

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

In the Matter of)

Young Broadcasting)
of San Francisco, Inc.)

Licensee of KRON-TV)
San Francisco, California)

File No. EB-02-IH-0786/DJB

**To: The Chief
Investigations and Hearings Division
Enforcement Bureau**

**RESPONSE OF YOUNG BROADCASTING OF SAN FRANCISCO, INC.
TO THE MAY 27, 2003 LETTER OF MAUREEN F. DEL DUCA**

July 3, 2003

Mark J. Prak
Stephen Hartzell-Jordan

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
Wachovia Capitol Center
Suite 1600 (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

*Counsel to Young Broadcasting
of San Francisco, Inc.*

Young Broadcasting of San Francisco, Inc. (“KRON”), licensee of KRON-TV, San Francisco, California, through its undersigned attorneys, hereby responds to the May 27 letter of Maureen F. Del Duca, Chief, Investigations and Hearings Division, Enforcement Bureau (“Del Duca Letter”) (attached as Exhibit A). This Response is timely filed, as the June 20, 2003 letter of William D. Freedman, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, extended the time for filing KRON’s response to and including July 3, 2003 (attached as Exhibit B). Numbered paragraphs below correspond to the four numbered paragraphs listed under the heading “Inquiries: Documents and Information to be Provided” on page 4 of the Del Duca Letter.

KRON responds as follows:

A. RESPONSE TO COMMISSION INQUIRY

1. Aside from numerous factual inaccuracies discussed below, Young Broadcasting of San Francisco, Inc. (“KRON”) did broadcast the material described in the October 7, 2002 complaint letter (“Complaint Letter”) over Station KRON-TV on the “KRON 4 Morning News” on October 4, 2002, at approximately 8:23 a.m.

2. The Complaint Letter accurately describes the fact that a “naked penis” was broadcast during the October 4, 2002 episode of the KRON 4 Morning News. Significantly, however, the Complaint Letter omits the critical facts that (1) the broadcast of a naked penis was **accidental**, and clearly discernable as such even as it occurred, (2) the broadcast of a naked penis lasted approximately **17/30 of one second**, and (3) the anchors of the KRON 4 Morning News contritely **apologized** on air, twice, immediately after the incident occurred. *See* Affidavit of Stacy Owen, ¶¶ 4, 6 (Attachment 1). In fact, both anchors apologized at 8:26 a.m., a mere four minutes after the incident.

The Complaint Letter also accurately identifies the title of a song (“I Touch Myself”), and its recording artist (the Divinyls), a portion of which also aired during the October 4, 2002 episode of the KRON 4 Morning News. Significantly, however, the Complaint Letter again omits critical facts regarding the broadcast of the song. A total of fourteen seconds of the song were aired, nearly all of which was aired during a simultaneous voice-over discussing a movie and rendering the song’s lyrics incomprehensible to the viewer. Moreover, the portion of the lyrics that aired was from a section of the song devoid of sexual innuendo.

The Complaint Letter contains other significant inaccuracies. First, anchor Darya Folsom did **not** “insist[]” that the guests “give a little sample of their show.” On this point, the complainant’s characterization must be described as grossly inaccurate. No KRON personnel “insisted” that the guests perform, nor did any KRON personnel request a performance. Rather, one of the guest actors spontaneously said “Should we show you a couple of quick ones?” to which anchor Susan Blake responded with the nearly unintelligible assent, “Quickly.” *See* Videotape, 7AM Newscast10/4/02, at 8:22 (attached as Exhibit C). This “spur of the moment” decision by the guests to perform a few “installations” was, in fact, contrary to the specific instructions given them by the stage manager prior to the program that the purpose of the segment was only an interview and not a demonstration. *See* Declaration of Lauren Williams, ¶ 5 (Attachment 2). Indeed, station personnel did not expect any performance from their guests and were unaware that the guests were naked beneath their capes. *See* Williams Decl., ¶ 6.

Second, the Complaint Letter states that had the complainant’s children not been at school, “they would have seen this. I can only shudder to think of the other little kids

who might have seen this.” Without being insensitive to the serious nature of the complainant’s concerns as a viewer and as a parent, KRON posits that parents were given the opportunity to change the channel or turn off the television prior to the accidental 17/30 second depiction of a naked penis. Indeed, the news anchors referenced the guests and the nature of their touring performance no fewer than **seven times** prior to the interview, including **two warnings** suggesting that parents might want to take action to prevent their children from viewing the interview segment. *See* Owen Aff., ¶ 6. The first of the warnings occurred at approximately 7:39 a.m., and the second aired at approximately 8:14 a.m., just prior to the commercial break leading into the beginning of the interview. The second warning was unmistakable, as Darya Folsom said: **“I do want to warn you in case you have kids . . . send them out of the room now”** *See* Videotape, at 8:13. Of course these warnings were not issued because the interview segment was indecent nor because KRON expected to broadcast nudity (KRON did not expect to broadcast nudity)—they were issued because KRON was sensitive to the delicate nature of the subject matter and was and continues to be sensitive to and respectful of parents’ decisions to control the exposure of their children to particular material.

Third, the Complaint Letter’s characterization of the touring program performed by the guests is at least unfair, if not inaccurate: “The two men participate in a show entitled ‘The Penis Puppeteers.’ They perform (I use the term loosely) something called ‘Genital Origami.’” Of course, the show is actually called “Puppetry of the Penis,” and, while there can be debate and disagreement over the quality of the “art” engaged in by the men, it is beyond cavil that they “perform.” Apparently, the complainant disagrees

with the nature of the performance, and in the Complaint Letter visits that “sin” upon KRON. While the complainant may prefer not to attend “Puppetry of the Penis” or even hear about it on the morning news, the complainant cannot be allowed to sit in judgment of KRON for its bona fide news coverage of a bona fide social event in its community of license. Indeed, the stage show “Puppetry of the Penis” has toured the world, *see* Press Release, Theatre on the Square (attached as Exhibit D (noting worldwide performance locales and describing the show as “non-sexual”)), and has been covered and reviewed (mostly favorably) by mainstream media outlets such as the *New York Post*, the *New York Times*, and the *San Francisco Chronicle* (attached as Exhibit E). The Mayor of San Francisco reportedly attended the opening night performance. *See* Wesley Joost, *The Penis Dialogues*, *The Examiner* (S.F. Nov. 1, 2002) (attached as Exhibit F). In that regard, the show is no different than a Broadway production entitled “The Vagina Monologues,” and, notwithstanding the Complaint Letter’s representation to the contrary, the show is undeniably a “performance.”

3. Enclosed with this Response are the following items: (A) Videotape of the entire two-hour KRON 4 Morning News program aired between 7:00 a.m. and 9:00 a.m. on October 4, 2002 (attached as Exhibit C); (B) Transcripts of (i) the promotion for the relevant segment, (ii) the in-show tease, and (iii) the anchor “toss” (attached as Exhibit G); (C) Suspension letters directed to relevant station personnel (attached as Exhibit H); and (D) Copy of text of KRON press release of October 4, 2002 apologizing for the inadvertent broadcast of nudity (attached as Exhibit I).

4. The material broadcast on October 4, 2002 was not indecent, as a matter of law.

The Complaint Letter states, in relevant part:

At one point Darya Folsom insisted that the men give a little sample of their show. One of the men stood up, he opened his cape, and there for the whole Bay Area to see was the "Full Monty" (his naked penis). THIS IS ON LIVE TELEVISION!!! Then they cut to black while they performed their genital origami to the hosts. Right before the commercial break they played the song, "I Touch Myself" by the Divinyls. This all occurred on public television (not HBO or Showtime) at 8:30am.

I am appalled and sickened at this type of content on a Morning Show! I can't believe that this happened even in liberal San Francisco. Thank God my children were at school, or they would have seen this.^[1] I can only shudder to think of the other little kids who might have seen this.

Aside from the numerous factual inaccuracies discussed above, the Complaint Letter appears to focus primarily on (1) the visual depiction of a naked penis which lasted barely more than 1/2 second; and (2) the airing of an innocuous and nearly unrecognizable portion of the song "I Touch Myself." This material taken in context as a whole, or in its component parts, is not indecent within the legal definition of the term.

B. THE MATERIAL BROADCAST WAS NOT INDECENT AS THAT TERM HAS BEEN DEFINED BY THE COMMISSION

The Commission has defined indecency as "language or material that, in context, depicts or describes in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs." *In the Matter of Industry Guidance On the Commission's Case Law Interpreting 18 U.S.C. §*

¹ With all due respect to the complainant, if his or her children had been at home watching this program with him or her, surely the complainant could have changed the channel or turned off the television once the nature of the interview segment became obvious, and particularly after the news anchors twice warned viewers of the nature of the upcoming segment. While the Commission undeniably has the authority to regulate indecent and obscene programming, the Commission does not have the authority to stand *in loco parentis* in every instance, and parents must take the responsibility of being the first line of defense in monitoring and controlling what programming their children view and hear.

