives, to set up a church library.

15 Always encouraging the churches to set up a
16 church library programming that they taped off of Three
17 ABN. And so I'll get phone calls where the churches or
18 the people will ask me if the material is copyrighted
19 and can they do this, and I say, yes, please do. We
20 encourage you to.

21 It's an excellent evangelistic tool.

22 Q. How has Three Angels affected your life?

23 MS. PETTY: Objection, Your Honor, relevancy.

24 MR. MILLER: It goes to the purposes of Three

1 ABN and whether they're actually -- whether their
2 stated purposes and operations are actually having the
3 affect that Three ABN is claiming they're having.

4 MS. PETTY: That's not one of the factors in
5 the purpose of an organization, is whether they
6 actually have the intended affect.

7 MR. MILLER: Your Honor, as I understand it
8 they both have to do with purposes stated in the
9 article, but you also have to look at the operations
10 and the activities as to whether those purposes are
11 being carried out.

12 And I would think the affects that these
13 activities, involvement these people having in these
14 activities would help determine that.

15 MS. PETTY: It's just an end round, end around
16 the actual proving of the factor that they are
17 following its stated purposes and objectives. It's
18 irrelevant what affect it actually has on people who
19 view the material.

20 MR. MILLER: I believe it would be evidence of
21 all of that, Your Honor.

22 ADMINISTRATIVE LAW JUDGE: I'm going to
23 overrule your objection and go ahead and allow the
24 question.

1 THE WITNESS: Would you restate the question?

2 MR. MILLER: How has Three Angels organization
3 affected your life?

4 A. Well, the heart of Three ABN is to mend
5 broken people, and actually that's their theme song, I
6 Want to Spend my Life Mending Broken People.

7 And seven years ago now, a little over seven
8 years ago actually, I was a broken person and Three
9 Angels Broadcasting Network, through Danny and Linda
10 Shelton, reached out to me and in effect, I'm one of
11 the people that have been mended through the ministry.

12 MR. MILLER: Thank you, Ms. Steenson. I have
13 no further questions.

14 ADMINISTRATIVE LAW JUDGE: All right.

15 Ms. Petty?

16 CROSS EXAMINATION

17 BY MS. PETTY:

18 Q. Prior to joining --

19 ADMINISTRATIVE LAW JUDGE: This is Joanne
20 Petty. She represents the Intervenors. I'll afford
21 the same courtesy with your witnesses.

22 MS. PETTY: Prior to joining Three ABN you
23 were associate pastor with Praise World Outreach,
24 correct?

1 THE WITNESS: That is correct.

2 Q. And Praise World Outreach sold property to
3 Three Angels Broadcasting, --

4 A. Yes, we did.

5 Q. -- is that correct?

6 And that property is located on Neil Road?

7 A. No.

8 Q. What is on the property that you, that Praise
9 World Outreach sold to Three ABN?

10 A. A downlink tower.

11 Q. Is that where Master Control is for Three
12 ABN?

13 A. No.

14 Q. Now, you also sold property to Three Angels
15 Broadcasting, correct, prior to joining Three ABN?

16 A. No.

17 MR. MILLER: Objection. This is certainly
18 beyond the scope of the direct examination, and I'm not
19 sure I see any relevancy to the property at issue.

20 MS. PETTY: We had a 237 request. I'm just
21 trying to save us some time. If counsel would give me
22 some latitude on scope. I would have been entitled to
23 call her in my case. I'm just trying to save all of us
24 some time in not having to recall this witness.

000577

1 MR. MILLER: I'll give her some latitude at
2 this point.

3 ADMINISTRATIVE LAW JUDGE: Okay.

4 MS. PETTY: Now, you said you have oversight
5 responsibilities for accounting?

6 THE WITNESS: Yes.

7 Q. You have actually no direct involvement in
8 the actual accounting or preparing of financial reports
9 of Three ABN, is that correct?

10 A. That is correct.

11 Q. Now, these worship services you discussed,
12 they're approximately 15 to 20 minutes long?

13 A. Yes.

14 Q. And they are for the employees of Three ABN?

15 A. Yes.

16 Q. Are any members of the community invited or
17 encouraged to attend these worship services?

18 A. No.

19 MR. MILLER: Objection, relevance.

20 MS. PETTY: It goes to whether or not it's
21 being available, made available to members of the
22 community, whether all of the services provided by
23 Three ABN are easily accessible by members of the
24 community.

000578

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

3 THE WITNESS: Ask your question again then.

4 MS. PETTY: You answered the question.

5 ADMINISTRATIVE LAW JUDGE: I think you already
6 answered it.

7 MS. PETTY: Aside from the worship services
8 you perform, there are no other activities that you
9 actually perform as an ordained minister at the Three
10 ABN production center, is that correct?

11 THE WITNESS: Yes.

12 Q. You have no responsibility with respect to
13 the records or record keeping for Three ABN, true?

14 A. True.

15 Q. In fact, you have no documents in your
16 possession?

17 A. No.

18 Q. You have no knowledge or information
19 regarding how giveaways are determined, correct?

20 A. Correct.

21 Q. You have no knowledge as to how prices for
22 the items for sale in their catalogs were determined,
23 correct?

24 A. Correct.

000579

1 Q. You have no responsibility for what goes in
2 the catalog, correct?

3 A. Correct.

4 Q. Now, you also said that you encourage your
5 viewers to copy your tapes?

6 A. Yes.

7 Q. But you do not provide or Three ABN does not
8 provide free copies of the tapes that are all for sale
9 in their catalog, isn't that true?

10 A. Occasionally tapes are given away free.

11 Q. But for the most part the general policy is
12 that items for sale in their catalog are not freely
13 given away for free?

14 A. That is correct.

15 Q. Now, you also oversee the Call Center?

16 A. That's one of the areas that I'm responsible
17 for, yes.

18 Q. And you said you oversee Master Control?

19 A. Yes.

20 Q. Now, I asked you this earlier, and I just
21 want to clarify.

22 Master Control is in the uplink building?

23 MR. MILLER: Objection, Your Honor. I think
24 that's vague and confusing.

1 MS. PETTY: It's is kind of, I'm sorry.

2 MR. MILLER: I don't think she's established
3 as to what the Uplink Center is.

4 ADMINISTRATIVE LAW JUDGE: I'm sorry, I don't
5 know what the uplink building is, so I'm confused as
6 well. So if you would like to lay some foundation or
7 explain.

8 MS. PETTY: What is the uplink building?

9 THE WITNESS: The uplink building is the
10 building that, where we uplink our signal to satellite.

11 Q. Where is that uplink building located?

12 A. Neil Davis Road.

13 Q. And give us an idea of where that is in
14 relation to the production studio and the headquarters
15 of Three Angels Broadcasting.

16 A. It's across town, and it's about two miles
17 away.

18 Q. So does somebody actually have to take a tape
19 and take it to Master Control to be uplinked to the
20 satellite?

21 A. Yes.

22 Q. And is Master Control located in that uplink
23 building?

24 A. Yes.

1 Q. Now, the reproduction of the videos that are
2 for sale is also done in the Master Control building,
3 correct?

4 A. To the best of my knowledge, yes.

5 Q. And the production of the music cassettes for
6 sale are done outside the headquarter property of Three
7 Angels Broadcasting, correct?

8 A. I'm not real familiar with that. I'm --
9 they're -- some are done in our Call Center, but I
10 don't know how many.

11 Q. Now, I just want to show you what's been
12 previously admitted as Intervenor's Exhibit Number 6,
13 which is the 2000 catalog.

14 Does that look familiar to you? I know it's
15 just a copy.

16 A. Yes.

17 Q. Can you take a minute to flip through it to
18 make sure?

19 A. Okay.

20 Q. I turn your attention to Page 24. I guess,
21 there are lots of 24.

22 MR. MILLER: Is it Bates stamped?

23 MS. PETTY: Well, if you look under the
24 heading of worship services.

1 MR. MILLER: Is there a bates number that
2 you're looking at?

3 MS. PETTY: I just --

4 ADMINISTRATIVE LAW JUDGE: Here, do you want
5 to use this one?

6 MS. PETTY: No. I have it actually.

7 ADMINISTRATIVE LAW JUDGE: It's 24H, Bates
8 Stamp 30099.

9 MS. PETTY: It's Bates Stamped 30099, 300099
10 under the heading of worship services.

11 Now, you testified that you have some
12 involvement in the preparation of these catalogs?

13 MR. MILLER: I believe that -- objection. I
14 believe that mischaracterizes the witness's testimony.

15 MS. PETTY: I can rephrase the question.

16 ADMINISTRATIVE LAW JUDGE: Okay.

17 MS. PETTY: Do you have any involvement in any
18 way in the preparation of these catalogs?

19 THE WITNESS: Not in the preparation of them.

20 Q. Do you proofread the catalogs?

21 A. Possibly. I don't proofread them all, but I
22 have proofread quite a few of them.

23 Q. You are familiar with the catalogs though?

24 A. I'm familiar with this catalog.

1 Q. Okay. Now, under the heading of worship
2 services you see there are several tapes for sale.

3 Now, these were taped at locations outside of
4 Three Angels Broadcasting Network's production
5 facilities, correct?

6 MR. MILLER: Objection. I think we need
7 foundation here.

8 MS. PETTY: Well, she can look at it and tell
9 us.

10 MR. MILLER: The document speaks for itself.
11 You're asking the witness to testify about knowledge
12 apart from the document I believe.

13 MS. PETTY: With respect to your review of the
14 catalog --

15 ADMINISTRATIVE LAW JUDGE: I'm going to
16 sustain the objection and if you'd like to rephrase
17 your question.

18 MS. PETTY: Sorry.

19 From your review of this catalog on that page
20 that we marked or identified, can you tell us whether
21 or not these worship services were actually taped at
22 Three Angels Broadcasting Network?

23 MR. MILLER: Well, I'll renew my objection,
24 Your Honor. I mean, we're all looking at the catalog

1 and she's asking the witness what the catalog says.

2 ADMINISTRATIVE LAW JUDGE: I don't believe
3 so. I think I'll direct the witness to answer the
4 question because --

5 MR. MILLER: Then I'm confused about what the
6 catalog relates to.

7 Why not ask if certain programs were taped at
8 Three ABN or not?

9 MS. PETTY: I can ask it that way. I really
10 don't understand the legal basis for the objection
11 but.

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 MS. PETTY: Were -- I'll ask you this.

14 To your knowledge, are all programs aired on
15 Three Angels Broadcasting Network taped and produced at
16 Three Angels Broadcasting Network studios?

17 THE WITNESS: No.

18 Q. There are some worship services that are not
19 taped or produced at Three Angels Broadcasting Network
20 studios, correct?

21 A. That is correct.

22 Q. Now, one of those examples would be these
23 worship services that are contained in this exhibit,
24 true?

1 A. True.

2 Q. Now, these worship services that are taped
3 outside of Three Angels Broadcasting Network studios
4 and production facilities, are they then produced and
5 packaged for sale by Three Angels Broadcasting
6 Network?

7 THE WITNESS: Yes.

8 Excuse me, Judge, may I ask you a question?

9 MR. MILLER: Probably ask us, Mollie, but why
10 don't we just wait?

11 MS. PETTY: Are you aware of any specific
12 policy that authorizes call takers to provide materials
13 free or at reduced cost for people who cannot afford
14 them?

15 THE WITNESS: Anyone that would want, that
16 would ask a call taker for materials at a reduced price
17 or free would be referred to me.

18 Q. Okay. And that's because the call takers
19 don't have the authority to make that decision,
20 correct?

21 A. That is correct.

22 Q. The only person at the organization who has
23 that authority is Danny Shelton, correct?

24 A. Ultimately, yes.

1 Q. The request goes to you?

2 A. Yes.

3 Q. And you direct that to Danny?

4 A. I'll take the request. Actually I screen it
5 to some degree and if it's viable and worthy then I
6 would go to Mr. Shelton.

7 Q. And what are the factors that you look at in
8 determining what is a worthy and viable request?

9 A. Can I give you a for instance? Would that --

10 Q. Well --

11 A. Well, it would be if it's such a large
12 request that it would be, you know, couldn't. If it's
13 just for the ministry of the person to enhance or
14 encourage the person or for the person to use for a
15 small group then and they're unable or don't have the
16 financial means to meet that need, then that's a viable
17 worthy cause.

18 But if they're wanting, for instance, a lady
19 recently asked for 200,000 books because she wanted to
20 give one to every member of her community. To me that
21 was excessive.

22 Q. So you screen those excessive calls and you
23 don't take those to Danny?

24 A. The excessive calls, I wouldn't take an

1 excessive call to him.

2 Q. Now, are the people at the Call Center
3 trained to take down the information such as what
4 you've just described?

5 A. No, they would refer it to me.

6 Q. And then do you make follow-up calls to those
7 people?

8 A. For the ones that we are going to give the
9 material to, yes. I would call them and tell them that
10 we are going to.

11 Q. For the years 2000 and 2001 how many of these
12 calls did you take to Danny Shelton?

13 A. I don't know.

14 Q. Are you aware of whether or not Danny Shelton
15 makes any follow-up determination regarding these
16 reduced or free requests?

17 A. I don't understand your question.

18 Q. Do you know whether or not once you take the
19 call or the request to Danny Shelton whether or not he
20 makes further additional inquiry to make a
21 determination?

22 A. I'm not aware of him doing that.

23 Q. Do you ever know what the resolution of the
24 call or request is that you took to Mr. Shelton?

1 A. Yes, I would know that.

2 Q. Do you keep records as to that?

3 A. No.

4 Q. And you can't tell us how many of those
5 requests were granted by Mr. Shelton in 2000 and 2001?

6 A. No.

7 Q. Do you know of any written policy by the
8 Board of Directors giving Mr. Shelton guidance on how
9 to give away things at reduced or free charges?

10 A. I'm not aware of any.

11 Q. You have no involvement in the satellite dish
12 sales or the Sky Angel packages, is correct?

13 A. No.

14 Q. Your program that you read the bible, the 15
15 minute program, do you know if those programs are for
16 sale by Three Angels Broadcasting?

17 A. They are.

18 MS. PETTY: I have no further questions.

19 ADMINISTRATIVE LAW JUDGE: Any redirect?

20 MR. MILLER: I have nothing further for the
21 witness, Your Honor.

22 ADMINISTRATIVE LAW JUDGE: Okay.

23 (The Witness was sworn

24 by the ALJ.)

