

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 87-28

In re Applications

EDWARD ROYCE File No. BRH-830719BD
STOLZ, II, tr/as
ROYCE
INTERNATIONAL
BROADCASTING
Station KWOD-FM
Sacramento, California

For Renewal of License

and

WONG File No. BPH-831031AY
COMMUNICATIONS
LIMITED
PARTNERSHIP
Sacramento, California

For Construction Permit for a New FM Station

Appearances

Richard S. Rodin, Marissa G. Repp, and Peter A. Casciato, on behalf of Royce International Broadcasting; *Paul C. Besozzi and Stephen Diaz Gavin*, on behalf of Wong Communications Limited Partnership; and *Pauleue Laden*, on behalf of the Chief, Mass Media Bureau.

INITIAL DECISION OF ADMINISTRATIVE
LAW JUDGE JOSEPH CHACHKIN

Issued: January 27, 1989; Released: February 6, 1989

PRELIMINARY STATEMENT

1. This proceeding involves the mutually exclusive applications of Royce International Broadcasting Company (Royce) for renewal of its license to operate station KWOD(FM) at Sacramento, California, and of Wong Communications Limited Partnership (Wong L.P.) for an FM radio station construction permit on 106.5 Mhz, Sacramento, California. By *Hearing Designation Order*, 2 FCC Rcd. 1368 (Audio Services Division 1987), 52 Fed. Reg. 7,660 (March 12, 1987), the applications were designated for hearing on the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

2. The Bureau also specified that, because data submitted by the applicants indicated that there would be significant difference in the size of the areas and population which would receive service from the proposals, the areas and populations which would receive FM services of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, would be considered under the standard comparative issue for purposes of determining whether a comparative preference should accrue to either of the applicants. Without objection from the Mass Media Bureau, Royce and Wong stipulated that there is no significant difference in the proposed coverage of areas and populations of their respective proposals. Each party waived any preference or benefit under the comparative coverage criteria of the FCC's comparative analysis of this issue ("Joint Stipulation Regarding Areas and Populations to Be Served," dated November 30, 1987).

3. A prehearing conference was held on May 4, 1987. An admission session on public witness affidavits was held on July 31, 1987. Evidentiary hearings were held on November 30 and December 1 and 2, 1987. The record was closed on December 2, 1987 (Tr. 620-621); *Order*, FCC 87M-3150 (released December 4, 1987).¹ Findings of Fact and Conclusions of Law were filed on March 21, 1988; Replies were filed on April 18, 1988.

FINDINGS OF FACT

Royce

The Applicant

4. Royce, the licensee of KWOD, is a sole proprietorship owned and operated by Edward Royce Stolz, II (Royce Ex. 1; Tr. 65).

5. Mr. Stolz was born June 13, 1949 in Berkeley, California. Mr. Stolz pursued primary and secondary education at public schools in Sacramento and his mother was an educator at the San Juan Unified School District in Sacramento. While attending elementary school, Mr. Stolz obtained both Radiotelephone and Amateur Radio licenses from the Commission. He holds several FCC licenses which remain in full effect. These include First-Class Radiotelephone and General Operator's certificates and an Amateur Extra Class license, call sign WA6YQS (Royce Ex. 3, p. 1).

6. Mr. Stolz graduated from the University of California in 1972 with a degree in Political Science, minoring in History. His areas of specialization include International Relations and Far Eastern History. During College, Mr. Stolz received a number of honors. He was a member of Alpha Kappa Delta honorary society, the Dean's List, Delta Chi fraternity, the Campus Central Caucus, and the Chancellor's Advisory Board. He also was nominated to MENSA, and was a freelance contributor to the Journalist's Consortium. Mr. Stolz also served as student body liaison to the Office of the Ombudsman, and in 1971 he won the University's nomination to the office of Student Body President (Royce Ex. 3, p. 1).

7. From 1970-1972, while at the University, Mr. Stolz served as manager and chief engineer of the campus FM broadcast station KUCR, performed all technical duties associated with the reconstruction and maintenance of the station, handled the acquisition and installation of all technical property, assumed responsibility for day-to-day operations, and prepared an FCC application associated with the station (Royce Ex. 3, pp. 1-2).

8. Mr. Stolz pursued graduate studies in Administration at the University of California, and transferred during 1973 to upper division work in Communications Management and Administration at the Annenberg School of the University of Southern California. In the following year, he began a joint degree program in Law and Business Administration at USC, which included law curricula, management and communications law. He also participated in term projects and seminars offered by the Entertainment Law Institute. Concurrently, he was engaged in several broadcast engineering assignments on a part-time basis (Royce Ex. 3, p. 2).

Diversification

9. Royce is the licensee of radio station KWOD, Sacramento, California, the license at issue here, and is the permittee of radio station KRCK(AM), Burbank, California (Royce Ex. 1, p. 1). The construction permit for KRCK was canceled but Mr. Stolz's request for reconsideration has been granted and the permit reinstated (Official notice taken of staff action by letter dated December 20, 1988). Other than the aforementioned interests, neither Mr. Stolz nor Royce has any cognizable interest in any other radio or television station, cable television system, newspaper, motion picture theatre, magazine or publishing company, or any other medium of mass communications (Royce Ex. 1, p. 1).

Integration

10. Mr. Stolz presently works and proposes to continue to work full-time at KWOD, dividing his time between KWOD and matters concerning Royce's construction permit for AM radio station KRCK. Mr. Stolz will continue to spend, as he has since 1975, at least 40 hours per week on his duties at KWOD (Royce Ex. 2, p. 1; Tr. 240). Mr. Stolz will continue to be responsible for all areas of KWOD's operations, including programming, sales, operations and administration (Wong Ex. 6; Tr. 134-135).

11. Mr. Stolz has resided in Sacramento since 1975 and plans to continue to reside in Sacramento. It is not Mr. Stolz's intention to establish a residence in Burbank to supervise KRCK (Tr. 241-242).

12. Mr. Stolz currently spends approximately 10 hours a week on matter concerning KRCK (Tr. 123). Upon completion of construction, Mr. Stolz anticipates spending 40-50 hours a week at KWOD and up to another 40 hours at KRCK (Tr. 123-125).² Burbank the location of KRCK, is 390 miles from Sacramento and 55 minutes by airplane (Tr. 131). To meet his full-time commitment to the Burbank station, he anticipates he would depart for Los Angeles at the latter part of alternate weeks and spend those days and weekends in Los Angeles (Tr. 125-126). During the alternate week, it was possible that he would only spend three days a week in Sacramento (Tr. 126). On those days he intends to spend as much as 12 hours a

day in connection with KWOD (Tr. 127). His intention is to spend in the aggregate a minimum of 160 hours monthly at KWOD (Tr. 127, 129).³

13. Mr. Stolz has been active in a number of civic and social associations, clubs and organizations in Sacramento. Typical associations during the 1980-1983 license period include the Sacramento Valley Broadcasters Association, Sacramento Bench/Bar Media Committee, Society of Broadcast Engineers, RAMS, Metropolitan Chamber of Commerce, Sacramento Advertising Club, Five Percent Club, participant in Sacramento Women in Advertising, American Radio Relay League, NRBA, United Way, Military Affiliate Radio System, University of California Alumni Association, CSEA Work-Study Donors Program, National Association of Broadcasters, Central California Educational Television, and Advisory Committee to the El Camino High School broadcast station (Royce Ex. 3, p. 3).

14. During the 1980-1983 license period, Mr. Stolz was also a member of the following Southern California organizations: Southern California Association of Governments, Southern California Broadcasters Association, and the Coachella Valley Association of Governments (Royce Ex. 3, 3).

15. As General Manager of KWOD, during 1980-1983, Mr. Stolz planned and implemented a variety of fundraisers and publicity programs to benefit charities and community service organizations, including the SPCA, Muscular Dystrophy Foundation, Spina Bifida Association, Camp Ross Relles, March of Dimes, American Red Cross, Billy Mills Championships, United Way, El Dorado and Placer County Firemen, Carmichael Elks Lodge, Toys for Tots, and Central California Educational Television (Royce Ex. 3, pp. 3-4; Tr. 153).

16. Presently, Mr. Stolz is a member of the National Association of Broadcasters, Sacramento Bench/Bar Media Committee, Society of Broadcast Engineers, Sacramento Advertising Club, American Radio Relay League, the Northern and Southern California Frequency Coordinating Committee and the University of California Alumni Association (Royce Ex. 3, p. 4). In 1984, Mr. Stolz was nominated by the Sacramento Ad Club as "Media Person of the Year" based on his professional performance in 1983 (Tr. 72-73).

17. In addition, Mr. Stolz and KWOD remain actively involved in fundraising and publicity programs to benefit charity and community service organizations including the Muscular Dystrophy Foundation, Spina Bifida Association, American Red Cross, March of Dimes, American Lung Association, Multiple Sclerosis Society, American River Jaycees and the First Annual Sacramento Festival of the Arts (Royce Ex. 3, p. 4). Mr. Stolz estimates he devotes 10 hours a month to community activities (Tr. 147).

Royce's Past Performance Record -- 1980 - 1983 License Term

18. The license term of KWOD under review here is the period of December 1, 1980 to November 30, 1983 (referred to herein as "license term" or "renewal period"). Lists of issues and responsive programming were maintained by KWOD for the periods August 1, 1980 - July 31, 1981; August 1, 1981 - July 31, 1982; August 1, 1982 - July 31, 1983; and August 1, 1983 - July 31, 1984 (Royce Ex. 5, pp. 52-54). For convenience, these time

periods are referred to herein as 1980-1981, 1981-1982, 1982-1983, and 8/83-11/83 (to the end of the license period) respectively.

Ascertainment

19. During the 1980-1981 period, formal procedures to ascertain community problems were in place at KWOD, based on the Commission's "Primer on Ascertainment of Community Problems by Broadcast Renewal Applicants," 57 FCC 2d 418, 441 *reconsid. in part*, 61 FCC 2d 1 (1976). Under these procedures, key management personnel at KWOD sought out community leaders who reflected the area's interests, concerns and problems. Those individuals then were interviewed by the relevant KWOD managers, including Mr. Stolz and Program Director Thomas Chase. The results of these interviews to ascertain the specific problems and needs of the Sacramento area were tabulated and placed in the public file as part of the Issues/Programs Lists (Royce Ex. 5, p. 52; Tr. 196-199).

20. KWOD interviewed seventy-one community leaders to ascertain the needs and problems of the Sacramento community. Of the community leaders consulted, there were 25 women, 46 men, 13 Blacks, 48 Caucasians, 6 Spanish-Americans, 3 Orientals and 1 American-Indian (Royce Ex. 5, pp. 64-69; Tr. 196-199).

21. The ascertainment interviews involved community leaders from a wide-ranging number of organizations with diverse needs and problems. Among those representatives of social services organizations interviewed by KWOD were: Ruth Baker, Director, Consumer Protection Agency, Sacramento; Dianne Trujillo, Manager, Sacramento Concilio Summer Youth Program, Sacramento; Jose Nava, Project Director, Youth Employment Services, Sacramento; Art Dreyer, Public Relations Director, American Red Cross, Sacramento; Kay Fukushima, 1979 Governor, Lion's Club, Sacramento; Joyce Thille, Executive Director, Associated Rehabilitation Program for Women, Inc., Carmichael, Sacramento County; William Batts, Director, Inner City Community Service, Sacramento; Nancy Brown, Director, Oak Park United Methodist Youth Alternative Center, Sacramento. Community leaders interviewed also included leaders of unions active in the Sacramento area, including: Joe Kavan, Secretary and Treasurer, Construction and General Laborer's Union, Sacramento; Juanita Ontirevos, Director, United Farm Workers, Sacramento; Tony Mutoza, President, Chapter 127, California School Employees Association, Carmichael, Sacramento County. Local politicians interviewed included: Albert Rodda, State Senator, California State Senate, Sacramento and Phil Isenberg, Mayor, City of Sacramento. Community leaders representing organizations serving the needs of minority groups included: Shirley Matthews, Development Director, United Negro College Fund, Sacramento; Dr. Esther Nelson, Secretary, NAACP, Sacramento; Dalma Godt, President, American Association of University Women, Sacramento; Edith James, Director, Sacramento Community Commission for Women, Sacramento; Charles Toyebo, Director, U.S. Bureau of Indian Affairs, Sacramento; Armando Cid, Director, Washington Barrio Education Center, Sacramento. Also, leaders involved with organizations serving the needs of youth and the elderly were interviewed. Dianne Hammer, Secretary, Child Abuse Services Council, Sacramento; Jerry Plumber, Bureau Chief, Childrens Protective Services, Sacramento; Jack Straub, District Director, Children's Home Society of California, Placerville, El

Dorado County and Sacramento; Illa Corti, Council Member, Sacramento Valley Association for Education of Young People, Sacramento; Catherine Hughes, Staff Attorney, Legal Center for the Elderly, Sacramento; Wayne Heple, District Scout Executive, Boy Scouts of America, Sacramento; Betty Niven, Executive Director, Campfire Inc. of Sacramento and Yolo Counties, Sacramento. Additionally, KWOD interviewed members of the Armed Forces, including Captain Bonfilio, Commander, U.S. Army Reserve (Combat support, 418th M.I. Detachment), Sacramento and Ernest Horvath, Chief Petty Officer and Recruiter, U.S. Navy, Sacramento (Royce Ex. 5, pp. 64-69).

22. KWOD supplemented its ascertainment of the issues and problems of Sacramento during the license period by surveying Sacramento's general public. Both Mr. Stolz and Thomas Chase, KWOD Program Director, participated in the "Survey of the General Public" (Royce Ex. 5, pp. 52, 56-63; Tr. 196-198, 200). The Survey identified the following problems and needs by rank: 1) don't know (43.6%); 2) crime (17.2%); 3) other (5.6%); 4) traffic (4.8%); 5) unemployment (4.4%); 6) pollution (3.2%); 7) politicians (3.2%); 8) inflation (2.8%); 9) mass transmit (2.8%); 10) gas shortage (2.4%); 11) police protection (2.4%); 12) lack of youth activities (2.4%); 13) too crowded (2.0%); 14) sports stadium (.8%); 15) housing (.8%); 16) animal control (.8%); 17) Sacramento behind the times (.4%) and 18) none (.4%) (Royce Ex. 5, p. 59).

23. The Survey also identified problems and needs as chosen by age group (under 25, 25 through 50, and 50 and above), by sex, and by race (Caucasian, Negro, Spanish, Oriental) (Royce Ex. 5, pp. 60-62). Other problems and needs identified by the survey were: lack of friendly people; garbage pickup problems; hunger; energy; can't reach Kaiser Hospital staff via telephone; need more handicap parking; gay liberation; interpersonal cooperation; hospital care; climatic conditions; presence of gays in the area; lack of quality restaurants; schools; radio stations; and television reception (Royce Ex. 5, p. 63).

24. The Survey also solicited proposals to solve the problems cited (by age and by race). The solutions by age were as follows: 1) don't know/none; 2) less judicial leniency, heavier sentences, death penalty, strict laws and court system functioning; 3) police protection/enforcement; 4) (tie) more buses/bus routes, organize sports/youth activities, community involvement/interest, vote for new officials, home/family/parental controls; 5) (tie) more highway construction/turn lanes/stop lights, pick-up trash/rubbish inspections; 6) (tie) eliminate government waste/need new Governor, stop spending/purchasing, reduce prices, send Cubans back, more bypasses over American River; and 7) (tie) construct more, construct less, citizen patrol, do away with individuals/groups, improve planning commission, "stop gas crisis", give Labor "short in the arm", competitive food markets, stop "Petty stuff", electric cars, eliminate big cars, supervision, give Shah to Iran, public relations, need leaders, more industry, entertainment for shut-ins, sterilization of water, keep elderly active, city growth planning, build rehabilitation centers, listen to others, distribute money, petition, area "too big", Kaiser to add telephone lines, eliminate loading zones, limit housing growth and inform citizens (Royce Ex. 5, pp. 56-58).

25. For the period of 1980-1981, the issues concerning the Sacramento community, as ascertained by interviews with community leaders and the Survey of the General Public, were: 1) jobs and employment; 2) interpersonal communication; 3) health and health care; 4) education and self-improvement; 5) recreational activities; 6) social ills; and 7) miscellaneous (Royce Ex. 5, pp. 71-72; Tr. 196-197).

26. When the Commission ceased its formal ascertainment requirements in April, 1981, see *Deregulation of Radio*, 84 FCC 2d 968, 1014-1015 (1981), KWOD nonetheless continued to ascertain community needs. Community leaders were interviewed, both personally by KWOD staff and in group interviews conducted in conjunction with the Sacramento Valley Broadcasters Association. General public surveys were conducted by KWOD with the assistance of the Sacramento Valley Broadcasters Association (Royce Ex. 5, pp. 52-54; Tr. 198-199).

27. For the period of 1981-1982, the issues of importance to the Sacramento Community, as ascertained by KWOD through interviews of community leaders and the general public survey done in conjunction with the Sacramento Valley Broadcasters Association, were: 1) jobs and employment; 2) interpersonal communication; 3) social ills; 4) education and self-improvement; 5) recreational activities; and 6) miscellaneous (Royce Ex. 5, pp. 87-88; Tr. 198-199).

28. For the period of 1982-1983, the interests and needs of the Sacramento community ascertained by KWOD included: urban problems and concerns; community problems of Northern and Central California; women's rights and concerns, including activities on ERA, job equality, health and family; problems of the American family; social, economic and religious issues facing contemporary America; health, nutrition and environmental issues; health, science, medicine news and development; supernatural phenomena discussion; sport, weather, ski and road condition reports; artists' profiles; weekend community events in the Sacramento area, including concerts, fairs, parades and family social events; consumer guide to current music; financial independence and security planning; discussion of relevance of national issues to society and business; focus on minorities and women in society and workplace and rights progress; and community concerns of Sacramento (Royce Ex. 5, pp. 102-104).

29. For the period of August through November 1983, the interests and needs of the Sacramento community ascertained by KWOD included: 1) education, and quality of same; 2) awareness of, and interest in, local history; 3) energy--usage, conservation, alternative sources, etc.; 4) health care, especially preventive; 5) care and services for handicapped and aged; 6) drug and alcohol abuse, and problems for help/control; 7) involvement in community affairs and special events; 8) city expansion and improvement; 9) interaction of (and problems with interaction of) hispanic, black, oriental and white cultures/communities; 10) housing and assistance for rentals or renovations; 11) unemployment, job placement, job training; 12) family life, parent-child interaction; 13) self-awareness and self-understanding; 14) crime, juvenile delinquency, vandalism; 15) finance and money management; 16) transportation-mass transit, personal transport, alternatives; 17) pollution control; 18) family planning--birth control; 19) abortion, divorce; 19) mental health, counseling; 20) animal care and control; 21) legal services; 22) con-

sumer information and awareness; 23) home safety and maintenance; 24) high-quality recreational possibilities, especially for families; and 25) ecological concerns (Royce Ex. 5, p. 131).

