

97-128

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FCC
Office of the Secretary

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

In Re Application of)
Shurberg Broadcasting of Hartford,) File No. BPCT-831202KF
Inc.)
For the License of Station WHCT-TV)
Hartford, Connecticut)
To: James C. McKinney
Chief, Mass Media Bureau

MOTION TO DISMISS

Astroline Communications Company Limited Partner-
ship ("ACC"), through counsel and pursuant to § 73.3566(a) 1/
of the Federal Communications Commission's ("Commission")
Rules, hereby moves to dismiss the application of Shurberg
Broadcasting of Hartford, Inc. ("SBH") in the above-captioned
proceeding. ACC's Motion is based upon the sworn admission
contained in an affidavit (See Exhibit A attached hereto) filed
by Alan Shurberg with the United States Court of Appeals for the
District of Columbia Circuit that SBH is no longer financially
qualified to become a Commission licensee. See Shurberg Broad-

1/ Section 73.3566(a) provides, in pertinent part, that
applications which are not in accordance with Commission rules,
regulations or other requirements, unless accompanied by an
appropriate waiver, will be considered defective and will not
be accepted for filing or, if inadvertently accepted for
filing, will be dismissed.

casting of Hartford, Inc. v. FCC et. al., No. 84-1600 (D.C. Cir. filed December 17, 1984) (SBH's Reply to Opposition to Motion for Emergency Stay).

ACC seeks expedited consideration of this Motion pursuant to the Commission's Memorandum Opinion and Order, In Re Application of Faith Center, Inc., BC Docket No. 80-730 (December 7, 1984) granting the Petition for Expedited Processing filed on June 28, 1984 by Faith Center, Inc. ("FCI") and ACC and the Supplemental Motion for Expedited Processing filed on October 24, 1984 by ACC.

SUMMARY OF ARGUMENT

In an affidavit filed on December 17, 1984 with the United States Court of Appeals, Mr. Shurberg swore under oath that the denial of SBH's request for an Emergency Motion for Stay would irreparably harm SBH because it would cause SBH to lose all of the financial support from its "single source of financing" which is essential to the prosecution of SBH's application and its related activities before the Commission and the Court of Appeals. (Affidavit at 1). The Commission must accept as true the facts as averred in Mr. Shurberg's affidavit. Therefore, when the Court denied SBH's Emergency Motion for Stay on December 21, 1984 (See Exhibit B attached hereto), SBH, by its own admission, became financially unqualified to be a Commission licensee. SBH's failure to re-establish its financial qualifications within 30 days of the

Court's order by amending its application pursuant to § 1.65 ^{2/} of the Commission's Rules leads to the conclusion that SBH is financially unqualified and, thus, compels the Commission to dismiss SBH's application.

FACTUAL BASIS SUPPORTING DISMISSAL OF SBH

The facts underlying this Motion are clear and straightforward. On December 2, 1983, SBH filed an application (FCC Form 301) (File No. BPCT-831202KF) for a construction permit for Channel 18 in Hartford, Connecticut and requested the Commission to designate its application for a comparative renewal hearing with the application of FCI to renew its license to operate WHCT-TV (Channel 18) in Hartford, Connecticut (File No. BRCT-348). See 47 C.F.R. § 309(a) (1984). SBH stated in Section III of its application that it was financially qualified to construct and operate Channel 18 for three months without commercial revenue if it was awarded the license. Specifically, Mr. Shurberg certified that SBH has "sufficient net liquid assets . . . on hand or . . . available from committed sources to construct and operate the requested facilities." (SBH's FCC Form 301 at 5).

^{2/} Section 1.65 of the Commission's Rules, 47 C.F.R. § 1.65, requires applicants to inform the Commission within 30 days whenever the information furnished within the application is no longer substantially accurate in all significant respects or whenever there has been a substantial change as to any other matter which may be of decisional significance. Title 47 C.F.R. § 73.3514 requires applicants to provide all the information called for in the application.

