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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

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DAVID ADELSON, et al.,
Plaintiffs,

-vs-

NO. 814461-0

PACIFICA FOUNDATION, a
California Nonprofit Corporation,
et al.,

Defendants.

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DEPOSITION OF SHERRY GENDELMAN

Taken before PATRICIA TABOR

CSR No. 5739

Monday, November 13, 2000

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1 MR. RAPAPORT: We can have one set for all
2 depositions.

3 Q. Ms. Gendelman, my name is Dan Rapaport.
4 I'm an attorney representing the defendants in
5 this action captioned, David Adelson vs. Pacifica,
6 et al.

7 I'm here to ask you some questions today and
8 would appreciate if you would obviously do your
9 best to give me your best recollection.

10 As I'm sure Mr. Pyle has told you, we don't
11 want you to guess or speculate. If you don't know
12 the answer, please tell us.

13 If my question is unclear to you in any way,
14 feel free to ask me to clarify, and I'll be happy
15 to do so.

16 In connection with the responses you make, it
17 helps the court reporter and the clarity of the
18 record if we have affirmative responses, "yes" and
19 "no", as opposed to non-verbal responses such as
20 nodding of the head or "uh-huh" or "huh-uh,"
21 because those tend to be garbled in the mix.

22 Let me first ask you to state your name for the
23 record.

24 A. Sherry Gendelman.

25 Q. Your residence address?

1 individuals on the national board who come from
2 the KPFA listening area?

3 A. Valerie --

4 MR. PYLE: Hold on a second.

5 Do you mean any -- any directors at this time
6 who come from KPFA regardless of how they were
7 selected?

8 MR. RAPAPORT: Right.

9 Q. Then I was going to find out what you
10 know about how they were selected.

11 A. Carolyn VanPutten, Pete Bramson and Tomas
12 Moran.

13 Q. Mr. Bramson, how was he selected?

14 A. He was selected through the process I
15 described earlier when he was a member of the
16 local advisory board.

17 We selected Pete to be our representative to
18 the governing board.

19 Q. When Mr. Bramson went to the national
20 board meeting, his first national board meeting,
21 isn't it true there was a motion to seat
22 Mr. Bramson to the national board which
23 unanimously passed?

24 A. I wasn't at that board meeting, so I
25 can't say. I know it was pro forma at that time

1 to receive and seat people nominated from the
2 L.A.B.

3 Q. Was Mr. Moran nominated from the KPFA
4 L.A.B.?

5 MR. PYLE: I think we need to distinguish
6 between which process she's talking about.

7 She's testified as to two different processes
8 by which KPFA --

9 MR. RAPAPORT: I'll clarify.

10 Q. This fellow Moran is currently on the
11 board; correct?

12 A. Correct.

13 Q. Do you know when he first became a
14 national board member; what year?

15 A. It was in '99, I believe.

16 Q. So it was after the changes --

17 A. You know it may have been 2000. I'm
18 sorry. I'm not sure.

19 Q. It was after the changes to the bylaws
20 that are part of this lawsuit; right?

21 A. Correct.

22 Q. Do you know whether the KPFA L.A.B. had
23 anything to do with Mr. Moran's selection?

24 A. Well, Tomas had done a lot of work over
25 the course of several years in and around the KPFA

1 community.

2 So he certainly was an individual who was very
3 connected to the KPFA community.

4 The local advisory board was aware his name was
5 submitted.

6 I don't really know -- I don't recall if his
7 name came through the board or through the city,
8 our member on the governing board, Pete Bramson.

9 I do believe Pete is the person who introduced
10 his name.

11 Q. Was that with or without the support of
12 the KPFA L.A.B.?

13 A. Certainly we supported it, but I don't
14 know that we voted on him to be our
15 representative.

16 I believe Tomas occupies an at-large seat right
17 now.

18 Q. He is someone who agrees with much of
19 what is contained in your lawsuit; is that
20 correct?

21 A. I can't say that at all. You'll have to
22 ask Mr. Moran about that.

23 Q. You haven't talked to him about it?

24 A. Nope.

25 Q. You said that you did talk to Mr. Moran

1 about the issues in this lawsuit.

2 A. I have discussed the issues of the
3 lawsuit with him.

4 I would say that he believes that there should
5 be continued accountability from the national
6 board to the signal areas and their L.A.B.s.

7 Q. Can you tell me in more detail the timing
8 and specifics of your conversation with Mr. Moran
9 on the issues in this lawsuit?

10 A. Well, they would date back to 1968, and
11 before that, they would actually date back to
12 1995.

13 Q. Let's perhaps start at 1997.

14 A. Did I say '68?

15 Q. You did. I assumed you meant 1995.

16 Let's talk about Mr. Moran since 1997.

17 A. I've had meaning conversations with him
18 expressing my concern about eliminating the
19 ability of the local advisory boards to select
20 their representatives to sit on the governing
21 board.

