

1           might aggitate for it?

2       A     No, I don't recall that.  If the record shows it, it

3           shows it.

4       Q     You understood at the time of the Chicago meeting, did

5           you not, that the Seattle group was aiming to make profits

6           but intending to distribute them to community purposes?

7       A     That the Carlson group was aiming to make profits and

8           intending to distribute them, this is what they said.

9       Q     Do you recall being sent as an emissary from the League

10          owners to the Carlson group at the Continental Plaza Hotel

11          to talk to them?

12      A     I went as a representative of a group, yes.

13      Q     And when you went to talk to them did you tell them that

14          you would vote in favor of their application if they sim-

15          ply changed their form of organization to a for profit

16          corporation?

17      A     I can't remember that I told them that.

18      Q     You don't remember one way or the other?

19      A     No.

20      Q     Do you recall telling them anything at all about how

21          profitable or unprofitable it was to own a baseball club?

22      A     I imagine I did.  I wouldn't certify to it but I imagine

23          I did.

24      Q     Do you recall talking to Mr. Douglas in that respect?

25      A     Mr. Douglas might or might not have been in the room.  If

1 he was there I spoke with him.

2 Q And did you tell Mr. Douglas that it was profitable or  
3 unprofitable to own a baseball club?

4 A As I told you Mr. Dwyer, I don't remember speaking  
5 specifically to or with Mr. Douglas. If he was in the  
6 room I told him, if I told him anything about the potential  
7 profitability of a baseball club I imagine I told him  
8 that it was highly likely that the baseball club would be  
9 unprofitable.

10 Q Has that been the case in Baltimore?

11 MR. WAGONER: I object to this. You are  
12 getting into confidential financial information  
13 which we have consistently said is not relevant to  
14 this case and highly proprietary. The position is  
15 on the record in court.

16 MR. DWYER: I certainly think that the  
17 conversations with the Carlson and Douglas group,  
18 among other things, makes this relevant.

19 MR. WAGONER: Our position remains the same  
20 so it is all wrapped up in the issues that were  
21 presented to the court on the financial situation and  
22 I would instruct the witness not to answer at this  
23 time.

24 Q You refuse to answer on advice of your counsel?

25 MR. WAGONER: Yes.

1 MR. TOMLINSON: Counsel, as I understand  
2 the question, you are asking him as to what his  
3 experience in Baltimore has been or what he told Mr.  
4 Douglas; which is the question?

5 MR. DWYER: This last question was about  
6 his experience in Baltimore.

7 (Off the record)

8 (On the record)

9 Q Did you as spokesman for the American League tell Mr.  
10 Carlson and Mr. Douglas at the Continental Plaza Hotel  
11 in Chicago that the League had resolved to keep the fran-  
12 chise in Seattle through the 1970 season and to appropri-  
13 ate \$650,000 towards that purpose?

14 A I think I said that the League desired that take place  
15 and that we had committed six hundred and some thousand  
16 dollars for that purpose.

17 Q You say desired, isn't it true that you advised them that  
18 the League had resolved to keep the club there?

19 A I can't remember that I told them that we had resolved  
20 to keep the club there or I told them we didn't resolve  
21 to keep the club there. It was our wish, our hope we  
22 wanted to keep the club there.

23 Q You don't remember one way or the other?

24 A No.

25 MR. WAGONER: Those specific words you are

1 talking about?

2 MR. DWYER: Or the substance.

3 MR. WAGONER: He testified as to what he  
4 understood.

5 A I told you it was our desire, our wish, our hope, our  
6 consideration, but to have said we have determined to do  
7 that, I cannot recall using that word and there wasn't  
8 anything in my authority, if I have any at all, to have  
9 said that.

10 Q Would you refer to the transcript of the meeting, page  
11 439, line 5. "I move that the Seattle club stay in  
12 Seattle in 1970, the League advance \$650,000 to be spent  
13 with the approval of the League to take care of the  
14 immediate obligations and get the club to spring training  
15 and that the committee appointed by the president would  
16 meet immediately with Mr. Carlson tonight and report back  
17 to the meeting. Following that the clubs would check  
18 with their Boards of Directors to get any necessary  
19 authority to put up additional credit and that if things  
20 can't be worked out with Mr. Carlson, a search be contin-  
21 ued for a new owner-operator in Seattle." Do you recall  
22 that resolution being made?

23 A Yes.

24 Q Did you vote yes in favor of it?

25 A I think I did.

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1 Q Look at page 440, line 24.