Since its application was tendered for filing, SBH has litigiously pursued all avenues of relief in an effort to convince the Commission and the courts that it is the only legitimate, qualified applicant entitled to compete against FCI for the license to operate Channel 18. 3/

On June 28, 1984, FCI filed a Petition for Special Relief seeking the right to transfer the station to ACC pursuant to the Commission's distress sale policy. 4/ After a period of protracted litigation, the Commission granted FCI's Petition for Special Relief on the condition that ACC was found to be qualified and FCI and ACC consummated the proposed distress sale within 60 days. In the event that these conditions were not met, SBH's application would be designated for hearing on a comparative basis along with all the other timely filed

3/ See, e.g., Shurberg Broadcasting of Hartford, Inc. v. FCC, No. 84-1600 (D.C. Cir. filed December 10, 1984) (supplement filed by appellant SBH January 14, 1985); In Re Faith Center, Inc., File No. BALCT-840629KS (filed January 14, 1985) (protective application for review of Commission December 7, 1984 Memorandum Opinion and Order); Shurberg Broadcasting of Hartford, Inc. v. FCC, No. 84-3406 (D.D.C. filed September 24, 1984) (complaint for access to FCC records and injunctive relief); In Re Shurberg Broadcasting of Hartford, Inc., No. 84-5682 (D.C. Cir. filed September 28, 1984) (Second Petition for Writ of Mandamus filed against the FCC); In Re Shurberg of Broadcasting of Hartford, Inc., No. 84-5363 (D.C. Cir. filed June 12, 1984) (Petition for Writ of Mandamus filed against the FCC).

4/ See Statement of Policy on Minority Ownership of Broadcasting Facilities, 42 RR 2d 1689 (1978), as revised, 52 RR 2d 1301 (1982). (The distress sale policy is primarily intended to diversify program content through diversifying media ownership).

competing applications and FCI's renewal application. Memo-randum Opinion and Order at 6.

The Mass Media Bureau found ACC qualified to be a Commission licensee on December 10, 1984. FCI and ACC consummated the transfer of WHCT-TV on January 23, 1985 (See Exhibit C attached hereto). The closing, however, did not moot SBH's application because on December 10, 1984, SBH appealed the December 7, 1984 Order to the United States Court of Appeals for the District of Columbia Circuit and filed an Emergency Motion for Stay seeking a restraining order against the Commission's action and the proposed transfer of WHCT-TV.

To be successful in seeking a stay of agency action, the appellant must, among other things, establish irreparable injury. Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977). In its motion, SBH stated that its "position in the instant proceedings is such that it will be substantially and irreparably injured if a stay is not issued." Emergency Motion for Stay at 35, Shurberg Broadcasting of Hartford, Inc. v. FCC, No. 84-1600 (D.C. Cir. filed December 11, 1984).

In an effort to establish irreparable harm, SBH attached an affidavit to its Reply to Opposition to Motion for Emergency Stay from its president and sole stockholder, Alan Shurberg. In the affidavit, Mr. Shurberg stated:

[i]n the event that the sale to Astroline does go forward irrespective [of] SBH's pending appeal, my financial source would

not be willing to provide any additional funds for any purpose related to SBH.

Reply of Shurberg Broadcasting of Hartford, Inc., Attachment A,
Affidavit at 2.

Mr. Shurberg further asserted that the elimination of the funding from the undisclosed third party would terminate all activities, including "the prosecution of SBH's application and its related activities before the Commission and the Court of Appeals." (Affidavit at 2) (emphasis added). Moreover, Mr. Shurberg stated that the lack of funds pertained to "both SBH as an applicant and I as an individual." Id. at 3.

On December 21, 1984, the Court of Appeals denied the stay and the assignment of Channel 18 was consummated. However, while SBH has continued to pursue legal remedies in the courts to reverse the Commission's decision, it has neglected to amend its application to re-establish its financial qualifications in accordance with the Commission's Rules. As a result, SBH has failed to correct a fatal defect in its application. Therefore, its application should be dismissed pursuant to § 73.3566(a) of the Commission's Rules.

SBH's sworn admission coupled with its failure to amend its application on a timely basis are fatal mistakes. Not only do they create an irrebuttable presumption that SBH is no longer qualified to become a Commission licensee, but they compel dismissal of its application which would consequently moot the pending Court of Appeals actions filed by SBH because

standing in these cases is obtained only through SBH's status as an applicant before the Commission.

SBH'S APPLICATION SHOULD BE DISMISSED
IN ACCORDANCE WITH THE COMMISSION'S RULES AND POLICIES

The authority of the Commission to inquire into the financial qualifications of an applicant is found in § 308(b) of the Communications Act of 1934, as amended, 47 C.F.R. § 308(b) (1984) and provides, in part:

[A]ll applicants for station licenses . . . shall set forth facts as the Commission may prescribe as to the . . . financial qualifications and other qualifications of the applicant.