Programming

30. KWOD operates primarily on a recorded music format with regularly scheduled news and public service and public affairs programs (Royce Ex. 5; Tr. 207). KWOD has operated 24 hours a day since it began operations (Tr. 191).

31. As general manager of KWOD, Mr. Stolz's role is to establish a format, direction and competitive stance for the station. Programming personnel who report directly to Mr. Stolz are responsible for implementing the details of program development at KWOD (Tr. 155). Thus, for example, KWOD's Public Service Director, in conjunction with the station's Program Director, normally determine the timing of KWOD's public service programming (Tr. 211).

32. Consistent with industry custom and practice, both in Sacramento and elsewhere, KWOD airs longer-form public affairs programs during the early hours of the day and airs shorter-form programs later in the day. This practice recognizes that interest for longer-form programs may be somewhat narrower, while shorter programs tend to have a more widespread audience (Tr. 213-214, 217-218, 238). The other FM stations operating in the Sacramento area during the license period followed this practice (Tr. 238-239).

33. Following industry custom, KWOD would broadcast a number of public affairs and public service programs during the "AM Drive Period" (5:30 to 10:00 a.m.) on the weekends. KWOD determined -- through comments and rating services -- that the station has a significant audience on weekends beginning at 6:00 a.m. (Tr. 213, 218).

34. KWOD has not received any requests to air the public affairs programs that it broadcasts on Sunday mornings at a different time. Nor has the station received any request from either community members or leaders to schedule additional public affairs programming (Tr. 228-229). KWOD accommodated community leaders' air time needs adequately through time slots open for interviews during the renewal period (*id.*).

35. KWOD aired many public affairs and public service programs at times other than early morning when listeners would appreciate such programming at a later time period (Royce Ex. 5; Tr. 212-214). KWOD targeted those public affairs and public service programs that were most relevant to the listening public that tuned into KWOD during the later time periods (Tr. 212). KWOD determined that public affairs and service programs offering a wider area of interest would most be appreciated by its later-time listeners (*id.*). Public affairs programs broadcast later in the day included "The Family," "The Sexes," "Money," "People," "Weekend America," "Lifesounds," and "Discovery" (Royce Ex. 5; Tr. 212-214). Other public affairs and news programs were aired by KWOD throughout the day, such as, "Dateline News," "Sports Line," "Weather" and "Awareness File" (Royce Ex. 5; Tr. 213-214).

Public Service Announcements

36. KWOD aired a high number of public service announcements (PSA's) throughout the 1980-1983 license term.⁴ Throughout 1980-1982, KWOD aired a minimum of 24 PSA's (one per hour) each day of the week (Royce Ex. 5, pp. 72, 88; Tr. 74, 236). Those PSA broadcasts, which averaged 30 seconds, were heard at least 168 times per week in 1980-1982 (*id.*). During 1982-1983 and 8/83-11/83, KWOD broadcast PSA's, averaging 10 seconds, once an hour each day, for a minimum of 168 times per week (Royce Ex. 5, pp. 103, 105-106, 132). During the 1980-1983 license period, KWOD broadcast at least 26,280 PSA's (Royce Ex. 5, pp. 72, 88, 103, 105-106, 132; Tr. 74, 236).

37. The extensive list of local, regional, state and national organizations for whose benefit KWOD aired PSA's during the license term is detailed in Royce Exhibit 5. KWOD broadcast PSA's for at least 295 organizations during calendar year 1981, for at least 215 organizations during calendar year 1982, and for at least 249 organizations during 1/83-11/83. Thus, for the entire license period KWOD broadcast PSA's for at least 566 different local, regional and national organizations (Royce Ex. 5, pp. 74-85, 89-100, 116-128; Tr. 74).⁵

Locally Produced Public Affairs Programs

"People in Perspective"/"Interface"

38. KWOD produced and broadcast its own public affairs talk show entitled "People in Perspective" between August 1, 1980 and July 31, 1981. KWOD resumed the program in August 1982 and later retitled it "Interface." "Interface" was produced and broadcast by KWOD from August 1, 1982 through and beyond the November 30, 1983 license period.⁶ The program featured interviews with guests who were knowledgeable about community problems and issues of concern to listeners throughout Northern and Central California. The 30-minute program was recorded at the KWOD studios (Royce Ex. 4, p. 2; Royce Ex. 5, pp. 71-72, 102, 104, 106, 133; Tr. 231-232, 236).

39. "People in Perspective" appeared regularly at 6:00 a.m. Sunday during 1980-1981. "People in Perspective"/"Interface" appeared in the same weekly time slot during 1982-1983, and at 6:30 a.m. each Sunday from August 1983 through and beyond the November 30, 1983 license period (Royce Ex. 5, pp. 71-72, 102, 106, 133).

40. "People in Perspective"/"Interface" responded to the issues of interpersonal communication and social ills during 1980-1981, as well as other community problems and issues of general concern to listeners during 1982-1983 and 8/83 -11/83 (Royce Ex. 5, pp. 71-72, 102, 131, 122). Specifically, community problems addressed from August 1983 through and after the end of the license period on the "Interface" program were: 1) education, and quality of same; 2) awareness of, and interest in, local history; 3) energy--usage, conservation, alternative sources, etc.; 4) health care, especially preventive; 5) care and services for handicapped and aged; 6) drug and alcohol abuse, and programs for help/control; 7) involvement in community affairs and special events; 8) city expansion and improvement; 9) interaction of (and problems with interaction of) hispanic, black, oriental and white cultures/communities; 10) housing and assistance for rentals or renovations; 11) unemployment, job placement, job training; 12) family

life, parent-child interaction; 13) self-awareness and self-understanding; 14) crime, juvenile delinquency, vandalism; 15) finance and money management; 16) transportation-- mass transit, personal transport, alternatives; 17) pollution control; 18) family planning-birth control, abortion, divorce; 19) mental health, counseling; 20) animal care and control; 21) legal services; 22) consumer information and awareness; 23) home safety and maintenance; 24) high-quality recreational possibilities, especially for family; and 25) ecological concerns (Royce Ex. 5, p. 131).

41. The following guests appeared on KWOD's "People in Perspective"/"Interface" program between August 1982 and November 1983 to discuss a broad range of topics of concern to the listening audience:

August 1982:

Jaclyn White, Program Manager for Child Action, Inc.: Child care information -- a look at special community agencies who specialize in the needs of children and their families.

Susan Howe, Program Co-ordinator of the Sojourner House: Work furlough programs available for ex-offenders on parole or probation -- special counseling programs.

Thomas Wolfanger, Executive Director of the Family Service Agency of Greater Sacramento: A look at counseling services available for those having family relationship problems.

Manuel Garcia, Human Rights/Fair Housing-Sacramento: A look at apartment housing discrimination in the Sacramento area and upcoming public hearings.

September 1982:

Olga C. Uribe, Project Maestra, Inc.: Bilingual, bicultural programs for Spanish speaking youngsters in the downtown area.

Ellen Geer, Actress: Discussion on lack of women directors, producers and executives in Hollywood. A look at the films that are being devoted to women's rights.

John Dugan, California Conservation Corps: Requirements for joining, current projects, future of the Corps.

October 1982:

Renee Acosta, Diabetes Association of Sacramento: Symptoms and current treatment of the disease -- available services in Sacramento.

Jon James, Enabling Center: Education support services for students with disabilities -- available financial aid.

Tom Hoover, Sacramento Animal Control and City Pound: Procedures for reporting stray or injured animals. Common treatments for animal diseases, the adopt a pet program.

Sam Miller, Director of Planning and Community Development: The pros and cons of a stadium in Sacramento.

November 1982:

Rick Wilson, Director of Big Brothers, Big Sisters: Special holiday programs -- requirements for becoming a Big Brother/Big Sister.

Joe Myer, Alcoholics Anonymous: Symptoms and treatment. A look at a typical meeting -- who to call, where to go for help.

Isabel Serna, C.S.U.S.: Update on the student affirmative action program -- new financial aid programs and services for low income, ethnic minority, and women students.

December 1982:

David Apodoca, New Careers and Employment: New bilingual programs for CETA certified individuals -- employment training and counseling workshops.

Jane Hagedorn, American Lung Association of Sacramento-Emigrant trails: Holiday anti-smoking campaign -- availability of smoking cessation clinics.

Tammy Guensler, Daisy Toy Lending Library: Christmas program to deliver toys to developmentally delayed children.

January 1983:

Margaret Einspar, Coordinator of Volunteer Programs for Sacramento County: Discussion on rising child abuse problem in the Sacramento area and new prevention programs.

Dr. Paul Walker, Physicians for Social Responsibility: Pros and Cons of living in the shadow of the Rancho Seco Nuclear Power Plant -- coping with the nuclear age.

Bud Ridley, Department of the Treasury: New savings bonds programs for first time savers -- how to hedge against possible future unemployment.

February 1983:

Pamela Robeson, Wellness Co-ordinator of Sutter Community Hospitals: Discussion on health-sense programs for minorities and the economically disadvantaged -- employee fitness programs.

Clyde Walthal, Spokesman for the Reach Program: Discussion on energy conservation and alternatives and the availability of financial relief for energy hardships placed on economically disadvantaged Northern Californians.

Mack Powell, President of the Sacramento Board of Realtors: Buying a home for the first time -- what to look for, how to finance.

March 1983:

Susan Krister, Faculty member of Summit University: The importance of setting personal and career goals and programs for achieving them.

Kent Myer, Professor C.S.U.S.: A look at the various kinds of work-related stress and the physical problems they cause -- outlines for a rehabilitation program.

April 1983

John Lemmon, Active 20-30 Club: Latest efforts to save the Stanford Childrens Home.

Carol Reaves, Director of Sacramento Eye Bank: Scheduled programs for national eye donor month -- latest advances in corneal transplant surgery.

Elizabeth Jansen, Fitness Expert: Preparing for the American Heart Association benefit marathon.

Michael Keene, Sacramento Growth Development Center: Helping the minority community to become more employable through job skill workshops.

May 1983

Dan Snow, Active 20-30 Club: Update on the Stanford Childrens Home fundraisers -- plans to relocate and expand facilities to accept more children.

Darlene Lynch, Public Relations, Hollywood Publicist: Jobs programs in the media -- career opportunities in electronic media and movies for minorities.

Betsy Stone, Sacramento Realtors Board: Equal opportunity housing for the 80's in Sacramento.

June 1983

Dr. Robert Johnson, Director of the Credit Research Bureau of Purdue University: Bankruptcy in the Sacramento area, prevention and possible alternatives.

Rosemary Guiley, Professional Writer: Importance of communication skills in the 80's -- career opportunities, special seminars and classes available in Sacramento.

Ray Culhan, Fitness and Beauty Fair spokesman: Preview of upcoming event -- exercise and health tips.

July 1983:

Joe Serna, City Councilman: Pending lawsuit to stop State Department of Food and Agriculture from permitting growers to use herbicide Bolero and what it means to consumers.

Jan Anderson, Fitness Educator: Walking as an all-purpose aerobic exercise, nutrition and diet.

September 1983:

Michael Chienci, Director of Sacramento Suicide Prevention: New volunteer training program.

Sgt. R. Boesch, U.S.A.F. Recruiting: Air Force career opportunities.

Andee Press-Dawson, Director of Kids-on-Kampus: Educational enrichment programs for young people.

David McMurray, Viet Vet House: Psychological problems affecting survivors of Vietnam War.

October 1983:

George Dean, Sacramento Urban League: Counseling programs for manpower services.

Pat Caylor, Executive Director of Meals A La Car: Hot meal programs for the homebound, elderly and handicapped.

Marie Marsh, Diogenes Youth Services: Youth problems and family counseling.

Connie Spencer, Pets & Pals: Low cost neutering and animal welfare assistance programs.

November 1983:

Rosemary Guiley, Author of 'Love Lines': Writing for fun and profit in spare time.

Donald Griesman, Executive Director of Legal Services of Nor. Calif.: Legal Service program to low income client in civil law matter.

Marlys Haberman, March of Dimes: New treatments and fund raising goals.

(Royce Ex. 5, pp. 111-113, 134).

"Equal Time"

42. "Equal Time" is a weekly public affairs program prepared to KWOD's specifications by a consultant under contract with the station. The 30-minute program, which focuses on the rights of women and minorities within the workplace and society, addresses KWOD's listeners' ascertained interest in jobs, employment and social ills. "Equal Time" was aired by KWOD on Sundays throughout the three-year license term, first at 4:30 a.m. and later in the 5:00 a.m. time slot (Royce Ex. 5, pp. 52, 71, 73, 87, 106, 133; Tr. 230).

"Washington, D.C."

43. "Washington, D.C." is a locally produced public affairs program that reviews developments in political affairs. The program examines national issues by summarizing the week's activity on Capitol Hill and discussing the relevance of congressional actions and policies to business and society. The regularly scheduled weekly program aired for twenty-four to thirty minutes at 5:30 a.m. every Sunday during 1980-1981; at 4:32 a.m. every Sunday during 1981-1982; and at 3:00 a.m. every Sunday from August 1982 through December 1982. "Washington, D.C." addressed the issues of jobs and employment, as well as other national issues of relevance to society and business during the 1980-1983 license term (Royce Ex. 5, pp. 71, 87, 104, 106; Tr. 231).

"Best of Health"

44. "Best of Health" is a public affairs program produced by a local individual under contract with KWOD. The program is a guide to KWOD listeners for the improvement of the quality of their health. The two-to-three-minute tape-delayed program, which addressed the issues of health, nutrition and the environment, was broadcast over KWOD 10 times a week at 6:05 a.m. and 11:40 a.m., weekdays, between 4/1/83 and 7/31/83. From 8/1/83 through and after the end of the renewal period, the program was aired 10 times a week at 5:35 a.m. and 11:35 a.m. Monday through Friday (Royce Ex. 5, pp. 102, 105, 132; Tr. 237).

"Public Interest Affiliates"

45. "Public Interest Affiliates" is a 30-minute locally produced public affairs program, regularly scheduled for tape-delay broadcast at 5:30 a.m. on Sundays during 8/83-11/83. The program features interviews with guests on topics of local interest (Royce Ex. 5, p. 133).

"Natural Living"

46. "Natural Living," a public affairs program produced by a local individual under contract with KWOD, was broadcast once weekly by KWOD during 1980-1981. The recorded, 30-minute program aired at 4:00 a.m. on Sundays, and addressed the community's ascertained interest in matters involving health and health care by identifying the positive aspects of "natural living" (Royce Ex. 5, pp. 52, 71, 73; Tr. 233).

"Spaces and Places"

47. "Spaces and Places" is a locally produced public affairs program aired regularly by KWOD during 1980-1981. The tape-delayed, two-and-a-half-minute program was broadcast four times daily during the business week. By focusing on matters of scientific and geographic curiosity, "Spaces and Places" appealed to KWOD's listeners' ascertained interest in educational programming (Royce Ex. 5, p. 71; Tr. 233-234).

Locally Produced News Programs

48. Throughout the 1980-1983 license term, several times daily, KWOD broadcast national news received through network agreements with the RKO radio network and/or CBS. KWOD also employed a local newscaster and a local sportscaster to report on news and sporting events within KWOD's community of license. These news reports contained locally produced ski reports during the winter, a matter of importance to the Sacramento community because of the city's proximity to Lake Tahoe, the largest snow ski area in California (Royce Ex. 4, p. 2).

"Dateline News"

49. "Dateline News" is KWOD's locally produced news program. Although the three-minute program generally is broadcast live, occasionally it is recorded locally for later broadcast. It includes both local and network components (Royce Ex. 5, pp. 53, 71, 87, 102, 132; Tr. 231).

50. "Dateline News" was broadcast 74 times per week, for a total of 222 minutes each week, during 1980-1981. In the subsequent year, KWOD more than doubled the air time of "Dateline News" by dedicating 510 minutes per week to the program. During 1982-1983, KWOD

broadcast regularly scheduled news programming ten times per day during the week, eight times per day on Saturdays, and four times per day on Sundays (with updates throughout the week as warranted). For example, during that period, news was broadcast each weekday at 5:50 a.m., 6:50 a.m., 7:20 a.m., 7:50 a.m., 8:20 a.m., 8:50 a.m., 9:50 a.m., 12:50 p.m., 4:50 p.m., and 5:50 p.m. During 8/83-11/83, news was broadcast by KWOD at least 9 times each weekday (Royce Ex. 4, p. 2; Royce Ex. 5, pp. 71, 87, 102, 105, 106, 132).

51. "Dateline News" specifically addressed the issue of employment during 1980-1982 and generally addressed issues of national and local concern during the 1982-1983 and 8/83-11/83 periods (Royce Ex. 5, pp. 71, 87, 102, 132).

"Sports"

52. "Sports" is a ninety-second to two-minute recorded news program that reports national, regional and local sports news and scores, along with interviews and commentary. Daily sports reports were, and continue to be, provided by a local television sportscaster hired by KWOD to record a variety of sports-related news programs and to select KWOD's "Prep of the Week," a feature that the station actively promotes throughout the week. "Sports" responded to the community's express interest in recreational activities. The program was scheduled to appear three times each Sunday during 1980-1981 and four times each Saturday during 1981-1982. During 1982-1983, "Sports" was scheduled weekdays at 6:20 a.m., and four times each Saturday and Sunday at 1:50 p.m., 2:50 p.m., 3:50 p.m. and 4:50 p.m. During 8/83-11/83, "Sports" was broadcast regularly at 6:20 a.m. each weekday (Royce Ex. 4, p. 2; Royce Ex. 5, pp. 53, 71-72, 87-88, 102-106, 132; Tr. 234).

"Sportstime"

53. "Sportstime," another of KWOD's locally produced, regularly scheduled sports programs, provides a weekly round-up of regional sport activities and features interviews with local sports figures, commentary and the KWOD "Prep of the Week." The three-minute program has been aired by KWOD either live or tape-delayed three times each Saturday at 8:50 a.m., 9:50 a.m. and 10:50 a.m. since June, 1983 (Royce Ex. 5, pp. 102-105, 132; Tr. 234, 237).