1464 and Enforcement Policies Regarding Broadcast Indecency, Policy Statement, 16 FCC Rcd 7999 (2001) (“*Policy Statement*”), ¶ 4 (quoting *FCC v. Pacifica Found.*, 438 U.S. 726, 732 (1978)). To be considered indecent, broadcast material must meet two requirements: First, the material must depict or describe sexual or excretory activities or organs; and second, the material must be patently offensive as measured by contemporary community standards for broadcasting. *See id.*, ¶¶ 7-8. In analyzing the second prong of the inquiry, the Commission looks “not [to] the sensibilities of any individual complainant,” but rather evaluates whether the programming at issue would be patently offensive to “an average broadcast viewer or listener.” *Id.* ¶ 8 (quoting *In the Matter of WPBN/WTOM License Subsidiary, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 1838 (2000) (“*WPBN/WTOM MO&O*”), ¶ 10.

In the programming material at issue here, as broadcast on October 4, 2002, it is undisputed that a naked penis aired—albeit for a mere 17/30 of one second—at approximately 8:22 a.m.², satisfying the first prong of the indecency inquiry. *See WPBN/WTOM MO&O*, ¶ 9. The critical inquiry, then, is whether this material was “patently offensive” under Commission standards. As demonstrated below, the answer to this inquiry is, plainly, no.

As an initial matter, it is worth noting that the full Commission has rejected the argument that “the presentation of adult frontal nudity prior to 10 p.m. per se constitutes indecent programming.” *WPBN/WTOM MO&O*, ¶ 9. Nevertheless, the Complaint Letter seems to posit that the 17/30 second, accidental airing of nudity deserves precisely such “per se” treatment. The complainant’s position on that score is untenable. Indeed, rather

than take such a “per se” view of the indecency *vel non* of particular programming, the Commission has stated that “[i]n determining whether material is patently offensive, the *full context* in which the material appeared is *critically important*.” *Policy Statement*, ¶ 9 (first emphasis in original, second emphasis added).

In the *Policy Statement*, the Commission summarized the principal factors used in determining whether material is patently offensive:

(1) the *explicitness or graphic nature* of the description or depiction of sexual or excretory organs or activities; (2) whether the material *dwells on or repeats at length* descriptions of sexual or excretory organs or activities; (3) *whether the material appears to pander or is used to titillate*, or *whether the material appears to have been presented for its shock value*.

Policy Statement, ¶ 10 (emphases in original). Of course, no single factor is determinative, and these factors (and possibly other, unidentified factors) must be balanced in making an indecency determination. *See id.* Generally, the more explicit or graphic, repetitive, or pandering or titillating the material is, the more likely it is that the Commission will find the material to be indecent. *See id.*, ¶¶ 12, 17. KRON’s research revealed no Commission decision in which the accidental broadcast of less than one second of nudity was found to be indecent.

1. The Material At Issue Was Not Explicit Or Graphic And, Therefore, Fails To Satisfy The First Factor

The Commission has stated that “[t]he more explicit or graphic the description or depiction, the greater the likelihood that the material will be considered patently offensive.” *Policy Statement*, ¶ 12. It is undisputed that the material at issue included the actual depiction of a sexual organ. Significantly, however, this depiction was nothing

² Generally, broadcasters may air indecent programming during the so-called “safe harbor” time period between 10:00 p.m. and 6:00 a.m. *See Policy Statement*, ¶ 6. It is undisputed that the material at issue did

more than an accidental visual shot that **lasted a mere 17/30 of one second**. Neither the *Policy Statement* nor Commission indecency decisions define “explicit” or “graphic,” though the decisions cited in the *Policy Statement* suggest that lewdness and vulgarity are relevant considerations in evaluating the explicit or graphic nature of a depiction. *See Policy Statement*, ¶ 13. The nudity at issue here was not lewd, vulgar, or even offensive, and cannot be fairly characterized as such—it was just a penis. And, the incredibly short duration of the depiction at issue was such that viewers who turned their heads, sneezed, or even blinked at precisely that moment very likely would have missed the entire incident. A 17/30 second depiction of a nude, flaccid penis, without more, is neither explicit nor graphic, and, as a matter of law, is not patently offensive.

2. **The Material At Issue Was Neither Dwelled Upon Nor Repetitive And, Therefore, Fails To Satisfy The Second Factor**

The Commission has stated:

Repetition of and persistent focus on sexual or excretory material have been cited consistently as factors that exacerbate the potential offensiveness of broadcasts. In contrast, where sexual or excretory references have been made once or have been passing or fleeting in nature, this characteristic has tended to weigh against a finding of indecency.

Policy Statement, ¶ 17.

The material at issue here was undeniably fleeting in nature. The Complaint Letter focuses on the broadcasting of (1) 17/30 second of a naked penis and (2) an innocuous and nearly unrecognizable 14-second long snippet of the song “I Touch Myself.” It is worth reiteration that the broadcast of nudity lasted **barely more than 1/2 second**, *see* Owen Aff., ¶ 6, which constitutes approximate 1/14000 of the entire KRON 4 Morning News Program, and the 14-second portion of the song “I Touch Myself” was

not air during the “safe harbor” period.

entirely innocuous as its lyrics were incomprehensible, incomplete, and otherwise unremarkable and devoid of sexual innuendo in any event, *see* Videotape, at 8:23-8:24.

Moreover, the Commission has found material not to be indecent when it occurred only briefly during a live production and was not repeated. *See, e.g., L.M. Communications of South Carolina, Inc.*, Letter Ruling, 7 FCC Rcd 1595 (MMB 1992) (“We are persuaded by your argument that the August 24 broadcast contained only a fleeting and isolated utterance which, within the context of live and spontaneous programming, does not warrant a Commission sanction.”); *Flambo Broadcasting, Inc.*, Letter Ruling, 9 FCC Rcd 1681 (MMB 1994) (“[G]iven the brief, live and unscripted nature of the material as well as its outside source, we will take no further action with respect to this broadcast.”); *cf. In the Matter of Infinity Radio License, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd 18339 (2002), ¶ 4 (stating, with respect to nine minutes of aggregated material, that “even though the material was apparently unscripted, live and from one of the concert’s performers, it was hardly brief”).

Furthermore, the nudity at issue here is the visual equivalent of the audio material at issue in *Lincoln Dellar, For Renewal of the Licences of Stations KPRL(AM) and KDDDB(FM) Paso Robles, California*, Memorandum Opinion and Order, 8 FCC Rcd 2582 (1993). There, a news announcer accidentally blurted out “Oops, fucked that one up,” during a live newscast after making a mistake in his report. *Id.* ¶ 26. The Chief of the Audio Service Division observed:

As to the news announcer’s use of a single expletive, the matter would not appear to warrant further Commission consideration in light of the *isolated and accidental nature* of the broadcast. We also note that the licensee reprimanded the announcer involved and took steps to prevent any similar occurrences.

Id. ¶ 26 (emphasis added). Likewise, in the instant case, the broadcast of nudity was isolated and accidental, and the duration of the broadcast—17/30 second—was probably about as long as that in *Lincoln Dellar*. Moreover, KRON also took disciplinary action against station personnel connected to the incident and has taken steps to prevent any similar occurrences. *See* Owen Aff. ¶ 5; Williams Decl. ¶ 7; Exhibit H (suspension letters).

3. The Material At Issue Did Not Pander, Was Not Used To Titillate, And Was Not Presented For Its Shock Value And, Therefore, Fails To Satisfy The Third Factor

The Commission has stated that the “apparent *purpose* for which material is presented can substantially affect whether it is deemed to be patently offensive as aired.” *Policy Statement*, ¶ 20 (emphasis added). Because the nudity at issue here was broadcast accidentally, KRON, by definition, had no “purpose” in airing the material and did not air it willfully. *See* Williams Decl. ¶¶ 5-6.

The nudity at issue here was broadcast inadvertently, and was not aired to pander to or titillate the audience, nor was it broadcast for its shock value. *See* Williams Decl. ¶¶ 5-6. In fact, station personnel were as shocked at its broadcast as the complainant, and two on-air apologies were issued within minutes of its broadcast, on the same program. The news anchors themselves were not aware that nudity had been accidentally aired, until they went to commercial break. *See* Videotape, at 8:26.