An applicant for a broadcast license must certify that it has the financial ability to build the proposed facility and to operate it for three months without commercial revenue. Revision of Form 301, 50 RR 2d 381 (1981); New Financial Qualifications Standard for Broadcast Assignment and Transfer Applicants, 49 RR 2d 1291 (1981); New Financial Qualifications Standard for Broadcast Television Applicants, 45 RR 2d 995 (1979). In revising FCC Form 301, the Commission announced:

[a] change in the 301 form does not modify the underlying substantive financial criteria --the ability to construct and operate the proposed facility for three months.

Revision of Form 301 at 382. See GACO Communications Corp., 54 RR 2d 77, 89 (Rev. Bd. 1983); Coastal Bend Family Television, Inc., 54 RR 2d 367, 373 (Rev. Bd. 1983); South Florida Broadcasting Co., Inc., 53 RR 2d 1683, 1685 (1983); United Broad-

casting Co. (KBAY-FM), 53 RR 2d 57, 78 (1983); Dena Pictures, Inc., 51 RR 2d 875, 878-79 (1982). Moreover, the Commission has recently confirmed its policy of not extending construction permits to applicants financially unwilling or unable to construct the station. See Memorandum Opinion and Order, In Re Application of Texas Gulf Communications, Inc. (File No. BMPCT-840309KO) (January 14, 1985).

The Commission has held that each applicant is under an obligation to report any significant change in circumstances pertaining to basic qualifications, including financial matters upon which the Commission bases its evaluation of an applicant, and the failure of the applicant to notify the Commission within 30 days of the change is in violation of Commission reporting rules. Conroe-Willis Paging System, 44 RR 2d 175, 179 (1978); Reporting of Changed Conditions, 3 RR 2d 1622 (1964). The affirmative duty of the applicant to meet this reporting obligation is necessary in order to permit the Commission to perform its statutory mandate. Country Broadcasting, 53 RR 2d 293 (Rev. Bd. 1983); Sea Island Broadcasting Corp., 37 RR 2d 1235 (1976). Further, extensions of time are not routinely granted by the Commission, particularly for reporting requirements. See 47 C.F.R. § 1.46 (1984).

In Henderson Radio, Inc., 46 RR 2d 771 (1979), the Commission held that factors adversely affecting the financial qualifications of an applicant are decisionally significant

and should be reported timely to the Commission. The Commission has ruled that a failure to report a matter of decisional significance such as material changes in the financial qualifications of the applicant cannot be excused, and an application can be dismissed for failure to comply with the reporting requirements concerning its financial qualification. George E. Cameron, Jr. Communications (KROQ), 53 RR 2d 917 (Rev. Bd. 1983); Belo Broadcasting Corp., 43 RR 2d 1633, 1641 (1978).

COURT OF APPEALS DECISIONS
ALSO SUPPORT DISMISSAL OF SBH'S APPLICATION

The Court of Appeals has consistently supported Commission sanctions imposed upon financially unqualified applicants that fail to report significant defects in their applications or licenses. The Court of Appeals also has held that the Commission is not required to infer significant additional financial information from applications that are less than complete. WADECO, Inc. v. FCC, 628 F.2d 122, 128 (D.C. Cir. 1980). The Commission must rely heavily on the completeness and accuracy of the submissions made to it, and applicants that breach their affirmative duty to inform the Commission of the facts it needs in order to fulfill its statutory mandate are subject to dismissal, license revocation or other severe sanctions. RKO General, Inc. v. FCC, 670 F.2d 215, 232 (D.C. Cir. 1981); Civic Telecasting Corp. v. FCC, 523 F.2d 1185, 1188 (D.C. Cir. 1975).

The Court in WLOX Broadcasting Co. v. FCC, 260 F.2d 712 (D.C. Cir. 1958), held that an applicant's submission of a

undetailed certification based upon an undisclosed principal of the applicant is insufficient to resolve factual issues the applicant itself has raised by prior submissions and affidavits of specific and inconsistent financial information. Id. at 716. Further, a pending appeal or hope of ultimate vindication does not override the applicant's obligation to keep the Commission advised of the applicant's status. Belo Broadcasting Corp., 31 RR 2d 1071, 1073 (Rev. Bd. 1974). Therefore, the Commission's Rules and cases which establish its authority to dismiss SBH's application have been consistently upheld by the Court of Appeals.

