

# In The United States Court of Federal Claims

No. 09-273T

(Filed: April 30, 2012)

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DESERET MANAGEMENT CORPORATION,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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## ORDER

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On April 19, 2012, plaintiff filed a motion to correct the trial transcript. On April 27, 2012, defendant filed its response, indicating that it did not oppose the motion. Accordingly:

1. On or before May 7, 2012, Heritage Reporting Company shall correct all errors in the trial transcript enumerated in Attachments A and B and provide the parties and court with corrected copies;
2. On or before May 30, 2012, the parties shall simultaneously file post-trial briefs. Initial post-trial briefs shall not exceed 100 pages;
3. On or before June 30, 2012, the parties shall simultaneously file replies to the initial post-trial briefs. The reply briefs shall not exceed 60 pages; and
4. After replies have been filed, the court will contact the parties telephonically to arrange a date for closing argument.

**IT IS SO ORDERED.**

s/ Francis M. Allegra

Francis M. Allegra

Judge

EXHIBIT A

**Deseret Management Corporation v. United States, Case No. 09-273T**

**TRIAL TRANSCRIPT ERRATA SHEET**

February 23, 2012

<u>PAGE</u>	<u>LINE</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
18	13	loss and	Lawson
119	8	edition	addition

February 24, 2012

<u>PAGE</u>	<u>LINE</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
274	16	Reckless	Reclass
275	16	REF ROCK	Rev. Proc
275	17	REF ROCK	Rev. Proc.
298	23-24	for points	per point
319	14	situated	stipulated
353 to 395		Irvin	Ervin
356	19	Sensations	stations
370	19	In call	I call
394	21	cam	can

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<u>PAGE</u>	<u>LINE</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
509	11	?	.
542	14	planned	Plan
543	8	conceptual	Perceptual
545	10	Pine	Plan
546	2-3	In the case	Q In the case...
559	17	artist	market
560	11-14	11 A Correct, yes. 12 Q And this is	11 A Correct, yes; and this is...
560	14-15	Now, let's go...	Q Now, let's go...
566	3-7	So you conclude...	Q So you conclude...
573	12-13	12 Q Let me inter... 13 A Did you have...	12 Q Let me inter... Did you have...
602	6	duopoles	duopolies
603	18	cache	cachet
605	22	KBC	KABC
606	7	number priority	number one priority
606	13	sole	sold
614	7	concludes	includes
617	16	capsule	cash flow

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617	19	singular	St. Louis
620	4	in	And
674	11	Bonneville owned . . .	Q Bonneville owned

February 28, 2012

<u>PAGE</u>	<u>LINE</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
815	24	KPIG	KBIG
879	13	produce	reduce
893	13	FCC	SEC
893	17	FCC's	SEC's
901	5	KFCA's	KSCA's
901	7	KFCA	KSCA
923	25	KFCA	KSCA
933	2-3	2 ...right, correct? THE WITNESS: ...	2 ...right, correct? 3 THE WITNESS: ...
933	4	this profit	the product
943	7	169	.69
951	3	ECL	Excel
958	23	In ploy	Employed

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February 29, 2012

<u>PAGE</u>	<u>LINE</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
1208	15	KFCA	KSCA
1214	7	outside	upside
1243	3	FCC	SEC
1235	8	FCC	SEC
1236	8	Security Exchange	Securities and Exchange
1236	10	FCC	SEC
1238	16	FCC	SEC
1241	8	FCC	SEC
1249	18	FCC	SEC
1253	13	FCC	SEC
1253	14	FCC	SEC
1254	8	subjected	subjective
1269	18	rev vet	a reported
1271	19	FBIA	BIA
1322	14	they're responsive	they're not responsive
1339	4	KFCA	KSCA
1353	20	CVS	CBS
1356	9	addition	edition
1357	24	urinalysis	your analysis

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1367	6	2005	2000
1404	19	dcf (phonetic)	the next
1429	11	FCC	SEC
1429	15	FCC	SEC
1443	17	KFXG	KFSG
1449	21-22	possible? A Well	possible? A Well

March 1, 2012

<u>PAGE</u>	<u>LINE</u>	<u>EXISTING TEXT</u>	<u>CHANGE</u>
1612	1	FCC	SEC
1629	23	class V	class B
1630	2	class V	class B
1631	8	class V	class B
1638	21-22	Q Yes. A. The one that was...	Q Yes. A. The one that...
1638	24	Q Yes, I did not...	A Yes, I did not...
1638	25	A You rejected it. ...	Q You rejected it. ...
1640	15	contest	context
1644	3	illusive	elusive
1655	21	KWSG	KFSG
1657	2	Q Well, I do say...	A Well, I do say...

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1658	12	class V	class B
1696	11-12	...much higher. THE COURT: All right	...much higher. THE COURT: All right...
1696	17	IA	???
1703	2	termination	determination
1724	16	Seagull	Siegel
1724	16	Warton	Wharton
1726	9	primary number	prime rate
1741	1-2	...myself. QAnd you've never...	...myself. Q And you've never...
1748	5	indicated	indicator
1754	17	bed	Bid
1765	3	Singfield	Sinquefield
1768	24	\$215	\$250
1777	23	expurling (phonetic)	exploding
1782	10	150	\$150
1807	16	They're merely	There are a myriad of
1810	24	FCC	SEC
1811	8	FCC	SEC
1819	7	FCC	SEC

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**Changes to Page Headings**

February 27

<u>PAGE</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
506-522	Blank heading	Mecham - Direct
541-583	Mecham - Redirect	Ackerman - Direct
593-648	Ackerman - Redirect	Smulyan - Direct
670-691	Smulyan - Redirect	Reese - Direct