The Commission’s decision in the *WPBN/WTOM MO&O* is instructive here. There, the Commission determined that full frontal adult nudity depicted in the broadcast of the movie *Schindler’s List* was not patently offensive, and, therefore, not indecent. The Commission based its decision on “the subject matter of the film, the manner of its presentation, and the warnings that accompanied the broadcast.” *WPBN/WTOM MO&O*,

¶ 13. Upon consideration of those factors in the instant case, it becomes evident that the nudity depicted in the October 4 broadcast was not patently offensive. The subject matter of the October 4 broadcast was the bona fide news treatment of a bona fide stage show which has been performed worldwide and was opening in San Francisco. *See* Press Release, Theatre on the Square (attached as Exhibit D). The manner of presentation of the nudity was entirely accidental, and KRON had issued two general warnings to viewers. Just as the Commission in *WPBN/WTOM MO&O* found the full frontal nudity not to be indecent, the Commission staff here should conclude that no further Commission action is warranted.

The airing of a portion of the song “I Touch Myself” was not inadvertent. Nevertheless, it too was not broadcast with the purpose of pandering or titillating, nor for shock value. Significantly, not only were no lyrics containing explicit language or sexual innuendo broadcast, but also the portion of the song’s lyrics that did air were incomprehensible because of the simultaneous voice over by an announcer. Furthermore, the song received its heaviest radio airplay some twelve years ago, *see* Chad Kempfert, *Alternative One Hit Wonders* (attached as Exhibit J), making it extremely unlikely that any children in the audience would be familiar with the song, its lyrics, or its subject. If anything, the song here provided a sophisticated and clever “in” joke for adult viewers familiar with the song and the portions of its lyrics which were not aired during the October 4 broadcast. Finally, KRON’s research reveals no Commission decision regarding “I Touch Myself,” let alone any decision finding that the song is, in whole or in part, indecent, obscene, or otherwise objectionable.

4. There Are No Other Factors In The Instant Case That Point Toward A Finding Of Indecency, And All Other Factors Present Militate Against An Indecency Finding

The analysis of the material at issue is straightforward. Upon consideration of the facts, circumstances, and legal factors discussed above, the Commission should conclude that KRON's October 4 broadcast, in context, was not indecent and that no further action is warranted in this case. There are no aggravating circumstances or factors, and, to the extent that other factors do exist, they are mitigating in nature. Specifically, KRON's response to the incident not only included on-air apologies from each news anchor immediately following the first commercial break after the nudity was accidentally broadcast, but also KRON disciplined station personnel who were connected to the incident. *See Owen Aff.* ¶ 5; *Williams Decl.* ¶ 7; Exhibit H.

C. CONCLUSION

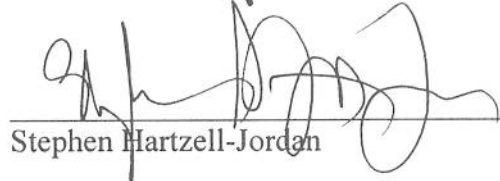
The Enforcement Bureau should exercise its judgment to take no further action in this matter since the material broadcast on October 4, 2002 was, as a matter of law, not indecent.

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Respectfully submitted, this the 3rd day of July, 2003.



Mark J. Prak



Stephen Hartzell-Jordan

BROOKS, PIERCE, MCLENDON,
HUMPHREY & LEONARD, L.L.P.
Wachovia Capitol Center, Suite 1600
150 Fayetteville Street Mall (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
(919) 839-0300

*Counsel to Young Broadcasting
of San Francisco, Inc.*

BROOKS, PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.

ATTORNEYS AT LAW

RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
SUITE 1600
FIRST UNION CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

L.P. McLENDON, JR.
HUBERT HUMPHREY
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL MCGINN
MICHAEL D. MEEKER
WILLIAM G. MCNAIRY
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JENNIFER L. DAVIS
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JESSICA M. MARLIES
TERESA DeLOATCH BRYANT
ELIZABETH TAYLOR McHAFFEY
ANDREW J. HAILE
J. BENJAMIN DAVIS
CAROLINE R. HEIL
KATHERINE A. MURPHY
SARA R. VIZITHUM
CHARLES F. MARSHALL III

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

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AUBREY L. BROOKS (1872-1958)
W.H. HOLDERNESS (1904-1965)
L.P. McLENDON (1890-1968)
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C.T. LEONARD, JR. (1929-1983)
CLAUDE C. PIERCE (1913-1988)
THORNTON H. BROOKS (1912-1988)
G. NEIL DANIELS (1911-1997)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 900, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

919.839.0108

E-MAIL
mprak@brooksperce.com

July 3, 2003

Via Hand Delivery

Ms. Melanie A. Godschall
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-A365
Washington, D.C. 20554

Re: **Young Broadcasting of San Francisco, Inc.**
EB-02-IH-0786/DJB
Response to Letter of May 27, 2003

Dear Ms. Godschall:

This firm is counsel to Young Broadcasting of San Francisco, Inc. ("KRON"), licensee of KRON-TV, San Francisco, California.

Enclosed herewith is one original and four copies of KRON's Response, along with supporting documentation, to the May 27, 2003 letter of Maureen F. Del Duca. As you discussed with my associate Stephen Hartzell-Jordan, we are submitting only two videotapes of the program material at issue. Please note that one of the supporting declarations to KRON's Response bears a fax signature. We will file the document bearing an original signature next week.

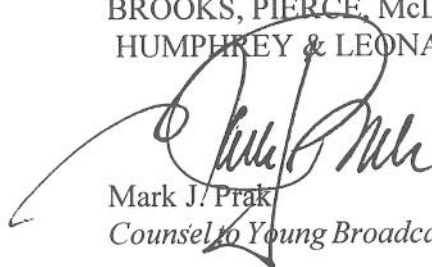
Ms. Melanie A. Godschall
July 3, 2003
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Given the wholly accidental nature and brief duration of the portion of the broadcast that is the subject of a single viewer complaint, I am confident that, after you review these materials, you will agree that the broadcast at issue was not indecent and you will recommend that no further Commission action be taken.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

A handwritten signature in black ink, appearing to read 'Mark J. Prak', is written over the typed name. The signature is fluid and cursive, with a large initial 'M' and 'P'.

Mark J. Prak
Counsel to Young Broadcasting of San Francisco, Inc.

Enclosures

Ms. Melanie A. Godschall
July 3, 2003
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bcc: Dino Dinovitz (w/enc.)
Deb McDermott (w/enc.)

Dino - Please be sure that a copy of all these materials is placed in the public file.

▶

**Before the
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Young Broadcasting of San Francisco, Inc.)	File No. EB-02-IH-0786/DJB
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Licensee of KRON-TV San Francisco, California)	
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**To: The Chief
Investigations and Hearings Division
Enforcement Bureau**

AFFIDAVIT OF STACY OWEN

Stacy Owen, being first duly sworn, alleges and says:

1. I am more than eighteen (18) years old and am under no disability. I have personal knowledge of the matters set forth in this Affidavit, and I am competent to testify to them.
2. I currently serve as News Director for Young Broadcasting of San Francisco, Inc., licensee of KRON-TV, San Francisco, California ("KRON"), and I was News Director for KRON at the time of the October 4, 2002 broadcast of the KRON 4 Morning News.
3. On October 4, 2002, the KRON 4 Morning News aired a live interview with the founders and performers of a stage show entitled "Puppetry of the Penis." The interview was hosted by news anchors Darya Folsom and Susan Blake. Prior to the October 4, 2002 news program, I was unaware of the precise nature of the guests' stage production and was advised on October 3, 2002 that their performance is the male answer to "The Vagina Monologues." Prior to October 3, 2002, the Executive Producer of the KRON 4 Morning News failed to consult with me or other senior management of KRON regarding the appearance of the performers on the program.
4. I watched the October 4 KRON Morning News from home, and, upon viewing the nudity—the broadcast of which was obviously accidental—I telephoned the production booth to demand that (1) the interview segment end and (2) the anchors apologize immediately. KRON personnel complied with both of my demands, and the anchors apologized immediately upon return from commercial break, approximately 4 minutes after the nudity had inadvertently aired. I was informed that the guests were

escorted from the building by our Managing Editor immediately after the interview ended.

5. Paul Dinovitz, President and General Manager of KRON was immediately notified of the situation, as was the station manager. Upon our arrivals at the station that morning, we met, addressed the situation, issued reprimands to station personnel involved in the situation, and notified Deborah McDermott, Executive Vice President for Broadcast Operations for Young Broadcasting, Inc., the parent company of Young Broadcasting of San Francisco, Inc. KRON suspended for one week without pay, the booking producer and executive producer, and for 3 days without pay, the staff director of the KRON 4 Morning News program.


