allegations.[15] See e.g. WPIX, Inc., 5 FCC Rcd. 7469, 68 Rad. Reg. 2d (P&F) 986 (1990); KRPL, Inc., 5 FCC Rcd. 2823, 67 Rad. Reg. 2d (P&F) 1172 (1990) (newspaper articles cannot support allegations in petition to deny); Mississippi Authority for Educational Television, 79 F.C.C.2d 577, 47 Rad. Reg. 2d (P&F) 1359, petition for partial reconsideration granted, 84 F.C.C.2d 349 (1981) (in the absence of sworn affidavits of personal knowledge contrary to specific instances of alleged violations, no presumption arises that alleged violation occurred).[16]

Whether Set Free Church is a "bizarre cult group" is hardly relevant to TBF's qualifications. Rev. Aguilar is not a principal of TBF or Trinity Network. Neither is Dr. Crouch or any other principal of TBF a principal of Set Free. Character Qualifications In Broadcast Licensing, 102 F.C.C.2d 1179, 59 Rad. Reg. 2d (P&F) 801, 820 (1986) (non-FCC conduct not relevant for person whose position not cognizable under multiple ownership rules).

Finally, Set Free's alleged conduct is clearly not related to the FCC and has no connection with an FCC licensee. As such, absent an adjudication and/or criminal conviction, such

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[15]/ One signed declaration was submitted by a mother upset about her relationship with her daughter. The daughter, Tracey Ravera, submitted a statement refuting the charges, and attributing them to her mother's bitterness over the rupture of their relationship.

[16]/ In fact, a full reading of the relied upon article reveals that the City of Anaheim supports Set Free's work, and has made a number of buildings available to the church.

conduct is not cognizable by the Commission. See Character Qualifications in Broadcast Licensing, supra, 59 Rad. Reg 2d (P&F) at 819; Character Qualifications Policy, 5 FCC Rcd. 3252, 67 Rad. Reg. 2d (P&F) 1107, 1108 (1990).

e) Glendale's allegation that grant of WHFT's renewal would be inconsistent with the multiple ownership rules is erroneous. Contrary to Glendale's claims (Glendale Petition, p.3, issue 3), a grant of WHFT's renewal application, irrespective of the outcome any purported issue of "de facto" control over NMTV, will be consistent with the multiple ownership rules. Even under the Petitioners' theories, at present, Dr. Paul Crouch holds cognizable interests in only twelve commercial television stations.[17]/

f) Miscellaneous Allegations. Certain scattershot allegations are obviously false or based on mischaracterizations of

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[17]/ (1) Trinity Broadcasting of Arizona, Inc., KPAZ-TV, Phoenix, Arizona;
(2) Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network: KTBN-TV, Santa Ana, California; WDLI(TV), Canton, Ohio; and, WHSG(TV), Monroe, Georgia;
(3) Trinity Broadcasting of Oklahoma City, Inc., KTBO-TV, Oklahoma City, Oklahoma;
(4) Trinity Broadcasting of Washington, KTBW-TV, Tacoma, Washington;
(5) Trinity Broadcasting of Florida, Inc., WHFT(TV), Miami, Florida;
(6) Trinity Broadcasting of Indiana, Inc., WKOI(TV), Richmond, Indiana; and, WCLJ(TV), Bloomington, Indiana;
(7) Trinity Broadcasting of New York, Inc., WTBY-TV, Poughkeepsie, New York;
(8) Trinity Broadcasting of Texas, Inc., KDTX-TV, Dallas, Texas; and
(9) National Minority TV, Inc., KNMT-TV, Portland, Oregon.

the facts. For example, NMTV did not "misrepresent" that Rev. Aguilar was elected to the Board because of his broadcast experience. Dr. Crouch and Mrs. Duff's statements, see Glendale Exhibits 10 and 14, make clear that Rev. Aguilar was elected because of his "vibrant and growing" church, and his ability to relate to the minority community. Nor did NMTV "misrepresent" that NMTV has its own accounts, or "conceal" the fact that Trinity controls NMTV accounts, even though Allen Brown signed NMTV checks. Brown signed the checks in good faith under the erroneous assumption that he was an officer of NMTV. (See Exhibit 2.)