1 LINDA SHELTON
2 called as a witness herein, at the instance of the
3 Applicant, having been first duly sworn on her oath,
4 was examined and testified as follows:

5 ADMINISTRATIVE LAW JUDGE: Have a seat.

6 DIRECT EXAMINATION

7 BY MR. MILLER:

8 Q. Good morning, Mrs. Shelton.

9 A. Good morning.

10 Q. Nice to see you today.

11 A. Nice to see you too.

12 Q. Can you tell us your full name and address
13 for the record, please?

14 A. Linda Sue Shelton, and my address is 2954 New
15 Lake Road, West Frankfort, Illinois 62896.

16 Q. And who is your present employer, Mrs.
17 Shelton?

18 A. Three Angels Broadcasting Network.

19 Q. And what is your position with Three Angels?

20 A. Vice President.

21 Q. And how long have you held that position?

22 A. Roughly eight years.

23 Q. Okay. And how long have you worked for Three
24 Angels?

1 A. Roughly 18 years.

2 Q. And during 2000 and 2001 did you hold the
3 position of Vice President?

4 A. Yes.

5 Q. And what was your background before coming to
6 Three ABN?

7 A. As far as education or work?

8 Q. Education and other work?

9 A. Of course I graduated from high school. I
10 had one year of college.

11 Q. Where did you graduate from high school?

12 A. Case High School in Racine, Wisconsin.

13 Q. And you went to college you said?

14 A. Yes. I went to the University of Milwaukee,
15 Wisconsin, and I was an Interarts Major there.

16 Q. What did you study?

17 A. Actually it was dance, music, and art. It
18 was the Arts.

19 Q. And how long did you study there for?

20 A. Just for a year.

21 Q. Did you get a degree?

22 A. No.

23 Q. And what did you do after you left college?

24 A. Actually I got married, moved to Southern

1 Illinois, and as far as my work history goes, you know,
2 I worked in law offices as a receptionist. I worked as
3 a secretary at a City Hall and, you know, just odd jobs
4 before I had Three ABN.

5 Q. What was your initial position at Three ABN?

6 A. My very first job at Three ABN was writing
7 thank you cards, so it was secretarial.

8 Q. And you progressed from there?

9 A. Yes.

10 Q. Okay.

11 A. Grass roots level.

12 Q. And what aspects of Three Angels do you
13 oversee these days?

14 A. I'm actually over production, programming,
15 scheduling, and much of the print work.

16 Q. What does the print work involve?

17 A. I write for the most part the newsletters and
18 the promotional magazines that we do.

19 Q. How frequently do you send out this
20 newsletter?

21 A. The newsletter is nine or ten times per year
22 and the magazine is twice a year.

23 Q. So the months you don't send out the
24 newsletter you send out the magazine, is that right?

1 A. Right.

2 Q. And who receives these newsletters and
3 magazines?

4 Is it the same group of people that receive
5 both?

6 A. Yes.

7 Q. And in 2000 and 2001 approximately how big
8 was your mailing list?

9 A. It was somewhere in between 100,000 and
10 150,000 people on the mailing list.

11 Q. And who was the writer of the articles in the
12 newsletter and magazine?

13 A. Mainly myself.

14 Q. And who edited it?

15 A. Mainly myself.

16 Q. And what was the content or themes of the
17 articles generally during the 2000 and 2001?

18 A. Well, generally as far as the newsletter is
19 concerned, on Page 1 and Page 2 there will be miracle
20 stories and things that are happening at Three ABN. On
21 Page 3 we will always have testimonies of individuals
22 who have had life changing things happen as a result of
23 watching Three ABN. The last page is a devotional
24 thought.

1 Q. And is there a charge for these newsletters
2 or magazines?

3 A. No, they're free.

4 Q. And what do you view as the purpose of these
5 publications?

6 A. Basically to acquaint people with what is
7 happening at Three ABN and to encourage their
8 involvement, because without these people being
9 involved in the ministry, Three ABN would not exist.

10 Q. I understand you make music?

11 A. Yes, I do.

12 Q. And do you sing?

13 A. Yes.

14 Q. Have you made CDs --

15 A. Yes.

16 Q. -- in the past?

17 About how many?

18 A. Four.

19 Q. Has Three Angels produced those CDs?

20 A. Yes.

21 Q. Who writes the songs on those CDs?

22 A. Mainly myself. On our earlier CDs there is a
23 couple of songs written by Dan.

24 Q. And how would you characterize the theme or

1 the content of those songs?

2 A. Very spiritual, very spiritual.

3 Q. Can you give us some examples?

4 A. Well, just for example, some of the titles of
5 the songs are, I Think About Grace; I Know Jesus;
6 Things that Matter to Jesus Matter to Me; the Worship
7 song.

8 Q. And do you sell these CDs?

9 A. Yes.

10 Q. Do you ever give any away?

11 A. Let me make a correction there. I don't
12 personally sell them myself, but Three ABN sells them.

13 Q. Do you receive any royalties from the CDs?

14 A. No.

15 Q. If you don't receive any royalties from them
16 why do you make the CDs?

17 A. I really want to spread the Gospel through
18 music and through the talents that the Lord has given
19 me, and also they really serve as a tool to help people
20 get more acquainted with Three ABN and get involved in
21 the ministry too.

22 Q. Is this one of the CDs that you've made?

23 A. Yes.

24 MR. MILLER: Your Honor, I'm not going to

1 proffer this as an exhibit, but we have brought two or
2 three, and we will -- this is for State's counsel and
3 opposing counsel, you can fight over it over here, and
4 we have one for Your Honor.

5 Do we have anymore?

6 THE WITNESS: I might have some more in the
7 van.

8 Q. Maybe we can get one for the court reporter.

9 MS. PETTY: Is this an exhibit?

10 MR. MILLER: I'm not proffering it as an
11 exhibit.

12 MR. STEINKAMP: This is a bribe.

13 ADMINISTRATIVE LAW JUDGE: I'm giving you my
14 bribe.

15 MR. MILLER: We can call it an exhibit if that
16 helps.

17 How do you -- I understand you oversee
18 programming as well?

19 THE WITNESS: Yes.

20 Q. And how do you schedule the programming time
21 at Three ABN?

22 A. Actually there is a woman that works for me.
23 Her name is Dee Hildebrand and she actually is in
24 contact with the individuals and puts them on the

1 schedule.

2 Q. And does she come to you and proffer this
3 programming?

4 I mean, who has the final decision about what
5 programming is actually going to come?

6 A. Oh, as far as being scheduled?

7 Q. Right.

8 A. Well, we -- maybe I should just go over the
9 general procedure --

10 Q. Okay.

11 A. -- of what we do.

12 A lot of the programs that will eventually
13 happen in our studios come from references. People
14 will write to us and say, you cannot believe this
15 incredible speaker. You cannot believe this incredible
16 singer, and we follow-up a hundred percent on all of
17 these recommendations.

18 And then, when we get the recommendations,
19 Dee will call the Conference and the local church, talk
20 to the pastor, find out references on these
21 individuals, and then when these individuals pass the
22 references, she will come to me and say, this is what I
23 found out. Would you like me to invite them and I'll
24 give her approval.

1 Q. And who does she go to for references?

2 A. She will call mainly the State Conferences
3 and then also the local church.

4 Q. And what do you mean the State Conferences?

5 A. Well, for example, we're in the Illinois
6 Conference.

7 Q. Of what church?

8 A. Seventh-day Adventist Church.

9 Q. And what criteria does Dee use?

10 Do you know what criteria she uses in initial
11 screening program?

12 A. Screening like an individual?

13 Q. Deciding -- well, no.

14 Deciding the content, if the content of the
15 program is the right kind of content for Three Angels?

16 A. Well, basically it just needs to be very
17 spiritual and it needs to, of course, fall in line with
18 the beliefs of the Seventh-day Adventist Church.

19 Sometime ago our Board of Directors actually
20 voted what type of programming would be seen on Three
21 Angels Broadcasting, and in a nutshell the vote
22 actually said that it would reflect the 27 fundamental
23 beliefs of the Seventh-day Adventist Church.

24 It would promote the gospel around the world,

1 and also it would not in any way, form, shape, or
2 manner be detrimental or give the church any kind of
3 bad press.

4 Q. Okay. And do you use this criteria when you
5 screen programming?

6 A. Yes.

7 Q. Now, is there a schedule for what programming
8 is going to be -- take place? And we've had testimony
9 about a Studio A and Studio B.

10 Is there a schedule for what program is going
11 to occur?

12 A. Yes.

13 Q. And who keeps that schedule?

14 A. Dee Hildebrand.

15 Q. And is she under your supervision?

16 A. Yes.

17 Q. So your office -- does your office then have
18 records of the programming that has occurred over the
19 last few years?

20 A. Yes. In fact, I spoke with her yesterday and
21 she said --

22 MS. PETTY: Objection, hearsay.

23 ADMINISTRATIVE LAW JUDGE: That's her --

24 MS. PETTY: What Dee Hildebrand said.

1 MR. MILLER: In your responsibilities of
2 overseeing the Programming Department do you know if
3 records are kept?

4 THE WITNESS: Yes.

5 Q. And how long are those records kept for?

6 A. I know personally myself that she has at
7 least five years worth of records.

8 Q. Okay. And would that programming tell us
9 what percentage of time was allocated to a particular
10 subject matter or program time?

11 MS. PETTY: Objection to what the records say,
12 because unless they can produce the records.

13 MR. MILLER: Have you seen any of these
14 records?

15 THE WITNESS: Yes.

16 MR. MILLER: Unless there is an Interrogatory
17 request that these would have been responsive to I'm
18 not sure why she can't testify as to her knowledge.

19 MS. PETTY: Best evidence.

20 ADMINISTRATIVE LAW JUDGE: I'm going to go
21 ahead and allow the question though. I understand what
22 you're saying with best evidence, but obviously they
23 did not have the evidence so it's the best evidence
24 available right here and now and it wasn't part of the

000300

1 production of documents I don't believe so.

2 MR. MILLER: Answer the question.

3 Would it be possible to work out an
4 allocation of time? I'm not asking you to tell us what
5 that allocation would be or what it is, but whether it
6 would be possible from the records?

7 THE WITNESS: Yes.

8 MR. MILLER: You know, upon reflection and
9 thought I would like to enter the CD as an exhibit. I
10 think it's an exhibit of both of what Linda Shelton
11 does with the ministry for Three ABN and an exhibit of
12 something that they actually distribute and sell.

13 ADMINISTRATIVE LAW JUDGE: I'm an Indian
14 giver.

15 Now, you want to admit this into evidence?

16 MR. MILLER: Yes, Your Honor.

17 ADMINISTRATIVE LAW JUDGE: Is there any
18 objection to the admission into evidence of Applicant's
19 Exhibit 24?

20 MS. PETTY: No.

21 ADMINISTRATIVE LAW JUDGE: Okay. Let the
22 record reflect that Applicant's Exhibit Number 24 is
23 admitted into evidence.

24

000601

1 (Applicant's Exhibit Number 24
2 was admitted into evidence.)

3 MS. PETTY: I would just make a reservation
4 that none of us have had an opportunity to hear the
5 songs, so we don't actually know what the content is.

6 ADMINISTRATIVE LAW JUDGE: Fine, with that
7 stipulation or --

8 MR. BOOTHBY: Listen to it in the break.

9 MR. MILLER: I mean, I'm not sure. I mean,
10 it's not, it's certainly not testimony proffered for
11 the, I believe the truth of the matter is very true,
12 but it certainly is not proffered for that. It's
13 proffered for what they are actually distributing and
14 selling.

15 ADMINISTRATIVE LAW JUDGE: We will accept the
16 evidence with that comment as well.

17 MR. MILLER: I have no further witness -- no
18 further questions at this time, and I hope no further
19 witnesses either.

20 CROSS EXAMINATION

21 BY MS. PETTY:

22 Q. Good morning, Ms. Shelton. We met earlier. I
23 just wanted to make sure and introduce myself again.
24 I'm Joanne Petty. I represent the Intervenors in this

000602

1 case.

2 I'd just like to follow up with you on a
3 couple of things.

4 You are on the Board of Directors for Three
5 ABN, true?

6 A. Yes.

7 Q. And you started as the Secretary of the Board
8 of Directors?

9 A. Yes.

10 Q. So one of your responsibilities in that
11 capacity was to maintain the minutes of the Board?

12 A. Yes.

13 Q. And what year did you take over as Vice
14 President of the Board?

15 A. I don't recall the exact year.

16 Q. Did you take over somebody's spot as Vice
17 President?

18 A. Let me think about that a second. We did
19 have a Vice President in the early years and that
20 position was vacated for a period of time which I can
21 not specify, however, I don't believe when I took the
22 title, I wasn't actually replacing somebody at that
23 point.

24 Q. Okay. In your capacity as a member of the

1 Board of Directors of Three Angels Broadcasting Network
2 are you -- do you have any other -- do you have any
3 documents or maintain any records of the Board other
4 than the Articles and the Bylaws?

5 A. Could you run that by me again?

6 Are you eliminating the minutes? You said
7 Articles and Bylaws.

8 Q. That you have aside from the minutes, the
9 Bylaws and the Articles of Incorporation, are there any
10 other documents generated by the Board of Directors
11 relating to the operations of Three Angels Broadcasting
12 Network?

13 A. I do believe that there are some other
14 documents in the book. You know, I haven't gone
15 through it carefully before I came to this meeting, so
16 I probably couldn't specify all of the documents in
17 there.

18 Q. Do you know whether any of those documents
19 that are in there are policies set by the Board
20 regarding programming, sales of CDs and videos and
21 books, things like that?

22 A. I don't think they would be registered as
23 such. Those type of actions are in our minutes.

24 Q. Okay. Now, you testified that in addition to

000604

1 your duties as a member of the Board of Directors you
2 are also the overseer of the production, programming,
3 scheduling, and the print materials for Three Angels
4 Broadcasting?

5 A. Basically.

6 Q. Do one of your responsibilities include
7 advertising?

8 A. What type of advertising?

9 Q. Print advertising?

10 A. Just on the products that I'm involved in.
11 We do have a Marketing Department that has produced
12 some of their own.