6. Upon reviewing a videotape of the entire October 4 episode of the KRON 4 Morning News, I observed that the anchors referenced the upcoming interview and nature of the guests' stage performance at least seven times prior to the commencement of the interview. I also observed that the anchors issued two specific warnings to parents to give parents the opportunity to make decisions regarding whether they wanted children to watch the interview segment. In addition, I observed that a total of 17/30 of one second elapsed during the period in which the guest's penis was exposed on live television. This time measurement was facilitated by the time-lapse counter appearing at the top of the screen on the videotape. I understand that a copy of the videotape, complete with the time-lapse counter, is attached to KRON's Response.

7. I have reviewed the foregoing Response to the May 27, 2003 Letter of Maureen F. Del Duca and attached Exhibits and certify that I provided factual information that was used in the preparation of all four sections of the Response.

[signature appears on following page]

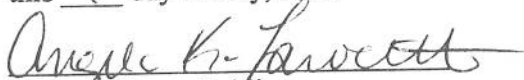
FURTHER AFFIANT SAYETH NOT.

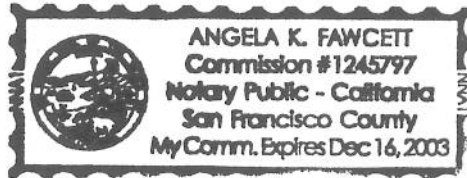
This the 1 day of July, 2003.


Name: Stacy Owen

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

Sworn to and subscribed before me
this 1 day of July, 2003


Notary Public



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

In the Matter of)	
)	
Young Broadcasting of San Francisco, Inc.)	File No. EB-02-IH-0786/DJB
)	
Licensee of KRON-TV San Francisco, California)	

**To: The Chief
Investigations and Hearings Division
Enforcement Bureau**

DECLARATION OF LAUREN WILLIAMS

I, Lauren Williams, under penalty of perjury, hereby declare as follows:

1. I am more than eighteen (18) years old and am under no disability. I certify under penalty of perjury under the laws of the United States of America that the facts set forth herein are true, complete, and correct to the best of my personal knowledge, and, as to facts and matters not within my personal knowledge, I certify under penalty of perjury under the laws of the United States of America that I believe them to be true.
2. I served as Executive Producer of the KRON 4 Morning News produced by Young Broadcasting of San Francisco, Inc., licensee of KRON-TV, San Francisco, California ("KRON"), at the time of the October 4, 2002 broadcast of the KRON 4 Morning News. I am not currently employed by KRON.
3. On October 4, 2002, the KRON 4 Morning News aired a live interview with the founders and performers of a stage show entitled "Puppetry of the Penis." The interview was hosted by news anchors Darya Folsom and Susan Blake. Prior to the October 4, 2002 news program, I informed News Director Stacy Owen of the scheduled appearance of the performers on the program, but, as it was our practice to book guests independent of senior management, we did not discuss their stage production in detail.
4. When the booking producer secured the interview of the "Puppetry of the Penis" performers, I gave great consideration to the wisdom of such an interview. After reading generally favorable reviews of the performance in mainstream media outlets such as the *New York Times* and reviewing promotional materials characterizing the performance of the show as the male counterpart to the critically acclaimed stage production "The Vagina Monologues," I determined that the subject was newsworthy. At the time of the

interview, "Puppetry of the Penis" had just completed a successful run in Los Angeles and was about to open in San Francisco. The KRON 4 Morning News routinely covers newsworthy stage performances and art events in the San Francisco area.

5. Prior to the interview, the stage manager reminded the guests that they were not to perform their "origami" and that KRON only wanted an interview. In fact, in conjunction with the interview, KRON personnel had previously driven around San Francisco and played a videotape of excerpts of the stage performance for willing viewers, and then solicited and taped reactions to the performance. This obviated the need for the guests to perform in the studio at all, and it was our intent that the guests would not perform during the interview.

6. When the guests entered the studio, they were wearing capes, but I believed them to be clothed underneath. We had no intention or desire to broadcast nudity during the October 4 program. Unfortunately, a split-second shot of one of the guests' naked penis was broadcast when he unexpectedly turned around toward the camera as he disrobed. Just prior to the accidental nude shot, our director had purposefully called for the guests to be shot from behind. Approximately 20 frames of the nudity were shot before human reaction time allowed the camera to cut away.

7. Upon return from commercial break following the end of the interview, the anchors apologized for the accidental nude shot. Approximately 4 minutes had passed between the brief broadcast of nudity and the apologies. Following the broadcast, I was reprimanded and suspended without pay for one week.

8. I have reviewed the foregoing Response to the May 27, 2003 Letter of Maureen F. Del Duca and attached Exhibits and certify that I provided factual information that was used in the preparation of all four sections of the Response.

Executed on July __, 2003.

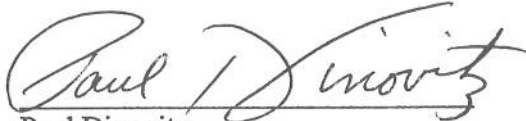
Lauren Williams

DECLARATION OF PAUL DINOVIKZ

I, Paul Dinovitz, under penalty of perjury, hereby declare as follows:

1. I am the President and General Manager of Young Broadcasting of San Francisco, Inc., licensee of KRON-TV, San Francisco, California.
2. I have reviewed the foregoing Response to the May 27, 2003 Letter of Maureen F. Del Duca ("Letter") and attached Exhibits and certify under penalty of perjury under the laws of the United States of America that the facts set forth therein are true, complete, and correct to the best of my personal knowledge, and, as to facts and matters not within my personal knowledge, I certify under penalty of perjury under the laws of the United States of America that I believe them to be true.
3. I have also reviewed the Documents which are being submitted in response to the Letter, and I further certify under the penalty of perjury under the laws of the United States of America that, to the best of my personal knowledge, all of the Documents and information requested by the Letter which are in KRON's possession, custody, control or knowledge are being produced herewith.

Executed on July 1, 2003.


Paul Dinovitz
President and General Manager

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 1 DAY OF July, 2003

BY Paul Dinovitz


NOTARY PUBLIC





FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 3-B443
Washington, D.C. 20554
May 27, 2003

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Young Broadcasting of San Francisco, Inc.
1001 Van Ness Avenue
San Francisco, CA 94109

Re: EB-02-IH-0786/DJB
ID # 65526

Dear Licensee:

The Enforcement Bureau is investigating allegations that Young Broadcasting of San Francisco, Inc. (the "Licensee") may have broadcast indecent material, as described in Attachment A, during the "KRON 4 Morning News" show on October 4, 2002, at approximately 8:25 a.m., over Station KRON-TV, San Francisco, California, in violation of Title 18 United States Code, section 1464, 18 U.S.C. § 1464, and section 73.3999 of the Commission's rules, 47 C.F.R. § 73.3999. We direct the Licensee, pursuant to sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 308(b), 403, to provide the information and Documents as defined herein, within thirty (30) calendar days from the date of this letter.

Instructions

Each requested Document shall be submitted in its entirety, even if only a portion of that Document is responsive to an inquiry made herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be submitted.

If a Document responsive to any inquiry made herein existed but is no longer available, or if the Licensee is unable for any reason to produce a Document responsive to any inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

With respect only to Documents responsive to the specific inquiries made herein and any other Documents relevant to those inquiries, the Licensee is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless (1) the Licensee is directed or informed by the Enforcement Bureau in writing to retain such Documents for some shorter or longer period of time or (2) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, the Licensee must retain all such Documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all Documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Licensee must supplement its responses (a) if the Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive Documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless (1) the Licensee is directed or informed by the Enforcement Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period of time or (2) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the release of such item.

For each Document or statement submitted in response to the inquiries below, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the Document was retrieved. If any Document is not dated, state the date on which it was prepared. If any Document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Licensee must identify with reasonable specificity all Documents provided in response to these inquiries.

Unless otherwise indicated, the period of time covered by these inquiries is October 4, 2002, to the present.

Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Broadcast," when used as noun, shall mean any visual images and audible sounds or language that Station KRON-TV transmitted or disseminated during the course of a television broadcast.

"Broadcast," when used as a verb, shall mean the transmission or dissemination of radio communications or television signal intended to be received by the public. The verb broadcast may be used interchangeably with the verb "air."

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any broadcast, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form).