22 Q. Has Mr. Moran told you his views on that
23 subject?

24 A. Yes.

25 Q. What did he tell you?

1 A. He had the same concerns.

2 Q. So he agreed with you?

3 A. Uh-huh.

4 Q. Is it your understanding that the KPFA
5 L.A.B. has an objection to Mr. Moran serving as a
6 board member?

7 A. No.

8 Q. Do you have any objection to the method
9 by which Mr. Moran was selected to be a board
10 member?

11 A. Yes.

12 Q. Please articulate that.

13 A. Mr. Moran was selected to be a member of
14 the governing board as an at-large member, and,
15 therefore, his selection meant that our signal
16 area would have two at-large members; one person
17 remaining who had come through a process that the
18 L.A.B. felt gave them the ability to steer the
19 organization.

20 So while I admire him greatly, the procedures
21 used to select him are procedures that diminish
22 the strength of local advisory boards.

23 Q. Is it your view that -- strike that.

24 Going back to your list of conversations, we
25 went through Dr. Berry and Mr. Acosta and

1 Ms. Makela and Mr. Moran.

2 Let's start with Ms. Cisco, conversations with
3 her regarding issues raised in this lawsuit.

4 A. Yes.

5 I had the opportunity to speak with her both at
6 governing board meetings and to telephone her as
7 well between board meetings in New York trying to
8 talk to her about my view about what Pacifica's
9 mission is, and how the course of the national
10 governing board was becoming isolated and were
11 taking actions that were not in the best interest
12 of protecting the mission of Pacifica.

13 Q. What was her response?

14 A. She sometimes agreed with me and
15 sometimes didn't.

16 Q. Did you believe that she held her views
17 in good faith?

18 A. I do not understand what that question
19 means.

20 Q. Well, what it means is that she has made
21 her own personal decision based on the information
22 available to her, as opposed to having some desire
23 to cause harm to the Pacifica Foundation --

24 A. I found her -- I'm sorry.

25 Q. Go ahead.

1 A. I found her opinions, after a point in
2 our conversation, to be ill-informed.

3 Q. You didn't think she had sufficient
4 information --

5 A. Correct.

6 Q. -- to make those decisions?

7 A. Correct.

8 Q. Did you suggest to her that there was
9 some additional sources of information that she
10 might look to --

11 A. Yes.

12 Q. You gotta let me finish.

13 -- to refine her opinions to become more in
14 line with yours?

15 A. To refine her opinions; yes, I did.

16 Q. What did you tell her?

17 A. I told her that I felt that she lacked an
18 understanding of the bigger picture, and the
19 importance of Pacifica within the public radio
20 menu that's available to people who were liberal
21 to progression.

22 Q. Let's skip to Aaron Kriegel.

23 Have you had any discussions with Aaron Kriegel
24 regarding the issues raised in your lawsuit?

25 A. Yes.

1 Q. How many?

2 A. Many; at governing board meetings, on the
3 phone.

4 Q. Is it your view that Aaron Kriegel shares
5 your views on the issues of governance that you
6 raised in this lawsuit?

7 A. It's my view that he's come to share my
8 position.

9 Q. How about Mr. Robinson; have you had
10 conversations with Mr. Robinson regarding the
11 issues in this lawsuit?

12 A. Yes.

13 Q. Would you say that he's come to share
14 your views or the views of the plaintiffs in this
15 lawsuit regarding the issues that you have raised?

16 A. I can't speak for Mr. Robinson.

17 Q. You spoke for Rabbi Kriegel.

18 I'm asking if you reached some conclusion --

19 A. I understand. He's a different person
20 than Aaron Kriegel, okay.

21 I have a harder time understanding where he's
22 coming from at all moments, and I don't have that
23 same difficulty with Rabbi Kriegel.

24 Q. Have you had many conversations with
25 Mr. Robinson regarding --

1 A. Yes -- I'm sorry.

2 Q. -- regarding the issues in the lawsuit?

3 A. Yes.

4 Q. Do you recall any of his comments on
5 those issues as you sit here today?

6 A. There were many times when he was
7 sympathetic. There were times when he was not.

8 Q. Do you believe that he's currently
9 sympathetic?

10 A. I haven't had any conversations with
11 Mr. Robinson recently.

12 Q. When was the last time you had a
13 conversation with him?

14 A. I would say approximately five months
15 ago.

16 Q. At that time, was he sympathetic?

17 A. Um, I'm trying to think if I had one
18 phone conversation with him subsequent to five
19 months ago.

20 I may have had a very quick phone conversation
21 with him about three months ago.

22 Q. At that time, was it your view that he
23 was sympathetic to the views that you have related
24 to the issues in this lawsuit?

25 A. I don't know that the conversation at

1 that time focused on this lawsuit.

2 It may have been about -- let me rattle my
3 memory here.

4 It may have been about Bessie Wash or the
5 management of the national and not specifically
6 about the issues of this lawsuit.