2 A Yes, that is what the record says.

3 Q Is that the resolution that you passed on the substance  
4 of to Carlson and Douglas?

5 A Yes.

6 Q And you did tell them, did you not, that the League  
7 had resolved to keep the club in Seattle through 1970?

8 A I don't think I did; I just told them what the resolution  
9 was, that was our intention, our desire.

10 Q Would you look at page 447 of the transcript, actually  
11 your remarks begin on 445. You can identify them, this  
12 is you reporting back following your meeting with Carlson,  
13 Douglas and Ellis upstairs, isn't it?

14 A Yes, I guess so.

15 Q Do you have any doubt? Look at page 445, line 10.

16 A Okay.

17 Q Now page 447, line 14: "We went into some discussion  
18 as to why we could not accept the proposal that they  
19 recommended. Douglas seemed to understand that and we  
20 also explained to them what we would like them to do.  
21 I did that by way of saying that I had recommended to this  
22 group but that this group had neither rejected or accepted  
23 the recommendation which included the contribution of the  
24 Carlson group of several, I said then, several hundred  
25 thousand dollars to the partnership and the utilization of

1 our credit line in order to support them for the coming  
2 year, during which time a new assessment would be made of  
3 the facts that were then at hand." Was that the substance  
4 of what you said to the group upstairs?

5 A That is what the record says. I have no recollection  
6 which would require me to change that.

7 Q Now at the time of the Chicago meeting, from your own  
8 knowledge of baseball business practices, would \$650,000  
9 have been or not been sufficient to carry the club through  
10 the 1970 season?

11 A It wouldn't have been.

12 Q Do you recall telling Mr. Douglas that you knew more about  
13 the baseball business than he did?

14 A I most likely did, I think I did.

15 Q And did you tell him that in the context of telling him  
16 that the League knew better than he did how much it would  
17 take to keep the club through the 1970 season?

18 A If that is what the record shows I guess I said it.

19 Q Do you recall that Mr. Carlson at the conclusion of the  
20 Chicago meeting thanked the American League for its  
21 decision to keep the ball club in Seattle?

22 MR. WAGONER: The record speaks for itself.

23 A Whatever the record says is what he did.

24 Q If you will refer to page 455, line 8 near the end of  
25 Mr. Carlson's remarks he states, and I quote: "We are

1 awfully pleased that you are going to be with us for  
2 another year and if any of us can be of any assistance  
3 we pledge you our very best cooperation." Now you under-  
4 stood from that, that the Seattle people were thanking  
5 you for your decision to stay through 1970, didn't you?

6 A I only understood what Mr. Carlson said at that very  
7 moment.

8 Q And his remarks at that very moment immediately followed  
9 your visit with him upstairs, didn't it?

10 A I don't know if it did or didn't.

11 Q Didn't you go upstairs and talk to him and escort him  
12 back to the meeting?

13 A I don't remember.

14 Q Between February 11, 1970 and the middle of March, 1970  
15 can you tell us, did the Baltimore club itself reach  
16 any decision as to whether it would contribute funds for  
17 the operation of a trusteeship franchise in Seattle?

18 A I can't remember whether that came up during that period  
19 of time or not.

20 Q Do you remember that ever coming up?

21 A Yes, that matter did come up. I don't think any firm  
22 decision was made on it at all.

23 Q It wasn't decided one way or the other?

24 A No.

25 Q Are there any minutes or records that relate to that, that

1           you know of?

2    A    No, it wasn't discussed with our Board.

3    Q    Who discussed it?

4    A    Maybe Mr. Cashen and me.

5    Q    Do you remember a gentleman by the name of Roy Hamey being  
6           sent by the League to be the overseer at Seattle?

7    A    I recall Roy Hamey was sent to Seattle, yes.

8    Q    Was that done with your authority?

9    A    I have no authority.

10   Q    Was it done with the League's authority, including you  
11           as a member?

12   A    I don't know whether it was done on request at a meeting  
13           or whether it was done on the initiative of the president.

14   Q    Were you aware that Mr. Hamey, while in Seattle, renegot-  
15           tiated the radio contract for 1970 at a loss of \$637,000  
16           to the ball club?

17                   MR. WAGONER: Did he know that?

18                   MR. DWYER: Yes.

19   A    Did I know it when?

20   Q    In the early part of 1970.

21                   MR. WAGONER: I object to the form of the  
22                   question, it assumes Mr. Hamey negotiated the con-  
23                   tract. There is no evidence of that.