"Ski Report"

54. "Ski Report" is a locally produced weather program, aired live by KWOD, which reports on snow and road conditions in the Sierra mountains, of particular interest to the Sacramento community. The one-minute program was broadcast four times each day on Tuesdays through Saturdays during the ski season (November through April) during 1982-1983 (Royce Ex. 4, p. 2; Royce Ex. 5, pp. 103, 105; Tr. 237).

"Weather"

55. "Weather" is a locally produced, one-minute weather report broadcast live by KWOD once every hour each day of the week during the 1980-1982 period (Royce Ex. 5, pp. 72, 88). During August 1982 to November 1983, KWOD reported the weather *twice* rather than once an hour in ten-second weather updates. Also, KWOD broad-

cast weather updates still more frequently when circumstances warranted (Royce Ex. 5, pp. 53, 103, 105-106, 132).

"Weekend Entertainment Guide"

56. KWOD aired "Weekend Entertainment Guide," a locally produced calendar of Sacramento-area recreational events, three times each Saturday and Sunday (i.e., six times each weekend) during 1982-1983. The program was regularly scheduled for broadcast at 6:40 a.m., 7:40 a.m. and 8:40 a.m. each Saturday and 7:40 a.m., 8:40 a.m., and 9:40 a.m. each Sunday. During 8/83- 11/83, the program was broadcast live each Saturday at 8:35 a.m. and 9:35 a.m. The one-minute broadcasts, designed to advise residents about the activities available to them, included news of concerts, fairs, parades and other social events scheduled throughout the Sacramento region (Royce Ex. 5, pp. 103, 105- 106, 132; Tr. 237).

"Concert Update"

57. "Concert Update," a locally produced news program designed to apprise the Sacramento community of local musical entertainment, was broadcast by KWOD between August 1, 1980 and August 1, 1981. The minute-long, live segments aired six times every day for a total of 42 minutes per week (Royce Ex. 5, p. 72; Tr. 235).

Other Locally Produced Non - Entertainment Programs

"Face the Music"

58. "Face the Music" is a local religious program produced in conjunction with the Sacramento Catholic Diocese and aired exclusively by KWOD. The program, broadcast for 30 minutes each Sunday morning during the 1980-1983 license period, features religious music, inspirational talks and the discussion of letters sent by KWOD listeners. An example of the type of contemporary treatment of current and moral issues addressed by the program is the Easter 1981 show, where a dramatization of the events surrounding Christ's trial, sentencing, death and resurrection was presented in tandem with news of locally related activities and interviews with the homeless in the Sacramento area and participants in a walk for peace. The issues dealt with during each "Face the Music" broadcast were identified by KWOD and communicated to the program's producers in Sacramento for inclusion in the weekly broadcast. "Face the Music" was aired by KWOD throughout the license period on Sundays, initially at 7:00 a.m., then at 5:30 a.m., and then rescheduled to 6:30 a.m. in 1982 (Royce Ex. 5, pp. 52, 71, 87, 102, 106, 114-115, 133; Tr. 232).

"Sunday Contemporary Sounds"

59. KWOD responded to the community's ascertained interest in interpersonal communication by airing "Sunday Contemporary Sounds," a locally produced religious program, during 1980-1981. The hour-long broadcasts were heard at 7:00 a.m. each Sunday on KWOD (Royce Ex. 5, pp. 52, 71; Tr. 231).

"Open Door"

60. "Open Door" is a live, locally produced 30-minute religious program designed to address the Sacramento community's ascertained interest in programming dealing

with interpersonal communication. The weekly program was aired regularly by KWOD Sundays at 5:30 a.m. during 1980-1981 (Royce Ex. 5, pp. 52, 71).

"Countdown America"

61. "Countdown America" is a locally produced entertainment program that includes a narrated countdown of the nation's top 30 musical recordings. The weekly, three-hour program was broadcast each Sunday from 9 a.m. until noon from August through December, 1982. Although "Countdown America" is primarily an entertainment program, each broadcast also contained news about recording industry personalities and issues (Royce Ex. 5, pp. 104, 106; Tr. 215).

Non - Locally Produced Public Affairs Programs

"Town Hall"

62. "Town Hall" is a weekly, recorded public affairs program aired continuously by KWOD since 1979 (Tr. 208). The 45-minute program addresses the community's ascertained interest in jobs, employment and social ills by providing an open forum in which guests can discuss urban problems and respond to listeners' queries (Royce Ex. 5, pp. 71, 72, 87, 102, 132). Although "Town Hall" is produced in Los Angeles, the program's relevance to Sacramento is ensured by KWOD's advice to the producers about program content (Royce Ex. 5, 53; Tr. 230, 236-237). The program aired for 30 minutes each Sunday at 4:30 a.m. during 1980-1981 (Royce Ex. 5, pp. 71-72). The next year, "Town Hall" aired for 45 minutes each Sunday at 4:15 or 4:27 a.m. (Royce Ex. 5, p. 71-72). During 1982-1983, the program moved to 5:30 a.m. (Royce Ex. 5, pp. 102, 106). During 8/83-11/83, "Town Hall" was broadcast at 4:00 a.m. each Sunday (Royce Ex. 5, p. 132).

63. KWOD's "Town Hall" program featured the following topics and guests on the listed dates:

"The Business Recovery -- What Now?" (6/7/83), Joseph A. Wahed, VP, Chief Economist, Wells Fargo Bank;

"The New Wealth of Nations: Information" (6/14/88), Frank J. Farrell, President, Grolier Electronic Pub. Inc.;

"The US vs. Israel: Big Brother Squeezes" (6/21/83), Gavriel Strasman, Columnist and Assistant to the Editor in Chief, *Ma' Ariv*;

"The Economic Environment: 1983 and Beyond" (6/28/83), Lewis H. Young, Editor in Chief, Panelists: William Franklin, Business Outlook Editor; Robert E. Farrell, Washington Bureau Chief; Richard Janssen, Senior Editor-Finance; Edward Mervosh, Economics Editor;

"US-Japan Relations in 1983, The View From Washington" (4/19/83), Robert C. Angel, President and Chief Executive Officer, Japan Economic Institute of America;

"Why Leaders Tend To Lose" (4/26/83), Richard N. Foster, Director, McKinsey & Co.;

"The Secondary Market Comes of Age" (5/3/83), Kenneth J. Thygeson, President and Chief Executive Officer, Federal Home Loan Mortgage Corp.;

"Improving Student Performance in California" (5/13/82), Joseph F. Alibrandi, President and Chief Executive Officer, Whittaker Corp.;

"New World of Energy: Changes and Shakeouts" (5/10/83), James Lyon, Director of Baker International Corp.;

"The Personal Computer Revolution" (5/17/82), Edward E. Faber, President, Computerland Corp.;

"Airlines in the 80's: Can They Survive?", (5/24/83) Lawrence W. Clarkson, President, Commercial Products Division, Pratt & Whitney Group, United Technologies Corp.;

"Human Rights and Danger of Dissent" (5/31/83), David Hinckley, Director, Western Region, Amnesty International USA;

"The Victim's Bill of Rights and the Judicial System" (2/22/83), The Honorable Tom Nomoto, Judge, Santa Ana Municipal Court; William W. Stewart, Defense Council;

"Third World Development - A Cautious Prognosis" (3/1/83), The Honorable Sean Michael Cleary, Consul General, Republic of South Africa;

"A Plea for Justice, Not Litigation" (3/8/83), Harris J. Ashton, Chairman, President & CEO, General Host Corp.;

"Housing America and Supplying Global Wood Needs" (3/15/83), John B. Ferry, Chairman and Chief Executive Officer, Boise Cascade Corp.;

"Equal Time: Maintaining a Balance in Today's Intimate Relationships" (3/22/83), Dr. Genevieve Marcus; Robert Smith, Author;

"Industry's Response To A Changing Work Force" (3/29/83), Henry P. Feldman, General Manager, Personnel Division, Aerospace Corp.;

"Sun Myung Moon and the Theocratic Right" (4/5/83), The Honorable Jim Leach, US Congressman, Iowa;

"522 Days To Go: A Perspective on the 1984 Olympic Games" (4/12/83), Harry L. Usher, Executive VP and General Manager, LA Olympic Organization Committee;

"Tomorrow At the NY Stock Exchange" (12/28/82), John J. Phelan, Jr., President, NY Stock Exchange;

"Judicial Independence - Our National Treasure" (1/4/83), Anthony Murray, President, State Bar of California;

"What Happened to Plain English Revolution" (1/11/83), Alan Siegel, President, Siegel & Gale Language Simplification Expert;

"Toward a Pacific Basin Strategy For the 80's" (1/18/83), Richard G. Landis, President, Pacific RJ Reynolds Industries, Inc.;

"Sophisticated Investment Fraud Schemes" (1/25/83), Joseph T. Sheehan, Supervisory Special Agent, F.B.I.;

"1983: Strong Recovery Ahead?" (2/1/83), Dr. Walter E. Hoadley, Senior Research Fellow, Hoover Institution;

"Jobs in the 80's and Beyond" (2/8/83), Dr. Sidney Harman, Chairman and Chief Executive Officer;

"Perspectives on Central America and Cuba" (2/15/83), Dr. Paul E. Hadley, Emeritus Professor, International Relations, U.S.C.

(Royce Ex. 5, pp. 107-110).

From August 1983 to November 30, 1983:

"Straight Talk About Selective Service," Thomas K. Turnage, Director, Selective Service System;

"The Changing Workforce," Henry P. Feldman, General Manager The Aerospace Corp.;

"The U.S. v. Israel--Big Brother Squeezes," Gavriel Strasman, Columnist, *Ma' Ariv* (Israel);

"Human Rights and Danger of Dissent," David Hinckley, Director, Amnesty International;

"The Economic Environment: 1983 and Beyond," *Businessweek* editors;

"A Perspective on the 1984 Olympic Games," Harry L. Usher, Executive V/P, Los Angeles Olympic Organizing Committee;

"Resolving the Housing Crisis," M. Bruce Johnson, V/P Western Economic Association;

"Natural Gas Policy for the Consumer and the Nation," Hon. Danny Boggs, Director, Office of Policy Development;

"The Business Recovery -- What Now?," Joseph A. Wahed, V/P Wells Fargo Bank;

"Housing America and Supplying Global Wood Needs," John B. Fery, Chairman & CEO, Boise Cascade Corp.;

"The Role of Ideological Warfare in U.S. Foreign Policy Strategy", Jan Nowak, Adviser, National Security Council, Director Polish-American Congress;

"Judicial Independence -- our National Treasure," Anthony Murray, President, State Bar of California;

"The New World of Energy: Changes and Shakeouts," John Lyon, Exec. V/P, Tosco Corp.;

"Why Leaders Tend to Lose," Richard N. Foster, Director, McKinsey & Co.;

"Airlines in the 80s -- Can They Survive", Lawrence W. Clarkson, Pres. Pratt & Whitney/United Technologies Corp.;

"The Victims' Bill of Rights," Bruce W. Summer, James Reilley, Clarence Haynes, B. Tam Nomoto, Sup. Ct. Judge Deputy Dist. Atty. Attorney Muni. Ct. Judge;

"The New Wealth of Nations: Information", Frank J. Farrell, Pres., Grolier Electronic Publishing;

"Freedom and Security in the Criminal Justice System," Bernard E. Witkin, Professional Law Writer to the Bench;

"The Personal Computer Revolution," Edward E. Faber, Pres., Computerland Corporation;

"How to Save the American Dream of Homeownership," Leonard Shane, Chairman, U.S. League of Savings Institutions;

"Recent Developments in the Area of Employee Privacy," Gordon E. Krischer, Partner, O'Melveny & Myers;

"Challenges to Transit in the 80s," James H. Graebner, Pres., American Public Transit Association;

"Africa and the U.S.: Problems of Image and Perspectives," Frank E. Ferrari, Sr. V/P; The African American Institute;

"Reversing the Aging Process," Dr. Earl Mindell, Author, *The Vitamin Bible*;

"Where Is Medical Research Leading Us in the 80s and 90s?," Dr. Gary Gitnick, Professor of Medicine, UCLA;

"A Keynote Address on the Budget," George Deukmejian, Governor, State of California;

"China, the Soviet Union and the West," Dr. Jonathan Pollack, the RAND Corporation;

"Immigration Reform: An Issue Whose Time has Come," Hon. Daniel Lungren, U.S. Congressman;

"Through the Financial Looking Glass -- 1983," Robert E. Linton, Chairman & CEO, Drexel Burnham Lambert;

"Economic Consequences of Government Cures," Martin B. Tolep, Corp. Economist, F. W. Woolworth.

(Royce Ex. 5, pp. 138-140).

"Newsweek On The Air"

64. "Newsweek On The Air," or "Newsweek Magazine," an hour-long, recorded public affairs program produced by the network, was aired by KWOD throughout the 1982-1983 and 8/83-11/83 periods every Sunday at 4:00 a.m. (Royce Ex. 5, pp. 102, 106, 133). The program addressed the community's interests in such areas as education, employment and social problems by reviewing the week's top national news stories as reported by "Newsweek" magazine (Royce Ex. 5, pp. 102, 133).

"Women in the Eighties"

65. "Women in the Eighties" is a recorded, five-minute-long public affairs program aired by KWOD during 1980-1981, 1981-1982 and through December, 1982 (Royce Ex. 5, pp. 71, 87, 104-106; Tr. 230). "Women In The Eighties" dealt with the issue of a woman's role in the workplace, and by doing so addressed a subject of interest to KWOD listeners (Royce Ex. 5, pp. 71, 87, 104). The program dealt not only with job equality, but with other issues affecting women as well: health, family and progress on the Equal Rights Amendment, for example (Royce Ex. 5, p. 104). The program aired once weekly on Sundays in the August 1, 1980 to August 1, 1982 period (first at 5:24 a.m. and then at 4:27 a.m.), and from August 1982 until December 1982 once every day at 5:20 a.m. (weekdays) and at 3:30 a.m. on Sundays (Royce Ex. pp. 71, 87, 104-106).

"The Family"

66. "The Family" is a network-produced, recorded public affairs program broadcast by KWOD during the 1982-1983 period (Royce Ex. 5, p. 102). The two-minute

segments dealing with typical problems confronting the contemporary American family aired three-to-five times a week at 10:40 a.m. "The Family" addressed KWOD's listeners' interest in programming about interpersonal communication matters (Royce Ex. 5, pp. 102, 105).

"The Sexes"

67. "The Sexes" is a recorded, network-produced public affairs program which KWOD broadcast during 1982-1983 (Royce Ex. 5, pp. 102, 105; Tr. 235). The two-minute program, aired four to five times a week at 10:40 a.m., dealt with a wide variety of social, economic and religious issues facing contemporary America, and thereby addressed many of the Sacramento community's ascertained concerns in such areas as education, employment and social ills (Royce Ex. 5, pp. 102, 105).

"Lifesounds"

68. During 1980-1981, 1981-1982, and 8/83-11/83, KWOD aired a recorded, network-produced public affairs program entitled "Lifesounds." During 1980-1982, the 90-second program was designed to address KWOD's listeners' interest in educational and self-improvement-type programming. The broadcasts discussed problems of the modern American family as well as other personal relationships. During 8/83-11/83, the program focused on education and health news. "Lifesounds" aired twice daily during 1980-1981; in 1981-1982 it shared a five-times daily time slot with the program "Discovery"; and in 1983, "Lifesounds" increased to three-minutes, aired once each weekday at 10:35 a.m. (Royce Ex. 5, pp. 72, 73, 87, 132; Tr. 234).

"Discovery"

69. During 1981-1982 and 1982-1983, KWOD aired a recorded, network-produced public affairs program entitled "Discovery" (Royce Ex. 5, pp. 87, 103). The program, which appeared first in 90-second segments and later in a two-minute format, responded to the community's express interest in educational and self-improvement programming by discussing developments in health, science and medicine (Royce Ex. 5, pp. 87, 103). In the 1981-1982 period, "Discovery" shared a five-times-daily time slot with the program "Lifesounds" (Royce Ex. 5, p. 87). During the latter months of 1982, "Discovery" aired on KWOD three times weekly on Mondays, Wednesdays and Fridays at 11:40 a.m. (Royce Ex. 5, pp. 103, 105).

"Money"

70. "Money" is a recorded, network-produced public affairs program broadcast by KWOD from August through December, 1982 (Royce Ex. 5, p. 104). The weekly, two-minute programs, aired Mondays at 3:40 p.m., are designed to educate listeners about how to plan for financial independence and security (Royce Ex. 5, pp. 104-105).

"NASA Reports"

71. "NASA Reports," a recorded public affairs program produced by NASA, was aired by KWOD during 1980-1981. The five-minute broadcast, regularly scheduled for each Sunday at 5:54 a.m., addressed the public's interest in educational programming by examining the role of the United States in the exploration of outer space (Royce Ex. 5, p. 71; Tr. 233).

"People"

72. During 1980-1982, KWOD aired "People," a recorded public affairs program produced by the RKO Radio Network. The 90-second program, broadcast once daily at 1:38 p.m., was designed to satisfy the Sacramento community's express interest in the subject of interpersonal communication (Royce Ex. 5, pp. 71, 87).

"Weekend America"

73. "Weekend America," a 90-second, recorded public affairs program that addressed the community's ascertained interest in recreational activities, aired regularly each Sunday at 9:38 a.m. during 1980-1981 (Royce Ex. 5, pp. 53, 72).

"Inside Out"

74. "Inside Out" is a network-produced program that features interviews with recording artists and other newsworthy individuals (Tr. 204-205). The recorded program responded to KWOD's listeners' interest in educational and self-improvement programming by exposing them to the viewpoints of both entertainment professionals and other persons of public interest for a variety of public issues of significance to the Sacramento community (Royce Ex. 5, p. 73; Tr. 204-206, 234, 239). "Inside Out" aired for 90 seconds three times daily during 1980-1981, and twice each weekday for two minutes at 7:20 p.m. and 9:20 p.m. between August and December of 1982 (Royce Ex. 5, pp. 72, 104-105).

"Reflections"

75. "Reflections" is a recorded religious program aired by KWOD every Sunday at 5:00 a.m. during 1980-1981. The 24-minute program addressed the audience's ascertained interest in programming dealing with interpersonal communication (Royce Ex. 5, p. 71). "Reflections" was produced by a non-profit, interdenomination religious organization (Tr. 231).