"Licensee" or "Young Broadcasting of San Francisco, Inc." shall mean the holder of the license for Station KRON-TV and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

Inquiries: Documents and Information to be Provided

1. State whether Young Broadcasting of San Francisco, Inc. broadcast the material described in Attachment A over Station KRON-TV on the "KRON 4 Morning News" on October 4, 2002, at approximately 8:25 a.m.
2. If the programming described in Inquiry 1, above, and reflected in Attachment A, does not accurately reflect the material actually broadcast over Station KRON-TV on the "KRON 4 Morning News" on October 4, 2002, at approximately 8:25 a.m., describe any inaccuracies.
3. Provide any and all video tapes, transcripts or other Documents reproducing or discussing the material reflected in Inquiry 1 and/or any broadcast over Station KRON-TV between 7:00 and 9:00 a.m. on October 4, 2002.
4. If the Licensee believes that a defense to the subject allegations exists, state concisely the nature of the defense.

We direct the Licensee to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Licensee with personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the Documents and information requested by this letter which are in the Licensee's possession, custody, control or knowledge have been produced. If multiple Licensee employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of the Licensee noted above, provide separate affidavits or declarations of each such individual that identify clearly to which responses the affiant or declarant is attesting. All such declarations provided should comply with section 1.16 of the Commission's rules, 47 C.F.R. § 1.16, and be substantially in the form set forth therein. To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment. *See* 18 U.S.C. § 1001; *see also* 47 C.F.R. § 1.17.

The Licensee should direct its response to the attention of Melanie A. Godschall, Investigations and Hearings Division, Enforcement Bureau, Federal Communications

Commission, 445 12th Street, S.W., Room 3A365, Washington, DC, 20554, and must submit its response via hand-delivery.

Sincerely,

Maureen F. Del Duca
Chief, Investigations and Hearings Division
Enforcement Bureau

Enclosure

October 7, 2002

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, SW, Room 3-B443
Washington, DC 20554

Dear Sir or Madam:

On October 4, 2002 on KRON-4 (San Francisco, CA) morning news show at approximately 8:25am; hosts Darya Folsom and Susan Blake, hosted a couple of performers from Australia as guests. The two men participate in a show entitled "The Penis Puppeteers". They perform (I use the term loosely) something called "Genital Origami". They were wearing nothing but blue and red capes, and were completely naked beneath the capes.

At one point Darya Folsom insisted that the men give a little sample of their show. One of the men stood up, he opened his cape, and there for the whole Bay Area to see was the "Full Monty" (his naked penis). THIS IS ON LIVE TELEVISION!!! Then they cut to black while they performed their genital origami to the hosts. Right before the commercial break they played the song "I Touch Myself" by the Divinyls. This all occurred on public television (not HBO or Showtime) at 8:30am.

I am appalled and sickened at this type of content on a Morning Show! I can't believe that this happened even in liberal San Francisco. Thank God my children were at school, or they would have seen this. I can only shudder to think of the other little kids who might have seen this.

Sincerely,

[Redacted signature]

[Redacted address]

24 P. 21
ATTACHMENT BUREAU



FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 3-B443
Washington, D.C. 20554

June 20, 2003

VIA U.S. MAIL AND TELECOPIER

Stephen Hartzell-Jordan, Esq.
Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
Post Office Box 1600
Raleigh, NC 27602

**Re: EB-02-IH-0786/DJB
ID # 65526**

Dear Mr. Hartzell-Jordan:

We have received your request, dated June 20, 2003, which you sent on behalf of your client, Young Broadcasting of San Francisco, Inc., licensee of Station KRON-TV, San Francisco, California (the "Licensee"), for a one-week extension of time within which to respond to our May 27, 2003, letter concerning the investigation of allegations that indecent material may have been broadcast over the station during the "KRON 4 Morning News" show on October 4, 2002, at approximately 8:25 a.m., in violation of Title 18 United States Code, section 1464, 18 U.S.C. § 1464, and section 73.3999 of the Commission's rules, 47 C.F.R. § 73.3999. Our letter directed you to provide information and Documents, as defined within the letter, by June 26, 2003.

We have reviewed your request and find that you have shown good cause supporting a one-week extension of time, to and including July 3, 2003, within which to file a response. Accordingly, the Licensee's response is due on July 3, 2003.

As set forth in our May 27, 2003, letter, you should direct the Licensee's response to the attention of Melanie A. Godschall, Investigations and Hearings Division,

Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-A365, Washington, DC, 20554, and you must submit the Licensee's response to her via hand-delivery.

Sincerely,

A handwritten signature in black ink, appearing to read "William D. Freedman". The signature is written in a cursive style with a long horizontal flourish at the end.

William D. Freedman

Deputy Chief, Investigations and Hearings Division
Enforcement Bureau

cc: Young Broadcasting of San Francisco, Inc.

Exhibit C

Please see Videotape "7 AM Newscast 10/4/02"

**THEATRE
ON THE
SQUARE**

THEATRE ON THE SQUARE
450 Post Street, San Francisco, California 94102
Call 415-433-9500 for tickets and information



PUPPETRY OF THE PENIS
- Press Release -

**THE INTERNATIONAL COMEDY HIT MOVES TO
SAN FRANCISCO'S ALCAZAR THEATER
BEGINNING FRIDAY, NOVEMBER 29**

**FINAL PERFORMANCE AT
THEATRE ON THE SQUARE
7:00 PM, SUNDAY, NOVEMBER 24**

**BUY YOUR PENIS TICKETS TODAY!
CALL 415-433-9500
TICKETS ON-LINE AT TICKETS.COM**

SAN FRANCISCO - PUPPETRY OF THE PENIS, the international comedy hit, made its San Francisco debut at Theatre on the Square, 450 Post Street, in a limited engagement beginning October 29, 2002. The final performance of PUPPETRY OF THE PENIS at Theatre on the Square will be Sunday, November 24 at 7:00 pm. The show will then transfer to The Alcazar Theatre, where it will re-open on Friday, November 29. Tickets are available through Tickets.com.

Make no mistake, there are no sock puppets in this show! PUPPETRY OF THE PENIS begins where The Full Monty ends - with two naked penis puppeteers on stage presenting the ancient Australian art of genital origami. Requiring astonishing stamina, an unbelievable stretch factor and an amazing level of testicular fortitude, PUPPETRY OF THE PENIS leaves women and men gasping. More than 40 heroic and hilarious installations are presented including crowd pleasers, tourist attractions and food products like The Pelican, The Windsurfer, The Eiffel Tower, the Loch Ness Monster, and their signature creation, the Hamburger.

The show, which was conceived and created by David Friend and Simon Morley, was the only New York off-Broadway hit of the 2001-2002 season, and has played sold out engagements in London's West End, the Edinburgh Fringe Festival, the Melbourne International Comedy Festival, and across both Canada and their native Australia.

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Friend and Morley have added new installations to the show for its San Francisco premiere. Currently under consideration are Coit Tower, the Transamerica Pyramid, Lombard Street and the Golden Gate Bridge. An installation representing the Bay Bridge was reluctantly scrapped early on due to their lack of necessary equipment.

The Theatre On The Square performance schedule is as follows: Tuesday-Thursday Evenings at 8 PM, Friday and Saturday Evenings at 7 & 9:30 PM and Sunday Evenings at 7 PM. Tickets are priced at \$39.50 and \$44.50 and are available at the Theatre on the Square box office, by calling (415) 433-9500. Tickets are also available online at Tickets.com. PUPPETRY OF THE PENIS is a non-sexual adult show.

FOR CALENDAR EDITORS

- **WHAT:** PUPPETRY OF THE PENIS, the international comedy hit that begins where The Full Monty ends - with two naked penis puppeteers on stage presenting the ancient Australian art of genital origami. Requiring astonishing stamina, an unbelievable stretch factor and an amazing level of testicular fortitude, PUPPETRY OF THE PENIS showcases more than 40 heroic and hilarious installations, including crowd pleasers, tourist attractions and food products like The Windsurfer, The Eiffel Tower, the Loch Ness Monster, and their signature creation, the Hamburger. PUPPETRY OF THE PENIS is a non-sexual adult show.
- **WHEN:** Theatre On The Square Performance Schedule: Tuesday - Thursday Evenings at 8 PM;
Friday and Saturday Evenings at 7 & 9:30 PM; Sunday Evenings at 7 PM.
Final Theatre On The Square performance - Sunday, November 24 at 7 PM.
First Alcazar Theater performance - Friday, November 29.
- **WHERE:** Theatre on the Square, 450 Post Street, San Francisco (one block west of Union Square)
- **TICKETS:** Tickets are now on sale at the Theatre on the Square box office, by calling (415) 433-9500, or online at Tickets.com. Tickets range in price from \$39.50 To \$44.50
For more information, visit www.puppetryofthepen.com.