Alan Shurberg was aware of SBH's financial problems as early as December 17, 1984 when SBH filed its affidavit with the Court of Appeals. On December 21, 1984, SBH became aware that a decisionally significant change in its financial status had occurred as a result of the adverse Court of Appeals decision denying the stay. Because SBH has failed to timely cure the facial defect in its application, the Commission has the discretionary power to dismiss the application pursuant to § 73.3566. Thus, SBH is subject to disqualification under the rationale of the numerous Court of Appeals cases cited above for failure to timely demonstrate with supporting documents its financial qualification to be a Commission licensee. Alan Shurberg's affidavit and SBH's failure to file a timely amendment forecloses its opportunity to do so and, thus, leaves the Commission with no alternative but to deem his application

totally defective and return it as unacceptable for processing. 5/

CONCLUSION

The Commission can only presume that the declarations made in the sworn affidavit of Alan Shurberg filed with the Court of Appeals are true. Therefore, as a result, SBH became financially unqualified to be a Commission licensee as of December 21, 1984 and its application should be now be dismissed as patently defective.

Further, SBH, by its own admission, should be unable to continue prosecution of its claims before the Commission and the courts. Ironically, SBH has continued its "blizzard" of pleadings before the Commission and the courts and, indeed, has recently initiated new costly discovery in its civil action against the Commission arising out of its FOIA request. See civil subpoenas filed in SBH v. FCC, 84-3406 (D.D.C. September 24, 1984). These continued efforts by SBH indicate that contrary to its sworn affidavit, it is able to pursue judicial and administrative avenues of relief in spite of Mr. Shurberg's sworn statements to the contrary.

Moreover, whatever SBH's financial status is, its behavior raises sufficient financial and character questions as to establish that it lacks the basic qualifications to become

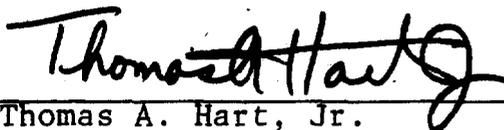
5/ SBH could, of course, resubmit its application at the same time other competing applications were accepted in the event that the FCI/ACC transfer was dissolved. See Memorandum Opinion and Order, BC Docket No. 80-730 at 6 (December 7, 1984).

a Commission licensee. Clearly, SBH cannot be on both sides of the issue concerning its financial qualifications. Either SBH lost all of its financial support as of December 21, 1984 when the Court of Appeals denied its Emergency Motion for Stay or, if the converse is true and SBH is not financially insolvent, then SBH has arguably committed perjury before the Court of Appeals by submitting a false affidavit. 6/ In either case, SBH's financial qualifications or character would be placed in sufficient question so as to give the Commission grounds to dismiss its application.

For the foregoing reasons, the application of SBH should be dismissed pursuant to § 73.3566(a) of the Commission's Rules.

Respectfully submitted,

ASTROLINE COMMUNICATIONS COMPANY
LIMITED PARTNERSHIP



Thomas A. Hart, Jr.
Collier, Shannon, Rill & Scott
1055 Thomas Jefferson Street, N.W.
Washington, D.C. 20007

(202) 342-8400

Its Attorney

January 31, 1985

6/ See, e.g., 18 U.S.C. § 1001 (1984) (false statement to an agency); 18 U.S.C. § 1621 (1984) (perjury).

EXHIBIT A

Shurberg's Affidavit To The Court Of Appeals

AFFIDAVIT

Alan Shurberg, being first duly sworn, hereby deposes and says as follows:

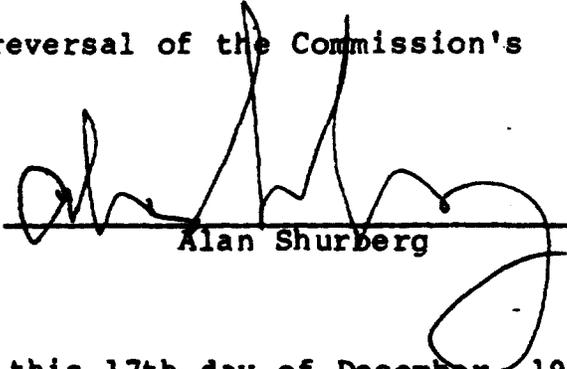
1. I am the sole principal of Shurberg Broadcasting of Hartford, Inc. ("SBH"), an applicant for a new television station to operate with the facilities presently utilized in the operation of Station WHCT-TV, Hartford, Connecticut. I am preparing this Affidavit in connection with the Reply of SBH to pleadings filed with the United States Court of Appeals for the District of Columbia Circuit relative to SBH's request for a stay of effectiveness of certain actions of the Federal Communications Commission ("the Commission").