24   A    I don't know who negotiated the contract. The answer to  
25           that question is no.



1 Q Were you aware that the contract was renegotiated during  
2 Hamey's tenure as overseer at a loss in excess of  
3 \$600,000?  
4 A No.  
5 Q At any time in February or March of 1970 were you con-  
6 tacted by Mr. Kuhn, the commissioner of baseball, with  
7 respect to the Seattle situation?  
8 A I have no idea.  
9 Q Do you remember ever discussing with Mr. Kuhn your  
10 own position on the Carlson proposal?  
11 A I don't remember.  
12 Q Were you aware in March 1970 that he got in touch with  
13 Carlson and advised Carlson about a month after the Chica-  
14 go meeting that he now thought the League would accept  
15 the Carlson proposal?  
16 A No.  
17 Q You didn't know anything about that at the time?  
18 A I don't remember anything about it. I might have known  
19 it at that moment but I don't remember anything at all  
20 about it.  
21 Q As far as you do recall, did you ever change your vote  
22 or your position on the Carlson proposal?  
23 A Not that I can recall.  
24 Q You were negative all the way?  
25 A I believe that is true.

1 Q Has the commissioner interceded in any issues of  
2 franchise relocation during the time you have been in  
3 baseball?  
4 A I don't know what you mean by interceded.  
5 Q Did he take part in resolution of any such question?  
6 A No.  
7 Q Do you recall attending a meeting in the middle of March  
8 1970 at Tampa, Florida relating to a proposed sale of the  
9 Seattle franchise to Milwaukee?  
10 A Without being specific as to dates, I attended a meeting  
11 in Tampa, Florida.  
12 Q In advance of that meeting was there a poll taken of the  
13 American League owners on their vote for or against that  
14 transfer?  
15 A I don't know.  
16 MR. WAGONER: Of what?  
17 Q The transfer of the American League Seattle franchise to  
18 Milwaukee.  
19 A I have no knowledge of that.  
20 Q Did you go to that meeting prepared to vote in favor of  
21 such a transfer?  
22 A I went to that meeting with a completely open mind.  
23 Q Were you aware that Mr. Daley gave a proxy, that is Mr.  
24 Daley and all the other shareholders of Pacific Northwest  
25 Sports, including the Sorianos, gave a proxy to Allen H.

1 Selig to vote their club's interest at that meeting?

2 A When was that proxy given?

3 Q March 16, 1970.

4 A I imagine if there was a message that told me that I  
5 knew it, but I don't know any more beyond that.

6 Q Actually March 12th confirmed by a telegram of March 16th.

7 MR. WAGONER: What did you ask him,  
8 whether he saw that?

9 Q Did you know that to be the case?

10 A I can't remember.

11 MR. WAGONER: I think the question is  
12 objectionable, it assumes facts not in the record,  
13 there is no basis for it.

14 (Plaintiffs' Exhibit 10  
15 marked for identification.)

16 Q Handing you Exhibit 10, which is a proxy signed by Mr.  
17 Daley and addressed to the American League dated March  
18 12, 1970 and produced by the American League under the  
19 court's order in this case.

20 (Plaintiffs' Exhibit 11  
21 marked for identification.)

22 Q And handing you Exhibit 11, a telegram dated March 16  
23 confirming the proxy, also produced by the American League  
24 under the Court's order. By refreshing your recollection  
25 with those documents can you now recall whether you knew

1 there was a proxy?

2 A I have no recollection of that at all.

3 Q Did you know that prior to the Tampa meeting a contract  
4 had been entered whereby Pacific sold its assets to  
5 Milwaukee Baseball Club, Inc.?

6 A I have no recollection of that.

7 Q Do you recall Mr. Hoffberger that at the Tampa meeting  
8 the League passed a resolution stating in substance that  
9 were it not for a temporary court order they would have  
10 voted to transfer the franchise at that time?

11 MR. WAGONER: I object to the form. There  
12 is a resolution that speaks for itself, whatever  
13 it says. If you want to put it before him and talk  
14 about the resolution that is fine.

15 MR. DWYER: I don't have it.

16 Q Do you recall that being the substance of it?

17 MR. WAGONER: I object to that.

18 A I have no knowledge what you are saying about that.

19 Q Do you recall Mr. Hoffberger whether the Milwaukee delega-  
20 tion or any of them were at that meeting in Tampa?

21 A I don't remember.

22 Q Did you discuss the proposed transfer with either Mr.  
23 Selig or Mr. Fitzgerald at that time?

24 MR. WAGONER: Did you personally?

25 Q Did you personally?

1 A When?

2 Q At the time of the Tampa meeting.

3 A I told you before I have discussed problems of Milwaukee  
4 with Mr. Fitzgerald and Mr. Selig a number of times and  
5 I can't recall the dates.