CONCLUSION

Section 309(d) of the Communications Act of 1934, as amended (The Act), requires petitions to deny to "contain specific allegations of fact to show . . . the grant of the application would be prima facie inconsistent [with the public interest, convenience and necessity]. 47 U.S.C. § 309(d)(1). Petitioner must raise "a substantial and material question of fact." 47 U.S.C. § 309(d)(2). The courts have ruled that the Standard set by statute "puts a heavy burden on the party submitting a petition to deny." California Public Broadcasting Forum v. FCC, 752 F.2d 670, 672 (D.C. Cir. 1984). This "heavy burden" petitioners manifestly have failed to carry.

WHEREFORE, the foregoing considered, Trinity Broadcasting of Florida, Inc., respectfully urges that the Petition to Deny filed by Glendale Broadcasting Company and the Spanish American League Against Discrimination be expeditiously denied.

Respectfully submitted,

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Dated: February 21, 1992

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1. NMTV Request for Declaratory Relief
2. Verified Statement of Allan Brown
3. TBN/NMTV Program Affiliation Agreements
4. Verified Statement of Mrs. Jane Duff
5. Verified Statement of Colby M. May
6. Verified Statement of Gregory R. Goodyear

EXHIBIT 1

COPY OF NMTV REQUEST FOR DECLARATORY RULING

BEFORE THE

Federal Communications Commission

WASHINGTON D C 20554

In Re: Request of:	)
	)
NATIONAL MINORITY TV, INC.	)
	)
	)
Regarding Application of Multiple Multiple Ownership Rule 73.3555(d), The 14 Station Exception	)

RECEIVED

NOV 1 8 1991

Federal Communications Commission
Office of the Secretary

TO: The Commission

REQUEST FOR DECLARATORY RULING
OF NATIONAL MINORITY TV, INC.

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November 18, 1991

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SUMMARY

NMTV is a nonprofit/nonstock corporation governed by its Board of Directors. It has no members, and each director has one vote. Since its creation a majority of NMTV's board of directors have always been members of minority groups. At present NMTV has four directors: Dr. Paul F. Crouch, a Caucasian male; Mrs. Jane Duff, an African-American female; Rev. Phillip Aguilar, an Hispanic male; and, Dr. E.V. Hill, an African-American male. Dr. Paul F. Crouch, who holds ownership interests in 12 other commercial television station licenses, and is the founder and president of Trinity Broadcasting Network (Trinity), has always been a member of NMTV's board of directors. NMTV has twice applied to the Commission for approval of assignment applications pursuant to the minority exception allowing a principal an interest in 14 broadcast stations if at least two of the stations are owned by "minority-controlled" corporations (Section 73.3555(d)). In the context of NMTV's first assignment application for KMLM-TV, Odessa, Texas, the Commission staff requested further information about the organization's organic documents--its articles of incorporation and bylaws--and when those were provided approved the assignment application. NMTV subsequently requested approval to the assignment of a construction permit in Portland, Oregon. That assignment was also approved by the Commission under the minority exception to the multiple-ownership rules.

NMTV recently requested the Commission's consent to the assignment of WTGI-TV, Wilmington, Delaware, which it was

purchasing subject to bankruptcy court approval. A party filed a petition to deny against NMTV's application alleging that NMTV was "sham" corporation and that it was "front" for Trinity Broadcasting Network. In response to that petition the Commission requested NMTV to answer 20 questions which delved into issues far afield of whether its directors were the owners of the corporation and sought information concerning the principals' decision-making processes and their responsibility for day-to-day station operation, issues which had nothing to do with the station's ownership. NMTV provided a voluminous response to these Commission questions, but before the Commission could act with respect to the application NMTV's application was dismissed because the bankruptcy court's approval expired. The bankruptcy court's action, and NMTV's subsequent dismissal of its application, left the issues raised by the Petition to Deny unresolved, and has paralyzed NMTV's efforts to acquire other broadcast facilities until they are resolved.