13 Q. Do you know whether you have a budget for the
14 amount of advertising you're allowed to spend in a
15 given year set by the Board of Directors?

16 A. I believe there is a budget that is accepted
17 at the beginning of the year. I couldn't tell you any
18 exact figures on that budget.

19 Q. Now, you also have responsibility for the
20 newsletters and magazines, correct?

21 A. Yes.

22 Q. You provide most of the articles and the
23 contents of those newsletters and magazines?

24 A. Yes.

000605

1 Q. And they get distributed to a mailing list of
2 about a hundred to a hundred and fifty thousand people?

3 A. Yes.

4 Q. In those newsletters and magazines are there
5 any -- is there information on Three Angels
6 Broadcasting, how to contact Three Angels Broadcasting?

7 A. Our address is on them, yes.

8 Q. Do any of these newsletters and magazines
9 contain any advertising material for Three Angels
10 Broadcasting Network?

11 A. What type of advertising?

12 Q. Do any of these newsletters or magazines
13 contain advertising for the satellite systems?

14 A. I believe the magazine has information like
15 that.

16 Q. Contained in the newsletters or magazines is
17 there any -- are there any forms or order forms for
18 people to make contributions to Three Angels
19 Broadcasting?

20 A. Only in the magazines.

21 Q. Are the magazines generally larger than the
22 newsletters?

23 A. Yes.

24 Q. Are the magazines published by Three ABN?

1 A. Yes.

2 Q. Are they produced on-site?

3 A. No.

4 Q. So you prepare the content, send them out to
5 somebody else to prepare the final product?

6 A. Yes.

7 Oh, as far as printing?

8 Q. Right.

9 A. It's printed outside of Three ABN, yes.

10 Q. You also have responsibility for the
11 scheduling of airtime?

12 A. Not directly.

13 Q. Okay. That's one of the areas that you
14 oversee?

15 A. Yes.

16 Q. Now, if a viewer is watching Three Angels
17 Broadcasting Network programming, do you know whether
18 or not the number to call Three ABN is provided to the
19 viewers through your airings?

20 A. Through our programming?

21 Q. Yes.

22 A. The phone number is on the screen most of the
23 time.

24 Q. So while a program is running you have a

1 number on the screen for them to contact Three Angels
2 Broadcasting Network?

3 A. For prayer.

4 Q. What number is that?

5 A. 1-800-752-3226.

6 Q. Is that the same number that people would
7 call in for the Call Center?

8 A. Basically on your printed materials we try to
9 keep the 618-627-4651 number and we try to keep the
10 1-800 number specifically for prayer.

11 Q. Now, I'll get back to that.

12 You have no knowledge with respect to how
13 costs were allocated for airtime, correct?

14 A. Could you rephrase the question?

15 Q. Sure.

16 You have no knowledge with respect to how
17 costs were allocated for airtime?

18 MR. MILLER: Objection. That wasn't
19 rephrasing. That was repeating.

20 ADMINISTRATIVE LAW JUDGE: I'm going to
21 overrule your objection. You're right it was
22 repeating, but I don't know that --

23 MR. MILLER: She asked for it to be rephrased.

24 ADMINISTRATIVE LAW JUDGE: I don't know that

1 she can ask for it to be rephrased, so I think repeat
2 the question would be the proper.

3 MR. MILLER: Then I'll object on the grounds
4 that it's confusing.

5 ADMINISTRATIVE LAW JUDGE: All right.

6 And the question again was?

7 MS. PETTY: You have no knowledge with respect
8 to how costs were -- how costs were calculated with
9 regard to airtime?

10 ADMINISTRATIVE LAW JUDGE: How is it
11 confusing?

12 MR. MILLER: The witness didn't understand it.

13 ADMINISTRATIVE LAW JUDGE: Oh.

14 Do you understand it now or do you --

15 THE WITNESS: Well, I'm thinking about it.

16 I guess my response to that would be that is
17 not my place and I can't say I have no knowledge
18 because I know who is involved in making the costs. I
19 just want to be totally honest here. I don't -- I
20 don't want to mess up.

21 MS. PETTY: You don't have any specific
22 knowledge regarding how costs were allocated, correct?

23 MR. MILLER: I'll object again. I think the
24 question is ambiguous. I'm not sure costs allocated

1 for airtime is a very abstract question. We're not
2 sure what costs are being talked about or what airtime
3 is being talked about.

4 ADMINISTRATIVE LAW JUDGE: Why don't you
5 rephrase it and be a little bit more specific if you
6 could do that?

7 MS. PETTY: Sure.

8 Do you have any knowledge with regard to what
9 percentage of the total operating expenses were
10 allocated to airtime production fees?

11 THE WITNESS: So you're talking about a
12 procedure? Do I know how the costs for airtime were
13 put together?

14 I would say basically, in essence, no.

15 Q. Would it be fair to say that you and Dan have
16 total decision making authority for airtime contracts?

17 A. Yes.

18 Q. The Board has no input into that?

19 MR. MILLER: Objection, mischaracterizes the
20 testimony.

21 MS. PETTY: It's another question.

22 MR. MILLER: Okay.

23 THE WITNESS: Well, I would say that the
24 Board, in essence, does have involvement, simply

000610

1 because they agree with and abide by our bylaws and
2 they have assigned Dan and myself to carry out our
3 bylaws of disseminating the gospel into all of the
4 world, and they have assigned those duties for finding
5 good programs for Three ABN and putting it on the air.

6 So I would say, in essence, yes, they are
7 involved and they have endorsed what we do.

8 MS. PETTY: Do you take the specific contracts
9 for airtimes to the Board?

10 A. No.

11 Q. Now, these catalogs that you distribute, I'll
12 just show you a couple of them. I'm showing you what's
13 been admitted as Intervenor's Exhibit 7 and 8.

14 A. Uh-huh.

15 Q. Are those familiar to you?

16 A. Yes, they are.

17 Q. Okay. These are a catalog -- these two are
18 catalogs of items that Three ABN sells, right?

19 A. Not -- this item here, I guess it's called
20 Intervenor's Number 7, is that correct?

21 This is our video catalog. This is a copy of
22 our free magazine.

23 Q. I'm sorry. Okay. Thank you for that
24 clarification.

000611

1 Now, with regard to seven, which is the
2 catalog, that is a sampling of things that Three ABN
3 does sell, correct?

4 A. No. This catalog is also free.

5 Q. But --

6 A. This is a video catalog that is distributed
7 free of charge.

8 Q. The catalog is distributed free?

9 A. Yes.

10 Q. But the items that are inside the catalog?

11 A. There is a charge.

12 Q. The number that is on the front of that
13 catalog to call for ordering those items that are
14 inside the catalog?

15 A. Uh-huh.

16 Q. Is 800-752-3226?

17 A. Yes, and that is a mistake.

18 Q. But that's the number that's on that catalog?

19 A. Yes.

20 Q. And this catalog was distributed, to the best
21 of your knowledge?

22 A. I couldn't guarantee it.

23 Q. Is that 800 number 752-3226 the same number
24 that is on the screen?

1 A. Yes.

2 Q. During the airtime or the airing of Three
3 ABN?

4 A. Yes.

5 Q. Do you have any idea or knowledge with regard
6 to any written policies regarding providing items in
7 those catalogs for free or reduced charges for people
8 who can't afford them?

9 A. Basically what we have spoken and I do
10 believe there is places that we have written that all
11 of the programs that are produced by Three Angels
12 Broadcasting Network we encourage people to copy them
13 on their VCRs and to distribute them for evangelism
14 purposes, and none of our videotapes are copyrighted.

15 And we do that on purpose so people will feel
16 free about copying our programs on the air and
17 distributing them.

18 If people chose, rather than to not do the
19 VCR thing of copying the programs on the air, they do
20 have the option of purchasing the videos in this
21 catalog and then they can also copy those and share
22 those.

23 Q. Okay. But you don't have a written policy by
24 the Board that says for people who want these items in

000613

1 our catalog for free or reduced charges because they
2 can't afford them?

3 A. Well, I have to refer back to our Bylaws.
4 Our Bylaws say that we are charitable and giving and
5 basically that is the function of Three ABN and that's
6 what we strive to do.

7 Q. To your knowledge there is no written policy
8 regarding how the guidelines are determined for who
9 qualifies for a free or reduced charge item?

10 A. Well, again, I'd have to refer back to our
11 Bylaws because we don't set any standards or
12 qualifications. The gospel is for every kindred,
13 nation, tongue, and people.

14 Q. So you don't have a written policy that
15 specifically outlines those factors --

16 A. Well, I believe that our bylaws are a written
17 policy.

18 Q. Let me just finish the question so that was
19 have a clean record, Ms. Shelton.

20 You don't have a specific written policy that
21 specifically outlines what factors are used or what
22 direction is given by the Board that says, these people
23 who call and request these items that you sell for free
24 or reduced charges are entitled to them?

000614

1 A. I have to go back to our Bylaws, because I do
2 believe that is a written policy basically giving us
3 guidelines as to how we should function as a ministry.

4 MS. PETTY: Your Honor, at this time I move to
5 strike the last response as nonresponsive.

6 ADMINISTRATIVE LAW JUDGE: I agree. Please
7 strike the last response.

8 MS. PETTY: Ms. Shelton, I'm showing you
9 what's been marked Applicant's Exhibit Number 2, which
10 are the Articles of Incorporation, and I believe
11 attached to that are the Bylaws.

12 MR. MILLER: I'm not sure. I think the Bylaws
13 are -- I think those are the Bylaws.

14 MS. PETTY: Oh, that's all the Bylaws. Okay.
15 Are you familiar with that document?

16 THE WITNESS: Yes.

17 Q. That's one of the documents maintained by the
18 Board of Directors?

19 A. What do you mean by maintained?

20 Q. It's kept by Three Angels Broadcasting?

21 A. Yes.

22 Q. And it outlines your functions?

23 A. Uh-huh.

24 Q. And you signed this document?

000615

1 A. Yes.

2 Q. Can you tell me whether or not there are any
3 specific guidelines set out in those Bylaws and
4 Articles that provide guidelines for how calls
5 regarding requests for free or reduced charged items
6 are handled?

7 A. I would say not specifically.

8 Q. Okay. Thank you.

9 You have no involvement in the satellite dish
10 sales?

11 A. No.

12 Q. Now, do you have -- would it be fair to say
13 that the Board of Directors generally does not like to
14 micromanage the operation or the business operations of
15 Three ABN?

16 A. It depends, how you would --

17 MR. MILLER: You know, I'll object. I think
18 that's vague. I mean, that's a very broad
19 characterization and it wasn't the testimony of this
20 witness.

21 MS. PETTY: I can ask more specific questions.

22 ADMINISTRATIVE LAW JUDGE: Okay. Why don't
23 you rephrase it?

24 MS. PETTY: Okay. Does the Board determine

1 what charge is going to be set for satellite dishes?

2 THE WITNESS: I would say no.

3 Q. Okay. Does the Board determine what prices
4 are set for the videos?

5 A. No.

6 Q. Does the Board tell you how much to charge
7 for airtime?

8 A. No.

9 Q. Does the Board tell you -- give you a list at
10 the beginning of the year and say these items are to be
11 given away for free?

12 A. No.

13 Q. Ms. Shelton, during the years 2000 and 2001
14 did you have a Dodge Durango?

15 A. No.

16 Q. I'm referring to I guess Exhibit 24, the CD.

17 Were these -- was this CD produced at Three
18 Angels Broadcasting Network property?

19 A. You mean -- the music was not.

20 Q. Okay. Did you record it there?

21 A. The music was not.

22 Q. You have no -- received no royalties for
23 this?

24 A. No.

000617

1 Q. Do your songs get licensed that you write?

2 A. What do you mean by licensed?

3 Q. Does somebody have to pay you a fee to use
4 your songs?

5 A. No.

6 Q. Does somebody have to pay another
7 organization to use or air your songs?

8 A. Pay another organization to use, no.

9 Q. So if somebody were to air your songs on the
10 radio, would the radio have to pay any type of fee to
11 whoever owns the license for this CD?

12 A. I think I know where you're going now.

13 MR. MILLER: Objection, foundation.

14 MS. PETTY: Well, she's starting to answer the
15 question so.

16 MR. MILLER: And I objected before she did
17 answer. I want a foundation.

18 ADMINISTRATIVE LAW JUDGE: Let's go ahead and
19 lay some foundation for this.

20 MS. PETTY: Okay. Well, let me ask you
21 another question.

22 Are your songs licensed through BMI?

23 THE WITNESS: Yes.

24 Q. And what is BMI?

1 A. Broadcast Music Incorporated.

2 Q. Is this company in anyway affiliated with
3 Three Angels Broadcasting Network?

4 A. No.

5 Q. Is that a private company?

6 A. Yes.

7 Q. And what is the arrangement with BMI for the
8 license for your songs?

9 MR. MILLER: Objection, foundation.

10 MS. PETTY: Do you know what the arrangement
11 is between BMI and you or Three ABN for the license of
12 your songs?

13 THE WITNESS: Basically what BMI does is, if
14 the songs receive massive airplay, I would get royalty
15 checks. Quite frankly the largest royalty check that
16 I've ever received has been like \$20.

17 Q. So you did receive royalties, a royalty
18 check?

19 A. Well, when you were talking about royalties I
20 thought you were talking about royalties from Three
21 ABN.

22 Q. Okay. And where do those royalties go, to
23 you or to --

24 A. To me.

1 Q. This CD is copyrighted by Three Angels
2 Broadcasting Music?

3 A. No, it's not copyrighted. The songs, the
4 individual songs themselves are copyrighted by myself
5 because they belong to me. The project belongs to
6 Three ABN.

7 Q. Okay. Is Three ABN Music -- what is that?

8 A. If you're talking about the years 2000 and
9 2001 that doesn't apply.

10 Q. Okay. What is it though?

11 MR. MILLER: Objection, outside the scope.

12 MS. PETTY: Of your direct?

13 ADMINISTRATIVE LAW JUDGE: Of this Court's
14 jurisdiction and the relevance and the direct. Well,
15 no, it wouldn't be outside the scope of the direct
16 because I did proffer this. But if the organization
17 had nothing to do with 2000 and 2001, we need to lay a
18 foundation about the connection between it and anything
19 that happened then.