"Science"

76. "Science" is a recorded, network-produced news program broadcast over KWOD between August 1, 1980 and August 1, 1981. The 90-second program responded to the audience's express interest in health and health care issues by exploring and comparing scientific and technological developments both in the United States and throughout the world as well as explaining how these discoveries relate to the average person. The program aired regularly each Sunday at 2:20 a.m. (Royce Ex. 5, pp. 52, 71, 73; Tr. 233).

Other Non - Locally Produced Programs

"Record Report"

77. "Record Report" is a recorded news program regularly supplied to KWOD by outside producers. During 1980-1981, "Record Report" satisfied the community's professed interest in programs about recreational activities by providing news about the business and personalities of the record industry. KWOD broadcast the two-and-a-half-minute programs three times daily, six days per week (Royce Ex. 5, p. 72; Tr. 235-236).

"Up-Close"

78. "Up-Close" is a recorded, network-produced program featuring profiles of recording artists and their music. The hour-long program was broadcast over KWOD once each month at 10:00 p.m. on Sunday from August through December of 1982 (Royce Ex. 5, pp. 103, 106).

"Radio Listens to Records"

79. "Radio Listens to Records," a recorded, network-produced news-entertainment hybrid was broadcast by KWOD once each Wednesday from August through December, 1982. The program, designed to advise consumers about newly released albums and other musical recordings, aired for two minutes each Wednesday at 3:40 p.m. (Royce Ex. 5, pp. 104-105).

"Radio Goes to the Movies"

80. "Radio Goes to the Movies" is a recorded, network-produced news-entertainment-type program aired over KWOD once each Friday at 3:40 p.m. from August through December, 1982. The two-minute broadcast reviewed current films as a service to the theatre-going public (Royce Ex. 5, pp. 104-105).

Public Comments: Affidavits, Unsolicited Letters and Commendations

81. All letters of comment from the general public were maintained in the public inspection file of KWOD and no such letter reflected unfavorably on KWOD (Tr. 175-176).

82. Seventeen public witnesses submitted affidavits on behalf of KWOD. The affidavits, prepared at the direction of Mr. Stolz with the aid of Royce's counsel, praised KWOD's community involvement and its broadcasting of public affairs programs, live broadcasts and public service announcements (PSA) to benefit charitable organizations throughout Sacramento. Numerous unsolicited letters and commendations received by KWOD during the license period, maintained in the station's public file, also exhibit the community's gratitude to KWOD for the station's civic-mindedness. The following paragraphs describe these affidavits, the unsolicited letters and commendations. When an affidavit or letter lauds KWOD for airing PSA's on behalf of the named organization, the months during which those PSA's were broadcast are provided (Royce Ex. 5, pp. 2-44).

Public Witnesses and Related Evidence

83. *Affidavit of Marianne Nockles, Planning Consultant, Hypertension Council, sponsored by the American Heart Association, Golden Empire Chapter, Sacramento:* Ms. Nockles noted that KWOD has been "an enthusiastic supporter" of the Council's programs each May during "National High Blood Pressure Month." Ms. Nockles noted in particular that KWOD always broadcasts PSA's for the Council. Since 1983 at least, KWOD has advanced the Council's programs by helping to educate the public about high blood pressure and the Council's work (Royce Ex. 5, p. 7).

84. In a letter to KWOD dated March 16, 1983, Connie L. Shamphan, Administrative Aide for the American Heart Association's Hypertension Council in Sacramento, thanked the station for airing PSA's dealing with hypertension. Ms. Shamphan explained that she had heard the PSA's broadcast regularly over KWOD and that KWOD listeners had called the Council to inquire about

its services. The goal of the Council is to educate the public about the serious health hazards associated with hypertension. According to Ms. Shamphan, KWOD's efforts had helped to spread the Council's message throughout the community (Royce Ex. 5, p. 8).

85. KWOD broadcast PSA's on behalf of the American Heart Association's Hypertension Council in January, February, March and April, 1983 (Royce Ex. 55, 116-119).

86. *Affidavit of Velma Gambles, District Administrator, El Dorado Hills Community Service District, El Dorado County:* Ms. Gambles explained that one of the responsibilities of the Community Services District is to provide park and recreational services to District residents. The District operates a number of recreational programs, including a Youth Basketball League. According to Ms. Gambles, KWOD's staff organized and played benefit basketball and softball games with the District's volunteer coaches in 1983. The District appreciated the support and participation of KWOD in its community activities (Royce Ex. 5, p. 9).

87. In a letter to KWOD dated March 24, 1983, Ms. Gambles thanked KWOD for donating "time and energy," as well as "prizes," to the benefit basketball game. Ms. Gambles acknowledged that the District received 85 donations (Royce Ex. 5, p. 10).

88. *Affidavit of Larry Gury, Recreation Superintendent, Southgate Recreation and Park District, Sacramento:* Mr. Gury noted that during 1982 and 1983, KWOD provided "outstanding support" to various District projects, including the "Grand Opening" of the Nicholas Park Softball Complex, the West Coast premiere of the movie "Running Brave," and the "Billy Mills Championship Run." Mr. Gury explained that KWOD's support and sponsorship of the District's events was "instrumental" in their success (Royce Ex. 5, p. 11).

89. In a letter to KWOD dated October 12, 1982, Mr. Gury thanked KWOD for sponsoring the "Billy Mills Championship Run." Mr. Gury linked the success of the event to KWOD's "tremendous" promotional support. Southgate was extremely pleased with the "cooperation and dedication" shown by KWOD, according to Mr. Gury. Mr. Gury repeatedly expressed his gratitude to KWOD for the station's "outstanding" public service (Royce Ex. 5, p. 12).

90. On June 28, 1983, another letter of appreciation was sent by Mr. Gury to KWOD. Again on behalf of the Southgate Recreation and Park District, Mr. Gury expressed his appreciation for KWOD's sponsorship of the "Grand Opening" of the Nicholas Park Softball Complex. Mr. Gury wrote that it was a "pleasure" to work with KWOD's staff during the event (Royce Ex. 5, p. 13).

91. On September 19, 1983, Mr. Gury again wrote KWOD to laud the station for its civic-mindedness. Mr. Gury expressed appreciation to KWOD for sponsoring the "Billy Mills Championship Run." Mr. Gury attributed the event's success to KWOD's promotional efforts, and complimented the station for its cooperative attitude. "The run was truly a quality event due to your hard working efforts and support," he wrote (Royce Ex. 5, p. 14).

92. Finally, in a letter to KWOD dated November 9, 1983, Mr. Gury, again on behalf of the Southgate Recreation and Park District, expressed appreciation for KWOD's assistance with the "West Coast Premiere" showing of the movie "Running Brave." Mr. Gury compli-

mented KWOD and its staff for their "tremendous" work promoting and coordinating the event. The event's success was underscored by the film's subject, Olympic track star Billy Mills, who stated that the premiere was far superior to any other he had attended (Royce Ex. 5, p. 15).

93. KWOD broadcast PSA's for the Southgate Recreation and Parks District in February, April, July, August, November and December, 1981; February 1982; and March, May, June, July, September and December, 1983 (Royce Ex. 5, pp. 75, 77, 80, 81, 84, 85, 90, 118, 120, 122, 124, 126, 129).

94. *Affidavit of Joan N. Johnson, R. N., Coordinator, County Health Department Immunization Assistance Project (1981 - 1984), and Coordinator, Flu Project for the Elderly (1981 - 1984):* The Immunization Assistance Project is a state-funded, county program that provides vaccines for school-age children. KWOD was instrumental in airing the PSA's necessary to apprise the public of both vaccination programs coordinated by Ms. Johnson. Through the efforts of KWOD and others, the county was able to immunize 1,000 additional senior citizens each year and to audit and update the health records of 72,000 children in Sacramento County, according to Ms. Johnson. Without KWOD's "generous assistance," neither program would have received the public exposure necessary to ensure its success, she wrote (Royce Ex. 5, p. 16).

95. In a letter dated May 26, 1983 and sent by Ms. Johnson to KWOD, Ms. Johnson thanked the station on behalf of the Sacramento County Health Department for the excellent coverage given to a May 19 immunization clinic held at Mills Junior High School. Ms. Johnson noted that the Department can reduce vaccine-preventable disease in children only through increased public awareness of its programs and that KWOD, as always, had provided the necessary information to the public "in an accurate and professional manner" (Royce Ex. 5, p. 17).

96. KWOD broadcast PSA's for the Sacramento County Health Department in August, 1981; and in August and September, 1983 (Royce Ex. 5, pp. 81, 125, 126).

97. *Affidavit of Richard L. Boesch and Michael R. Mosher of the United States Air Force:* Sergeants Boesch and Mosher explained that, since "early 1983," KWOD had provided a "significant public service" by supporting Air Forces recruiting efforts at Mather Air Force Base near Sacramento. The recruiters' efforts were aided by KWOD's PSA's regarding the "Sacramento Air Show" and the base's annual "Open House." Also noted was the benefit provided from appearances of Air Force personnel on KWOD public service programs (Sgt. Boesch appeared on KWOD's "Interface" program in September 1983). That consistent cooperation bolstered the image of the Air Force in the Sacramento community "immensely," according to Sergeants Boesch and Mosher, who said that they considered KWOD as their "important partner" in the defense of the nation (Royce Ex. 5, pp. 18, 134).

98. In a letter dated December 28, 1982, from Captain Louis E. Figueroa, United States Air Force, to KWOD, Captain Figueroa expressed his gratitude to KWOD for the station's professionalism while covering the story of a B-52 air crash on December 16, 1982. He stated that KWOD's "intelligent reporting and concerned demeanor" were appreciated, as was KWOD's understanding about the Air Force's need for media "cooperation" in the aftermath of the tragedy. Captain Figueroa expressed his

hope that the "good working relationship" between the Air Force and KWOD would continue (Royce Ex. 5, p. 19).

99. Copy of "Certificate of Appreciation" awarded by the United States Air Force to KWOD on September 29, 1982: Major Michele D. Plaudis of the United States Air Force awarded KWOD a "Certificate of Appreciation" to recognize the station's "outstanding support" of the United States Air Force's recruiting efforts and its "dedication to the ideals and principles of the United States of America" (Royce Ex. 5, p. 20).

100. KWOD broadcast PSA's for the United States Air Force and other branches of the nation's Armed Forces in February and March, 1981; and May, 1982 (Royce Ex. 5, pp. 75, 76, 93).

101. *Affidavit of Lee A. Sweet, CCCE, Executive Vice President, Consumer Credit Counselors of Sacramento:* Consumer Credit Counselors (CCC), a non-profit community service organization, provides free debt counseling to the Sacramento community. Mr. Sweet, Executive Vice President of the organization since October, 1982, stated that KWOD has broadcast the group's PSA's since "early 1983." The announcements, according to Mr. Sweet, are designed to increase public awareness of the counseling service, and as a result of KWOD's PSA's, CCC has helped many people to avoid bankruptcy. KWOD also has interviewed Mr. Sweet on its "Interface" program, allowing him to provide credit advice directly over the airwaves. Mr. Sweet said that KWOD's efforts were "extremely positive" and "very helpful" to CCC, and that "Interface" provided "outstanding public service" to Sacramento (Royce Ex. 5, 21).

102. KWOD broadcast PSA's for CCC of Sacramento during February, July and August, 1983 (Royce Ex. 5, pp. 117, 124, 125).

103. *Affidavit of Anita Yoder, Director of Public Relations, American Red Cross, Sacramento Air Chapter:* Ms. Yoder, employed by the Red Cross since 1979, stated that between 1980 and 1983 KWOD provided "vigorous support" to Red Cross programs involving CPR training, lifesaving awards, disaster relief funding, water safety and child abuse prevention. According to Ms. Yoder, KWOD's airing of Red Cross PSA's was "integral" to Red Cross efforts to inform the public about its programs. The Red Cross appreciated the "past and ongoing" efforts of KWOD to advance the service group's goals, she stated (Royce Ex. 5, p. 22).

104. In a letter dated March 1, 1983, William G. Rutland, Chairman of the American Red Cross, Sacramento Area Chapter, explained to KWOD that on January 14 and 15, 1983, nearly 10,000 people learned how to save the life of a heart attack or choking victim by attending "CPR Saturday," a free training program sponsored by the American Red Cross and other community organizations. Promotional efforts for the project were so successful that additional training sites and volunteer instructors were needed to handle overflow crowds, according to Mr. Rutland. Mr. Rutland noted that KWOD played an "important role" in the "phenomenal success" of "CPR Saturday" by broadcasting PSA's about the event frequently. "Many participants identified KWOD as a source of their information about the project," wrote Mr. Rutland, who thanked KWOD for its "outstanding support" and added that lives will be saved in part because of KWOD's cooperation (Royce Ex. 5, p. 23).

105. KWOD broadcast PSA's for the American Red Cross during January, February, July, August and September, 1981; January and June, 1982; and August, 1983 (Royce Ex. 5, pp. 74, 75, 80-82, 89, 94, 125).

106. *Affidavit of Ken Gimblin, Staff Member, California State Fair Public Relations Department (1974 - 1984*: According to Mr. Gimblin, in the 1980-1983 period KWOD served the Fair in an "exemplary" fashion through "remote broadcasts, ticket promotion and promotion of special [F]air events." KWOD sponsored the evening entertainment events at Water World, for example, along with numerous PSA's about the Fair. Mr. Gimblin commended KWOD's annual coverage of the Fair's opening ceremonies, and its live, all-day broadcasts from the fairgrounds during the 17 days of the event. In Mr. Gimblin's opinion, KWOD has been a "good citizen" in the Sacramento community and enjoys an "excellent reputation for its civic activities" (Royce Ex. 5, p. 24).

107. In a letter from Ken Gimblin, then a representative of the California State Fair, to KWOD, Mr. Gimblin thanked KWOD for the station's promotion of the Fair. Mr. Gimblin lauded KWOD for its ticket giveaways, on-air promotions, and the general helpfulness of its "entire staff" (Royce Ex. 5, p. 25).

108. KWOD broadcast PSA's for the California State Fair during July and November, 1981 (Royce Ex. 5, pp. 80, 84).

109. *Affidavits of Judy Stitt, Marlys Haberman and Stormi Williams Turner, Northern California Chapter March of Dimes Birth Defect Foundation*: Ms. Stitt has been involved in public relations and fund raising for the Northern California Chapter March of Dimes Birth Defects Foundation in Sacramento since 1978. Ms. Haberman, the Foundation's executive director, is a 16-year veteran of the organization, and Ms. Turner, the Foundation's director of communications, has served the Foundation for six years. Ms. Stitt stated that KWOD has "avidly" supported the Foundation's attempts to raise money and to generate community support for its activities in the Sacramento area. Ms. Stitt, who is experienced in radio promotions, stated that KWOD's dedicated and reliable promotional support of the Foundation's programs was "highly regarded." Ms. Stitt commended KWOD's efforts to promote the Foundation's programs and labelled them "a vital service to the Sacramento community." Ms. Haberman and Ms. Turner read, approved and adopted the Affidavit of Ms. Stitt (Royce Ex. 5, pp. 26-27).

110. Judy Stitt, representing the Northern California Chapter March of Dimes Birth Defect Foundation, wrote a letter of appreciation of KWOD for the station's support of the Foundation's "Fox Hunt" event. Although Ms. Stitt's letter is undated, Mr. Stolz specifically recalls that the PSA's referred to by Ms. Stitt were aired by KWOD during the relevant renewal period (Royce Ex. 5, p. 28; Tr. 219-220). Ms. Stitt stated that "without a doubt" KWOD's assistance exceeded her organization's expectations. The station's cooperation, attention to detail, and flexibility were "above and beyond the call," she wrote. The event raised more than 4,000 for the charity, according to Ms. Stitt, who lauded KWOD's participation as "proof that KWOD cares" (Royce Ex. 5, p. 28).

111. KWOD broadcast PSA's for the Northern California Chapter of the March of Dimes Birth Defect Foundation during March, 1981; April, 1982, and August, September, October and December, 1983 (Royce Ex. 5, pp. 76, 92, 125-127, 129). In addition, Mr. Stolz testified

at hearing that KWOD participated on behalf of the March of Dimes in "The Teen Walk," a charity "fun run" which was publicized by KWOD through PSA's and other station promotional announcements (Tr. 221).

112. *Affidavit of Chris Edwards - Brown, Executive Director, National Multiple Sclerosis Society, Mountain Valley California Chapter, Sacramento*: Mr. Edwards-Brown, the Society's executive director for the past 11 years, stated that KWOD was a "very helpful supporter" of the Society during 1980-1983. He stated that KWOD donated 3,000 of air time to broadcast the Society's program, "Great Aerobics for Multiple Sclerosis," in 1983. Mr. Edwards-Brown believes that KWOD's live broadcasts "are very well done" and "perform a public service" for the Society in Sacramento (Royce Ex. 5, p. 29).

113. In a letter from the Northern California Chapter of the Multiple Sclerosis Society to KWOD dated November 9, 1983, Executive Director Chris Edwards-Brown and Special Events Coordinator Dan Snow thanked KWOD for promoting the "Great Aerobics for Multiple Sclerosis" project. Mr. Edwards-Brown and Mr. Snow explained that the Society relies heavily on radio and television PSA's to promote its activities. Although under the misimpression that KWOD's airtime was purchased for the Society by Ricco's Pizza and Fleet Feet (KWOD actually donated 3,000 in KWOD airtime to Ricco's in exchange for more than 500 pizzas for participants in the promotion, Tr. 222-223), the Society congratulated KWOD for a "good job," and thanked KWOD for its live broadcasts on the day of the event, which it said were "very well done" (Royce Ex. 5, p. 30).

114. KWOD broadcast PSA's for the Northern California Chapter of the Multiple Sclerosis Society during November, 1983 (Royce Ex. 5, p. 128).

115. *Affidavit of Peggy J. MacArthur, Country Club Plaza Shopping Center, Sacramento*: Ms. MacArthur, the manager in charge of public relations for Pavilions shopping plaza in Sacramento, often worked with KWOD while employed at Country Club Plaza. Throughout her experience with KWOD during 1980-1983, Ms. MacArthur was impressed by the station's "involvement" and "enthusiasm" regarding its promotional activities at Country Club Plaza. During two major promotions, for example, the "Great American Kiss Off" and "Gold Run," KWOD provided "hundreds of dollars worth of promotion and publicity," Ms. MacArthur stated (Royce Ex. 5, p. 31).

116. KWOD, in a 1982 press release, announced its joint sponsorship, with Country Club Plaza, of the "Great American Kiss Off" on Valentine's Day, February 14, 1982. The event was designed to benefit the Golden Empire Chapter of the American Heart Association. KWOD and the Chapstick Company provided free "Chapsticks" and "Lip Quenchers" to all participants (Royce Ex. 5, p. 32).