Press Contact:

Ed Kiley
CHARLES ZUKOW ASSOCIATES
415-733-9300

**THEATRE
ON THE
SQUARE**

THEATRE ON THE SQUARE
450 Post Street, San Francisco, California 94102
Call 415-433-9500 for tickets and information

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10/6/01 NYPOST 31
10/6/01 N.Y. Post 31
2001 WL 28043740

Page 1

(Publication page references are not available for this document.)

New York Post
Copyright (c) 2001, N.Y.P. Holdings, Inc. All rights reserved.

Saturday, October 6, 2001

New YorkPulse

NO STRINGS ATTACHED YOU'VE **NEVER SEEN PUPPETS** LIKE THESE BEFORE!
DONALD **LYONS**

PUPPETRY OF THE PENIS

John Houseman Theatre, 450 W. 42nd St. Call Telecharge, (212)
239 6200.

'PUPPETRY of the Penis," an act consisting of two naked guys contorting their genitals into a series of living sculptures, is not - and this is key -sexual.

It's athletic and adolescent, and its practitioners - Australians Simon Morley, 34, and David Friend, 32 - are likable blokes.

They come out in cloaks, which they promptly lose, and a video camera projects the details of what the performers call "genital origami" onto a huge screen behind them.

It's amazing how quickly we accept and enjoy what they are doing. After a minute or so (maybe less for women, who are not as nervous or anxious as the males in the audience), we begin to appreciate the wit and the devilish difficulty of genital manipulation.

Making it look painless, the two guys stretch their genitals into facsimiles of the Loch Ness monster, a windsurfer, a fan, the Eiffel Tower, a turtle. You can believe the tales they tell of the teenage games this stuff originated in.

With a few props, they give us a wheel of fortune, a greyhound racer, Hannibal Lecter and, in a moment of political correctness, a sendup of the Rev. Jerry Falwell.

Tributes to their homeland Australia include a boomerang, a baby kangaroo, a pelican and two Olympic flames.

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Page 2

(Publication page references are not available for this document.)

Then the puppeteers bring up a young woman from the audience and she joins in the creation of a fruit bat (don't ask, but it's all harmless). It is apparently an Australian tradition for inventive and original performers to invite members of the audience to join in the fun. Dame Edna Everage is known to do this.

In fact, I'd like to see an on-stage meeting of the three: Edna, Morley and Friend. All are droll, innovative artists; Edna, the dolled-up dame, could cope with the genital cut-ups, I'll bet.

The whole show is clever and funny, and it does what "The Vagina Monologues" fails to do: emphasizes, visually and ingeniously, the aspect of pure play in material that is normally sexually charged.

The upshot is a cleansing experience. Humor rules.

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

Genital origami devotees David Friend (left) and Simon Morley in "Puppetry of the Penis."

----- INDEX REFERENCES -----

NEWS SUBJECT: English language content; Arts/Entertainment; Political/General News; Arts & Entertainment (ENGL GENT GCAT ART)

Word Count: 359

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END OF DOCUMENT

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October 8, 2001, Monday

THE ARTS/CULTURAL DESK

THEATER REVIEW; A Couple of Naked Guys From Australia

By **BRUCE WEBER**

Because they can, I suppose.

In the juvenile novelty act "Puppetry of the Penis," the two naked performers Simon Morley and David Friend spend about an hour onstage manipulating their genitals (not each other's, happily) into shapes more often associated with balloon animals. Then they give their constructs ("installations" is their word) names -- the Eiffel Tower, the hot dog, etc. -- and the combination of can-you-believe-this audacity and fifth-grade wit sends enough audience members into groans and hysterics to encourage the boys to continue.

It has thus far, in any case; the show, which opened at the John Houseman Theater yesterday, is dumbfoundingly popular elsewhere. Mr. Morley and Mr. Friend originated it in 1998 in their native Australia, where with other performers the show continues to tour. Companies are now performing the act in Canada and Britain as well.

Discretion is not the better part of valor here, and the curious but squeamish (not to mention anyone with anything else to do) would do well to resist temptation. Given that the size of the puppets limits their viewability (no insult intended; the boys are merely ordinary), the show makes sure no fold or wrinkle is left to the imagination with large-screen live-action projections that give the act the intimacy of a gallbladder operation on cable television. There is also an audience participation segment of the show -- whatever you do, don't volunteer! -- that is both unseemly and unsanitary.

The puppeteers are preceded by a stand-up comedian, Wendy Vousden, whose barrage of sex organ jokes (both genders included) is marginally shrewder than the presentation to follow, and also by a man dressed as an ancient Greek (Mr. Morley's younger brother Justin) and given the riotously clever name Priapus. The genital tricks are accompanied by occasional sound effects familiar from episodes of Elmer Fudd.

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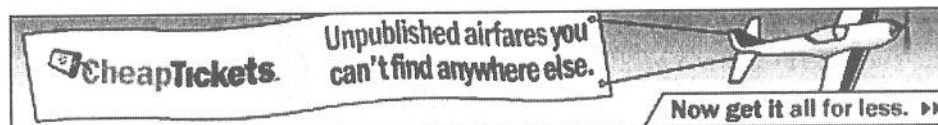
As for the two principals, Mr. Friend, 32, who has a bushy mustache and a wears a Gilligan cap, seems to be having as good a time as the life of a frat party can. The long-haired Mr. Morley, 34, is considerably more glib, in the manner of someone hiding his amazement that people would pay good money to be there. If his partner appears to be the sort of fellow who is thrilled to be getting away with something, Mr. Morley at least has the grace to look just a little bit ashamed.

PUPPETRY OF THE PENIS

Conceived and created by David Friend and Simon Morley. Production design by Andrew Dunn and Thomas Milazzo; general manager, Foster Entertainment; production stage manager, Janey Rainey; production manager, Kai Brothers; company manager, Steve David; associate producer, Mr. Milazzo. Produced in association with Johnson Temple Productions. Presented by David J. Foster and Ross Mollison. At the John Houseman Theater, 450 West 42nd Street, Clinton.

WITH: David Friend, Simon Morley, Wendy Vousden and Justin Morley.

Published: 10 - 08 - 2001 , Late Edition - Final , Section E , Column 1 , Page 4



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MEMBERS ONLY
Two Aussies make a show -- and a spectacle -- of themselves in their stage hit 'Puppetry of the Penis'

Jesse Hamlin, Chronicle Staff Writer



Not every guy can stretch his genitals into the shape of a snail or a hamburger, let alone the Eiffel Tower. It takes the right tools and talent.

David Friend and Simon Morley have both, as well as a shameless willingness to expose their gifts to a theater full of strangers.

They're the affable Aussies who play with their Nixons in "Puppetry of the Penis," the hit show that opens Oct. 29 at Theatre on the Square.

"It's basically a party trick that's been taken way too far," said Morley, 35, a curly-haired chap who took up "the ancient Australian art of genital origami" 14 years ago after a younger brother showed him a stunt or two.

"We've been waiting for someone to tell us to stop," he likes to say, "but everyone keeps encouraging us."

Morley cooked up this twisted act in 1998 to peddle his "Puppetry of the Penis" calendar -- "half the fun was trying to sell it as highbrow art" -- which documented the "installations" he performed for family and friends and at beered-up parties.

He and Friend -- called Friendly, he's the one with the soul patch and Rollie Fingers mustache -- have turned this party trick into a lucrative international enterprise.

Tuesday, October 22, 2002
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They've played to packed houses from Sydney to London to New York, in Germany, Holland and Canada ("Sends audience members into hysterics," the New York Times wrote). Their illustrated how-to book is selling nicely and, in addition to the San Francisco show, they've got four other "Puppetry" productions -- starring men they've cast and trained -- in New York and Los Angeles and on tours of Australia and Canada.

Who would've thought two guys playing with themselves in public could go this far? What's the appeal of this little sideshow from Down Under?

"The penis is quite obviously just funny to look at," said Friend, 33, a congenial bloke who has a university degree in computers but found work doing tricks at bachelorette parties and other functions.

Audiences are shocked at first to see two caped, naked

men stretching the family jewels to form bullfrogs and boomerangs and the Loch Ness monster -- particularly when they're magnified on a big video screen.

"But toward the end of the show, it could be any body part at all," Friend said recently over lunch at a South of Market bistro. "It could be an elbow. People just get used to lookin' at it."

Somehow "Puppetry of the Elbow" doesn't have quite the same ring.

"There's nothing sexual about it," Friend continued, noting that the puppets never point north. "We're always nice about it and never really rude."

For years, Morley said, "we've been told we're not allowed to laugh at the male genitalia. You'll crush a man's feelings. For a man or woman to look at flaccid genitals on a big screen for an hour is something that no one has ever done before. You can laugh. It's a liberation of the penis, a celebration.