6 Q Has the American League considered expansion at any time  
7 since the departure of the Seattle Pilots to Milwaukee in  
8 1970?

9 A Not to my knowledge.

10 Q In your own judgment at what point in time, if ever,  
11 would it be desirable for the League to expand?

12 A I would have no judgment on that at this moment.

13 Q Would it be a matter of several years?

14 A I would have no judgment on that.

15 Q Can you tell us, would you favor an expansion now or  
16 would it be a matter of waiting?

17 A I couldn't answer the question because there is no bottom  
18 to it, no substance to the question.

19 Q Is there any reason that you know of which would prevent  
20 expansion at the present time?

21 A I imagine Mr. Dwyer if you sat here long enough you could  
22 cite dozens of reasons that would prevent expansion, not  
23 the least of which is that perhaps we don't have enough  
24 good ball players to go around. I just don't know that  
25 we can answer that question today without knowing more

1 specifically what we are talking about.

2 Q If you were to determine upon an expansion, that is if  
3 the League were, about how much leadtime would you need on  
4 that?

5 MR. WAGONER: I object to that as purely  
6 hypothetical, speculative, he said you can't decide  
7 something in the abstract like that without going into  
8 the concrete, having studies and so forth. Now you  
9 asked him if something happened what would happen in  
10 connection with it.

11 Q This is based on experience, you have had experience with  
12 expansion, haven't you?

13 A My best judgment Mr. Dwyer, is that the longer time the  
14 better.

15 Q And that would mean a minimum of how many years?

16 A I have no idea whether it is a minimum of any number of  
17 years, the longer time the better.

18 Q Have you attended League meetings regularly from the time  
19 of the move of the Seattle club to the present?

20 A I don't know what is meant by regularly. I attend some  
21 and don't attend others.

22 Q Do you recall any discussion of expansion on any of those  
23 occasions with any other members of the League?

24 A I have just told you Mr. Dwyer, I don't recall any discus-  
25 sion of expansion which is substantive. Perhaps there

1 was a discussion which said we ought to expand or we ought  
2 not to expand but there was no substantive discussion of  
3 expansion that I can recall.

4 Q Is it true that major league clubs play baseball only  
5 against other major league clubs?

6 A No, we play against military academies and minor league  
7 clubs, we play exhibition games, our own farm club systems  
8 in our farm system.

9 Q Those are all exhibition games?

10 A Yes.

11 Q About how many exhibition games does your club play per  
12 year?

13 A I think three.

14 Q Aside from those three exhibition games a year are all  
15 of your other games against other major league clubs?

16 A Yes.

17 Q Is there a rule that prohibits a major league ball club  
18 from playing any outside ball club without the consent  
19 of either the commissioner or the major league?

20 A I don't know that.

21 Q As you know this lawsuit is brought by the City of  
22 Seattle, King County and the State of Washington as plain-  
23 tiffs and I would like to ask you from your knowledge of  
24 major league baseball, is there any way for the City of  
25 Seattle or the State of Washington to have a major league

1 baseball team other than by way of an expansion franchise?

2 A I have no idea.

3 Q You don't know of any such way, do you?

4 MR. WAGONER: That is not what he said.

5 A I have no idea. I don't know if there is any such way  
6 or not.

7 Q Have there been expansion franchise prices discussed at  
8 any of the League meetings within the last two years?

9 A Not to my knowledge.

10 Q You are acquainted with Mr. Robert Short, are you not?

11 A Yes, I know Mr. Short.

12 Q He used to be your nearest baseball neighbor when he had  
13 the Washington Senators?

14 A Yes.

15 Q Since he moved to Texas you have the only ball club in  
16 this vicinity?

17 A Yes.

18 Q If you will refer to the transcript of the Oakland meeting,  
19 page 151 at the bottom it reflects the following: "Mr.  
20 Short: I will tell you there will be plenty of us trying  
21 to get into that domed stadium. I would make the commit-  
22 ment to sell them a franchise for ten million dollars,  
23 that is about what he is going to pay here. President  
24 Cronin: Subject to the approval of the League. Mr.  
25 Short: The League should say when you have got your



1 building finished we will sell you a franchise for ten  
2 million dollars." Now when a new franchise is sold who  
3 gets the proceeds?

4 MR. WAGONER: I object to the form of the  
5 question. It is compound, you have read from a  
6 transcript, then have gotten into a different  
7 subject.

8 MR. DWYER: I will rephrase it.

9 MR. WAGONER: I move the whole thing be  
10 stricken.

11 Q Mr. Short did suggest selling Seattle a franchise for  
12 ten million dollars at this meeting, did he not?

13 MR. WAGONER: I object to the form of the  
14 question, the franchise is not sold to Seattle, he  
15 didn't suggest that. I object to the form of the  
16 question.