117. In a February 12, 1983 Proclamation, R. Burnett Miller, Mayor of Sacramento, designated February 12, 1983 "Great American Kiss Off Day" in Sacramento. The Proclamation recognized that KWOD, the Sacramento/San Joaquin Chapter of the Muscular Dystrophy Association, and Country Club Plaza shopping center, were sponsoring the day-long event "of dubious dignity but obvious merit" to benefit the Muscular Dystrophy Association (Royce Ex. 5, p. 33).

118. A copy of the certificate awarded to all participants in the "Great American Kiss Off Day" held in Sacramento in 1981 demonstrates that the event benefitted the Golden Empire Chapter of the American Heart Association and was sponsored in part by KWOD (Royce Ex. 5, p. 34).

119. Similarly, a February 14, 1981 Proclamation by the Mayor of Sacramento, Philip L. Isenberg, which declared February 14, 1981 as "Great American Kiss Off Day" in that city, noted that KWOD had co-sponsored the event with the Golden Empire Chapter of the American Heart Association to benefit the American Heart Association (Royce Ex. 5, p. 35).

120. KWOD broadcast PSA's for the Muscular Dystrophy Association during March, May and June 1982; and February, April, July, August and December, 1983 (Royce Ex. 5, pp. 91, 93, 94, 117, 119, 124, 125, 129).

121. *Affidavit of Sharen K. Muraoka, Communications Director, American Cancer Society, Sacramento Unit*: Ms. Muraoka stated that KWOD is "one of the best radio stations in Sacramento" by virtue of its participation in the Society's civic and charitable affairs. According to Ms. Muraoka, KWOD is a "strategic part" of the Society's "Great American Smokeout Program," and has publicized many of the Society's programs through news interviews. Ms. Muraoka praised KWOD's community-mindedness and said she considers the station's activities for the Society to be "a public service to Sacramento area residents" (Royce Ex. 5, p. 36).

122. In a letter dated December 29, 1982, Ms. Muraoka and Ms. Sindia L. Garcia, Communication Assistant for the American Cancer Society's Sacramento Unit, expressed their organization's appreciation for KWOD's participation in the "1982 Great American Smokeout." They noted that the event "wouldn't have been such a success" without KWOD's help and they thanked KWOD for "helping to serve this community" (Royce Ex. 5, p. 37).

123. KWOD broadcast PSA's for the American Cancer Society during December, 1982 and February, March, May, June, July and December, 1983 (Royce Ex. 5, pp. 100, 117-118, 120, 122, 124, 129).

124. *Affidavit of Alan Swislow, former District Director, Northern California Muscular Dystrophy Association, Sacramento*: The Northern California Muscular Dystrophy Association, formerly the Sacramento/San Joaquin Muscular Dystrophy Association, is located in Rancho Cordova, California, a community adjacent to Sacramento. Mr. Swislow stated that KWOD is regularly and actively involved in the annual "Labor Day Telethon" to benefit muscular dystrophy research. He considers KWOD as "one of the top" radio station supporters of the Telethon and other MDA-sponsored events. According to Mr. Swislow, KWOD broadcast MDA's PSA's throughout the 1980-1983 period. In addition, KWOD "consistently provided pre-Telethon promotions and live disc jockeys" to ensure the Telethon's success. KWOD also sponsored the "Great American Kiss Off" on Valentine's Day, 1983, for MDA's benefit, he stated. In Mr. Swislow's opinion, KWOD "has been and continues to be a strong supporter of the Muscular Dystrophy Association" (Royce Ex. 5, p. 38).

125. In a letter dated October 11, 1983, Mr. Swislow noted that the "best ever" KCRA/Sacramento Telethon had yielded 429,947. By Mr. Swislow's estimation, KWOD's involvement in the event was critical to its

success. On behalf of the Muscular Dystrophy Association, Mr. Swislow thanked Tom Chase of KWOD for serving as guest emcee during the event. KWOD's Mr. Chase helped to make the Telethon "extra special" and to move MDA one step closer to a cure for the disease, according to Mr. Swislow. Mr. Swislow again thanked KWOD for playing "such an important role" in the Telethon effort (Royce Ex. 5, p. 39).

126. In a letter dated March 25, 1983, Ms. Jeri L. Gardner, Regional Coordinator of the Muscular Dystrophy Association, thanked KWOD for its efforts on behalf of MDA during the "Great American Kiss Off" held at the Country Club Plaza shopping center in February, 1983. According to Ms. Gardner, the airtime and other contributions made by KWOD and its staff members underpinned the project's success. Ms. Gardner also praised KWOD's staff for their "highly professional and friendly manner," and noted: "KWOD has been a long time supporter of MDA and our kids and adults who have muscular dystrophy. We are extremely grateful and hope we can work together for many years to come" (Royce Ex. 5, p. 40).

127. In a letter dated March 21, 1983, Alan Swislow, District Director of the Muscular Dystrophy Association, thanked the KWOD staff for their help at the "Great American Kiss Off," a charity event designed to benefit MDA. Mr. Swislow expressed his appreciation for the work that the KWOD staff performed for the event and said that it was "a pleasure" to work with KWOD (Royce Ex. 5, p. 41).

128. In a September 27, 1982 letter to KWOD, Ruth Jarvis, District Director of the Muscular Dystrophy Association, thanked the station on behalf of MDA for the "extra special" effort put into the "1982 Jerry Lewis Labor Day Telethon." Without KWOD's support, Ms. Jarvis wrote, Sacramento's contribution to the national fundraising drive "would not have been so successful." A record-high 415,000 was pledged to the Sacramento/San Joaquin Chapter of the MDA during the Telethon to further MDA's "worldwide research Program and patient care," Ms. Jarvis wrote. Also, MDA's Jeri Gardner, in a hand-written note, thanked the KWOD staff who served as guest emcees during the Telethon (Royce Ex. 5, p. 42).

129. Copy of the Muscular Dystrophy Association's 1980 Award to KWOD for the station's efforts on behalf of MDA.

130. KWOD broadcast PSA's for the Muscular Dystrophy Association during March, May, and June, 1982, and February, April, July, August, and December, 1983 (Royce Ex. 5, pp. 91, 93, 94, 117, 119, 124, 125, 129).

131. *Affidavit of Richard Schiffers, Director of Student Activities, University Union, California State University, Sacramento*: Mr. Schiffers has served as either Program Director or Director of Student Activities at the University Union since 1975. He stated that KWOD has long been a major supporter of the University Union's activities. During 1980-1983, for example, KWOD broadcast the University Union's PSA's, conducted ticket giveaways, performed live remote broadcasts from the Union, and aired promotions for Union activities that included a lecture series and various entertainment programs. KWOD's efforts have constituted "a genuine service to the University students and the community," according to Mr. Schiffers (Royce Ex. 5, p. 44).

132. KWOD broadcast PSA's for the University Union at California State University in Sacramento during January and September, 1982; and March, April and October, 1983 (Royce Ex. 5, pp. 89, 97, 118-119, 127).

Other Letters from the KWOD Public File Regarding the 1980 - 1983 Renewal Period

133. In a letter dated April 28, 1982, Jill Kimberly, Director of the ASI Program Board, thanked KWOD for making the Board's "1982 River City Days" event successful, noting that KWOD was "at the top of the list of people" deserving recognition for their efforts. Ms. Kimberly explained that she had heard compliments campus-wide about the "wonderful publicity" provided by KWOD to the University's many events and organizations (Royce Ex. 5, p. 45).

134. In a September 9, 1981 letter from Mothers Against Drunk Drivers, MADD President Candy Lightner noted that "words aren't adequate" to express her appreciation for KWOD's involvement in her MADD's "Dunk Tank" event. Ms. Lightner wrote that KWOD's participation was "one of the main reasons" that MADD was able to raise \$375 during the event (Royce Ex. 5, p. 46).

135. In a September 10, 1981 letter, Mary Moseley, writing on behalf of the Sacramento County Health Department, thanked KWOD for airing the Department's PSA's about the County's school entry health requirements. According to, Ms. Moseley: "Judging from the many telephone calls we received, radio spots were one of the most successful resources in notifying parents of kindergarteners about the need for check-ups and current immunizations" (Royce Ex. 5, p. 47).

136. In a letter dated September 6, 1982 from California Community Fairs, June Wimer thanked KWOD for sending a staff person to assist in the "Del Taco Tortilla Toss." Ms. Wimer noted that the KWOD staffer was a "delightful person to work with and a real crowd pleaser," and she extended thanks to Mr. Stolz for his "great job" in the "Celebrity Contest" (Royce Ex. 5, p. 48).

137. In a letter dated March 30, 1983 from the Youth Ministry/CYO, Diocese of Sacramento, Mr. Kevin O'Brien, the group's Media Coordinator, expressed his thanks for KWOD's support of the organization's Easter special on "Face the Music." Mr. O'Brien wrote that he appreciated the "attitude and continued support" of KWOD (Royce Ex. 5, p. 50).

138. In a letter dated March 15, 1983 from the Sacramento Society For The Prevention Of Cruelty To Animals, SPCA Executive Director Valeria A. Wood thanked KWOD for remembering the Sacramento SPCA through the station's "Stray Cats" promotion held at the Phone Co., Ltd. Ms. Wood wrote that KWOD's donation to the SPCA helps the organization to "provide care for the many animals entering our Shelter each year" (Royce Ex. 5, p. 51).

Auxiliary Power Supply

139. Royce has purchased an auxiliary power generator for its new studio, which it intends to install. Royce also has committed to install an auxiliary power generator at its transmitter site (Royce Ex. 7, p. 1).

Wong L. P.

The Applicant

140. Wong Communications Limited Partnership (Wong L.P.) is the applicant for a construction permit for a new FM station at Sacramento, California. The Wong L.P. application is mutually exclusive with the application of Royce for renewal of its license to operate KWOD, Sacramento, California (Wong L.P. Ex. 1, p. 1; Wong Ex. 3, p. 1).

141. The Wong L.P. principals are Fay Wong, stated to be General Partner with a 60 percent ownership interest, and Kin Shaw Wong, her older brother, stated to be Limited Partner with a 40 percent ownership interest (Wong Ex. 1, p. 1; Wong Ex. 3, p. 1; Tr. 328-329).

Diversification

142. Neither Wong L.P. nor Ms. Wong hold any interest in any medium of mass communications (Wong Ex. 2, p. 1).

143. Mr. Wong personally holds the construction permit of AM radio station KPTO, Citrus Heights, California (Wong Ex. 2, p. 1; Tr. 492-493). Although there is a pending request for an extension of time to respond to the Commission's dismissal of a major modification application, there currently is a construction permit in effect for KPTO (Tr. 499-500).

144. The proposed operation of the Wong L.P. FM Sacramento station will encompass the communities in which the KPTO station might be constructed, that is Citrus Heights, California or Fair Oaks, California, which are "bedroom communities" of Sacramento (Royce Ex. 8; Tr. 358). The KPTO station will serve the Sacramento market (Tr. 509-510, 580).

145. A limited partnership arrangement for the instant application was suggested to Mr. Wong by his FCC counsel, Mr. Rowlenson, in part to prevent Mr. Wong's interest in the KPTO station, which is in the Sacramento market, from constituting a serious demerit in this proceeding (Tr. 509-510). Consequently, Mr. Rowlenson asserted that setting up a limited partnership would be beneficial to the Wong L.P. application in this proceeding because Mr. Wong's AM ownership would not come into play (Tr. 359-361, 509-510).

Integration

146. Ms. Wong proposes to devote a minimum of 40 hours per week in the position of general manager of Wong L.P.'s proposed Sacramento FM Station (Wong Ex. 3, p. 1). Consequently, Wong L.P. claims 100% quantitative integration credit (Wong Ex. 3, p. 1).

Genesis of the Wong L. P. Application

147. Mr. Wong is Ms. Wong's brother. Mr. Wong, the eldest child in the Wong family, is about seven years older than Ms. Wong. As her older brother, particularly in the Chinese culture, Ms. Wong "looks up" to and "trusts" Mr. Wong (Tr. 328-330, 344, 514).

148. The initial plan for the Wongs to apply for an FM station in Sacramento to compete against the renewal application of KWOD was developed by Mr. Wong and his advisors -- Mr. Williams, Mr. Wong's consulting engineer, and Mr. Rowlenson, Mr. Wong's FCC counsel.

Ms. Wong was *not* a participant in the initial, lengthy discussion between Mr. Wong and his advisors during which the plan was developed (Tr. 500-502, 508, 511-513).

149. When Mr. Wong initially discussed with his advisors the filing of a competing application to KWOD, Mr. Wong was not aware that all the Sacramento FM stations were up for renewal. Instead, the focus was solely on KWOD (Tr. 502-503).

150. Mr. Wong, who knew that Mr. Stolz was the owner of KWOD, had had a contractual agreement with Mr. Stolz to provide a SCA signal for Mr. Wong's background music business. That relationship was the subject of a lawsuit filed by Mr. Wong against Mr. Stolz, which lawsuit was pending in September 1983 when Mr. Wong decided to file this competing application. Mr. Wong admits that he was "angry" with the way Mr. Stolz had conducted his business towards Mr. Wong personally and that filing a competing application is a way to challenge Mr. Stolz's business (Tr. 503-506).

151. The only knowledge that Ms. Wong had about the Sacramento radio market prior to filing the Wong L.P. application was information told to her by Mr. Wong (Tr. 330). Mr. Wong first approached Ms. Wong at a family visit around September 1983 (Tr. 328-331). In this first conversation, lasting approximately half an hour, Mr. Wong explained to Ms. Wong that an opportunity to file against Mr. Stolz existed (Tr. 330-331, 336). Ms. Wong believes that Mr. Wong perhaps discovered this opportunity during Mr. Wong's investigation for his lawsuit against Mr. Stolz (Tr. 336-337). However, Mr. Wong did not volunteer specific reasons why the KWOD renewal could be challenged nor did Ms. Wong request any specific information (Tr. 331-332, 337-338). Nor did Mr. Wong mention the fact that all the Sacramento FM stations were up for renewal at that time, a fact unknown to Ms. Wong (Tr. 330). Thereafter, Ms. Wong and Mr. Wong had telephone conversations and, shortly before the filing of the application, Ms. Wong agreed to pursue the venture (Tr. 340).

152. It did not occur to Ms. Wong that there was a special reason for filing against KWOD in particular. As Ms. Wong admitted, at that time she was not very familiar with the Sacramento radio market, was not familiar with the operation of KWOD, did not know Mr. Stolz, did not know anything about KWOD's programming from any other source, did not even know what kind of format KWOD had and did not and does not now know how many FM stations there are in Sacramento. Nor has Ms. Wong ever listened to KWOD, nor does she know what frequency Wong L.P. has applied for (Tr. 338-339, 371).

Decision to Form A Limited Partnership

153. Mr. Wong decided on the advice of his counsel that the Sacramento FM application would take the form of a limited partnership and determined the ownership percentages of the partners without question by or input from Ms. Wong (Tr. 354-356, 363, 509-513, 520-521).

154. Mr. Wong's FCC counsel, Mr. Rowleson, had suggested to Mr. Wong a limited partnership arrangement for the Sacramento FM application. This arrangement was suggested because Mr. Wong would not be able to devote full-time to running the FM station because of his Citrus Heights AM application as well as other business commitments. Mr. Rowleson explained to Mr. Wong the comparative criteria of the application process (Tr. 509-510).

Thus, he explained that Mr. Wong's ownership of an AM station in the same market would be a serious demerit in the comparative consideration of an application for a new FM station in Sacramento (*see* ¶ 145, *supra*). Although Mr. Wong had had no discussions with Ms. Wong prior to this conversation with Mr. Rowleson, Mr. Wong unilaterally suggested that Ms. Wong should be the general partner in the application (Tr. 510-513).

155. Thereafter, Mr. Wong proposed to Ms. Wong that she be the general partner (Tr. 355). He explained that Ms. Wong would have a 60 percent interest and he would have a 40 percent interest (Tr. 354-355, 520). Ms. Wong acquiesced to Mr. Wong's decision (Tr. 520).

156. Mr. Wong noted that Ms. Wong should be the general partner in order to "make the application more attractive to the FCC" (Tr. 355-356). Furthermore, the application would be more attractive because it would have a female minority as the general partner (Tr. 357). Ms. Wong admitted that the entire enterprise was set up from the very beginning to improve their comparative position in this proceeding (Tr. 464).

157. It was Mr. Wong's decision to file as a limited partnership (Tr. 363). Ms. Wong did not question why a limited partnership was the vehicle chosen in this case in contrast to the general partnership between her and her brother in their application for an FM station in Redding, California (Tr. 354, 363). Nor did Ms. Wong question the ownership percentages chosen by Mr. Wong (Tr. 354-355).

158. Ms. Wong stated that it "never crossed my mind" to file an application for a Sacramento FM station in her own name without being in partnership with her brother. She felt that she needed someone such as her brother with more experience, who could give her advice on the technical aspects of the station, and generally give her the benefit of his experiences (Tr. 362).

159. Prior to the filing of the application here for an FM station in Sacramento, Ms. Wong had once before entered into a partnership with Mr. Wong for an application for a new FM station in Redding, California (Tr. 343, 515). Mr. Wong had originally filed that application by himself as sole proprietor, but later amended the application to a general partnership, with Mr. Wong holding 60% and Ms. Wong holding 40% general partnership interests (Tr. 345-347, 350, 517). The Redding application was still pending in 1983 when the instant application was filed (Tr. 515, 519).

160. For the Redding application -- in the same manner as for the Sacramento application -- Mr. Wong proposed to Ms. Wong the form and percentages of the partnership for the application, which suggestion was unquestioned by Ms. Wong (Tr. 343-344, 517-518; *see*, ¶¶ 153-159, *supra*). Mr. Wong had proposed to work full-time at the Redding station as general manager (Tr. 518). Mr. Wong explained to Ms. Wong that amending the application to give Ms. Wong a 40 percent general partnership interest would make the application more attractive and would build a stronger case because she is a woman and a minority (Tr. 350). Mr. Wong did not give any other reason why they should form a general partnership to pursue the Redding station (Tr. 353).

Preparation of the Application

161. Mr. Wong engaged Mr. Williams, whom he had worked with before on various radio-related matters, including the Redding application, to prepare the engineering portion of the Wong L.P. application (Tr. 367-369, 521).