In this request for Declaratory Ruling NMTV incorporates by reference the response filed with respect to the Wilmington, Delaware application. The information previously filed with the Commission in connection with its assignment applications, and NMTV's response made clear certain facts, such as the fact that NMTV is: a properly organized and operating corporation; an independent corporation under the laws of the States in which it

is organized and qualified to do business; has its own payroll, pays its own taxes, and hires and fires its own employees.

The facts also show that NMTV has close ties with Trinity Broadcasting Network. Two of NMTV's directors are salaried employees of Trinity Broadcasting Network and all but two of the corporation's officers are salaried employees of Trinity. NMTV receives favorable rates on construction financing loans from Trinity which are repaid out of revenues realized from a program affiliation agreement between NMTV and Trinity. NMTV utilizes the same consultants, such as engineers and attorneys, as are used by Trinity.

In this Request for Declaratory Ruling NMTV argues that it fully complies with both the letter and intent of section 73.3555(d) of the Commission's rules, in that its ownership, as defined by traditional Commission policy and case law, is controlled by members of a minority group. No further showing, such as a showing of minority principal involvement in station management, is required. The Commission at first resisted providing any incentives to minority ownership in its multiple-ownership rules. The Commission's rationale in adopting the minority-ownership exception to the multiple-ownership rules which it had first rejected concentrated on ameliorating a specific problem, the lack of funding for minority television station acquisitions. The Commission's response to this specific problem was equally specific. To permit group owners to provide

financial assistant to prospective minority owners the Commission adopted a narrowly defined exception. The Commission adopted straight-forward definitions to implement this policy, i.e.,--that "minority-control" as used in the Commission rules means 50 percent or more minority ownership. This formulation, and the policy behind the formulation, was much narrower, and had narrower objectives, than the Commission's stated policies with respect to distress sales and tax certificates, or its policies with respect to promoting minority integration into the ownership and management of broadcast facilities, as set forth in the Commission's Statement of Policies on Minority Ownership of Broadcast Facilities. In the multiple ownership context the Commission's objectives were (and are) best served by a narrow focus on ownership. In other contexts, where the government was providing a direct tax subsidy for minorities, the Commission's objectives were more broadly defined as "minority ownership and management." Promoting minority management is not one of the Commission's goals in adopting the multiple ownership rules.

Despite Trinity's close ties with NMTV, NMTV is still a separate corporation, and neither Trinity nor any other organization has a right to control the votes of NMTV's minority directors or otherwise effect the decisions of NMTV's directors concerning the programs, plans or policies of NMTV.

Accordingly, NMTV is and has been eligible under both the letter and spirit of the minority exception to the multiple ownership rules.

In Re: Request of:	)
	)
NATIONAL MINORITY TV, INC.	)
	)
	)
Regarding Application of Multiple	)
Multiple Ownership Rule 73.3555(d),	)
The 14 Station Exception	)

TO: The Commission

REQUEST FOR DECLARATORY RULING
OF NATIONAL MINORITY TV, INC.

National Minority TV, Inc. ("NMTV"), licensee of KNMT(TV), Portland, Oregon, by its undersigned counsel and pursuant to Commission rule 1.2, 47 C.F.R. § 1.2 (1990), hereby respectfully requests a declaratory ruling regarding the application of the 14 station ownership limit afforded minority-owned entities under Commission rule 73.3555(d) to nonprofit/nonstock organizations. NMTV seeks clarification that the "minority-owned" standard set forth in rule 73.3555(d) is met by a nonprofit organization when a controlling number of its voting board members are individuals from recognized minority groups, and when the nonprofit organization is in compliance with state law regarding its chartering and operations, without resorting to consideration of other factors such as whether the minority directors are involved in day-to-day station operation. In support of its request NMTV shows and states as follows:

I. Factual Context
A. NMTV's Corporate Status and Background

1. NMTV is a California Nonprofit Corporation Organized on September 16, 1990.[1] From its incorporation until November 1990, it had the same three directors: Paul F. Crouch, Mrs. P. Jane Duff, and Rev. Philip David Espinoza. Mrs. Duff is an African-American female, and Rev. Espinoza is an Hispanic male. In November 1990, Rev. Espinoza resigned from NMTV and was replaced with Rev. Philip Aguilar, also an Hispanic male.[2] In early October, 1991 a fourth director was added to NMTV's board, Rev. E. V. Hill, an African-American male. A majority of NMTV's directors have always been members of minority groups.

2. NMTV's organic documents provide that the corporation's directors are its members, are self-perpetuating, and have only one vote. For example, Section 9, Quorum, of Article III of NMTV Bylaws, states:

> A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 11 of this Article III [which permits a majority of directors present at a meeting, whether or not they constitute a quorum to adjourn any meeting]. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the board of directors, subject to the provisions of the California Nonprofit

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1/ NMTV was originally incorporated under the name of Translator TV, Inc.

2/ The circumstances surrounding Rev. Espinoza's resignation and Rev. Aguilar's election to the board, should they be relevant, were extensively covered in NMTV's response to the Commission on

(footnote continued on next page)

Corporation's Law, especially those provisions relating to (a) a direct or indirect material financial interest, (b) appointment of committees, and (c) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken as approved by at least a majority of the remaining quorum for that meeting.

Moreover, Article II, Section 3, Termination of Membership, of NMTV's Bylaws provides:

> The membership of any member shall terminate upon occurrence of any of the following events:
>
> (a) the resignation of the member;
>
> (b) the death of the member;
>
> (c) the determination by a majority of the board of directors that such termination would be in the best interest of the corporation. Such a determination by a majority of the directors may be without cause.

3. NMTV operates in full compliance with the laws of the state of California. It is also qualified to do business in the states of Texas, Oregon, and Delaware, and it operates in compliance with the laws of those states as well. NMTV is recognized by the IRS as a tax-exempt 501(c)(3) organization, and is tax exempt in the States of California, Texas and Oregon. All of the assets of NMTV are irrevocably dedicated for charitable purposes, and NMTV is not operated for private gain. NMTV also operates a charitable relief program known as "His Hand Extended." Under

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September 24, 1991 in connection with BALCT-910329KE and that response is incorporated by reference herein (hereinafter "NMTV Response").

this program food and clothing are collected and distributed to the needy in the Portland area.

4. NMTV's directors include Dr. Crouch, who is the president of the Trinity Broadcasting Network ("Trinity"). Trinity and its Trinity affiliated organizations own and operate 12 commercial television stations.[3] Trinity was started in 1973 and over the past 18 years it has become the largest group owner of religious television stations and low power television/ translator facilities in the country. Arbitron rates Trinity as the number one religious program service in the United States.

5. Director Rev. Aguilar founded Set Free Christian Fellowship as a church in 1982. Since then the church has grown in membership, and currently over 4,000 participants attend regular worship services. Set Free Christian Fellowship is located in Anaheim, California, in an inner city area that is economically depressed with high levels of crime and substance abuse. The

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3/ Those stations, all of which are UHF facilities, are as follows:

KTBN-TV, Channel 40, Santa Ana, California
WLXI-TV, Channel 61, Greensboro, North Carolina
WDLI-TV, Channel 17, Canton, Ohio
WHSG-TV, Channel 63, Monroe, Georgia
KPAZ-TV, Channel 21, Phoenix, Arizona
KTBO-TV, Channel 14, Oklahoma City, Oklahoma
KTBW-TV, Channel 20, Tacoma, Washington
WHFT-TV, Channel 45, Miami, Florida
WKOI-TV, Channel 43, Richmond, Indiana
WCLJ-TV, Channel 42, Bloomington, Indiana
WTBY-TV, Channel 54, Poughkeepsie, New York
KDTX-TV, Channel 58, Dallas, Texas