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"I once had an 80-year-old lady come up to me after the show, give me a big cuddle and say, 'Son, I've been waiting 65 years to laugh at a penis like that.' Now that was job satisfaction."

Not everyone shares her enthusiasm. Some newspapers won't list the show, even if they did print "The Vagina Monologues." When the duo appeared recently on "The Tonight Show," fully clothed and just chatting, NBC's Salt Lake City affiliate refused to air the entire show. What do they say to people who think their act sounds juvenile and disgusting?

"Get over it, it's just a piece of skin," Morley said.

"It is juvenile," Friend added, "but it's not disgusting."

Friend's girlfriend, Janey Rainay, had her doubts about all this initially, but no more. Now she's the show's stage manager.

"It's really surprising for a woman to see the penis as being fun and lighthearted," said Rainay, 32. "And when it does things you never expected it to do, it's hilarious." For her, there are two Friends -- the one in the show and "the boy at home. I like to say it's a very different beast."

Friend discovered his talent as a boy in the bathtub and expanded his repertoire at university in Byron Bay, where he was the life of many a party. It was in Byron Bay that he first met Morley, then a comedy promoter. Learning that a fellow trickster was in town, he tracked Morley down in a beer garden and a creative exchange ensued. It was kind of like Picasso meeting Braque, but without the paint.

Their first gig together was several years later at the 1998 Melbourne International Comedy Festival. They were so focused on pulling off the tricks and ad-libbing jokes that they didn't have time to be modest. "You can't be at all self-conscious doing this," Morley said, "otherwise it'll do your head in."

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The show was such a smash that they toured it around Australia, then hit the Edinburgh Fringe Festival, where a London producer saw gold and booked them into a West End theater. The show ran five months, and the lads were on their way.

Friend's mom found the show amusing the first time but wished it were somebody else's son doing it. She liked it the second time, too, but still prefers musicals. His dad, a retired army major, can't quite bring himself to see it, "but he's very happy I bring nicer wines around to his house," Friend said.

In casting their various productions, Morley and Friend learned to their surprise that not everybody has what it takes. A certain flexibility is required. And although they don't like to talk about size, Morley said, "Let's just say the more clay the sculptor has to work with, the more he can create."

They still can't fully fathom their success.

"Once we get the opportunity to do nothing and reflect on what we've done, it will become all that more surreal," said Morley. For now, though, "it's just soldier on, soldier on."

He figures they can stretch this shtick about five more years, but the craft is here to stay.

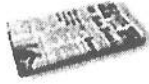
"I think I'll probably be an old man and there will be some form of puppetry of the penis," Morley said. "Hopefully, it won't be me doin' it at old folks' homes."

Friend smiled and said: "We have to retire soon, because if we keep this up we're going to be tripping over our testicles."

THEATER

PUPPETRY OF THE PENIS begins performances Oct. 29 and runs nightly except Monday at Theatre on the Square, 450 Post St., San Francisco. Tickets: \$29.50 for Oct. 29 preview then \$39.50-\$44.50. (415) 433-9500, www.theatreonthesquare.com.

E-mail Jesse Hamlin at
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The penis dialogues

BY WESLEY JOOST
Special to The Examiner

A high degree of sophistication is required to appreciate the lowbrow humor of "Puppetry of the Penis."

The show, which opened Wednesday at Theatre on the Square, has cosmopolitan folks used to smart, risqué entertainment (OK, so it's mostly gay men and single, straight women -- although Mayor Willie Brown was in the opening night audience too) whooping it up at a twisted scrotum that looks like a KFC drumstick that's been under the heat lamp too long.

In the show, subtitled "The Ancient Australian Art Of Genital Origami," affable Aussies Simon Morley and David Friend take to the Greek-themed set in a cloud of smoke. Wearing blue and red sparkling capes, they instantly turn on their rugged charm.

The dynamic between the two resembles a Penn and Teller routine. Morley plays the self-deprecating straight man while the mustachioed Friend, who wears a fisherman's cap and sunglasses, grins, poses and grips his equipment with the same vigor the Crocodile Hunter puts into subduing his prey.

Morley, who began doing penis installations -- tricks -- after his brother showed him 'The Hamburger' trick when he was a kid, does most of the talking while Friend pulls (literally) the more extreme stunts.

In 1996, the seed for "Puppetry" was planted when photos of Morley's favorite installations were compiled in a calendar.

After frequent requests for demonstrations, he began to develop a live show and chose as his partner David "Friendly" Friend, a fellow who had a reputation for doing penis tricks during college drinking binges.

The show debuted at the 1998 Melbourne International Comedy Festival, then went on to a successful eight-month run in Australia. Morley and Friend recruited other puppeteers and franchised the



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show, which has been a hit in London, New York and Toronto. Today there are five companies touring worldwide.

'Whale' to the chi

The show's lack of a plot is the only thing amiss in this otherwise glittering production. It could use narrative flow; for example, penis puppet characters putting on a play, maybe "Hamlet," might offer some added variety.

It's mostly one penis gag after another for about an hour and a half. Fortunately, the gags are hilarious.

For example, Friend squeezes his scrotum tight into the shape of a brain, stretches it out like a hairy tongue, and molds it into a frozen chicken.

He also pulls his penis into a feeding baby bird, wraps it around his wrist like like a watch, and bridles it with a champagne cork to look like Hannibal Lecter. He cranks it (no pun intended) like a helicopter rotor.

Morley blows (sorry) on his like a didgeridoo. (It's hard to find safe verbs.)

Combining their resources, they create a mushroom cloud, a windsurfer, the Eiffel Tower.

The evening's crowd pleaser is the hot dog. "Would you like sauce with that? How about some cheese?" Morley asks.

In an inspiring nod to the Olympics, Friend enters the stage with a miniature torch on the end of his penis and passes the fire on to Morley.

With close-ups of all the genital origami figures projected on a giant video screen behind the performers, theatergoers, even folks in the back, get to see every hair and bump. Bouncy musical tunes and sound effects accompany the tricks.

After seeing this show, both men and women will look at the penis in a whole new light, realizing its profound, seemingly bottomless, artistic possibilities. Like a ballerina revealing joy, sorrow or anger with the twist of a foot or the raising of an arm, so, too, can men bring happiness to the world with their expressive, flexible penises.

Comedian Alexandra McHale, a master of the blue joke who opens the show, aptly sums up "Puppetry of the Penis's" revelations.

She says, "Before seeing this show, I thought it just lies down and stands up. But ... the bar has officially been raised. Now when he lies on the bed I say, make it a snail, a sailboat, something!"

Puppetry of the Penis continues at 8 p.m. Tuesdays-Thursdays; 7 and 9:30 p.m. Fridays and Saturdays; 7 p.m. Sundays in an open-ended run at Theatre on the Square, 450 Post St., San Francisco. Tickets are \$39.50-\$44.50. Visit www.theatreonthesquare.com or call Call (415) 433-9500.

TS: PUPPETRY OF PENIS

Date	Keeper	Format	Time Code	TRT
100302	D1861	CG/VOWipe	00:56:40	00:10

The KRON4 Morning News

Production Elements:	Text:
[0] CGB AMSLUG COMING UP TOMORROW!	[0]{{DARYA}} AND TOMORROW ON THE KRON 4 MORNING NEWS.. {{DARYA/TAKE VO}} IT STARTS WHERE THE FULL MONTY ENDS! THE CREATORS OF THE INTERNATIONAL HIT.. "THE PUPPETRY OF THE PENIS". {{SUSAN/WIPE VO}} PLUS.. SOAP OPERA STAR ANDREA (AN-DRAY-UH) EVANS.