March 1

1773 - 1779	Hausen	Hausman
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**Corrections to "Contents"**

**Pages of Transcripts -**

**February 27**

<u>PAGE</u>	<u>WITNESS</u>	<u>EXISTING TEXT</u>	<u>CHANGE TO</u>
		DIRECT	DIRECT
503	Mecham	--	506
503	Ackerman	--	541
503	Smulyan	--	593
503	Reese	--	670



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**TRIAL TRANSCRIPT ERRATA SHEET**

**Corrections to "Contents"**  
**Pages of Transcript –**  
**March 1**

<u>PAGE</u>	<u>WITNESS</u>	<u>EXISTING TEXT</u>		<u>CHANGE TO</u>	
		REDIRECT	RECROSS	DIRECT	CROSS
1601	Jerry Hausman	1721	1733	1721	1733
1601	James R. Bond	1784	1813	1784	1813

**EXHIBIT B**

**Deseret Management Corporation v. United States – Case No. 09-273T**

**Corrections to Exhibit  
Descriptions**

<u>Plaintiff Exhibit No.</u>	<u>Corrected Description</u>
37	6/22/00 M Street Daily Newsletter
39	BIA Appraisal as of 10/6/00 of Radio Stations WRTH (AM) et al
40	BIA Consulting Appraisal as of 4/1/98 of Radio Station KZLA (FM) et al
41	BIA Consulting Appraisal as of 4/1/98 of Radio Stations KBIG (FM) et al
42	Expert report of James R. Bond, Jr. regarding Fair Market Value of FCC License of Radio Station KZLA FM as of 10/6/00
43	Rebuttal Report of James R. Bond Jr.
44	Rebuttal Expert Report of Professor Jerry A. Hausman
45	Expert Report of John Seabrook Regarding Reclassification of Assets
46	Expert Report of Stanley M. Besen, Ph.D. 8/27/10
47	Expert Report of Robin V. Flynn Regarding Fair market Value as of 10/6/00
48	Excel Spreadsheet for 1/10/11 Expert Report of Robin V. Flynn produced on 3/16/11
50	KZLA FM FCC License

**EXHIBIT B**

**Deseret Management Corporation v. United States – Case No. 09-273T**

- 51 Notice of Proposed Adjustment 2/28/05 (Issue No. 19)
- 52 Notice of Proposed Adjustment 3/8/05 (Issue No. 7b)
- 57 Valuing A Business, Pratt, Reilly & Schweiss (4<sup>th</sup> Ed.) pp. 317-320

Defendant  
Exhibit No.

Corrected Description

- 5 Bond & Pecaro: Current Valuations Issues, FASB 164
- 9 Bond & Pecaro: Implementing the Guidelines: FASB Statement 142 (5/02)
- 11 Mentions of Goodwill in Station Trades (12/28/10)
- 12 Radio Station Sales in LA, Year 2000 (12/28/10)
- 14 Beasley Broadcast Group Inc. Form 10-Q (9/30/00)
- 15 Big City Radio Inc. Form 10-Q (9/30/00)
- 16 Citadel Communications Corp Form 10-Q (9/30/00)
- 17 Cox Radio Inc. Form 10-q (9/30/00)
- 23 Regent Communications Inc. Form 10-Q (9/30/00)
- 32 Expert Report Regarding Fair Market Value of FCC License and Goodwill of Radio Station KZLA FM (supplemented 8/29/11)

**EXHIBIT B**

**Deseret Management Corporation v. United States – Case No. 09-273T**

<u>Joint Exhibits No.</u>	<u>Corrected Description</u>
1	BIA Financial Network Inc. Appraisal of KZLA as of 10/6/00
2	Form letter 950 (30 Day Letter) for tax years 2000-2002 to DMC
4	Form 4340, Cert of Assessments, etc. for DMC for tax year 2000
5	Form 4340, Cert of Assessments, etc. for DMC for tax year 2001
6	Form 4340, Cert of Assessments, etc. for DMC for tax year 2002
7	Amended U.S. Corp Income tax return for tax year 2000 Claim for Refund
8	Form letter 569 (2/19/09) re: Claim for Refund
9	Form 2297 Waiver of Statutory Notice (3/04/09)
10	Form 3363, Acceptance of Disallowance of Claim for Refund (3/4/09)
11	DMC letter of transmittal to IRS for Form 2297, 3363 (3/4/09)
12	Letter from B. Reese to BHC 4/19/00
13	Letter from B. Reese to J. Smulyan, 4/28/00
14	Letter to Intent (BIC, BHC, Emmis) (6/21/00)
15	Asset Exchange Agreement (BIC, BHC, Emmis) (10/6/00)

**EXHIBIT B**

**Deseret Management Corporation v. United States – Case No. 09-273T**

**Missing Plaintiff's  
Exhibits, All Identified  
on p. 26 and Received  
on p. 58**

<u>Exhibit No.</u>	<u>Description</u>
33	Defendants' Supp. Response to Interrogatories
34	FCC Review of Radio Industry, 2001
35	Coleman Research, Inc. Report on KZLA (1999)
36	Coleman Research PowerPoint Presentation on KZLA (1999)
53	Notice of Proposed Adjustment 4/4/05 (Issue No. 32)

**Other Corrections to  
Plaintiff's Exhibits**

58	Remove from list
60	Remove from list

**Addition to Plaintiff's  
Exhibits**

59	CD-ROM containing plaintiff's updated Excel spreadsheets, filed 3/19/12
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**Addition to  
Defendant's Exhibits**

49-A	CD-ROM containing defendant's updated excel spreadsheets, filed 3/9/12
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