162. Ms. Wong relied completely on her brother, Mr. Wong, to prepare the engineering portion of the Sacramento application in conjunction with Mr. Williams. Included in such preparation was the identification of a site for the station's antenna, as well as all matters relating to the physical ability to broadcast a signal (Tr. 365-369).

163. Ms. Wong did not meet the engineer, Mr. Williams, before the application was filed (Tr. 369-370). She relied on Mr. Wong's assurances that the engineering was in order (Tr. 372-373). Ms. Wong never asked either Mr. Wong or Mr. Williams a question concerning engineering matters prior to the filing of the application, even though she became the general partner of the limited partnership before the application was filed (Tr. 365-366, 524). For example, Ms. Wong did not question Mr. Wong or Mr. Williams as to whether either had a reasonable assurance of the availability of the transmitter site (Tr. 371).

164. Ms. Wong, both at the time of filing of the application and at least for two years thereafter, did not know the location of the transmitter site proposed in the application (Tr. 370-372). Nor did Ms. Wong know at the time of filing this application what frequency Wong L.P. applied for -- nor did she know that frequency at the time of hearing (Tr. 371). Ms. Wong admits that she did not know anything about the engineering relating to the proposed station and did not ask any questions because Mr. Wong was taking care of those activities and she "trusted" him (Tr. 371-373).

165. When she signed the application, Ms. Wong was aware of the certification that she made that "the statements in this application are true, complete, and correct to the best of any knowledge and belief, and are made in good faith," and that deliberate misrepresentations are subject to perjury charges (Royce Ex. 8; Tr. 378, 381-382). Nonetheless, when Ms. Wong signed the application she "didn't look very carefully at the engineering section" nor was she even sure that it was attached at all to the application (Tr. 381-382). The engineering section of the application was signed by Mr. Williams, whose office is in Folsom, in Sacramento County, on October 29, 1983; Ms. Wong also signed the application on October 29, 1983, after it had been mailed to her in San Francisco (Royce Ex. 8; Tr. 377, 381-382, 384).

166. Since the filing of the application, Ms. Wong has only looked "just generally" over the engineering portion of the Wong L.P. application (Tr. 372). Ms. Wong did not meet nor have any discussions with the engineer, Mr. Williams, for two years after the filing of the application (Tr. 370).

167. The communications attorney used in the preparation of the Wong L.P. application, Mr. Rowleson, was hired at the suggestion of Mr. Wong, a decision which was acquiesced to by Ms. Wong (Tr. 373-374, 521). Mr. Rowleson had worked for Mr. Wong previously (Tr. 374, 535).

168. Mr. Wong directed Mr. Rowleson to prepare the application and he first saw a draft sometime in October 1983 (Tr. 523-524).

169. Ms. Wong does not recall if she ever spoke with Mr. Rowleson prior to the filing of the application (Tr. 375). She never met Mr. Rowleson before the filing of the application (*id.*).

170. Ms. Wong was not asked by Mr. Wong or Mr. Rowleson any of the specific questions on the application (Tr. 385). Nor had she given any information to Mr. Rowleson, who she assumed completed the application (Tr. 386). Other than discussions with Mr. Wong prior to the drafting of the application, Ms. Wong did not participate at all in the drafting of any part of the application (Tr. 377).

171. Ms. Wong assumed that her brother was having conversations with Mr. Rowleson concerning the preparation of the application, but never instructed Mr. Wong that Mr. Rowleson should talk to her as General Partner, not to Mr. Wong, a limited partner (Tr. 402-403). Thus, Ms. Wong allowed Mr. Wong to continue having conversations with Mr. Rowleson concerning matters which fell within the purview of the general partner, not the limited partner (Tr. 403).

172. Ms. Wong could not recall whether the completed draft of the application was sent directly from Mr. Rowleson or whether it came from Mr. Wong (Tr. 377). In fact, Ms. Wong never gave Mr. Rowleson her address and admits it is likely that he did not have it prior to the filing of the application (Tr. 387). Moreover, the Wong L.P. application listed Mr. Wong's home address as the applicant's address (Royce Ex. 8; Tr. 382-383). Consequently, Ms. Wong admits it is likely that the completed draft of the application was sent first to Mr. Wong who then forwarded it to her (Tr. 387).

173. Concerning both the application as a whole, and its specific parts, Ms. Wong did not supply any information to Mr. Rowleson or Mr. Wong, nor did she question any item in the application because she assumed that the information was correct (Tr. 377-378).

174. For example, Ms. Wong did not supply any information concerning the financial qualifications portion of the application (Tr. 388). She accepted Mr. Wong's oral estimate as to the cost for constructing and operating the station for three months at approximately 200,000, based upon a business plan Mr. Wong had for his AM station (Tr. 389, 392). She also accepted Mr. Wong's assurances that such funds would be met from his own personal finances as well as that of their father and from Mr. Wong's father-in-law; however Ms. Wong did not ask Mr. Wong which portion of the 200,000 he would supply nor did she review any documentation as to either the costs or sources of the funds (Tr. 390-392). Ms. Wong did not talk to her father about his offer to put money into this venture nor did she speak with Mr. Wong's father-in-law about his offer (Tr. 393-394). She relied totally on Mr. Wong to arrange for the estimates of the cost of the station and for the financing of the station (Tr. 394-396).

175. Nonetheless, despite Ms. Wong's complete reliance on Mr. Wong to ensure that the venture was financially qualified, Mr. Wong does not recall whether he provided information relating to financial qualifications to Mr. Rowleson before or even after the filing of the application (Tr. 534-535, 537-538).

176. Ms. Wong also had no input into the preparation of Exhibit 4 to the application, entitled, "Programming Proposal" (Royce Ex. 8; Tr. 400-401). Ms. Wong did not discuss the Programming Proposal with Mr. Rowleson,

but merely assumed that Mr. Wong was doing so (Tr. 401-402). Nor did Ms. Wong supply the detailed programming information to Mr. Rowleson for the exhibit; instead she reviewed Exhibit 4 in final form (Tr. 400).

177. Although Exhibit 4 states that "[t]he Wong's have evaluated, on an on-going basis, the problems, interests and needs of Sacramento and its surrounding communities," Ms. Wong admitted that she had not in fact done so (Royce Ex. 8; Tr. 398). Ms. Wong did not question this statement with either Mr. Wong or Mr. Rowleson before she signed the application attesting to the truth of everything contained in the application (Tr. 398-399).

178. Ms. Wong had no input into the preparation of Exhibit 5, "Applicants Proposed Equal Employment Opportunity Program" (Royce Ex. 8; Tr. 403). Although she was listed as responsible for its implementation, Ms. Wong was not even consulted about Exhibit 5 before it was drafted, nor did she provide the names of the specific organizations to be contacted that were listed in the exhibit (Royce Ex. 8; Tr. 403, 405-406).

179. Nor had Mr. Wong discussed with Mr. Rowleson the details of Exhibit 5 before it was filed. These specific items were included by Mr. Rowleson without any input from Mr. Wong (Tr. 539-540).

180. Mr. Wong does not recall whether he was asked any particular question by Mr. Rowleson for the preparation of the application, nor does Mr. Wong recall whether he furnished specifically to Mr. Rowleson information required to answer questions on the application (Tr. 525-526, 534-535).

181. The Wong L.P. application was signed on Wong L.P.'s behalf by Ms. Wong on October 29, 1983, and was filed with the FCC by Mr. Rowleson on October 31, 1983 (Royce Ex. 9).

182. Mr. Wong paid all the expenses of the preparation and filing of the Wong L.P. application (Tr. 369, 374-375, 521-523). Mr. Williams, the consulting engineer, sent his bill directly to Mr. Wong, and Mr. Wong then paid Mr. Williams (Tr. 521). Mr. Wong has not been repaid by the partnership for his payment to Mr. Williams (Tr. 369). Similarly, Mr. Wong received Mr. Rowleson's bills directly, paid them, and has not been reimbursed by the limited partnership (Tr. 374-375, 522).

183. For the Redding application -- in the same manner as for the Sacramento application -- Mr. Wong handled the preparation of the application with his engineer and communications attorney without the involvement of Ms. Wong. Ms. Wong did not communicate with the engineer prior to the filing of the Redding application and does not recall whether she spoke with the FCC attorney prior to the filing of that application. Ms. Wong merely read a completed draft of the application. Thus, Ms. Wong had nothing to do with the Redding application other than the signing of some documents. The rest was left entirely up to her brother, Mr. Wong, including the settlement of the case (Tr. 343-349; see ¶¶ 161-183, *supra*).

Formation of the Partnership

184. Mr. Wong suggested to Ms. Wong that they retain Leroy Fong, who had worked personally for Mr. Wong in other matters, to draft a limited partnership agreement (the "Partnership Agreement" or "Agreement") (Tr. 522, 595). Mr. Wong personally retained Mr. Fong (Tr. 522-523). Mr. Wong instructed Mr. Fong to form the limited partnership, directed him as to the percentages of

each partner and gave Mr. Fong the name and address of the partnership (Tr. 595-596). After Mr. Fong completed the draft of the Partnership Agreement, he went over the Agreement provision-by-provision with Mr. Wong -- without the presence of Ms. Wong (Tr. 596-597). Mr. Wong was satisfied that the Partnership Agreement expressed his understanding of the roles of the general and limited partners (Tr. 597).

185. Although Ms. Wong admitted that she did not completely understand all the items in the Partnership Agreement, she did not ask any questions of the attorney, Mr. Fong, who was hired and paid by her brother, nor did she question her brother concerning the Agreement (Tr. 409-412). Ms. Wong assumed that because Mr. Wong was involved in the Agreement and because of her "trust" in him, that the Agreement would be structured for the benefit of both her brother and herself (Tr. 411).

186. The Partnership Agreement listed as the partnership's principal place of business Mr. Wong's business address (Wong Ex. 13, p. 2, at ¶ 4; Tr. 415). Also, the address next to Ms. Wong's signature on the Partnership Agreement is Mr. Wong's business address (Wong Ex. 13, p. 5; Tr. 448-449). Ms. Wong did not question this practice even though she realized that mail and documents relating to the partnership would be sent first to Mr. Wong (Tr. 415-416, 450).

187. Although the Partnership Agreement provides that the general partner shall cause to be filed and published a fictitious business name statement, Ms. Wong did not understand that requirement at the time nor did she cause or direct such a statement to be filed (Wong Ex. 13, p. 1, at ¶ 2; Tr. 413-414).

188. The Partnership Agreement was executed by the Wongs on October 28, 1983 (Wong Ex. 13, pp. 1, 5).

189. A certificate of limited partnership was filed with the California Secretary of State by Wong L.P. for the first time on May 5, 1987 (Wong Ex. 1, at Attachment A).

190. Mr. Wong paid Mr. Fong's fee for the preparation of the Partnership Agreement. Mr. Wong has not been reimbursed for that payment by the partnership (Tr. 376, 410, 595).

Conduct of the Partnership

191. Although Ms. Wong's integration proposal states, that in her role as general partner of Wong L.P., she has "sole control of the management of the Wong L.P. business specifically including control of the proposed radio station," and thus is qualified for 100% integration credit (Wong Ex. 3, p. 1), Ms. Wong acknowledged at hearing that, up until that time, she has not exercised any control over the partnership (Tr. 487). Ms. Wong explained that she viewed the station as merely "in development" and thus depended upon her brother "a lot" (Tr. 487). Ms. Wong's interest is in operating the station, *not* in taking the steps necessary to acquire the station -- steps such as preparation of the application, oversight of engineering matters and financing. Therefore, Ms. Wong has deferred completely to Mr. Wong in these areas (Tr. 446-447).

192. Ms. Wong explained that she has not always adhered to the language in the Partnership Agreement (Tr. 443). She has not seen the need for taking formal steps pursuant to the Agreement because she respects Mr. Wong's business acumen and his experience and because they have been working together (Tr. 444). For example, no bank account at all was opened for the partnership

until Spring 1987 (Tr. 420). Many other "formalities" under the Partnership Agreement were ignored by the Wongs. Even though the Partnership Agreement requires that the partnership's net profit and loss shall be determined by a certified public accountant who regularly audits the partnership books, no such audits have ever been undertaken (Wong Ex. 13, p. 3, at ¶ 9; Tr. 440-441, 551). Despite the fact that expenses have been incurred, no partnership books have even been set up (Tr. 433, 441, 443, 549-550). No accountant has been hired for the partnership (Tr. 422, 551). No tax returns have been filed for the partnership (Tr. 422-423, 550-551). Not only has Ms. Wong never filed any income tax returns for the partnership, she had not even asked if income tax returns had been filed by anyone else (Tr. 422-423). Neither Ms. Wong nor the partnership has issued partnership shares (Tr. 453). Except perhaps for a meeting in the fall of 1985 of the Wongs with communications counsel and the consulting engineer, there have been no formal meetings of the partnership (Tr. 452).

Conduct of the Partnership: Management of Finances

193. Despite the fact that the Partnership Agreement provides that "[t]he partnership business shall be managed by the general partner," and that "[l]imited partners shall have no right to take part in the management of the partnership or to transact any business on its behalf," Mr. Wong, the limited partner, in fact has managed the finances of the partnership without any oversight or involvement by Ms. Wong (Wong Ex. 13, p. 4, at ¶ 15; Tr. 422, 430, 433, 436-437, 443, 551-552).

194. Even after the formation of the partnership and the filing of the application, Mr. Wong continued to pay all expenses personally (Tr. 552-553). From 1983 to Spring 1987, Mr. Wong paid directly whatever expenses of the partnership were due, including the expenses for the filing and prosecuting of the application (Tr. 421-422, 429-430, 432, 549, 552). For example, when an amendment to the application was filed in 1985, Mr. Wong paid FCC counsel for that work (Tr. 421-422, 549). Up until 1987, Ms. Wong had not paid a single bill on the behalf of the partnership (Tr. 551-552). Moreover, Ms. Wong had no idea what bills were coming in or how they were being paid for, because all bills to be paid were sent directly to Mr. Wong, who kept the only records (Tr. 422, 430, 433-434, 482).

195. Not until 1987 did Ms. Wong concern herself with finances but instead had trusted her brother to be in one-hundred percent control of the finances of the partnership (Tr. 436, 442-443). Ms. Wong believed it was "perfectly fine" for Mr. Wong to be responsible for payments and to keep all records concerning the finances of the partnership (Tr. 422, 443-444). Ms. Wong has not questioned Mr. Wong at all about the lack of formal documentation (Tr. 550).

196. After a partnership bank account was opened in Spring 1987 (after the issuance of the Hearing Designation Order in this case), Ms. Wong began to keep records concerning partnership expenses (Tr. 420, 433). However, despite the fact that the prosecution of the application has been an expense to the partnership, partnership books still have not been prepared (Tr. 441, 549-550). Moreover, Mr. Wong has continued to personally supply all the funds required to pay partnership expenses, including the costs of prosecution of the application (Tr. 549-550,

552-553). Ms. Wong, however, is unaware of the total amount of funds contributed by Mr. Wong since the inception of the partnership (Tr. 482).

Conduct of Partnership: Advancement of Funds

197. As of the date of the hearing, Ms. Wong has contributed 6,000 to the partnership (Tr. 481, 547). Ms. Wong has no obligation to supply any additional funds over and above her 6,000 contribution no matter what the costs are for prosecution of the application or for the construction and three months' operation of the station (Tr. 482-483, 566).

198. The oral arrangement between the Wongs is that Mr. Wong will provide whatever additional funds that are needed for the prosecution of the application (Tr. 482-483). There is no limitation set on the amount of funds which Mr. Wong is required to provide (Tr. 483).

199. Mr. Wong has already funded approximately 40,000 for the costs so far of preparation and prosecution of the application (Tr. 558). This amount includes payment to communications counsel and the consulting engineer for the preparation and filing of the application, payments to local counsel for preparation of the Partnership Agreement, and, since the filing of the original application, payments to Mr. Rowlinson for the preparation and filing of an amendment in 1985 to the Wong L.P. application, and payments to Mr. Gavin, new communications counsel, for the initial costs of the prosecution of the application in hearing (Tr. 369, 374-376, 410, 521-523, 549, 558-559).

200. In addition to his funding so far of 40,000 of the partnership's expenses, Mr. Wong is committed to provide at least an additional 60,000 more for the estimated costs to continue the prosecution of the Wong L.P. application (Tr. 558-563). Furthermore, if expenses of prosecution exceed this 100,000 estimate, Mr. Wong is committed to provide whatever funds are necessary to prosecute the application (Tr. 563).

201. Furthermore, Mr. Wong has obligated himself to personally fund 50,000 of the estimated 250,000 cost of construction and three months' operation of the station (Tr. 565-566).

202. The Wongs characterize as "loans" to the partnership all funds expended by Mr. Wong above his 4,000 capital contribution in connection with the preparation and prosecution of the application and the construction and operation of the station (Tr. 434, 546-548).

203. However, Mr. Wong's purported "loans" to the partnership are not evidenced by loan agreements or any other documentation, are not separately accounted for by the partnership, are not a personal obligation of Ms. Wong, are interest-free, and no agreement has been made for repayment (Tr. 435-436, 546-549). Consequently, Mr. Wong has provided and shall continue to provide interest-free "loans" for the total cost of the prosecution of the application (possibly in excess of 100,000) plus 50,000 for construction and operation of the station, even though Ms. Wong has no financial obligation besides her 6,000 capital contribution (Tr. 548-549, 563).

204. No provision of the original Partnership Agreement provides for partners to make loans to the partnership (Wong Ex. 13). Instead, the Agreement provides that "[i]f the general partner decides that additional capital must be contributed for the partnership's best interests,

she shall notify each partner in writing of the total amount to the contributed" (Wong Ex. 13, p. 2, at ¶ 7 [sic]).

205. The Partnership Agreement further provides that the "liability of each limited partner for partnership losses shall in no event exceed the aggregate amount of that limited partner's capital contributions required by this agreement and any optional capital contributions actually made" (Wong Ex. 13, p. 4, at ¶ 12). Despite the fact that this provision limits Mr. Wong's liability to the partnership to his 4,000 capital contribution, he has increased his exposure by tens of thousands of dollars by supplying the partnership interest-free, undocumented "loans" (Wong Ex. 13, p. 4, at ¶ 12; Tr. 548-549).

Conduct of the Partnership: Capital Contributions

206. Despite the express requirement that "[e]ach partner shall initially contribute to the partnership as capital cash" the amounts of 6,000 (required from Ms. Wong), and 4,000 (required from Mr. Wong), neither Ms. Wong nor Mr. Wong initially contributed these stated capital contributions (Wong Ex. 13, p. 2, at ¶ 7; Tr. 417, 420-421, 543).