20 ADMINISTRATIVE LAW JUDGE: Why don't you go
21 ahead and lay a foundation I think?

22 MS. PETTY: Okay. During the years 2000 and
23 2001 was Three ABN Music apart of Three ABN
24 operations?

000620

1 THE WITNESS: I'd have to say no. I think on
2 previous CDs we might have put a label on it just
3 because CDs normally have a label, but it was not
4 actually formally documented, and I'm not exactly sure
5 of the procedure that you have to go through to acquire
6 a Three ABN Music label, but at that time there was no
7 Three ABN Music label.

8 Q. So Three ABN Music is an actual label now?

9 A. I thought we were just talking about years
10 2000 and 2001?

11 ADMINISTRATIVE LAW JUDGE: I think she's
12 trying to clarify as far as it was not in existence in
13 2000 and 2001.

14 THE WITNESS: No.

15 ADMINISTRATIVE LAW JUDGE: But it is --

16 MR. MILLER: So the foundation then is that it
17 doesn't relate to that period.

18 ADMINISTRATIVE LAW JUDGE: I can understand
19 that, however, there has been foundation laid for the
20 music itself, and I'd just like a clarification.

21 I realize it go did not exist in 2001,
22 however, the label on the back of this says 2001, so
23 there is a correlation.

24 MS. PETTY: That's right. . And that was my

1 next question.

2 And the label, I don't know if you need to,
3 you want to look at this?

4 THE WITNESS: Well, I know what it says.

5 MR. MILLER: Why don't you look at it, Linda,
6 just to be sure?

7 THE WITNESS: Well, as I previously
8 mentioned --

9 MS. PETTY: I'm sorry, there is no question
10 pending..

11 A. Okay. I think I answered that already.

12 Q. So this was copyrighted and there is a 2001
13 Three ABN Music label on the back of this CD cover,
14 correct?

15 A. I think you should divide up those questions
16 so I can address them individually.

17 Q. Okay. When was this CD copyrighted?

18 A. The CD itself is not copyrighted.

19 Q. Okay. When were your songs copyrighted?

20 A. The songs were copyrighted approximately a
21 year ago.

22 Q. So 2001?

23 A. Yes.

24 Q. When was the CD produced?

1 A. During the year 2001.

2 Q. And were they -- this was under Three ABN
3 Music label?

4 A. Well, as I mentioned earlier, this --
5 normally when you buy a CD it will have some type of
6 label on the back, and we prepared this just as a
7 label, so we would be identified similarly as other
8 CDs, though this was not actually formally documented
9 as a Three ABN Music label.

10 Q. Okay. But today it would be?

11 MR. MILLER: If you know, that's fine.

12 THE WITNESS: Well, we just recently voted I
13 think during our May meeting to actually proceed in
14 developing the Three ABN Music label, so it's not --
15 it's in the development stages.

16 MS. PETTY: Okay. What happens if somebody
17 violates your copyright for these songs, if you know?

18 A. I've never had any of my songs violated, so I
19 don't know what that means, and it's really unlikely
20 that that would happen.

21 Q. Okay.

22 ADMINISTRATIVE LAW JUDGE: I think it's time
23 to take a recess, fifteen minutes.

24 Do you think that's sufficient?

1 MR. STEINKAMP: Better make it 20 minutes.

2 ADMINISTRATIVE LAW JUDGE: And reconvene at
3 quarter til eleven.

4 (Whereupon a short recess
5 was taken.)

6 MS. PETTY: I just have a few more questions.

7 ADMINISTRATIVE LAW JUDGE: I remind you you're
8 under oath.

9 THE WITNESS: Okay.

10 MS. PETTY: In the year 2000 was the Board
11 involved in the settlement of a licensing fee?

12 A. I don't know.

13 Q. Do you have any knowledge about a licensing
14 fee settlement?

15 A. Not that I am aware of, no.

16 Q. Are you on the Board of Directors or an
17 officer of any other corporation?

18 A. No.

19 Q. In your opinion what would the, not your --
20 in your personal opinion, how would the imposition of
21 property taxes affect the operations of Three ABN?

22 A. Obviously it would mean less money that we
23 would have to operate and use and grow to spread the
24 Gospel.

1 But I think where it would hurt us the most
2 is the integrity of the ministry, because people
3 support ministries because they are tax exempt and they
4 know that the money is going to go to spread the Gospel
5 and to do charitable work.

6 I think it would harm the ministry very much
7 if people found out that we were required by law to pay
8 property taxes.

9 I think people would pull back and say, well,
10 you know, I think I'll support another ministry from
11 another state that doesn't have to pay property taxes.

12 Q. Did you inform your viewers that Three ABN
13 was purchasing an aircraft?

14 MR. MILLER: Objection, Your Honor.

15 ADMINISTRATIVE LAW JUDGE: What's the basis of
16 the objection?

17 MR. MILLER: Outside the scope of direct,
18 relevance, lack of foundation. If I think of any more
19 I'll let you know.

20 ADMINISTRATIVE LAW JUDGE: I think that's
21 sufficient. I'll sustain the objection.

22 MS. PETTY: I will withdraw the question.

23 ADMINISTRATIVE LAW JUDGE: Thank you.

24 MS. PETTY: I'm done.

1 ADMINISTRATIVE LAW JUDGE: All right.

2 Anything on redirect?

3 MR. MILLER: Just a few questions.

4 MR. STEINKAMP: Judge, if I have a couple of
5 question, is this my time to ask?

6 ADMINISTRATIVE LAW JUDGE: Yes.

7 I'm sorry, I didn't --

8 MR. STEINKAMP: I'm sorry. I didn't let you
9 know, but I do have some questions about production at
10 the --

11 ADMINISTRATIVE LAW JUDGE: This is Mr.
12 Steinkamp. He represents the Department.

13 THE WITNESS: Hi there.

14 EXAMINATION

15 BY MR. STEINKAMP:

16 Q. You're involved in -- are you supervising any
17 of the production areas at Three ABN at the site there
18 in Thompsonville?

19 By production, I mean, the, you know, the
20 camera work, the sound men, the other technical areas,
21 engineers? Is that anywhere in your area of
22 supervision?

23 A. I don't supervise it directly.

24 Q. Who is responsible for production at Three

1 ABN, again, in the same sense of the things I
2 mentioned, all of those technical areas?

3 A. We have layers of authority. I'd say
4 ultimately our Board of Directors would be responsible
5 for our productions, then Dan, then myself, then our
6 Operations Manager, then the Directors. That layers
7 down.

8 Q. So are you saying you are in the chain of
9 command?

10 A. Yes, uh-huh.

11 Q. Are you, in that position then do you become
12 aware of the quality of production activities there at
13 Three ABN?

14 Do you have something to do with the quality
15 of the production activities?

16 MR. MILLER: I'll object on vagueness ground.
17 I'm not sure if he's talking about technical quality or
18 the programming content or maybe you could just make
19 the question more specific.

20 MR. STEINKAMP: All right. As an artist you
21 must notice how the results of the various taping and
22 transmission products turn out?

23 THE WITNESS: Yes.

24 Q. Just from an artistic point of view, don't

1 you?

2 A. Uh-huh.

3 Q. And production enters into the artistic
4 quality of the result, is that correct?

5 A. Yes.

6 Q. Do you have knowledge of how production might
7 improve or decrease the quality of the result?

8 A. I would say that the different layers that I
9 just mentioned would be involved. I myself would be
10 involved because when I watch Three Angels Broadcasting
11 Network at home, if I see something, I will alert the
12 people who need to make the changes right away.

13 Q. Okay. Do you -- do you have knowledge, when
14 you see something that's wrong, do you have knowledge
15 about the specific area that needs to be improved,
16 whether it be sound or camera work or transmission or
17 something, engineering? I mean --

18 A. Yes, because, simply because I've learned
19 production from the grass roots level, and since we've
20 been involved in it for 18 years now, I've received an
21 education in what television should look like.

22 Q. Okay. Do you compare the production quality
23 of Three ABN to the production quality of other cable
24 programming or noncable programming?

1 A. I would say more I check out other religious
2 networks and see what type of quality they have and
3 also what type of programming.

4 Q. Do you have an opinion as to how Three ABN's
5 quality of production compares with any of these other
6 religious broadcasters?

7 A. I personally feel --

8 MR. MILLER: Objection.

9 MR. STEINKAMP: I'm just asking her if she has
10 an opinion.

11 THE WITNESS: Well, I personally think that
12 our production quality is very good.

13 Q. Okay. Is it as good as any of these others?

14 A. I would say with most of them Three ABN is
15 much better.

16 Q. Okay. And do you have knowledge of how you
17 achieve that quality of production?

18 A. I think it's a learning and growing process
19 and we've learned and grown a lot over the years.

20 Q. Can I ask you, do you -- do you hire
21 personnel in the production area that are as competent
22 as personnel at any other broadcasting facility?

23 MR. MILLER: Well, I'll object. I think that
24 lacks foundation as far as what other broadcasting

1 facilities hire, who runs their programming.

2 ADMINISTRATIVE LAW JUDGE: Do you want to lay
3 a foundation for the question?

4 MR. STEINKAMP: When you -- when you go out to
5 hire people are you looking for competent people that
6 produce the quality that are equal to any other
7 broadcasting?

8 THE WITNESS: There are certain positions that
9 require the competency that you're speaking about, but
10 then there is other areas in production, such as
11 running and operating a camera. We basically could
12 hire somebody off the street and if they have any
13 artistic leanings at all, they could learn how to
14 operate a camera.

15 Q. But when you hire people you're trying to
16 hire people who will help you produce, and once -- you
17 try to hire people who are competent and able to help
18 you produce quality that's as high as any other
19 broadcasting facility; is that correct?

20 MR. MILLER: Objection, Your Honor. I'm not
21 sure what the relevancy of this is and, furthermore,
22 it's beyond the scope of the direct and, furthermore,
23 the question keeps throwing in, as compared to other
24 facilities, and there is no foundation that's been laid

000630

1 as to Mrs. Shelton's knowledge of hiring at other
2 facilities.

3 MR. STEINKAMP: She just testified that she
4 notices other, you know, that she compares Three ABN's
5 quality to the quality of other facilities.

6 What I'm asking her is if she has any
7 knowledge of or well, I'll -- I'll ask you then.

8 Do you -- do you hire people who are -- do
9 you hire professionals in these production areas that
10 are available to -- to any other producers of
11 television programming?

12 Are you aware of --

13 MR. MILLER: I'll object, Your Honor, on the
14 basis of foundation. How would she know if they're
15 available to other, and I'm not sure where the question
16 is going.

17 MR. STEINKAMP: Well, the question is when you
18 go out to hire people you go into the general, let's be
19 specific then.

20 If -- if you needed to hire a new engineer
21 who works at -- on a television production, and you'll
22 forgive me if I'm not aware of all the technical names
23 for these people, but I think you get the general idea,
24 if there is some professional in the production area

1 that you need to hire, do you advertise for that, to
2 hire that person?

3 Is that how you go about it? Do you
4 advertise generally to hire the person?

5 THE WITNESS: Yes.

6 Q. And when you get applicants are those
7 applicants people who have the qualifications to be
8 hired?

9 Put it this way, do they put themselves out
10 as people who could be hired anywhere else in
11 television at the same technical position?

12 A. Well, we receive a wide variety of
13 applications for jobs and they're at varying levels of
14 experience and training.

15 Q. Uh-huh.

16 So how do you select a person that you
17 eventually hire in these technical areas?

18 A. Number one, since we are a Christian
19 ministry, we do require that the person is a
20 Christian. It does not matter, you know, which faith
21 that they are, but we do require that they are a
22 Christian, first of all, and.

23 Q. Can I ask a question just at this point to
24 help clarify this?

1 In making that selection, the people you hire
2 and these technical people be Christian, do you think
3 that diminishes in any way the competence or quality of
4 the applicants that are left after that selection?

5 A. As far as their technical abilities, is that
6 what you're talking about?

7 Q. Yes. Yes.

8 The ability to do the job? Is making the
9 first criteria that they be Christian reduce in any way
10 the competence of the -- of the group of people you're
11 going to be hiring from at that point?

12 MR. MILLER: Your Honor, is this a
13 hypothetical?

14 MR. STEINKAMP: Not at all. We're talking
15 about the activities on the property. All of my
16 questions go to the activity of the Three Angels
17 Broadcasting.

18 As a matter of fact, we're talking about
19 activities in the most basic sense, which is producing
20 television programming, and that's what I'm getting
21 at. That's what this is all relative to, the
22 production of television programming.

23 MR. MILLER: Is there foundation that she
24 actually does the hiring?

1 MR. STEINKAMP: She apparently does. She's --
2 the questions she's answered so far --

3 ADMINISTRATIVE LAW JUDGE: Why don't you
4 establish that foundation?

5 MR. STEINKAMP: Are you involved in the hiring
6 of technical people?

7 THE WITNESS: Yes, I am involved.

8 Q. Okay. I assumed that from the fact that she
9 was in the chain of command, okay, and her knowledge
10 too.

11 Anyway, so my question again is, you have a
12 group of people who have answered an inquiry for an
13 open position at Three ABN for some, you know, and
14 you've made a selection presumably among all of the
15 people who have applied that the final person to hold
16 the job is going to be a Christian. That's what --
17 isn't that what you have testified to?

18 A. Yes.

19 Q. All right. Does the reduction of the total
20 number by those who are non-Christian give you any less
21 quality of applicants to choose from?

22 MR. MILLER: Your Honor, the question is very
23 vague.

24 MR. STEINKAMP: It's not vague at all. It's

1 very specific.

2 MR. MILLER: I'd like to continue my
3 objection.

4 MR. STEINKAMP: You just don't like the
5 answer.

6 MR. MILLER: No. It's vague and abstract
7 because it's not talking about a particular position.

8 Presumably this process has gone on for a
9 number of times and a number of different positions and
10 the answer could be different depending on the
11 different applicants that we talk about.

12 MR. STEINKAMP: Do you remember hiring for any
13 particular position at Three ABN in the last 18 years
14 that you've been involved there?