church's primary ministry is to reach out to the community's needy and drug addicted, and it operates several homes to provide housing, food and clothing to assist church members, recovering alcoholics and drug addicts, and people with criminal pasts. Rev. Aguilar and his Set Free Christian Fellowship have received numerous commendations from community leaders for the work the church has done in aiding the needy and in cleaning up depressed urban areas. The church has also been awarded the "Disney Land Community Service Award."[4] Set Free Christian Fellowship uses property owned by Trinity on favorable terms to operate half-way types of homes, and receives $5,000.00 a month from Trinity to organize and transport 14 prayer counselors to the Trinity counseling center in Tustin, California and to assist Trinity in various acts of charity.

6. Dr. Hill has been the pastor of the Ebenezer Baptist Church in Watts, California for over 25 years. His church is one of the most vibrant and dynamic in the entire LA area. Dr. Hill and his church have received countless community awards and commendations from local, state and national leaders. The church

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4/ While Rev. Espinoza is no longer a director of NMTV, it is important to note that he too is the pastor of a dynamic English and Spanish language church in the San Fernando Valley. Rev. Espinoza has pastored the LA Trinidad Church since 1966. The Los Angeles Times and NBC News have featured his congregation of over 700 because of its effective community outreach and growth. Rev. Espinoza has been active in assisting the local government in neighborhood improvement programs and been recognized by the community as an outstanding leader.

operates soup kitchens, and provides many needed services to the needy and disadvantaged members of the Watts community. Dr. Hill has served on a number of presidential advisory commissions and is recognized as one of the most effective African-American leaders in America today. Other than a few appearances on Trinity programs, and occasional assistance from Trinity in generating support for LA soup kitchens, Dr. Hill has no present or past connection with Trinity.

7. Mrs. Duff has been involved with broadcasting for over 11 years as a senior executive for Trinity. In addition to her position with NMTV, she is a salaried employee of Trinity Broadcasting Network and serves in a senior management position as "Assistant to the President," the president being Paul F. Crouch. Over her tenure in broadcasting Mrs. Duff has not only managed the work of dozens of people, she has also developed innovative and unique public affairs programs. Among such programs is her "Public Report" series which highlighted community problems and leaders. Mrs. Duff is also the director which is most involved in overseeing the routine and general operation of NMTV.

B. NMTV's Management and Method of Operation.

8. NMTV's Response included a great deal of information concerning how NMTV is actually managed, how executive decisions are made, and who makes them. Mrs. Duff is the party responsible

for day-to-day management of the corporation, receives reports from station managers, and is responsible for hiring and firing personnel. Mrs. Duff generates and signs purchase orders for station equipment, and receives and reviews a check log for NMTV.

9. Rev. Aguilar attends most board meetings and reads the minutes of the meetings sent to him. He also speaks with Mrs. Duff periodically about NMTV business. Rev. Aguilar receives and reviews regular financial statements and audited financial statements when they are prepared.

10. Dr. Crouch is not involved in the day-to-day operation of the station unless Mrs. Duff brings a particular problem to his attention.

11. Dr. Hill has not been a member of the board long enough to do more than participate in a board meeting in October when he was elected to the board.

12. Mrs. Duff and Dr. Crouch's offices are at Trinity Broadcasting Network. With the exception of Rev. Aguilar and Dr. Hill, all of NMTV's principals are salaried employees of Trinity. NMTV is a program affiliate of Trinity, and Trinity often loans funds for station acquisition to NMTV at low interest rates, with the obligation payable out of donations and contributions received by Trinity from NMTV's station service area.