7 Q. Has it come to your attention that Aaron
8 Kriegel and Rob Robinson have filed a lawsuit
9 against Pacifica?

10 A. You're kidding?

11 Yes, I've heard that.

12 Q. Have you seen a copy of it?

13 A. Yes.

14 Q. In reviewing it, is it your view that
15 they're raising, in essence, the same issues
16 raised in your lawsuit?

17 A. Yes.

18 Q. With the same perspective that you have
19 brought to those issues; correct?

20 A. Correct.

21 Q. Regarding Leslie Kagan, have you spoken
22 to Leslie Kagan regarding the issues in this
23 lawsuit?

24 A. Yes.

25 Q. When?

1 A. When?

2 Q. Yes.

3 A. I've had telephone conversations with
4 Leslie over the course of the last few months.

5 Q. Can you tell me, in those conversations,
6 did you discuss any of the issues raised in your
7 lawsuit?

8 A. Yes.

9 Q. What did you say to her?

10 A. I shared with her my concern about the
11 path the organization seemed to be going down, and
12 my experience with the organization and with
13 public radio.

14 Also, what I felt were the different
15 philosophical political approaches to
16 non-commercial radio.

17 Q. Do you recall anything Ms. Kagan said to
18 you in response?

19 A. That she had real concerns that the
20 airwaves remain available for progressive and
21 provocative issues in politics and culture as
22 well.

23 Q. Did she make any comment to you regarding
24 her view of the merits or demerits of your
25 lawsuit, or the issues raised in that lawsuit?

1 "The board of directors has and
2 threatens further to abandon the mission
3 and purposes of the Pacifica Foundation
4 as set forth in its Articles of
5 Incorporation," et cetera.

6 Q. You think that created individual
7 liability?

8 A. It may have.

9 Q. Anything else?

10 A. Changing the bylaws without submitting
11 the changes to the local advisory boards for their
12 consideration violating the bylaws.

13 Q. Anything else?

14 A. Nothing else that I can now address.

15 Q. Misspending funds, threatening to get
16 away from the mission and changing the bylaws?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. Was it your understanding that the
21 decision to change the bylaws, that the vote on
22 that was unanimous by the national board?

23 A. Yes.

24 Q. Therefore, you sued all the directors;
25 correct?

1 A. Correct.

2 Q. Why did you drop Mr. Bramson as a
3 defendant?

4 A. Mr. Bramson had been excluded from many
5 of the decisions taken by the foundation that we
6 felt were the gravamen of our complaint.

7 Q. He voted to change the bylaws; didn't he?

8 A. He did vote to change the bylaws.

9 Q. And, nonetheless, you decided to dismiss
10 him?

11 A. Correct.

12 Q. Any other reason besides you didn't
13 think -- well, other than you just articulated?

14 A. No.

15 I did not think that Mr. Bramson was part of
16 the group of people that were deciding or running
17 the foundation.

18 Q. What made you change your mind between
19 your first complaint and second amended complaint?

20 A. Actions that Mr. Bramson had taken.

21 Q. What actions?

22 A. Objecting, raising objections during the
23 course of board meetings and during those periods
24 in between that objected to certain practices of
25 the Pacifica Foundation.

1 Q. And assisting you in this litigation, is
2 that one of the factors that led you to drop him
3 as a defendant?

4 A. He didn't assist me in this litigation.

5 Q. He signed a declaration in support of
6 your motion for preliminary injunction; didn't he?

7 A. Yes, he did.

8 Q. Was that one of the factors in deciding
9 to drop him as a defendant?

10 A. I think he was dropped prior to that, if
11 I'm not incorrect.

12 Q. Why was Aaron Kriegel dropped as a
13 defendant?

14 A. I did not -- the plaintiffs did not feel
15 that Mr. Kriegel was an actual deciding member of
16 the governing board or of the group of people that
17 seemed in control of the organization.

18 Q. He voted for the bylaw change --

19 A. That's correct.

20 Q. -- that you found offensive; is that
21 correct?

22 A. Correct.

23 Q. Mr. Robinson, why was he dropped as a
24 defendant?

25 A. Same answer as to Mr. Kriegel.

1 Q. He, too, though, voted for the bylaw
2 change that you found offensive; correct?

3 A. Correct.

4 Q. Do you have -- did you make any
5 agreements with Mr. Bramson, Kriegel or Robinson
6 in connection with dismissing them as defendants?

7 A. No.

8 Q. Was there a formal dismissal filed in
9 this case, to your knowledge?

10 A. I believe there was, or at the amended
11 complaint, I believe the first the first amendment
12 to the complaint, they were dropped.

13 Q. Was there agreement as to whether or not
14 their costs in connection with the litigation
15 would be paid for by the plaintiffs?

16 A. No.

17 Q. Did they request that their costs be
18 paid?

19 A. No.

20 Q. Have they made a request for payment of
21 their costs of the plaintiffs, to your knowledge?

22 A. Not to my knowledge.

23 MR. RAPAPORT: I'd like to have marked next in
24 order a copy of the verified second amended
25 complaint.