15 THE WITNESS: Yes.

16 Q. Could you name one of the positions in the
17 technical production area that you've been involved in
18 hiring?

19 MR. MILLER: Object, as far as 2000 and 2001
20 would be appropriate.

21 MR. STEINKAMP: All right. Let's say, during
22 the year 2000 and 2001 did you hire anybody in the
23 production area.

24 THE WITNESS: I'm sure that we did. I don't

1 remember anyone specifically.

2 Q. Uh-huh.

3 What are the -- do you have engineers in your
4 production staff?

5 A. Yes.

6 Q. And what do those engineers do as far as you
7 are aware?

8 A. Actually my husband is over engineering and
9 I'm just not connected with that department.

10 Q. What about sound experts?

11 Is that -- are those engineers or is that
12 someone more technical, less --

13 A. We call them like audio person.

14 Q. Is that a person that you would have been
15 involved in hiring, audio person?

16 A. Actually what happens is my operations
17 manager goes through all the applications, actually
18 does the initial interviews, and the only ones that I
19 will end up speaking to are the ones that have been
20 totally screened, and these are the ones that they want
21 to hire, so I'm really not involved in the initial
22 processes at all.

23 Q. And when you talk to these people, what is
24 the decision that you're being asked to make at that

1 point about hiring?

2 A. When I talk to who?

3 Q. When you talk to the people that have been
4 selected to speak with you after the interview?

5 A. Basically, you know, since I am not as
6 technical as the people who work beneath me, I go by
7 their recommendations.

8 Q. Okay.

9 A. And, you know, basically when it comes to Dan
10 and myself, when we talk to them it's -- it's just kind
11 of, you know, how do we feel about these people, how do
12 we like them, and do we feel like they will blend in
13 with the ministry that we have.

14 Q. And is part of the consideration whether
15 they're going to do their job well?

16 A. Sure.

17 Q. Is your goal in hiring technical people to
18 produce the highest quality television programming that
19 you can achieve?

20 A. Within the wages that we offer.

21 Q. And if you could explain, does that limit you
22 in the quality that you get, --

23 A. Yes.

24 Q. -- the wage level?

1 Do you have any knowledge of the -- does
2 the -- strike the beginning of that there. Sorry for
3 being so confusing.

4 Does the quality of the programming also
5 depend on the equipment that you purchase for
6 programming?

7 A. Partially.

8 Q. Do you have any knowledge of how Three ABN
9 selects the equipment it purchases?

10 A. No.

11 Q. Okay. You mentioned before, this is a
12 different subject area. You mentioned before that you
13 thought that if donors knew that part of their donation
14 was going to pay taxes or specifically property taxes
15 that that would make you less able to get them to
16 donate to Three ABN. Am I correct in characterizing
17 your testimony in that way?

18 A. I don't think I phrased it exactly like
19 that.

20 Q. Do you think that if they knew that they had
21 to pay property taxes that that would make it less
22 likely that you could get donations?

23 A. I think we would be a less desirable ministry
24 to support.

1 Q. When you say that are you aware that Three
2 ABN has been paying property taxes on properties other
3 than this particular piece of property over the years?

4 A. Yes, on properties that we're required to.

5 Q. Well, I guess my question is, did people who
6 were donating to you at that time have the knowledge
7 that you either were or may have been paying property
8 taxes when they were donating to you?

9 MR. MILLER: Objection, as to what view --

10 MR. STEINKAMP: Did you make that known to
11 them?

12 THE WITNESS: I don't recall speaking of it.
13 However, now this case is very much aware to our
14 donors.

15 Q. How is that?

16 A. We've made mention and there is a lot of
17 people actually praying for what is happening here.

18 Q. Have you made mention on your television
19 program --

20 A. Yes, we have.

21 Q. -- that this is a problem?

22 Well, when you made mention of it did you say
23 that this is -- that you have been paying property
24 taxes before as well, and did you make that mention of

1 the entire context of this?

2 MR. MILLER: Objection, Your Honor.

3 MR. STEINKAMP: What's the objection?

4 MR. MILLER: The objection is that it's
5 beyond, it's not relevant because --

6 MR. STEINKAMP: She brought it up.

7 MR. MILLER: -- as to property -- the taxes
8 were never paid on the property used for the Three ABN
9 facilities. We've had testimony the taxes were paid on
10 properties not used for Three ABN purposes and I
11 believe the question conflates the two.

12 ADMINISTRATIVE LAW JUDGE: I think I'm --

13 MR. STEINKAMP: I have no further questions.

14 ADMINISTRATIVE LAW JUDGE: Okay. Do you have
15 anything on redirect?

16 MR. MILLER: I do have a couple questions.

17 REDIRECT EXAMINATION

18 BY MR. MILLER:

19 Q. Now, you testified that there was a mistake
20 on one of the catalogs regarding the number that was on
21 that catalog?

22 A. Yes.

23 Q. And what number should have been on that
24 catalog?

1 A. 618-627-4659.

2 Q. And is that the number that appears on
3 Respondent's Exhibit Number 9, which is a Television
4 and Radio Winter 2001 Catalog?

5 A. Yes.

6 Q. And that's the number that should have been
7 on the other catalog?

8 A. Yes.

9 Q. You were asked a line of questioning about
10 whether the Board sets the prices of CDs and satellite
11 dishes and other financial arrangements of Three ABN,
12 and you testified they did not.

13 My question is, is the Board aware of the
14 prices that are set for satellite dishes and CDs and
15 videos?

16 A. Yes, they are.

17 Q. And do they approve the financial statements
18 and arrangements of Three ABN on a regular basis?

19 A. Yes, they do.

20 Q. Now, this CD that you sang and produced on,
21 do you receive any royalties from the sale of the CD
22 itself?

23 A. No.

24 Q. As far as airtime is concerned, does Three

1 Angels Broadcasting -- do you receive royalties if
2 the -- if the CD or song is played over Three Angels
3 Broadcasting systems?

4 A. No.

5 Q. Where would you receive royalties from
6 airtime playing, if you did receive any?

7 A. What type of airtime?

8 Q. Well, I think you testified earlier that
9 theoretically you could receive royalties if this CD
10 was played all across the country?

11 A. Yes.

12 MS. PETTY: Objection, Your Honor. I think
13 that mischaracterizes the testimony.

14 ADMINISTRATIVE LAW JUDGE: I would agree. If
15 you want to rephrase it.

16 MR. MILLER: I think she just said yes.

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE: Well, let's strike
19 that and if you want to rephrase it.

20 MR. MILLER: Under what circumstances would
21 you receive royalties?

22 THE WITNESS: From the -- from BMI.

23 Q. And have you received royalties, airtime
24 royalties for this present CD that is entered as an

1 exhibit?

2 A. No.

3 MR. MILLER: Thank you for your testimony.

4 THE WITNESS: Thank you.

5 MS. PETTY: I'm sorry, I have a few.

6 ADMINISTRATIVE LAW JUDGE: They get a chance
7 to recross now.

8 MR. MILLER: But it's just limited to the
9 questions I'm asking right now.

10 ADMINISTRATIVE LAW JUDGE: Just to the
11 questions.

12 RE CROSS EXAMINATION

13 BY MS. PETTY:

14 Q. You testified you proofread, you proofread
15 catalogs as part of your job?

16 A. Yes.

17 Q. With regard to the number that should have
18 been on the catalog, which is the 618 number, it
19 doesn't matter, that was your 618 number for the Three
20 ABN Call Center.

21 Is that where the number goes to,
22 618-627-4651?

23 A. That's the main phone number for Three ABN.

24 Q. Where does that phone number, if I were to

1 call it, where would I go? Where would it be directed?

2 A. The receptionist answers that number.

3 Q. Okay. And if I wanted to purchase something,
4 would that call get directed to the Call Center?

5 A. Yes.

6 Q. Now, you said the 800 number 752-3226 number
7 is for prayer?

8 A. Yes.

9 Q. I'm going to show you what's been previously
10 marked as Exhibit 24. This is your, the insert into
11 the CD?

12 A. Uh-huh.

13 Q. I ask you to turn to the back page of that
14 insert and tell me what the phone number is on that to
15 purchase more of those CDs, on the inside of the back
16 label.

17 A. Well, our phone number is on the back.

18 Q. Okay. Well, then let's go at it this way.
19 What is the number that's on the inside of
20 that CD?

21 A. That is our 800 number, which is another
22 mistake.

23 Q. But you would agree that it is in there?

24 A. Yes, but also our 618-627 --

1 MS. PETTY: I'm sorry, there is no question
2 pending.

3 Did you alert your -- I'm sorry.

4 That's all I have.

5 REDIRECT EXAMINATION

6 BY MR. MILLER:

7 Q. What was the number on the back of the CD
8 cover?

9 A. 618-627-4651.

10 MR. MILLER: Thank you.

11 ADMINISTRATIVE LAW JUDGE: I thought you might
12 want to ask that.

13 MR. MILLER: I have no further questions, Your
14 Honor.

15 ADMINISTRATIVE LAW JUDGE: Anything else, Mr.
16 Steinkamp?

17 MR. STEINKAMP: Can I go back to the issue of
18 likelihood of donors to contribute under certain
19 circumstances, or am I not allowed to do that?

20 MR. MILLER: No, Your Honor. That would be
21 beyond the scope.

22 MR. STEINKAMP: My question was going to be
23 whether they would be more or less likely to donate if
24 they knew lawyers fees were being paid.

1 MR. MILLER: And that would be beyond the
2 scope.

3 ADMINISTRATIVE LAW JUDGE: And that's correct
4 so, no, Mr. Steinkamp.

5 MR. MILLER: It's a nice try.

6 ADMINISTRATIVE LAW JUDGE: And now I think
7 you're done.

8 THE WITNESS: Thank you very much.

9 ADMINISTRATIVE LAW JUDGE: You're welcome.

10 Is there any other witness? Do I need to
11 call security?

12 MR. MILLER: No. I think that's it.

13 MS. PETTY: Oh, Your Honor, before we go off
14 the record, just for clarity of the record, I think you
15 need five copies of those CDs.

16 ADMINISTRATIVE LAW JUDGE: That's correct, if
17 it's an exhibit so.

18 MR. BOOTHBY: We can make those available.

19 ADMINISTRATIVE LAW JUDGE: Now you're giving
20 away all sorts of stuff. Let me go ahead and escort
21 them up or else call security.

22 (Whereupon a short recess
23 was taken.)

24 MR. BOOTHBY: Applicants have a few offers of

1 proof to make at this time, Your Honor.

2 (At this time Offers of Proof
3 Numbers 4-7 were given and has
4 been removed from this
5 transcript at the request of
6 the ALJ.)

7 MR. BOOTHBY: Before we close we would like to
8 make sure we have in all the exhibits that we wish to
9 have in.

10 ADMINISTRATIVE LAW JUDGE: Okay.

11 MR. MILLER: Or that the court will allow us
12 to have in.

13 ADMINISTRATIVE LAW JUDGE: Okay. The ones
14 that are not entered so far are 5, 6, and 7 to begin
15 with. Those are the tax letters.

16 MR. MILLER: And I think the basic objection
17 there was that they hadn't been provided in discovery
18 and we were going to be showing where they were
19 requested and it was our position in any event that the
20 documents were documents created by the State and they
21 should have possession of them, so that's where we
22 were, I think.

23 It was, one of them was the IRS tax exempt
24 letter and the other two were the tax exempt letters

1 from the Department of Revenue.

2 ADMINISTRATIVE LAW JUDGE: Hold on and let me
3 get them first if you don't mind.

4 MR. MILLER: Sure.

5 ADMINISTRATIVE LAW JUDGE: Is there still an
6 objection to the admission into evidence of Applicant's
7 Exhibits 5, 6, and 7?

8 MS. PETTY: That's fine.

9 MS. RHOADES: No, there is no objections.

10 ADMINISTRATIVE LAW JUDGE: Okay. Let the
11 record reflect that Applicant's Exhibit Numbers 5, 6,
12 and 7 are admitted into evidence.

13 (Applicant's Exhibit Numbers 5-7
14 were admitted into evidence.)

15 ADMINISTRATIVE LAW JUDGE: I'm assuming you're
16 not objecting?

17 MR. STEINKAMP: No.

18 ADMINISTRATIVE LAW JUDGE: Exhibit 8 is
19 admitted into evidence.

20 MS. PETTY: For demonstrative purposes.

21 (Applicant's Exhibit Number 8
22 was admitted into evidence.)

23 ADMINISTRATIVE LAW JUDGE: Uh-huh.

24 Nine is. Ten is not admitted.

1 MS. PETTY: It was used to refresh her
2 recollection.

3 MR. MILLER: As I recall, that was the record
4 that was used to refresh her recollection, so that's
5 fine.

6 Eleven --

7 ADMINISTRATIVE LAW JUDGE: Then can we just
8 remove Applicant's Exhibit 10?

9 MR. MILLER: I believe that's right.

10 ADMINISTRATIVE LAW JUDGE: Okay. And
11 everyone, if you'll just put on your Index 10 was
12 removed.

13 MR. MILLER: So eleven was the video and we
14 would request that it be part of the -- but even if
15 it's not, it's going in as an offer of proof for
16 eleven.

17 ADMINISTRATIVE LAW JUDGE: Okay. And I think
18 I've ruled on that that it's not admitted, but you did
19 an offer of proof for it, so that's taken care of.

20 MR. MILLER: Fourteen and fifteen are
21 admitted.

22 ADMINISTRATIVE LAW JUDGE: Twelve, thirteen,
23 fourteen and fifteen are admitted. Sixteen, seventeen,
24 eighteen, nineteen, twenty, twenty-one, twenty-two,

1 twenty-three, and twenty-four -- twenty-four's been
2 admitted.

3 Why don't we just take 16, 17, 18, 19, and
4 20, and 21?

5 MS. PETTY: Actually maybe we should take 16
6 and 17 first because --

7 ADMINISTRATIVE LAW JUDGE: What I'm saying is,
8 let's not take them all together.

9 MS. PETTY: Right.

10 ADMINISTRATIVE LAW JUDGE: I'm trying to break
11 them down.

12 MR. MILLER: I think there was, 16 and 17 I
13 think sort of go together. It's the airtime sold
14 during 2000 and 2001.

15 ADMINISTRATIVE LAW JUDGE: Right.

16 MR. MILLER: And I think the concern there was
17 the document was somehow, was slightly different than
18 the document that had been.