17 A I don't know what Mr. Short suggested. The record will  
18 show whatever he said he said. The words Seattle and  
19 owners or League members are used interchangeably so that  
20 when people say the Baltimore franchise they really mean  
21 the Oriole franchise not the Baltimore franchise.

22 Q Did you concur with his proposed asking price of ten  
23 million dollars?

24 A I don't know whether I did or not.

25 Q When a franchise, an expansion franchise is sold, who gets

1 the sales proceeds?

2 A I doubt seriously that there is such a thing as an  
3 expansion franchise being sold.

4 Q When the Seattle and Kansas City clubs came into the  
5 League in 1969, who received the funds that were paid by  
6 the Kansas City and Seattle owners?

7 A Various clubs received them for players, received some of  
8 the funds for the players that were put up under the rules.

9 Q And do the existing clubs then divide up that money evenly?

10 A Well, the procedure is that the club picks, I don't know  
11 how to describe the procedure, but the expansion club  
12 picks players that are made available by the then existing  
13 club and I think no club could lose more players than  
14 any other club can lose. So you would have a reasonable  
15 division, you could reasonably assume each club got as  
16 much out of it as the other club.

17 Q Would you refer to page 165 in the Oakland transcript,  
18 line 20: "Mr. Griffith: Who is the owner of this club  
19 operating Milwaukee? Mr. Short: The group that comes in  
20 here. I would sell Seattle now, approve the application  
21 to sell it to Milwaukee, get Seattle to agree if they  
22 don't sue us they have got the right after they get the  
23 building and we are going to sell them a franchise  
24 and we can put a price on right now of twelve million  
25 dollars." Did you concur with that price for a new

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franchise?

A I don't think anybody was asked to concur or not to concur. This was Mr. Short's statement, that is simply all it was.

Q Getting back to page 152 where Mr. Short said there will be plenty of us trying to get into that domed stadium, I would make the commitment to sell them a franchise for ten million dollars, do you know of any owners trying to get into the domed stadium?

A No.

Q Do you know of any prospect of Seattle having major league baseball in the future?

A I can't answer the question unless there is a prospect.

Q Is there any prospect that you know of?

A I have no knowledge of any prospect.

CROSS-EXAMINATION

BY MR. TOMLINSON:

Q Mr. Hoffberger, I am here in capacity as a representative of Sportservice Corporation in this litigation. Now have I discussed with you prior to this time your testimony at this deposition?

A No.

Q During the period covered by Mr. Dwyer, specifically commencing sometime in August of 1969 through March of 1970,

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1           were you aware of any preference or desire of Sportservice  
2           Corporation as to whether or not the American League  
3           franchise would remain in Seattle or be moved elsewhere?  
4       A     No.  Whatever was public knowledge I was aware of.  I had  
5           no knowledge what was public, I don't remember anything  
6           about it.  
7       Q     You remember absolutely nothing as to whether or not there  
8           was any preference or desire of Sportservice Corporation  
9           as to whether the team should remain in Seattle or be  
10          moved to some other location?  
11      A     No.  
12      Q     Was your vote as a member team of the American League  
13           at any meeting of the American League, specifically I  
14           refer you to the Oakland meeting referred to by Mr.  
15           Dwyer which took place in January of 1970 and the Chicago  
16           meeting referred to by Mr. Dwyer which took place in  
17           February of 1970 and the Tampa meeting referred to by  
18           Mr. Dwyer which took place in March of 1970, I ask you  
19           whether your vote on any issue involving the Seattle  
20           franchise or the removal of the Seattle franchise to  
21           Milwaukee was in any way influenced by any desire that  
22           Sportservice Corporation may have had?  
23      A     No.  
24      Q     Was your vote at any of these meetings in any way  
25           affected or influenced by the fact that Sportservice had

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the concession contract and a loan agreement with the  
Seattle Pilot franchise?

A No.

MR. TOMLINSON: I have nothing further.

BY MR. DWYER:

Q Did you ever ask Mr. Daley to dig up the money and put in  
the resources necessary to keep the club in Seattle?

A No.

Q Did anybody else, to your knowledge?

A I wouldn't know.

MR. DWYER: That is all.

(Witness excused from stand.)

\_\_\_\_\_  
GERALD C. HOFFBERGER

STATE OF WASHINGTON)  
  ) SS.  
COUNTY OF KING )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 1973.

\_\_\_\_\_  
Notary Public in and for the State  
of Washington, residing at Seattle.

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