TS:PENIS PUPPETRY

Date	Keeper	Format	Time Code	TRT
100402	D1761	CG/SOTVOWipe	01:01:20	00:30

The KRON4 Morning News

Production Elements:	Text:
[0] 2-SHOT	[0]{{SUSAN/2-SHOT}} COMING UP IN THE NEXT HOUR..
[1] TAKE VO	YOU KNOW HIM FROM THE BIG SCREEN AND THE HIT T-V SHOW 24.. ACTOR DENNIS HAYSBERT. PLUS.. WE TOOK A CAMERA TO THE STREET TO GET REACTION ON THE HIT NEW PLAY.. PUPPETRY OF THE PENIS.
[2] CGB AMSLUG COMING UP	[1] [2]{{TAKE SOT}} <i>sot</i>
[3] WIPE VO	{{darya/VO}} WE'LL MEET THE CREATORS AND ACTORS IN THE SHOW.
[4] WIPE REM	{{WIPE VO}} [3] PLUS... THE DIVA OF DAYTIME T-V! SOAP OPERA STAR ANDREA EVANS.
[5] CGB LAMSLUG COMING UP	{{WIPE REM}} [4] [5] LIAM TALKS {{BREAK}}

INTRO PENIS GUYS

Date	Keeper	Format	Time Code	TRT
100402	D1760	OC/SOT	01:04:10	00:40

The KRON4 Morning News

Production Elements:	Text:
[0] CGB DFSB	[0] [1]{{SUSAN ON CAM}}
[1] ON CAMERA	I DON'T KNOW QUITE HOW TO DESCRIBE THIS. IT'S WHAT IS GINGERLY BEING CALLED THE ANCIENT AUSTRALIAN ART OF GENITAL ORIGAMI. {{DARYA}}
[2] TAKE SOT	IT BEGINS WHERE 'THE FULL MONTY LEFT OFF' WITH TWO NAKED PERFORMERS ON STAGE PERFORMING PUPPETRY WITH THEIR OWN.. ER.. PRIVATE PARTS. WE CAN'T SHOW IT ON T-V.. BUT WE DID TEST IT OUT AROUND SAN FRANCISCO. TAKE A LOOK.
[3]	[2] [3]{{TAKE SOT}} we WELCOME THE creators.. who are also the stars... SIMON MORLEY AND DAVID FRIEND.

KRON

The Bay Area's News Station



TO: Trish Reece
FROM: Stacy Owen
SUBJECT: 10/4 Morning News
DATE: 10/4/02
CC: (below)

Trish,

The airing of a man's genitalia on our air this morning is a serious offense. While unintentional, it was a case of not managing a risky situation. In communicating with the publicist for the "Puppetry of the Penis" guests, common sense should have dictated - from the beginning - that we would not even consider a "performance" in our studio, whether taped or live. You should have communicated clearly with the talent and with your Executive Producer about the potential for exposure. For a presentation this risky, there needed to be a plan for how to deal with them should they decide to perform. None of this was done. Our greatest fault this morning was treating this segment like any other, instead of recognizing that in taking a risk, we needed to take extraordinary measures to make sure it was done tastefully and handled appropriately. None of this happened.

I respect the energy and enthusiasm you bring to your job. Still, I am suspending you for one week without pay, effective immediately.

Cc: Sondra Lewis
Craig Marrs
Dino Dinovitz



TO: Lauren Williams
FROM: Stacy Owen
SUBJECT: 10/4 Morning News
DATE: 10/4/02
CC: (below)

Lauren,

This morning's broadcast of a man's genitalia on the KRON 4 Morning News is a serious offense. It put the reputation of our people, and our station, at risk. It is clear there was no intention to air this material. Yet you knew in booking the segment that there was a risk. That risk was not managed. The guests' unusual content should have been treated with unusual care. Still, no advance measures were taken to clarify or choreograph how the segment would unfold. No one reviewed with the guests when they arrived that it would be an interview only. No escape plan was discussed or choreographed with the line producer, director or talent. Telling the floor director in the few moments before the segment that you did not want the men to perform their "installation" does not constitute appropriate advanced planning.

I think what happened this morning is symptomatic of a larger issue that illustrates both your greatest strength and weakness: trusting your producers. You give them a lot of latitude and, in fact, pitch in to such an extent that you are less able to manage from above it all. Perhaps what happened today will help us both define a new approach to how you approach what is an enormous job.

You are an exemplary employee with a drive, vision and intelligence I wish I could replicate. Regrettably, punitive action needs to be taken. I am suspending you for one week without pay, effective immediately.

Cc: Sondra Lewis
Craig Marrs
Dino Dinovitz

OPERATIONS MEMO

To: Kevin Long
From: Mark Mano
Re: Friday, 10/4 Morning News
Date: 10/4/02

I want to recap the unfortunate sequence of events from this morning's Morning News, our subsequent follow-up conversation, and the consequences resulting.

During a live in-studio interview in the second hour of the newscast, two performance artists stood up, turned and opened their full-length robes, exposing themselves briefly before the camera. These guests were promoting a show featuring male genitalia dressed up with paper props as familiar objects and landmarks. Even though they were told specifically not to "install" and display their work before the interview, they did ask whether they could, just before standing and disrobing.

In our discussion, we talked about the confusion over exactly what the guests were going to do in the tease and interview, and whether or not they were wearing clothes under their robes. As the director of the show, you must have clear communication with the show producers over what the expectations for the segments are, and then instruct crew members on what to do. Not doing this should have raised the first "red flag" that something could go wrong.

In the commercial break before the interview, the stage manager told you about the guests' intention of staging their "art" to the anchors. Even though you had the stage manager relay back NOT to do that, the guests also warned you not to shoot them below the waist. This should have been adequate warning to anticipate the unexpected, to adjust the camera blocking and give the crew a heads-up warning. Further, you should have been prepared at any time to bail out to a neutral camera, kill the audio, or even taken black. As show director, you have ultimate responsibility over what airs and what doesn't, and it was imperative that you take control and be ready if any of these actions became necessary.

Finally, it's disturbing to know that you didn't actually hear the guests ask whether they should get up, disrobe and prepare their "art", and then didn't react quickly to that. During an interview such as this, you are required to be hyperaware of what was being said, and ready to act accordingly.

These transgressions, given the warning signs with this very sensitive type of interview, breach proper conduct for a staff director. Because of this, you are being suspended without pay for (3) three days. I hope you take this time to think about what errors in judgment or execution you made, and what corrective actions you could have taken. You should see this as a valuable lesson in taking control of a potentially dangerous situation and how to steer clear of it.

Kevin, you are a valued member of this department and station, and have accomplished a great deal in launching our 7am morning show. I hope you will continue to grow as a director, exhibit good judgment and contribute in the future.

CC: Employee Personnel File
AFTRA

KRON 4 Morning News broadcast a live interview this morning about the upcoming San Francisco theatre show, Puppetry of the Penis. During this interview, KRON 4 accidentally broadcast content which is inappropriate for broadcast television and was potentially offensive. The management of KRON 4 sincerely apologizes to its viewers for this error. Even though the nature of live television lends itself to surprises and unsuspected activities, we take full responsibility and assure viewers that this will not happen again.

*KRON press release
Oct. 4, 2002*



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Artist	Song	Year	Notes
3 Doors Down	Be Like That	2000	Disputed because of "Kryptonite"
4 Non Blondes	What's Up	1993	
An Emotional Fish	Celebrate	1990	
Bachman, Tal	She's So High	1998	
Belly	Feed The Tree	1993	
Blind Melon	No Rain	1993	
Bran Van 3000	Drinking In LA	1998	
Breeders, The	Cannonball	1993	
Butthole Surfers	Pepper	1996	
Candlebox	Far Behind	1993	
Cardigans, The	Lovefool	1996	
Chumbawumba	Tubthumping	1997	
Collins, Edwin	A Girl Like You	1995	
Concrete Blonde	Joey	1990	
Cornershop	Brimful of Asha	1997	
Crash Test Dummies	Mmm, Mmm, Mmm	1992	Disputed because of "Superman"
Crazytown	Butterfly	2001	
Dada	Dizz Knee Land	1992	
Daisy Chainsaw	Love Your Money	1992	
Dambuilders,	Shrine	1998	

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The Dangerman	Let's Make A Deal	1999	
Deadeye Dick	New Age Girl	1994	
Deee-lite	Groove Is In The Heart	1990	Disputed because of "What Is Love"
Deep Blue Something	Breakfast At Tiffanies	1995	
Dishwala	Counting Blue Cars	1995	
Divinyls, The	I Touch Myself	1991	
Dramarama	Anything, Anything	1990	
Dynamite Hack	Boyz In The Hood	2000	
Eagle Eye Cherry	Save Tonight	1998	
Eddie Brickell and New Bohemians	What I Am	1989	
Eels	Novocaine For The Soul	1996	
EMF	Unbelievable	1991	
Faith No More	Epic	1989	Disputed because of "Midlife Crisis"
Farm, The	Groovy Train	1991	
Fastball	The Way	1998	
Fine Young Cannibals	She Drives Me Crazy	1989	Disputed because of "Johnny Come Home"
Flaming Lips, The	She Don't Use Jelly	1993	
Flys	(Got You) Where I Want You	1998	
Folk Implosion	Natural One	1995	
Fountains Of Wayne	Radiation Vibe	1996	
Frente!	Bizarre Love Triangle	1994	
Fugazi	Waiting Room	1990	
Fun Lovin' Criminals	Scooby Snacks	1996	

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