19 MS. PETTY: Right.

20 MR. MILLER: I think we would be fine in using
21 the original document that was submitted.

22 MS. PETTY: That's fine. We can use these.
23 That's fine.

24 ADMINISTRATIVE LAW JUDGE: You can go with

1 this as well?

2 MS. PETTY: Yes.

3 ADMINISTRATIVE LAW JUDGE: I mean, instead.

4 So there is no objection to the admission
5 into evidence of Applicant's Exhibits 16 and 17, is
6 that correct?

7 MS. PETTY: I'm sorry?

8 ADMINISTRATIVE LAW JUDGE: There is no
9 objection to the admission into evidence of Applicant's
10 Exhibits 16 and 17?

11 MS. PETTY: No objection.

12 ADMINISTRATIVE LAW JUDGE: Let the record
13 reflect that Applicant's Exhibits 16 and 17 are
14 admitted into evidence.

15 (Applicant's Exhibit Numbers 16 &
16 17 were admitted into evidence.)

17 ADMINISTRATIVE LAW JUDGE: Okay. Eighteen and
18 nineteen?

19 MR. MILLER: Well, 18, 19, 20, and 21 are
20 really the same kind of set.

21 MS. PETTY: Right.

22 MR. MILLER: And, once again, there was an
23 issue of inversion as they're slightly different and
24 now we've gone --

1 MS. PETTY: We can withdraw our objection,
2 because it's been cured.

3 ADMINISTRATIVE LAW JUDGE: So Exhibits 18-21
4 are admitted into evidence.

5 (Applicant's Exhibit Numbers 18-21
6 are admitted into evidence.)

7 ADMINISTRATIVE LAW JUDGE: Twenty-two and
8 twenty-three?

9 MS. PETTY: Those documents were prepared by
10 Mr. Lovejoy.

11 MR. MILLER: I can't remember what --

12 ADMINISTRATIVE LAW JUDGE: Those are the ones
13 with the proportions and --

14 MS. PETTY: That's correct. We still have --

15 MR. MILLER: I think that was one I had the
16 offer of proof on so.

17 MS. RHOADES: Right.

18 ADMINISTRATIVE LAW JUDGE: And I've got offer
19 of proof and they're not in evidence, so those have
20 already been taken care of as well I believe.

21 MR. MILLER: That's fine.

22 ADMINISTRATIVE LAW JUDGE: And that's all the
23 exhibits I believe, is that correct?

24 MS. PETTY: Twenty-four.

1 ADMINISTRATIVE LAW JUDGE: Twenty-four was the
2 CD and we already admitted that.

3 MS. PETTY: Yeah.

4 MR. MILLER: And then there's the offer of
5 proof.

6 ADMINISTRATIVE LAW JUDGE: Right.

7 So I think we have all the evidence.

8 Is there anything anyone over here wants to
9 say?

10 You'll get an opportunity to cross.

11 MR. MILLER: The Applicant will rest its
12 portion of the case reserving the right for rebuttal
13 witnesses if necessary.

14 ADMINISTRATIVE LAW JUDGE: Okay.

15 Shall we break for lunch?

16 MS. PETTY: We just maybe want to put one
17 thing on the record. We're not sure procedurally, just
18 so that we have a clear record.

19 (At this time Intervener's placed
20 objections to the offers of proof
21 on the record and they have been
22 removed from the transcript at the
23 request of the ALJ.)

24 ADMINISTRATIVE LAW JUDGE: Okay.

1 MS. PETTY: They rest?

2 ADMINISTRATIVE LAW JUDGE: Do you rest?

3 MR. MILLER: We rest.

4 ADMINISTRATIVE LAW JUDGE: Okay. Do we want
5 to take a break before we get into the Intervenor's
6 witnesses and their testimony?

7 MS. PETTY: Yes. It will be short but.

8 ADMINISTRATIVE LAW JUDGE: Quarter after one?

9 MS. RHOADES: Oh, that's fine.

10 ADMINISTRATIVE LAW JUDGE: Okay.

11 (Whereupon a lunch recess
12 was taken.)

13 ADMINISTRATIVE LAW JUDGE: Back on the
14 record.

15 Applicant has rested its case and now the
16 Intervenor's will proceed.

17 MS. RHOADES: Yes.

18 ADMINISTRATIVE LAW JUDGE: Do we need to
19 wait?

20 MR. MILLER: I think we're all right. I think
21 we can proceed.

22 MS. RHOADES: Our first witness will be
23 Cynthia Humm.

24

1 (The Witness was sworn
2 by the ALJ.)

3 CYNTHIA HUMM

4 called as a witness herein, at the instance of the
5 Intervenors, having been first duly sworn on her oath,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. RHOADES:

9 Q. Could you please state your name for the
10 record?

11 A. Cynthia K. Humm.

12 Q. What's your business address, Ms. Humm?

13 A. 202 West Main in Benton.

14 Q. And are you currently employed?

15 A. Yes, I am.

16 Q. And in what position?

17 A. Supervisor of Assessments in Franklin County.

18 Q. And how long have you held that position as
19 Supervisor of Assessments in Franklin County?

20 A. Four years.

21 Q. And so when you talk about four years, when
22 did you start in the position, the date?

23 A. June 15, 1998.

24 Q. Now, are you familiar with the property

1 that's the subject of this dispute in this hearing?

2 A. Yes, I am.

3 Q. And how are you familiar with that property?

4 A. I've driven past the property several times
5 so I know the general location and I've seen the
6 property record cards.

7 Q. And with respect to this particular property,
8 is it located within Franklin County, Illinois?

9 A. Yes, it is.

10 Q. And is that an area for which you serve as
11 the Supervisor of Assessment of?

12 A. Yes, it is.

13 Q. Now, with respect to this parcel of property,
14 could you please explain to us the status of this
15 particular parcel of property prior to the year 2000?

16 A. I don't have my records in front of me, but
17 to the best of my recollection it was assessed as
18 vacant ground.

19 MR. BOOTHBY: Objection. Best evidence would
20 be the records, particularly since we are dealing now
21 with tax records, and she said, as I understand it, in
22 beginning her answer she said, the best I can recall or
23 something like that.

24 MS. RHOADES: But I believe that she, the

1 witness can testify to the best that she can recall
2 what the status of this assessment was. It's not any
3 different than the objection we had earlier on best
4 evidence, Your Honor, and that was allowed in.

5 ADMINISTRATIVE LAW JUDGE: And that's exactly,
6 yes. I'm going to rule the same way. It's what we had
7 before what we have right now so she can go ahead and
8 testify as to what she remembers.

9 MS. RHOADES: And what do you remember with
10 respect to that parcel of property?

11 THE WITNESS: Prior to the year --

12 Q. 2000?

13 A. The assessment year 2000 it was assessed as
14 vacant ground.

15 Q. Do you have -- are you aware whether or not
16 this property has ever been granted an exemption and
17 when we're talking about this property, --

18 A. Not to my knowledge.

19 Q. -- the one that's the subject of this
20 dispute?

21 A. Not to my knowledge.

22 Q. Can you please tell us why this property was
23 assessed in the year 2000?

24 A. In 1999 there was new construction on the

1 property and the County Board of Review in their
2 property visits placed the value on the property for
3 the new construction.

4 Q. And prior, and prior to the Board of Review
5 placing the property, placing value on the property for
6 the year 2000 for the new construction, had any
7 representative of any governmental entity come to you
8 and, other than the Board of Review member, suggest
9 that this property needed to be assessed?

10 A. No.

11 MS. RHOADES: I have no further questions of
12 this witness.

13 ADMINISTRATIVE LAW JUDGE: Okay.

14 MR. BOOTHBY: Let me understand --

15 ADMINISTRATIVE LAW JUDGE: Excuse me. Ms.
16 Humm, this is Mr. Boothby. He represents the
17 Applicant.

18 MR. BOOTHBY: I'm sorry. Thank you.

19 ADMINISTRATIVE LAW JUDGE: I told you I'd do
20 the same thing for both sides.

21 MR. BOOTHBY: Good afternoon. I think you and
22 I met, oh, a couple of months ago.

23 THE WITNESS: Yes, we did.
24

1 CROSS EXAMINATION

2 BY MR. BOOTHBY:

3 Q. Would you tell us what your responsibilities
4 are as it relates to the assessment of property?

5 A. We -- the office is charged with the listing,
6 locating, and valuing of property. We also handle
7 property transfers. We do exemption applications, the
8 non-homestead, plus homestead exemption, the senior
9 freeze, the owner occupied. We report to the
10 Department of Revenue on the values and the
11 exemptions.

12 We, our office maintains the mapping system
13 for the county and numerous other activities that go
14 on.

15 Q. Now, as I understand it, you are the
16 Supervisor of Assessments in the county, is that
17 correct?

18 A. Yes.

19 Q. And you were that in the year 2000 and 2001?

20 A. Yes.

21 Q. Now, can you tell me how a piece of property
22 gets on the assessment roll?

23 A. The first opportunity for it to become valued
24 is by the Township Assessor. They're charged with the

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1 duty of doing the listing, the locating, and the
2 valuing of the property.

3 This particular township, during those years,
4 did not have a Township Assessor, so the County Board
5 of Review, if a piece of property is missed by the
6 assessor, then the Board of Review is charged with
7 finding that property and placing a value on it.

8 Q. Would you have any responsibility of having
9 property that is not on the assessment roll put on the
10 assessment roll?

11 A. Yes, that could also be done by me.

12 Q. Actually there are three different
13 individuals or entities that could get property that
14 wasn't being assessed onto the assessment roll, isn't
15 that correct?

16 A. Correct.

17 Q. One would be the Township Assessor --

18 A. Yes.

19 Q. -- as you've indicated?

20 One would be the Board of Review, and one
21 would be yourself as the supervisor?

22 A. Yes.

23 Q. Now, as I understand your testimony, this
24 property however was assessed but was assessed as I

1 understand it as vacant land?

2 A. Yes.

3 Q. And what is the distinction between vacant
4 land and the assessment that was ultimately placed on
5 this property I think you testified in 2000?

6 A. You mean, what would be the difference
7 between the designation of vacant land and improved?

8 Q. Yes.

9 A. Vacant land would have no improvement on it.

10 Q. All right. And so when you saw some building
11 going up on the property, then it would be the
12 responsibility to change the status of the property as
13 far as for tax purposes, is that correct?

14 A. The classification, yes.

15 Q. Okay. Now, you drove past this property
16 often, is that correct?

17 A. Not often. I'm just aware of where it's
18 geographically located in the county.

19 Q. Well, how often did you drive past this
20 property say in 1999?

21 A. Oh, I really wouldn't have any idea. Maybe
22 once, because it's one of the ways to get into West
23 Frankfort from Route 34, which I travel.

24 Q. Did you see any construction on that

1 particular parcel of property in 1999?

2 A. I didn't, no.

3 Q. Did you see any construction on that property
4 in 2000?

5 A. I didn't, no.

6 Q. Did you see any construction on that property
7 in 2001?

8 A. No.

9 Q. So when you say you drove past the property,
10 you're not talking about either in the year 2000 or
11 2001, is that correct?

12 A. I was just using that for a reference that I
13 know where it's geographically located, not that I was
14 the one that noticed the construction on the property.

15 Q. Did you have anything to do with seeing that
16 the classification of that property was changed from
17 vacant to developed?

18 A. No.

19 Q. Do you know who did?

20 A. The Board of Review.

21 Q. Well, do you know, are there three people on
22 the Board of Review?

23 A. Yes.

24 Q. And do you know who on the Board of Review?

1 A. You mean which one of those oversaw the
2 reclassification?

3 Q. Yes.

4 A. No, I don't.

5 Q. Is that in your record?

6 A. They act as one unit, so I don't think they
7 ever differentiate between which member actually placed
8 the classification change.

9 Q. Now, you know something about this property
10 though because of something other than just merely
11 driving by this property and looking at the records,
12 isn't that true?

13 A. General knowledge as a --

14 Q. Is that the only way you know anything about
15 what was done on this property?

16 A. What was done on the property?

17 Q. Yes.

18 A. No. I can't think of any other reason I'd
19 have for any construction going on on the property.

20 Q. Well, let me ask you this.

21 Did you do anything to attempt to learn
22 anything about this property prior to today?

23 A. The construction or --

24 Q. Well, anything about the property?

1 A. After these proceedings started with the
2 exemptions I looked up the website.

3 Q. Why did you do that?

4 A. Curiosity.

5 Q. And what was the basis of your curiosity?

6 A. Just as a citizen of Franklin County. I was
7 just curious as to what went on on the property. I do
8 occasionally surf the web at home and that was just one
9 of the things that I looked at.

10 Q. And what did you find?

11 MS. RHOADES: I'm going to object. I don't
12 know what the relevancy is and clearly this is beyond
13 the scope.

14 ADMINISTRATIVE LAW JUDGE: I would agree. I
15 think that if you want to --

16 MR. BOOTHBY: I would object. She was on our
17 witness list even though we didn't indicate we were
18 going to call her, because we were going to pair down
19 the witnesses, but she was on our witness list.

20 MS. RHOADES: Wait. If I can --

21 MR. BOOTHBY: I'll withdraw that question just
22 to get past that problem.

23 Your Honor, do you have, I think it's Exhibit
24 either 1 or 2?

1 ADMINISTRATIVE LAW JUDGE: Of the Department?

2 MR. BOOTHBY: Of the Department, yes.

3 ADMINISTRATIVE LAW JUDGE: Right here.

4 MR. BOOTHBY: I'll show you what has been
5 previously identified and received into evidence as
6 Department's Exhibit Number 1, and I would call your
7 attention to Page 8 of this particular group exhibit.

8 It's a letter on the letterhead of the
9 Village of Thompsonville dated October 3, 2000 signed
10 by several individuals, but the only typed signature
11 line is Ralph Sprague, Mayor.

12 Did you ever see that letter?

13 THE WITNESS: Yes, I did.

14 Q. And do you know whether that letter was taken
15 into consideration by the Board of Review?

16 A. No, I don't.

17 Q. Do you know why it would have been attached
18 to the materials that the State received?

19 A. Well, I would assume that they were
20 responding from a letter that they received from Mr.
21 Riva that they sent out to the different taxing
22 districts, stating that there was a request for an
23 exemption that involves a reduction of over a hundred
24 thousand dollars.