207. Nor, as described below, has either Ms. Wong or Mr. Wong ever formally contributed their required cash contributions to individual capital accounts (Tr. 425-426, 494-498, 542-546). In fact, Ms. Wong has never opened individual capital accounts for Mr. Wong and herself despite the express requirement of the Partnership Agreement (Wong Ex. 13, p. 3 at ¶ 8; Tr. 430-431, 440).

208. When Ms. Wong finally chose to pay her purported 6,000 capital contribution in 1985, she paid it to Mr. Wong's personal bank account instead of into a separate capital account as required by the Partnership Agreement (Royce Ex. 9; Wong Ex. 13, p. 2, at ¶ 8; Tr. 423-427, 494-496, 542-543). Ms. Wong's "capital contribution" of 6,000 was made by her on May 23, 1985, with a check made payable to "Wong Broadcasting" (Royce Ex. 9; Tr. 423-426). Mr. Wong deposited that check in his personal account kept under the name of "Wong Broadcasting" (Tr. 496, 542). That personal account was used by Mr. Wong in connection with his application for KPTO in Citrus Heights (Tr. 425-426, 494-495).

209. It was on the recommendation of communications counsel that Ms. Wong made the 6,000 check in May 1985 because the "B" cut-off date of June 20, 1985 was approaching (Tr. 423-425).

210. Relying on Mr. Wong's judgment and advice, Ms. Wong made out her 6,000 check to the order of "Wong Broadcasting" (Royce Ex. 9; Tr. 425-427). She did not question why her capital contribution to the partnership should be made to the order of Mr. Wong's personal account (Tr. 426). Mr. Wong's only explanation was that Ms. Wong's check was placed in the Wong Broadcasting bank account because there was no bank account set up in 1985 for the partnership (Tr. 495).

211. Mr. Wong considered funds on deposit in his "Wong Broadcasting" account from May 1985 to Spring 1987 to have constituted his capital cash contribution to the partnership (Tr. 542-543). Mr. Wong explained at hearing that the Wong Broadcasting account (into which he deposited Ms. Wong's 6,000 check) contained other funds of his in excess of 4,000 and thus represented his capital contribution of 4,000 (*id.*).

212. However, Mr. Wong made no demarcation in the Wong Broadcasting bank account of either Ms. Wong's 6,000 deposit or his 4,000 purported capital contribution but instead commingled those funds as well as funds relating to KPTO in the one account (Tr. 498, 543).

213. Mr. Wong testified that since March 1987, when a checking account was established for the partnership, he has transferred approximately 30,000 to 36,000 to that account (Tr. 546). Although no separate capital cash accounts were set up, Mr. Wong considers 10,000 of this amount to constitute Ms. Wong's capital contribution of 6,000 plus his capital contribution of 4,000 (*id.*). As discussed *supra*, the remainder of the funds are characterized by Mr. Wong as loans to the partnership, although there are no written loan agreements (Tr. 546-547).

214. When Mr. Wong "transferred" Ms. Wong's 6,000 capital contribution in 1987 from his personal account to the partnership bank account, he did *not* transfer any of the interest that had accrued since Mr. Wong deposited Ms. Wong's 6,000 check in 1985 into his account (Tr. 497-498).

215. The Partnership Agreement provides that additional capital contributions shall be made by each partner "in an amount bearing the same ratio to that total amount that [each partner's] capital account balance bears to the total capital account balances of all the partners. Additional capital contributions shall be made only as specified in this agreement" (Wong Ex. 13, pp. 2-3, at ¶ 7 [sic]).

216. Despite the Agreement's provision that Ms. Wong request, in writing, additional capital contributions from the partners in proportionate amounts (60% from Ms. Wong, 40% from Mr. Wong) if she decides that additional capital is needed, when recently before hearing such additional capital was required, Ms. Wong did not request additional contributions from herself and Mr. Wong. Ms. Wong did not have the money and could not contribute (Wong Ex. 13, pp. 2-3, at ¶ 7 [sic]; Tr. 437, 485-486).

217. Although the original Partnership Agreement only provides for additional capital contributions by partners (with Ms. Wong to provide 60% and Mr. Wong 40% of each additional request for capital), although the Agreement does not provide for loans by a limited partner, although Mr. Wong's liability is limited to his capital contributions, although Mr. Wong has supplied over 40,000 to the partnership while Ms. Wong has no obligation over 6,000, and although Mr. Wong's "loans" are not documented by loan agreements and are interest-free, the Wongs claim that Mr. Wong's advances to the partnership are not capital contributions but are loans (Wong Ex. 13; Tr. 434, 484-485, 546-549).

Other Provisions of the Partnership Agreement

218. The Partnership Agreement provides that the "general partner is not required to devote all her business time to the partnership, but shall devote the time to the partnership that she deems appropriate" (Wong Ex. 13, 5, at ¶ 17). The purpose of the partnership "is to engage in the business of owning and operating a radio station" (Wong Ex. 13, p. 2, at ¶ 5; Tr. 475-476). Consequently, there is no requirement that Ms. Wong spend any particular amount of time in connection with the partnership or the station (Tr. 472-473, 600). Paragraph 17 was discussed specifically between Ms. Wong and her brother before it was added to the Agreement (Tr. 472). Because Ms. Wong

had "other things that were going on in my life" and the station seemed to be "so far away from reality," Ms. Wong found it difficult at the time the Agreement was drafted for her to pinpoint whether she would devote full-time to the station (Tr. 473). However, in April 1987, when the Agreement was amended, no changes were made to Paragraph 17 (Tr. 473-474).

219. The Partnership Agreement does not bar limited partners from taking part in the management of the partnership. Instead, the Agreement provides only that the limited partner does not have the "right" to do so (Wong Ex. 13, p. 3, at ¶ 15).

220. Similarly, the Agreement does not preclude limited partners from devoting time to the partnership. Instead, the Agreement provides that the limited partners are not "required" to devote any time (Wong Ex. 13, p. 5, at ¶ 17; Tr. 601).

221. Paragraph 16 of the Partnership Agreement provides that the general partner may not act in certain areas without the limited partner's approval (Wong Ex. 13, p. 4, at ¶ 16; Tr. 598). For example, pursuant to Paragraph 16b of the Agreement, Ms. Wong could not sell the station without Mr. Wong's written permission. Likewise, if Ms. Wong wanted to admit another partner, she could not do so without Mr. Wong's approval, pursuant to Paragraph 16e (Wong Ex. 13; Tr. 447-448, 598-599).

Amendment to the Partnership Agreement

222. The Wongs amended their Partnership Agreement once, in April 1987 (the "Amendment to the Agreement" or the "Amendment"), almost two years after the "B" cut-off date of June 20, 1985 for amendments as a matter of right (Wong Ex. 14; Tr. 424, 450).⁷

223. The Amendment was made on the advice of communications counsel, Mr. Gavin, who had telephoned Mr. Wong to recommend that the Partnership Agreement be amended to "clarify" and "define" the roles of the general and limited partners and to add provisions to the Agreement (Tr. 604-606).

224. Although Ms. Wong is the general partner and Mr. Wong is the limited partner, according to the notarizations, Mr. Wong signed the Amendment to the Agreement before Ms. Wong (Wong Ex. 14). The notarizations indicate that Mr. Wong executed the Amendment on April 13, 1987 in Sacramento and that Ms. Wong executed the Amendment on April 14, 1987 in San Francisco (Wong Ex. 14). Despite the notary's certification that Ms. Wong signed the Amendment on April 14, Ms. Wong claimed at hearing that she signed it on April 13. She does not recall whether Mr. Wong had signed the document first (Tr. 457-458).

225. The Amendment to the Agreement supplemented some provisions of the original Agreement and added some new provisions, including material changes and "enhancements" to the Agreement (Wong Ex. 14; Tr. 460, 611-612).

226. For example, the Amendment to the Agreement added to and enhanced Paragraph 15 of the original Agreement in a way that Mr. Wong conceded could make the Agreement "more attractive" in this FCC proceeding (Tr. 612). The Amendment added the following new restrictions on the limited partner to Paragraph 15 of the Agreement:

- a. Perform any services to the Limited Partnership materially relating to its radio station;
- b. Become actively involved in the management or operation of the Partnership's radio station;
- c. Be an employee of the Partnership's radio station;
- d. Perform any services as an independent contractor or agent with respect to the Partnership's radio station;

(Wong Ex. 14, pp. 1-2, at Part C). These restrictions were not contained in the original Agreement, which did not preclude limited partners from taking part in the management of the station or from devoting time to the station (Wong Ex. 13, pp. 4-5, at ¶¶ 15, 17; Tr. 465).

227. The Amendment to the Agreement added an entirely new provision (Paragraph 22) that restricts the removal of a general partner for cause, as supported by the finding of cause by an independent arbitrator (Wong Ex. 14, 3, at Part F). That new provision specifically provides:

By consent of a majority of the General Partners, if there be more than one General Partner, and by consent of a majority of the Limited Partners, if there be only one General Partner, a General Partner may be removed for cause, upon a finding by an independent arbitrator that said General Partner engaged in malfeasance, criminal conduct or wanton or willful negligence. Such arbitration shall be conducted in accordance with the statutes then obtaining in California governing arbitration of a controversy or dispute.

(*id.*). There is no provision in the original Agreement providing for the removal of the general partner only for cause; the original Agreement is entirely silent on removal of the general partner (Wong Ex. 13; Tr. 618-619).

228. The Amendment also added Paragraph 21 to the original Agreement. Paragraph 21 provides that "[n]othing in this Agreement shall prevent the General Partner or the Limited Partner from making secured or unsecured loans to the Partnership, provided, however, that a Limited Partner may advance funds to the Partnership only with the consent of the General Partner" (Wong Ex. 14, p. 2, at Part E). New Paragraph 21 also provides that such advances will not constitute capital contributions, will not entitle that partner to increases in distribution shares, will be considered an obligation of the partnership with the same effect as one to a third party, will bear interest as agreed by the general partner, will be payable or collectible only from partnership assets and that the general partner will not be personally obligated to repay any part of the loans unless otherwise agreed by the general partner (*id.*).

229. Paragraph 21 is an entirely new provision to the Agreement (Tr. 616-617). Nothing in the original Agreement contained a provision for loans by limited partners; instead, the original Agreement only provided for additional capital contributions by partners (Wong Ex. 13, pp. 2-3, at ¶ 7 [sic]; Tr. 460, 617-618).

230. Despite the new requirement in Paragraph 21 of the Amendment to the Agreement that Ms. Wong must consent to the advancement of loans by Mr. Wong, Ms.

Further no limited partner shall:

Wong had not up to 1987 given such consent nor even had she known what amounts were "loaned" by Mr. Wong (Tr. 460).

231. The Amendment added new material to paragraph 16(e) of the original Amendment. This addition is a material change providing that the general partner shall have the right to veto the admission of an additional general partner (Wong Ex. 14, p. 2, at Part D; Tr. 459-460, 613, 616).

232. The Amendment added Ms. Wong as agent for service of process. The amendment provided Ms. Wong's home address for process purposes, but maintained the principal place of business of the partnership as Mr. Wong's business address (Wong Ex. 14, p. 1, at Part B; Tr. 448-449).

Operation of the Station

233. Upon construction of the station, Ms. Wong will be the "general manager" of the station (Wong Ex. 3, p. 1; Tr. 479). Ms. Wong proposes to have the primary and ultimate responsibility for all decisions affecting the station's day-to-day and long-range operations (Wong Ex. 3, pp. 1-2). She also states that her responsibilities will include oversight of compliance with all FCC rules and policies, program production, purchasing equipment, services and programming, developing station news and editorial policies, and otherwise directing the operation of the station, hiring and supervising all station management personnel and responsibility for the administration and implementation of the proposed station's equal employment opportunity program (*id.*) However, Ms. Wong will still require the assistance of a station manager with broadcast experience to help her run the station (Tr. 478-479). The station manager will oversee all the technical aspects of the station, help Ms. Wong determine programming and possibly supervise employees. Ms. Wong will not herself handle financial and technical matters (Tr. 477-480).

Operation of the Station: Involvement of Mr. Wong

234. Despite the fact that up until the hearing Mr. Wong has been primarily responsible for the preparation and prosecution of the application, has advanced substantially all of the funds for prosecution, is responsible for the funding of the construction and operation of the station, including 50,000 of his own funds, and despite the fact that Mr. Wong primarily made every decision up to hearing, Ms. Wong contends that once the station is constructed, Mr. Wong will have nothing further to do with it (Tr. 486).

235. However, that contention is directly contradicted by Ms. Wong's testimony. Ms. Wong expects to consult with Mr. Wong whenever she needs advice concerning the operation of the station (Tr. 479). She also will seek his assistance for the construction of the station. For example, Ms. Wong is not familiar with the use of an auxiliary power supply and would defer to Mr. Wong for advice for such equipment (Tr. 472).

236. Mr. Wong, who has some experience in the broadcast field from his application for an FM station in Redding, California, and as a permittee for KPTO, expects that Ms. Wong would "accept" and "value" his advice concerning the operation of the station (Tr. 569-57). This would be particularly so because Ms. Wong has no broadcast management experience, nor experience in the tech-

nical aspects of running a station, nor in the sales aspects of a station, nor experience in the acquisition or scheduling or programming of a broadcast station, and, Mr. Wong admitted, it would "make a great deal of sense from a business point of view" for Mr. Wong to offer advice to Ms. Wong in those areas and that Ms. Wong who "has good business sense" presumably "would accept [Mr. Wong's] advice" (Tr. 569-571). Furthermore, Mr. Wong conceded that his financial investment in the station would certainly make his advice influential to Ms. Wong (Tr. 569-574). For example, Mr. Wong would question Ms. Wong before she made capital expenditures and Mr. Wong presumed that Ms. Wong would accept his advice (Tr. 569). Or, if Ms. Wong chose to provide a religious format for the FM station, which would be the same format presently planned by Mr. Wong for his KPTO station, Mr. Wong would certainly "make very strong comments" against that decision to his sister and would expect her to take his opinion into strong consideration (Tr. 585-586). Mr. Wong plans to maintain close contact with the operation of the station. For example, he will periodically meet with Ms. Wong to discuss the operation of the station and will periodically review the books of the station (Tr. 568-569).

Operation of the Station: Joint Operation with KPTO

237. If Wong L.P. is awarded the FM construction permit here, the Sacramento FM station will in many respects be operated jointly with Mr. Wong's AM station, KPTO, which also will serve the Sacramento market. For example, the two stations would most likely share the same building for their administrative offices, would share the same bookkeeper and accountant, would share the same consulting engineer and chief engineer, and the same traffic manager (Tr. 551, 578, 582-583). Although Mr. Wong was uncertain concerning the location of the studios for the two stations, he did agree that if it was economical and technically feasible to locate the AM and FM studios in the same building, then Mr. Wong would make a strong suggestion that the studios be co-located (Tr. 578, 593-594). Under the Commission's new rules, Mr. Wong would be able to locate the studio for KPTO in Sacramento because Sacramento is in the primary service area of Citrus Heights (Tr. 580; 47 CFR § 73.1125).

238. Mr. Wong acknowledged that if the FM station is granted to Wong L.P., that station and Mr. Wong's AM station, KPTO, would avoid competing with each in the Sacramento market and would cooperate in their sales efforts (Tr. 584-586, 588-590, 592). Although a format for the FM station has not been chosen yet, Mr. Wong would advise Ms. Wong against the selection of a format competing with the planned religious format for KPTO (Tr. 584-586). Mr. Wong would undertake other methods to minimize the competition between the two stations. For example, he will consider setting forth restricted sales territories to minimize competition (Tr. 587). The distinct sales forces for the two stations would cooperate by referring interested advertisers to the other station if the advertiser was uninterested in advertising on the particular station represented by the salesperson (Tr. 588-590). If an advertiser would like to advertise on both the AM and FM station, Mr. Wong would propose a discount for joint advertising (Tr. 592).

Qualitative Enhancements

239. Wong L.P. claims a comparative enhancement of Ms. Wong's integration proposal on the basis that Ms. Wong is a female, Asian-American (Wong Ex. 3, p. 2).

240. Wong L.P. claims a qualitative enhancement credit on the basis of Ms. Wong's long-time past local residence in Sacramento. However, Ms. Wong has not resided on a permanent basis in Sacramento since 1960 (Wong Ex. 3, p. 2; Wong Ex. 4, pp. 1-2; Tr. 321-328).

241. Ms. Wong was born in Shanghai, China, on November 14, 1940, and immigrated with her family to the United States in 1945. In 1947, her family relocated from San Francisco to Sacramento, California. Ms. Wong lived in Sacramento until 1960, when she went to college at the University of California at Berkeley. Ms. Wong received a Bachelors of Arts degree in Biology from the University in 1963. Between 1960 and 1963, Ms. Wong returned to Sacramento only during holiday and summer vacations from college (Wong Ex. 4, p. 1; Tr. 323).

242. From 1963 until 1968, Ms. Wong was involved in biological research with the U.C. Cancer Research Laboratory and with the Stanford Research Institute. From 1968 until 1975, Ms. Wong lived in Fuengirola, Spain, where she operated her own business. She returned to the United States in 1975. Ms. Wong became a naturalized citizen on February 23, 1982 (Wong Ex. 4, pp. 1-2).

243. Since 1963 to the present, Ms. Wong has spent only four months living in Sacramento -- in the fall of 1978 (Tr. 323). At that time, Ms. Wong was between jobs and stayed at her family's home (Tr. 324). She did not purchase a house or rent an apartment, did not join any civic organizations, did not participate in any charitable causes, did not change her voter registration and did not take any other steps to establish a permanent residence in Sacramento (Tr. 324-325). For the remainder of the past 25 years, Ms. Wong has only visited Sacramento to see her family (Tr. 326). Thus, since 1963, which is virtually all of Ms. Wong's adult life, she has spent only four months, in 1978, living in Sacramento (Tr. 327).

244. Ms. Wong currently resides in Port Richmond, California, in the San Francisco area, an hour and a half drive from Sacramento -- approximately 80 miles. Fort Richmond is outside the service area of the proposed Sacramento station (Wong Ex. 3, p. 2; Tr. 321-322). Ms. Wong is currently employed as an Account Supervisor at High-Tech Public Relations, Inc., in San Francisco, California, where she has worked since 1981 (Wong Ex. 4, pp. 1-2; Tr. 308). Ms. Wong proposes to terminate her present employment when she relocates her residence to Sacramento to work at the station, if the Wong L.P. application is granted (Wong Ex. 3, p. 2).