13. NMTV has operated two full power television stations, KMLM, Odessa, Texas and KNMT, Portland, Oregon. In addition to its operation of KNMT, NMTV is the permittee or licensee of the following low power television facilities:

K33DE, Little Rock, Arkansas (license)
K56DZ, Fresno, California (license)
W26AU, Wilmington, Delaware (permit)
W18AY, Portland, Oregon (license)
W62BV, Charlotte, North Carolina (license)
W24BK, Columbus, Ohio (license)
W57BK, Toledo, Ohio (permit)
W68CD, Toledo, Ohio (license)
W51BR, Columbia, South Carolina (permit)
W58BQ, Greenville, South Carolina (permit)
K36CJ, Salt Lake City, Utah (license)
W52BD, Huntington, West Virginia (permit)

While the Odessa facility was sold on April 19, 1991, when NMTV operated both stations in 1990 it had more than 13 full time employees, and 6 part time employees. Of those employees (full and part-time) 26 percent were minorities and over 36 percent were women. Currently, as reflected in NMTV's 1991 Annual Employment Report (FCC Form 395-B) for KNMT, NMTV has seven full time employees, three of which are minorities (nearly 42 percent). This is particularly noteworthy since Portland has an extremely small minority population, as does the Pacific northwest generally.[5]

5/ The FCC's Renewal Branch reports that the labor force statistics for Portland include 2.4 percent Blacks, 1.9 percent Hispanic, 2.1 percent Asian, 0.6 percent of Native Americans and Pacific Islanders, and 43 percent women.

C. **NMTV is Well Known to the Commission, and it has Twice Previously Been Approved to Acquire Unbuilt Construction Permits Under Commission Rule 73.3555(d).**

14. NMTV, its purpose and its organization, is well known to the Commission. NMTV has acquired, constructed, and operated two full power television stations since early 1987. The first facility to which it received a license was channel 42, Odessa, Texas (BAPCT-870203KF). NMTV acquired channel 42 as an unbuilt construction permit from Alfred H. Roever, III who was unable to construct. In its Odessa assignment application (hereinafter "Odessa Assignment") NMTV outlined its compliance with Commission rules 73.3555(d)(1) and (d)(2), explaining that it was a nonprofit/nonstock California corporation with three directors--Mrs. Duff, Rev. Espinoza, and Dr. Crouch. The Odessa Assignment also noted that Dr. Crouch was the president of the Trinity Broadcasting Network (and its associated Trinity organizations), and as such currently had a cognizable multiple-ownership interest in 12 other television stations. Mrs. Duff involvement in other broadcast corporations with Dr. Crouch was also disclosed.

15. The January 10, 1987 Purchase Agreement for Channel 42, Odessa, fully disclosed the legal composition of NMTV, and stated the following in paragraph 7(a):

> Buyer's Organization and Standing. Buyer is a nonprofit corporation duly organized and validly existing and in good standing under the laws of the

> state of California, and possesses all corporate power necessary to construct, own and operate [channel 42] and carry out the provisions of this agreement. Buyer's president, Paul F. Crouch, however, is an officer and a director of the organizations specified in Exhibit C, which in the aggregate holds interests in the maximum number of television facilities permitted by nonminority controlled organizations under Commission rule 73.3555, 47 C.F.R. § 73.3555. Accordingly, Buyer will be required to establish compliance with rule 73.3555(d)(1)(A) and 73.3555(d)(2)(A) ... before the assignment specified herein can be approved by the FCC. Buyer further represents and warrants that it will take any and all reasonable steps to establish compliance with Commission rule 73.3555 ... as specified in this paragraph (a). However, in the event the FCC does not approve the assignment for reasons associated with rule 73.3555 and its interpretation and/or application thereof, then this agreement shall automatically become void and Buyer and Seller shall be relieved of any and all obligations to the other whatsoever without liability.

This provision clearly demonstrated NMTV's intention to be fully compliant with the multiple-ownership rules, and provided that if the Commission did not believe NMTV and its proposed acquisition of channel 42, Odessa complied with the multiple-ownership rules the entire transaction would be voided. Further, and significantly, in response to a staff request NMTV filed copies of its articles of incorporation and bylaws as a supplement to the Odessa Assignment on April 14, 1987. These charter documents, which remain in effect today, unambiguously provide that each of the directors of NMTV have one equal vote in all matters. Based on the submission of these documents, and the governing provi-