1 Q. Do you know whether anyone from your office
2 actually called Mr. Sprague and asked him to send in a
3 letter of protest?

4 A. Not to my knowledge.

5 Q. Do you know whether any member of the Board
6 of Review --

7 A. Not to my knowledge.

8 Q. Excuse me, called Mr. -- Mayor Sprague and
9 asked him to send in a protest?

10 A. Not to my knowledge.

11 Q. Do you know whether this subject property is
12 within the jurisdictional boundaries of the Village of
13 Thompsonville?

14 MS. RHOADES: I'm going to object. This is
15 beyond the scope.

16 MR. BOOTHBY: Well, as we've indicated, we
17 also had listed this witness on our witness list.

18 MS. RHOADES: I don't believe that was on your
19 witness list, Mr. Boothby.

20 MR. BOOTHBY: She was.

21 MS. RHOADES: Secondly, they have rested their
22 case. If they wanted to inquire of this witness they
23 could have done it in their case in chief. He doesn't
24 have the latitude to go beyond that.

1 ADMINISTRATIVE LAW JUDGE: Let me look up the
2 witness list first.

3 MR. BOOTHBY: We also deposed her.

4 Your Honor, I don't have it in front of me,
5 but I think it may be at the end of our list.

6 ADMINISTRATIVE LAW JUDGE: On the list of
7 prospective witnesses, it's not there.

8 MR. BOOTHBY: Not there?

9 ADMINISTRATIVE LAW JUDGE: No. You've got the
10 end is Superintendent of Thompsonville School District
11 and Superintendent of Thompsonville Community High
12 School District, and Merry Rhoades, so I'm going to
13 sustain the objection.

14 MS. RHOADES: Thank you.

15 MR. BOOTHBY: Now, you have passed by that
16 property as I understand your testimony at some point
17 in time?

18 THE WITNESS: At some point in time, yes.

19 Q. All right. Did you ever notice a big
20 building, a 30,000 square foot building on that
21 property?

22 A. I noticed a big building, but I'm not a very
23 good judge of area.

24 Q. All right. Yeah.

1 Are you aware that that building was there
2 from 1991 on?

3 A. No, I was not aware. I just moved to
4 Franklin County in 1998.

5 Q. Okay. Did anyone tell you that that building
6 had been there for a long period of time before you got
7 there?

8 A. No.

9 Q. Now, as I understand your testimony, was that
10 the reason why it was put on the assessment roll in the
11 year 2000, was because there was construction on it, is
12 that correct, new construction?

13 A. Yes. That was the reason the Board of Review
14 gave when they applied the new assessment.

15 Q. But if there was a very large building on
16 that property, assuming it is true, from 1991 on, why
17 wouldn't it -- why would it have been classified as
18 vacant property?

19 MS. RHOADES: I'm going to object. I don't
20 think he's laid a foundation for this witness's
21 knowledge as to that. She's testified that the Board
22 of Review placed the property on the assessment roll
23 and he's asking her to speculate.

24 MR. BOOTHBY: Well, no. I'm merely trying to

1 find out why she indicated that the property was put on
2 the assessment roll in the year 2000 because of new
3 construction if a large building was already there.

4 ADMINISTRATIVE LAW JUDGE: I'm going to go
5 ahead and allow the question in the format that he's --

6 THE WITNESS: Well, I'll go back to my
7 statement that that area had been without a Township
8 Assessor for several years. I don't know whether it's
9 something that had been missed by the Township
10 Assessor.

11 All I know is the reason for change that the
12 Board of Review turned in for the 2000 assessment year
13 was for new construction, because it had never been
14 picked up before.

15 MR. BOOTHBY: And is that somewhere on some
16 record in the file in your office?

17 A. What would be on record?

18 Q. That you just testified to?

19 A. That it was placed as new construction?

20 Q. That it was placed on the roll because of the
21 new construction?

22 A. It would be on our computer records. It asks
23 for a reason for change, and that is a code that's put
24 in.

1 Q. And is that what you saw when you looked at
2 the record?

3 A. I haven't checked that particular item on the
4 record.

5 Q. Well, do you know then -- what's the basis
6 then for your testimony in response to counsel's
7 question, that's the reason it was put on the roll?

8 A. You asked me why it would have been put on
9 the roll and that was what I was told by the Board of
10 Review, that they put on a building that was new
11 construction out in Cave Township.

12 MR. BOOTHBY: Now, I'm going to move to strike
13 that as being hearsay. She was told by someone on the
14 Board of Review. That's hearsay. As I understand her
15 testimony it was not from looking at the records.

16 ADMINISTRATIVE LAW JUDGE: All right. Or do
17 you have --

18 MS. RHOADES: I would say, first of all, she's
19 an ex officio member of the Board of Review and
20 actually acts as a secretary and clerk. I think it's
21 not any way hearsay. Yes.

22 MR. BOOTHBY: As I understand it, counsel just
23 a short period of time ago made an objection on the
24 basis as best evidence. I would make that same

1 objection. The record would be the best evidence,
2 particularly since this witness never looked at the
3 records.

4 MS. RHOADES: I don't think that's what she
5 said. First of all, I don't think she testified as to
6 that.

7 ADMINISTRATIVE LAW JUDGE: That's not what she
8 said.

9 MR. BOOTHBY: My understanding was she didn't
10 look at the records to see what the reason, what the
11 code was as to why the property was put on the
12 assessment roll in the year 2000.

13 ADMINISTRATIVE LAW JUDGE: Okay. Are you
14 objecting to the question that Merry Rhoades had asked
15 previously over --

16 MR. BOOTHBY: No, I'm not objecting to the
17 question. I'm objecting to the answer as to why the
18 property was put on the assessment or increased from
19 vacant to developed land in the year 2000.

20 As I understand it her testimony is purely
21 based upon so many hearsay statement that somebody on
22 the Board of Review said to her.

23 ADMINISTRATIVE LAW JUDGE: I'm going to
24 overrule your objection to that question because,

000671

1 number one, it wasn't made at the time the question was
2 asked. But, number two, I'm going to give Merry
3 Rhoades an opportunity to revisit that question.

4 What I'll do is sustain your objection but
5 give you an opportunity. I'll get this straight. I'll
6 sustain your objection, but give you an opportunity on
7 redirect to revisit that and clarify it.

8 MS. RHOADES: Okay.

9 MR. BOOTHBY: Now, let me find out.

10 What is the role of the Board of Review other
11 than to either put property on the assessment roll or
12 to change its classification?

13 THE WITNESS: They hear property assessment
14 appeals from taxpayers. They make recommendations to
15 the Department of Revenue on exemptions and, of course,
16 there is picking up property that wasn't previously
17 picked up by the Township Assessor or Supervisor of
18 Assessments.

19 They sign off on some of the homestead
20 exemptions, the homestead over 65 exemptions, and I'm
21 sure I'm leaving some out.

22 Q. Now, you have in your hand the Department's
23 Group Exhibit Number 1, and I think on there there may
24 be action by the, in other words, an application.

1 And on that document an action by the Board
2 of Review on the application of Three Angels
3 Broadcasting for having the property exempt.

4 Is that there?

5 A. Yes.

6 MS. RHOADES: I'm going to object. This is
7 beyond the scope of my direct. I didn't get into the
8 exemption application or any of those questions during
9 my direct.

10 ADMINISTRATIVE LAW JUDGE: I'm going to
11 sustain her objection.

12 MR. BOOTHBY: Let me ask you whether in your
13 responsibilities do you attempt to determine whether
14 tax exemptions that are provided to charitable or
15 religious organizations are treated similarly, whether
16 they are treated the same for tax exemption purposes?

17 MS. RHOADES: I'm going to object. It's
18 beyond the scope and it's irrelevant.

19 ADMINISTRATIVE LAW JUDGE: Sustained.

20 MR. BOOTHBY: Are you acquainted with the fact
21 that Three Angels Broadcasting Network has a parcel of
22 property upon which there is an operating school with a
23 teacher and it had been not denied tax exemption by the
24 Board of Review?

1 Are you aware of that finding?

2 MS. RHOADES: Objection, beyond the scope.

3 ADMINISTRATIVE LAW JUDGE: Sustained.

4 MR. BOOTHBY: I'll pass the witness.

5 ADMINISTRATIVE LAW JUDGE: Okay.

6 MS. RHOADES: I have no redirect.

7 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

8 MS. PETTY: At this time we move our evidence
9 and exhibits into admission.

10 ADMINISTRATIVE LAW JUDGE: I think all of them
11 are admitted except for 13.

12 MS. PETTY: Thirteen.

13 MS. RHOADES: Thirteen was reserved if I
14 recall correctly.

15 MS. PETTY: The objection was based on the
16 fact that it was prepared in anticipation of litigation
17 by Three Angels Broadcasting.

18 MR. MILLER: What was 13?

19 MS. PETTY: The list of the 2000 leases.

20 ADMINISTRATIVE LAW JUDGE: Where's
21 Department's Exhibit --

22 MR. STEINKAMP: We only have two exhibits.
23 The Department only has two.

24 ADMINISTRATIVE LAW JUDGE: And I have one.

1 Okay. Intervenor's Exhibit Number 13, which
2 is the --

3 MS. PETTY: Yes.

4 MS. RHOADES: It was reserved.

5 MR. MILLER: Strictly speaking, the statement
6 was made earlier that they were admissions and, you
7 know, I think technically that would be correct if they
8 were being used to contradict someone's testimony or
9 used for some purpose, but they're just being dropped
10 in wholesale.

11 I'm not sure they're not admissions of
12 anything in particular, and that would be my only
13 concern with it.

14 ADMINISTRATIVE LAW JUDGE: Now, you're
15 speaking about the list of the --

16 MR. MILLER: I am. There was no business
17 record foundation laid, but certainly they were
18 prepared in anticipation. They were produced to the
19 other side and they could be used, I agree, as
20 admissions, but I don't believe they've been used that
21 way.

22 MS. PETTY: May I respond?

23 ADMINISTRATIVE LAW JUDGE: Uh-huh.

24 You have to understand, I was looking for

1 this other exhibit. I haven't had an opportunity to
2 focus on this one and understand exactly what it is.

3 MS. PETTY: Well, our understanding it was a
4 compilation list of the 2000 leases that was prepared
5 either by the attorneys or by Three ABN to responses to
6 certain interrogatories that we issued regarding the
7 properties for lease and the rental income for the
8 properties owned by Three Angels Broadcasting Network.

9 It is a document prepared in anticipation of
10 litigation, so it's not technically a business record
11 kept in the ordinary course of business by Three ABN,
12 but that goes to the reliability of the fact that
13 document was submitted by the preparer of the
14 document.

15 As the recipient of the document we can use
16 that for whatever purposes, challenging the reliability
17 of the testimony, and it is a hearsay admission, and
18 there is no restriction on admissions that it has to be
19 a business record in order to be an admission or that
20 has to contradict anybody.

21 The strict rule of evidence regarding
22 admissions is that it is not hearsay, and the hearsay
23 admission -- objection is just not appropriate.

24 MR. MILLER: Well, I mean, I guess my question

1 is, I agree that technically this would not be hearsay,
2 but it's proffered for the purpose of admission, but at
3 this point I don't see it as contradicting any
4 affirmative evidence that we've brought and, therefore,
5 it wouldn't have relevance as there is no admission has
6 been made.

7 MS. PETTY: I just don't think that that's the
8 rule regarding admissions, that it has to contradict
9 anybody. That's regarding impeachment. As an
10 admission it's an admission. It can be used for any
11 purpose. It's just strictly an admission. It's
12 admissible. It's relevant. It's a statement prepared
13 by Three Angels Broadcasting Network. It provides
14 evidence prepared by them regarding the amount of
15 rental income received in 2000.

16 ADMINISTRATIVE LAW JUDGE: And this was given
17 by you to them in response to interrogatories?

18 MR. MILLER: To interrogatories, that's
19 correct.

20 ADMINISTRATIVE LAW JUDGE: Okay. I think I'm
21 just going to go ahead and admit it and you can go
22 ahead and address it in your brief as far as how
23 inappropriate or how irrelevant it is. Okay?

24 Please initial and date Intervenor's Exhibit

1 Number 13.

2 (Intervenor's Exhibit Number 13 was
3 admitted into evidence.)

4 ADMINISTRATIVE LAW JUDGE: Now, that's all the
5 exhibits, is that correct, --

6 MS. PETTY: Right.

7 ADMINISTRATIVE LAW JUDGE: -- for all
8 parties?

9 Okay. Did you want to do closing
10 statements? Did you --

11 MR. MILLER: Yes, Your Honor.

12 ADMINISTRATIVE LAW JUDGE: And you also want
13 to do briefs, do you think, or how do you want to
14 handle?

15 MS. RHOADES: We were anticipating just doing
16 written briefs, Your Honor, is what we would like to do
17 on this side.

18 MR. STEINKAMP: I would like to have leave to
19 write a brief just for the Department.

20 ADMINISTRATIVE LAW JUDGE: Okay.

21 MR. STEINKAMP: Although that doesn't indicate
22 that we have no divergence of interest.

23 ADMINISTRATIVE LAW JUDGE: I think there are
24 some converging areas but I also think there are some

1 separate ones addressed.

2 MR. STEINKAMP: I want to write the
3 Department's briefs.

4 ADMINISTRATIVE LAW JUDGE: But I do believe
5 they'd like to do a closing statement first, and then
6 we'll get into the briefing schedule.

7 MR. MILLER: Yes, Your Honor, a short closing
8 statement.

9 I understand -- tell me when I'm on, Your
10 Honor.

11 MS. PETTY: I guess for technical evidence or
12 technical record we rest, Intervenors rest.

13 ADMINISTRATIVE LAW JUDGE: Oh, thank you. I
14 had just assumed. I apologize. All right. And the
15 Department rested after --

16 MR. STEINKAMP: Yes.

17 ADMINISTRATIVE LAW JUDGE: If you would like
18 to proceed now.

19 MR. MILLER: Yes, Your Honor. In closing I
20 would like to argue both the facts and law of this case
21 as I think my presentation of the facts will be shaped
22 by the legal standard, and is important for the court
23 to understand how we view the law of Illinois in this
24 matter, and so I'd like to begin by expressing our

1 understanding of the Illinois law on the topic.