245. Wong L.P. claims a comparative enhancement on the basis of Ms. Wong's past broadcast experience. However, Ms. Wong has never been employed by a broadcast station (Wong Ex. 3, p. 2; Wong Ex. 4). Ms. Wong's claim of past broadcast experience rests solely on her employment (for one year in 1979-1980) at the Employment Security Department of the State of New Mexico where she "produced and broadcasted" three to five public service announcements a day about job opportunities (Wong Ex. 3, p. 2; Wong Ex. 4, p. 5; Tr. 307, 470), and her employment (for one year in 1977-1978) at project SAFE, a neighborhood crime prevention program in San Fran-

cisco, California, where she "produced" and participated as "talent" in public service announcements for radio and television (Wong Ex. 4, p. 5; Tr. 307, 470).

Auxiliary Power Supply

246. Wong L.P. proposes to provide an auxiliary power supply both to its transmitter and studio locations so that the proposed Sacramento FM station can continue to operate in the event of a failure of the regular power sources in the Sacramento area (Wong Ex. 5, p. 1). However, Ms. Wong is not familiar with the use of an auxiliary power supply (Tr. 471-472).

CONCLUSIONS

Royce's Past Performance Record -- 1980 - 1983 License Term

247. This comparative proceeding involves a renewal applicant and a mutually exclusive permit applicant. In such proceedings, the Commission and the courts have recognized that the incumbent licensee's past performance affords the Commission the strongest and most reasonable basis for determining whether the renewal applicant should have its license renewed. *Citizens' Communications Center, et al. v. FCC*, 447 F.2d 1201, 1208 (D.C. Cir. 1971); *Simon Geller*, 90 FCC 2d 250, 270 (1982); *Broadcast Communications, Inc.*, 93 FCC 2d 1162 (1983). The courts have approved the Commission's practice of according primary significance to the past performance of a licensee in a comparative renewal proceeding and have indicated that a licensee who has served its community with meritorious or substantial service can be reasonably confident of renewal. The Commission has stressed that a substantial record of service translates into a comparative preference to be considered and weighed against the other comparative factors. Such a comparative preference is entitled to more weight than "structural factors," such as integration and diversification. *Radio Station WABZ*, 90 FCC 2D 818, 831 (1982); *affirmed, Victor Broadcasting, Inc.*, 722 F.2d 756 (USCA, D.C. Cir. 1983). As recently noted by the Review Board in *Harriscopes of Chicago, Inc., et al.*, FCC 88R-31, released June 6, 1988.⁸

"The prismic review of program performance customarily employed by the Commission offers a number of perspectives, some quantitative and some qualitative." *Pillar of Fire, supra*, 99 FCC 2d at 1261. Quantitative proof has included a comparison of an applicant's original promises versus actual performance and, when available, statistics comparing the performance of the renewal applicant and other similarly situated stations. Nevertheless, both the Commission and the courts have been disinclined "to gauge, in any controlling degree, a station's responsiveness by a quantitative standard." *Id.* For the principal ingredient of a licensee's obligation to operate a station in the public interest is still "the diligent, positive, and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his community or service area, for broadcast service." *WPIX, Inc.*, 68 FCC 2d 381, 400 (1978) (quoting *En Banc Programming Inquiry*, 44 FCC 2303, 2316 (1960)).

248. Thus, ascertaining a community's needs and serving those needs is an important factor in evaluating performance. Such service may be shown by the community's response, as reflected by public witnesses, awards, and other indicia. *Victor Broadcasting v. FCC*, cited *supra*.

249. Royce's record during the 1980-1983 license term was substantial, meritorious and warrants a license renewal preference. In this connection, Royce has ascertained the needs of Sacramento and the region in an exemplary, continuing and thorough manner (see paragraphs 19-29, *supra*). Moreover, Royce matched its thoroughgoing ascertainment efforts by broadcasting programs "that was particularly responsive to community needs" and that provided forums for local community leaders and the discussion of community problems". See *Cowles Broadcasting, Inc.*, *supra*, 86 FCC 2d at 1007.

250. The programming performance of the licensee is set forth in detail in the findings and it is unnecessary to here repeat the various programs presented by the licensee (see, paragraphs 30 to 80). Briefly described, KWOD broadcast a wide range of programs oriented to the Sacramento community including many locally produced programs. A stellar example of KWOD's locally produced programming is its weekly 30 minute talk show *People in Perspective / Interface* which provided a forum for the in-depth discussion of community problems by Sacramento and regional community members and leaders. KWOD also carried a plethora of public affairs and non-entertainment programs that were not locally produced but nevertheless were responsive to ascertained community needs. In addition, KWOD has regularly broadcast news, sports and weather programs for which KWOD employed a local newscaster and sportscaster in addition to its broadcast of network national news. Further, KWOD has broadcast an extraordinary high number of PSA's throughout the license term (at least 26, 280 PSA's between 1980-1983) for some 566 different local, regional, state and national organizations. The effectiveness of KWOD's PSA programming is demonstrated by the many laudatory expressions of gratitude made by organizations served by KWOD's PSA broadcasts.

251. In addition to its responsive programming, KWOD has not only "developed community ties", but through its promotional and charitable efforts has made "outstanding contributions to the local community." See *Cowles Broadcasting, Inc.*, 86 FCC 2d at 1007, 1016. Thus, KWOD, and Stolz in particular, have planned and implemented a variety of fundraisers and publicity programs to benefit local charities and community service organizations (§ 17, *supra*). Such community service by a licensee is a positive factor in determining whether it has provided meritorious service warranting a renewal expectancy. See *United Broadcasting Co., Inc.*, 100 FCC 2d 1574, 1580, 1581 (1985); *Intercontinental Radio, Inc.*, 98 FCC 2d 608, 642-643 (Rev. Bd. 1984); *Victor Broadcasting, Inc.*, 722 F.2d at 762.

252. The Commission has stated that the most reliable index of a given licensee's public interest record is "its reputation and standing in the local community." *Knoxville Broadcasting Corp.*, 59 RR 2d 1617, 1637 (1986). This is the best gauge for evaluating a licensee's past performance. The record here of public witness affidavits, unsolicited letters and commendations demonstrates that KWOD enjoys the highest regard in its community. Seventeen public witnesses submitted affidavits on behalf of

KWOD. Moreover, 23 unsolicited letters of praise and 4 commendations were introduced into the record. KWOD's reputation is unblemished. No letters have been received by the station that reflect unfavorably on KWOD, nor were any dissatisfied public witnesses introduced.

253. Considering the factors traditionally considered by the Commission in determining whether a station has rendered substantial service,⁹ it is concluded that KWOD has rendered substantial service and is entitled to a strong renewal expectancy. Moreover, as discussed, *infra*, the incumbent licensee prevails not only on its superior record of past performance but also on the traditional structural comparative criteria.

Comparative Issue

254. The comparative evaluation of mutually exclusive broadcast applications is governed by the Commission's 1965 *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393. Therein, the Commission established the primary objectives toward which the process of comparison should be directed. They are (1) a maximum diffusion of control of the media of mass communications, and (2) the best practicable service. In determining which applicant will insure the best practicable service to the public, the Commission in its *Policy Statement on Comparative Broadcast Hearings*, stated that consideration must be given to the degree of integration of ownership and management and to the attributes of the participating owners -- including such matters as broadcast experience, local residence and past participation in civic affairs. Participation in station operation by owners is considered by the Commission to be a factor of substantial importance because, "[i]t is inherently desirable that legal responsibility and day-to-day performance be closely associated." *Policy Statement, supra*, at 395. Full-time, or almost full-time, participation in station operation by owners is of primary interest, particularly when coupled with local residence, broadcast experience and past participation in civic affairs. Part-time participation is of lesser importance.

Integration

255. Mr. Stolz proposes to work full-time (40-50 hours a week) at KWOD and full-time (40 hours) at KRCK, Burbank, upon completion of construction of that facility. Only part-time integration credit can be awarded. The Commission has repeatedly made clear that it will not credit 80-hour work weeks or proposals to maintain two full-time jobs. *Caldwell Broadcasting Corp.*, 100 FCC 2d 115 (Rev. Bd. 1985, rev. granted in part on other grounds, 104 FCC 1d 438 (1986); *Kennebec Valley Television, Inc.*, 1 FCC Rcd. 1240, 1242 (Rev. Bd. 1987); *Cuban - American Ltd.*, 2 FCC Rcd. 3264, 3269 (Rev. Bd. 1987). Mr. Stolz is entitled to receive credit for 30 hours a week. Mr. Stolz's past practice of spending 60-90 hours per week since the inception of KWOD managing that facility (Tr. 124, 128) provides strong evidence that a 30 hour commitment to KWOD is fully capable of effectuation. Further, Mr. Stolz's intention to maintain his full-time residence in Sacramento buttresses that assessment. Finally, the fact that Mr. Stolz will, on some weeks, spend only three days in Sacramento does not preclude the proposed 30 hours quantitative integration credit. See *Omaha TV 15, Inc.*, FCC 88-371, released December 19,

1988. Royce's quantitative credit is enhanced by Mr. Stolz's long-time local residence, his considerable civic involvement and substantial broadcast experience.

256. Wong L.P. seeks 100% quantitative integration credit for the proposed participation of Fay Wong. Wong L.P. will be given no integration credit. The record overwhelmingly demonstrates that Wong L.P. is a "sham" limited partnership that has been controlled since its inception by its purported limited partner, Kin Shaw Wong, Ms. Wong's older brother, without any meaningful involvement by Ms. Wong, its purported general partner. Mr. Wong launched this enterprise, controlled all aspects of the preparation and prosecution of the application, handled all financial and technical matters, put at risk tens of thousands of dollars of his own funds and controlled vital partnership activities. Moreover, Mr. Wong will continue his involvement in Wong L.P. during the construction and operation of the station, if the application is granted. Under these circumstances, case precedent clearly requires that no integration credit be awarded to Wong L.P. for Ms. Wong's proposed role of general manager. See *KIST Corp.*, 102 FCC 2d 288 (1985), *affirmed*, 801 F.2d 1436 (D.C. Cir. 1986); *NEO Broadcasting Co.*, 103 FCC 2d 1031 (Rev. Bd. 1986); *Payne Communications, Inc.*, 1 FCC Rcd. 1052 (Rev. Bd. 1986); *Susan S. Mulkey*, 3 FCC Rcd. 590 (Rev. Bd. 1988).¹⁰¹¹

257. Royce receives a quantitative integration score of 5625; Wong L.P. receives a 0.¹² See *Omaha TV 15, supra*. Coupled with Royce's qualitative enhancement,¹³ Royce is clearly the superior applicant in terms of integration.

Diversification

258. Mr. Stolz's construction permit (station KRCK, Burbank) is for an AM station located 400 miles from Sacramento, and outside the Northern California region. Therefore, Royce warrants only a slight diversification demerit. Neither Wong L.P. nor Ms. Wong hold any media interest. However, Mr. Wong personally holds the construction permit of AM radio station KPTO, Citrus Heights, California, a "bedroom community" of Sacramento. For reasons discussed, *supra*, Mr. Wong has not been and will not be insulated from the operations of Wong L.P. In fact, Wong L.P. is a "sham" partnership in which Mr. Wong has been and will be the "prime mover" and Ms. Wong a mere "figurehead". Consequently, KPTO must be considered under the diversification criterion. Since KPTO will serve the same market (unlike Royce) and will be operated jointly in many respects with the FM station at issue here, Royce is awarded a moderate diversification preference.

Summary

259. Royce receives a strong renewal expectancy because of its superior record of service. In addition, under the comparative issue, Royce is entitled to a preference under both the best practicable service and diversification criteria. Royce is the clear winner and the public interest will be served by the renewal of the license for station KWOD-FM, Sacramento, California.

Accordingly, IT IS ORDERED, that unless an appeal from this Initial Decision is taken by a party, or it is reviewed by the Commission on its own motion in accordance with Section 1.276 of the Rules,¹⁴ the application of Edward Royce Stolz, II, tr/as Royce International Broadcasting for renewal of license of Station KWOD-FM, Sac-

ramento, California, IS GRANTED, and the application of Wong Communication Limited Partnership for a construction permit IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Joseph Chachkin
Administrative Law Judge

FOOTNOTES

¹ Wong's "Motion to Reopen the Record and Admit Evidence" dated January 26, 1988, unopposed by Royce, to permit into evidence the integration proposal by Mr. Royce in a Burbank, California AM proceeding, was granted. *Order*, FCC 88M-612 (released March 4, 1988).

² Royce's application for KRCK(AM) was granted in the place of the renewal application of the licensee of KROQ(AM), Burbank, California, George E. Cameron, Jr. Communications (GECC). The proceeding also concerned other applicants competing against Burbank Broadcasting Co. (BBC), GECC's parent company, the renewal applicant for KROQ(FM), Pasadena, California. See *George E. Cameron, Jr. Communications*, 89 FCC 2d 1279 (Administrative L.J. 1982). Mr. Stolz testified in that proceeding that in the event of a grant of the AM application, he would move to Burbank and serve as the full-time general manager of KRCK(AM) (Wong L.P. Ex. 14, pp. 6-7; 89 FCC 2d at 1306). The Judge, however, in his conclusions did not reach the comparative issues finding that Royce was the only qualified applicant (89 FCC 2d at 1321, 1322 n. 40). Similarly, the Review Board upheld the grant to Royce as a matter of law because GECC proffered no timely evidence under the standard comparative issue. See *George E. Cameron, Jr. Communications*, 91 FCC 2d 870, 896-97 (Rev. Bd. 1982). Subsequently, the FM applicants entered into a settlement agreement, which among other things provided for GECC's dismissal of its application for renewal of the AM station. Royce did not participate in the settlement and the Commission held that Royce's concurrence was unnecessary. *George E. Cameron, Jr. Communications*, 56 RR 2d 825, 827, note 4 (1984). Royce urges, therefore, that it had neither the opportunity nor the need for the withdrawal of Mr. Stolz's integration proposal since his integration proposal played no role in the grant of the AM application. In this connection, Mr. Stolz stated at hearing that he is "under no obligation" to integrate into the management of KRCK (Tr. 131).

³ On redirect examination, Mr. Stolz testified he would travel to Burbank on an as needed basis; that in the event of a conflict, KWOD would take precedence; that his trips to Burbank would be outside his five days, 40 hours a week commitment to KWOD; and that he believed that some of the problems and concerns in Burbank could be dealt with in Sacramento (Tr. 242). However, such testimony is at variance with Royce's "Integration Proposal" (Wong L.P. Ex. 6) and will be given no weight.

⁴ KWOD logged the PSA's under the title of "Awareness File" during 1980-1982 and as "Public Service Announcements" during 1982-1983 and 8/83-11/83 (Royce Ex. 5, pp. 72, 88, 103, 132).

⁵ The PSA lists in Royce Exhibit 5 only indicate the different organizations served each month, not the number of times each month PSA's were broadcast for each organization, so that more than one PSA per month may have been aired for any organization, on any monthly list (Tr. 74, 188, 190).

⁶ Information concerning programming outside the license term is included solely for illustrative purposes to show the continuity of the programming.

⁷ The Wongs cannot rely on the added provisions of the April 1987 amendment, which made material changes to the Agreement, to improve their integration proposal. See *Payne Communications, Inc.*, 1 FCC Rcd. 1052, 1054-1055 (Rev. Bd. 1986).

⁸ See also, *Cowles Broadcasting, Inc.*, 86 FCC 2d 993 (1981); *affirmed sub. nom. Central Florida Enterprises, Inc. v. FCC*, 683 F.2d 503 (D.C. Cir. 1982).

⁹ In *Harriscop of Chicago, Inc., et al.*, cited *supra*, the Review Board stated that "[s]ubstantial service has been measured by such factors as licensee ascertainment of community needs and problems, licensee programming responsive to those ascertained needs and problems, including a quantitative and qualitative evaluation of its non-entertainment programming, as well as the extent of public support for, or objections to, the station's performance, and any record of violations of Commission rules or policies. See, e.g., *Pillar of Fire*, 90 FCC 2d 1256, 1259-1276 (Rev. Bd. 1984), *review denied*, 2 FCC Rcd 519 (1987)."

¹⁰ *Victory Media, Inc.*, 3 FCC Rcd. 2073 (1988), cited by Wong L.P., is inapposite. In *Victory Media, Inc.*, although the non-voting stockholder arranged for the applicant's financing and legal fees, all out-of-pocket expenses were divided equally among the parties. Significantly, the voting principal questioned and altered the proposed equity split, played an active role in the preparation of the application, worked closely with the consulting engineer, who she independently decided to hire, and paid all corporate expenses out of corporate funds. In contrast, Ms. Wong accepted without question every decision by Mr. Wong, did not participate at all in the preparation of the application, allowed Mr. Wong to handle all contacts with communications counsel and consulting engineer (both of whom she did not meet until two years later), and not only did Ms. Wong not pay the applicant's expenses, but she did not even know, at hearing, what those expenses were. Also, the non-integrated principals in *Victory Media* (who worked in Washington, D.C. as opposed to Texas, the location of the proposed station) did not propose, as here, to have daily, local contact with the integrated principal. In this connection, unlike *Victory Media, Inc.*, there is convincing evidence that Mr. Wong, rather than Ms. Wong, will control the ongoing business.

¹¹ Assuming *arguendo* integration credit is granted, Ms. Wong would be awarded comparative enhancement for her female and minority status and a very slight enhancement for proposed future residence in Sacramento. Ms. Wong receives no qualitative enhancement for past local residence in Sacramento because for most of her adult life, since 1960, she has not resided on a permanent basis in Sacramento and since 1963 to the present, she has spent only four months living there. See *Ruth Payne Carmen*, 1 FCC Rcd. 46 (Rev. Bd. 1986). Also, Ms. Wong's brief past employment with the Employment Security Department of New Mexico does not deserve enhancement credit as "past broadcast experience." See *Jarad Broadcasting Co., Inc.*, 1 FCC Rcd. 181, 185 (Rev. Bd. 1986).

¹² $Royce - (100 \times 30/40)^2 \times 100 = 5625$; $Wong L.P. (100 \times (0/40))^2 \times 0 = 0$.

¹³ Unlike quantitative integration, qualitative enhancement has not been quantified.

¹⁴ In the event exceptions are not filed within 30 days after the release of this Initial Decision, and the Commission does not review the case of its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Section 1.276(d).