2 And being a lawyer from Washington, D.C. and
3 California and speaking to a Judge from Illinois and
4 Illinois lawyers, I'm going to rely heavily on the
5 actual case cites and quotes with minimal commentary on
6 my part.

7 I would begin with the statute itself. I
8 recognize under the Illinois constitution that there is
9 no obligation for the state to exempt religious
10 organizations and an allowance is made for the state to
11 do that, and the State of Illinois has done so in two
12 statutory provisions which have been applied to
13 religious organizations.

14 The one we're primarily focussing on but not
15 exclusively, because they do work together, is 35 ILCS
16 200/15-40 where it reads that property used exclusively
17 for religious purposes qualifies for exemption as long
18 as it is not used with a view to a profit, and I just
19 want to note that the words there I find very
20 important.

21 Other states, as has been referenced, exclude
22 only houses of worship, but the statute itself here
23 talks about buildings used for religious purposes.

24 The courts of Illinois have referenced in a

1 decision that Your Honor has referenced in 1911 the
2 Supreme Court, wrote that religious purposes consisted
3 of use of such property and now I'm quoting by a
4 religious society body of persons at a stated place for
5 public worship, Sunday schools and religious
6 instruction.

7 Now, even in this early formulation of the
8 case while public worship is mentioned and Sunday
9 schools, so is the heading religious instruction, which
10 does seem to allow a little more leeway than just
11 houses of worship and Sunday school.

12 The same court, the Supreme Court of Illinois
13 noted specifically just a few years later in 1923 in
14 referencing this case they quoted, they cited this case
15 and in the case of the People versus Muladune
16 (phonetic) the Supreme Court said that, in this earlier
17 case the court said, quote, that in the common
18 understanding and in its applications to people of this
19 state religion means the formal recognition of God and
20 that a religious purpose means the use of such property
21 by a religious society or body of persons at a stated
22 place for public worship, Sunday school, and religious
23 instruction, quoting from the earlier case.

24 Then this court says, this was not stated as

1 inclusive of everything that might in the future be
2 regarded as a use for religious purposes, but
3 illustrative of the nature of such use.

4 Indeed, the same court, the Supreme Court of
5 Illinois had ruled three or four years before this case
6 in the Congregational Sunday School and Publishing
7 Society versus Board of Review, 219 Illinois 108 that a
8 publishing house that produced religious materials, and
9 I will quote from the case so I don't mischaracterize
10 it, the court said it was exempt.

11 The court says, it seems clear that the
12 predominant object of Appellant in the use of stock of
13 books and Sunday school supplies in Chicago is to
14 spread the gospel and to elevate humanity by means of
15 the written words embodied in religious and moral
16 books, and in its Sunday school lesson helps. The only
17 means by which it can spread this gospel in printed
18 form is by distribution of books and Sunday school
19 supplies.

20 The purposes of Appellant are directly
21 carried out by the distribution of books and supplies
22 and the receipt of money from sales is incidental and
23 secondary.

24 I would merely note then that the court very

000682

1 early on noted that the exemption for religious
2 purposes went quite a bit more broadly beyond worship
3 services and Sunday school services. It was applied to
4 an organization involved in creating and distributing
5 media materials.

6 The court has recently affirmed, that were
7 more recently affirmed this broader view of what a
8 religious purpose is in the case of Evangelical Teacher
9 Training Association versus Novak 118 Illinois Ap
10 3(d)(21).

11 Now, we'll note that this was an Appellate
12 Court of Illinois, the Second District, but there they
13 noted that, once again in referencing this earlier 1911
14 case, that this case, the definition was not stated as
15 inclusive of everything that might in the future be
16 regarded as use for religious purposes, and that there
17 is no decision of the court attempting to lay down an
18 all inclusive definition or specification of what
19 constitutes a religious purpose.

20 In this particular case the Evangelical and
21 Teacher's Training Association, 1983, there was an
22 exemption granted to the headquarters of an
23 organization building that ran an organization that
24 produced materials to be distributed both at cost and

1 in some instances for free to educate teachers and make
2 them better teachers in religious areas.

3 And the case illustrates once again the
4 broader nature that religious purpose has been used for
5 in the State of Illinois. The state has recognized in
6 this case that there is no precise definition of
7 religious purpose in Illinois law and the Appellate
8 Court in the Fourth District in the case of Fairview
9 Haven versus the Department of Revenue, and that was by
10 the Fourth District, and the Fourth District has
11 recognized that the state must take into account in
12 understanding what religion is and what religious uses
13 are exempted must take into account. The religious
14 beliefs of the entities and organizations that it is
15 dealing with.

16 And I will quote the court on that topic in a
17 tax context the first amendment the requires the court
18 to accept the entity's characterization of its
19 activities and beliefs as religious as long as the
20 characterization is in good faith.

21 It later says in two paragraphs later, first,
22 the court must accept the organizations
23 characterization of the purpose of its activities, and
24 I think clearly from the context of the earlier

1 statement is talking about the purposes of its
2 activities, the purposes of its religious activities.

3 And, second, must determine whether the
4 property is in fact exclusively used for the religious
5 purposes.

6 The court has, Illinois Courts then have
7 applied this once again more recently in 1978. When I
8 say more recently, more recently than the very early
9 case I looked at. To exempt the Inter-Varsity
10 Christian Fellowship, which also was not a house of
11 worship or a church proffered if you will, but was a
12 para-church organization with administrative
13 headquarters and that was the property that was at
14 issue.

15 They created and distributed and sold
16 literature and helped oversee clubs on college
17 campuses, Christian clubs on college campuses, and here
18 the exemption was also granted. And these are the --
19 there is a series of five factors which the court used
20 to determine the exemption qualification for that
21 particular organization, which we've referenced in the
22 earlier brief which you perhaps haven't read, but we
23 will reference again in our posttrial briefs.

24 I think it's also important to note that the

1 courts of Illinois have been very clear that not only
2 are religious purposes construed far more broadly than
3 a house of worship and that the religious organization
4 is understandings of religion needs to be taken into
5 account, but they've also indicated that portions of a
6 facility that may, that arguably are not directly
7 involved in preaching or some obvious spiritual
8 activity are also exempt as long as those portions of
9 the facility are supportive or necessary to those
10 activities.

11 Perhaps a broad example, you know, if a
12 church has a kitchen in its fellowship hall and it has
13 bathrooms, and arguably those aren't put to obviously
14 spiritual uses, no sermons take place there, but
15 clearly those are exempt.

16 And in the case of Evangelical Hospital
17 Association, 125 Illinois AP 3(d)439, the court made
18 clear that space used for administrative purposes and
19 storage purposes would be exempt as long as those
20 administration and storage related to and were
21 necessary to and supportive of the exempt activities.

22 And I think I would, you know, relate that we
23 all walked through the testimony as to the various
24 elements in the buildings that Three ABN houses, and

1 the evidence I believe showed under this applicable law
2 that, for instance, satellites are used to expand a
3 listening audience of Three ABN.

4 They enable Three ABN to reach more people,
5 but clearly related to the purposes of Three ABN in
6 spreading its message, and if those satellites are
7 housed or stored somewhere to aid that process, that if
8 the court accepted indeed that was a religious purpose,
9 where they were housed and stored would also be exempt
10 under the standards that are set forth in these cases.

11 In the case of Evangelical Hospital
12 Corporation versus the Department of Revenue, 223
13 Illinois Ap 3(d) (225), the court said, when property as
14 a whole or in an unidentifiable portion is used both
15 for an exempt purpose and a nonexempt purpose, the
16 property will be wholly exempt only if the exempt use
17 is primary, and a nonexempt use is incidental.

18 So even if the court were to say, well,
19 satellites, I'm not sure if that's an exempt purpose or
20 not, but if it's a very small fraction of what the
21 property is actually used for, then the property in its
22 entirety can be exempt if its use is incidental and
23 secondary.

24 Then of course the issue of sales of the

1 satellites or these other videos and CDs, which I
2 believe the evidence consistently from the President to
3 the Vice President to everyone else with the
4 organization the testimony has been unrebutted, that
5 all of these objects and items are only created and
6 used if they further the religious purposes and mission
7 of the organization.

8 I'm sorry, Your Honor, I forgot where I was
9 going with that.

10 ADMINISTRATIVE LAW JUDGE: That's fine.

11 MR. MILLER: The question would be then, I'm
12 back on track, is if it's used exclusively for those
13 purposes, there is still the question of if they are
14 sold for a view to a profit.

15 And I think once again that the evidence here
16 is that -- that the unrebutted evidence is not only do
17 they further religious purpose, but that no profit is
18 being made from these, but that in fact losses are
19 being taken on these.

20 There is no testimony that anyone is seeking
21 a profit certainly, and I believe that the fact that no
22 profit is being made is at least of significant
23 evidence, especially when this happens year in and year
24 out and you have at least two years in the record that

1 indeed no profit is being -- is being sought.

2 The question I think that this court faces is
3 for an organization that is well within, you know, the
4 suggestion has been made by the state and by the court
5 earlier that the fundamental religious purpose is a
6 house of worship and I hope I've clarified that
7 somewhat.

8 But even if we take that particular model,
9 the fundamental religious activities that take place
10 there are preaching and singing and praying in a
11 worship service, at least many worship services.

12 And I think that this organization's
13 activities, the preaching and the praying and the
14 singing that takes place and is broadcast elsewhere is
15 far more similar to the traditional worship services
16 that occur in traditional house of worship than many of
17 the other activities that the court has found exempt,
18 like some of these other organizations, publishing and
19 distribution of books, which seems a bit more removed
20 from the actual experience of worship and worship
21 activity.

22 So I would close by arguing to the court that
23 the evidence, basically unrebutted evidence, I don't
24 actually see much disagreement over the facts in this

1 case. I see far more disagreements over the legal
2 standards, that the organization that is seeking the
3 exemption here, its activities fall far within the
4 bounds of those already granted by the courts of
5 Illinois than many other organizations and cases that
6 have come down.

7 And I'm just, of course, referring to the
8 case law here not to other organizations in Illinois
9 that we believe receive tax exemptions and that is my
10 opening statement, Your Honor, or my close statement.

11 ADMINISTRATIVE LAW JUDGE: The court reporter
12 will have the transcript to the parties by October 25.
13 Applicant's brief is due November 25. Both the
14 Department and Intervenor have requested to submit
15 briefs. Those are due December 30, and if the
16 Applicant wishes to do a reply brief, they'll file a
17 motion to that affect.

18 MR. MILLER: By when?

19 ADMINISTRATIVE LAW JUDGE: After the
20 Applicant's and Department's brief has been given to
21 you. I'm not going to give you a time frame. I would
22 hope within a month, month and a half after, so that
23 you've got time to read it over and be able to --

24 MR. MILLER: Oh, I was hoping to avoid, I

1 mean, if we waited a week and the decision came down we
2 would be --

3 ADMINISTRATIVE LAW JUDGE: Believe me, I'm not
4 going to write this in a week. It's going to take me a
5 little bit longer than that.

6 As I said, okay, within say 30 days of your
7 receipt of the Department's and Applicant's briefs.
8 Okay?

9 MR. MILLER: Yeah, that's fine.

10 ADMINISTRATIVE LAW JUDGE: And that will be in
11 the transcript as well, but I will be issuing an order
12 to that effect.

13 Is there anything that anyone else wants to?

14 MS. RHOADES: I got one final issue. We've
15 been mentioning the trial brief that was filed.

16 ADMINISTRATIVE LAW JUDGE: Yes.

17 MS. RHOADES: And I really don't know what the
18 status of that trail brief is.

19 ADMINISTRATIVE LAW JUDGE: I have not even
20 read it.

21 MS. RHOADES: Okay. Because I don't believe
22 it's in the Department rules and I don't believe that
23 there was leave, and I just wanted to get it clarified
24 for purposes of the record whether or not that would be

1 a document that would go up.

2 ADMINISTRATIVE LAW JUDGE: A document that
3 would go up on appeal, because all your motions and
4 everything else gets included as do briefs. The
5 problem I have with this brief is that it was not, if
6 I've got briefs, I want somebody to be able to have an
7 opportunity to respond to it.

8 MR. MILLER: Your Honor, I didn't -- I was
9 unaware of the formal requirements that you referenced
10 earlier and the trial brief as I understand it is to
11 alert the court and inform the court what one party's
12 understanding of the law and what facts will be
13 produced, will be as a guide to the trial.

14 And if the other side, I didn't view it as
15 something to be responded to, rather something the
16 other side could have submitted something
17 contemporaneously with their view of the law and what
18 they would show in the trial, so it wasn't a motion for
19 anything. It was a guide to Applicant's case.

20 ADMINISTRATIVE LAW JUDGE: I've gotten
21 pretrial briefs before. I've not used them unless
22 there was some request made just because, as I said,
23 you've got an opportunity to address exactly the same
24 arguments in --

1 MR. MILLER: The post trial brief.

2 ADMINISTRATIVE LAW JUDGE: -- post trial
3 brief, and I think with all the motions in limine and
4 everything else, I've got a pretty good idea of what
5 everyone's view of this case is.

6 So since it has been submitted, I don't know
7 if they -- off the record.

8 (Discussion off the record.)

9 ADMINISTRATIVE LAW JUDGE: Back on the record.
10 I'm going to have to leave it as part of the
11 record because it has been stamped in.

12 MR. MILLER: Sure.

13 ADMINISTRATIVE LAW JUDGE: But as I said, I
14 have not referenced it. Number one, because it came in
15 too late for me to be able to look at it, and number
16 two, because I didn't even know it was going to be
17 there until it was too late to look at it, and as the
18 Intervenors and the Department do have an opportunity
19 to respond to it, I don't feel badly or leaving it as
20 part of the record.

21 MR. MILLER: Do they want me to withdraw it?

22 MS. RHOADES: No, it's fine. I just wanted to
23 know what the status of it was because we referenced
24 it.

1 MS. PETTY: What extent.

2 MR. BOOTHBY: All the same cases will be cited
3 again.

4 ADMINISTRATIVE LAW JUDGE: Okay. Is there
5 anything more for the record?

6 MS. RHOADES: No.

7 ADMINISTRATIVE LAW JUDGE: Let the record
8 reflect this hearing is concluded.

9 (At this time the hearing was concluded.)

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