2. In the prosecution of SBH's application and its related activities before the Commission and the Court of Appeals (including SBH's appeal of the Commission's December 7, 1984 action), SBH is relying on funds derived from a loan from a single source of financing. On December 7, 1984 the Commission took certain actions relative to the pending license renewal application of Station WHCT-TV which were reported in the Hartford Courant, the local daily newspaper. In those actions the Commission rejected SBH's claim that it is entitled to comparative consideration as against the present licensee of Station WHCT-TV. A copy of the brief article is attached hereto. In that article counsel for Astroline Communications Company, an applicant attempting to purchase the license of

Station WHCT-TV, is quoted as describing an appeal of the Commission's decision by SBH as "frivolous".

3. That article appeared on December 10, 1984. On December 14 I was contacted by my source of funding who indicated that he had seen a number of press reports, including the newspaper article described above. On the basis of those reports it appeared to my financial source that the sale to Astroline was likely to be consummated, almost certainly in the near future. I assured him that SBH continued to have a reasonable likelihood of succeeding in overturning the Commission's decision on appeal. However, I was specifically notified that, in the event that the sale to Astroline does go forward irrespective SBH's pending appeal, my financial source would not be willing to provide any additional funds for any purpose related to SBH. It was reasoned that operation of the station by Astroline pending the outcome of SBH's appeal would substantially undermine SBH's ability effectively to prosecute that appeal successfully and that, therefore, no further funds would be forthcoming. I indicated that SBH has sought a stay of the effectiveness of the grant of the Astroline application. I was told that funding would continue to be available to the extent that the effectiveness of the Commission's grant remains stayed, since such a stay would indicate the likelihood of SBH's ultimate success on the merits, and also since such a stay would preclude Astroline from operating the station in the meantime. On the basis of this

information I believe that, if the stay which SBH has requested is not granted, both SBH as an applicant and I as an individual will be unable to proceed with the full course of appellate procedure in an effort to secure reversal of the Commission's decision.


Alan Shurberg

Subscribed and sworn to before me this 17th day of December, 1984.


Notary Public

My Commission Expires January 1, 1987.

EXHIBIT B

**Court Of Appeals Order Denying
SBH's Emergency Motion For Stay**

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 84-1600

September Term, 19 84

Shurberg Broadcasting of Hartford, Inc.,
Appellant,

v.

Federal Communications Commission,
Appellee

Astroline Communications Company
Limited Partnership,

Intervenor

Before: Wright, Bork and Mikva,* Circuit Judges

United States Court of Appeals
For the District of Columbia Circuit

FILED DEC 21 1984

GEORGE A. FISHER
CLERK

ORDER

Upon consideration of Shurberg Broadcasting of Hartford, Inc.'s ("appellant" or "Shurberg") Emergency Motion for Stay and the oppositions and reply thereto, and the Federal Communication Commission's ("Commission") Motion to Dismiss and the opposition thereto, it is

ORDERED by the court that the Emergency Motion for Stay is denied.

In order to obtain a stay a party must 1) make a strong showing that it is likely to prevail on the merits of its appeal, 2) demonstrate that it will be irreparably injured if a stay is denied, 3) show that other parties will not be substantially harmed by the issuance of the stay, and 4) demonstrate that a stay is in the public interest. Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977), citing Virginia Petroleum Jobbers Association v. Federal Power Commission, 259 F.2d 921, 925 (D.C. Cir. 1958). Although appellant "has raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation," Hamilton Watch Co. v. Benrus Watch Co., 206 F.2d 738, 740 (2d Cir. 1953), appellant has failed to demonstrate that it would be irreparably injured in the absence of a stay, or that other parties and the public interest would not be harmed by the issuance of a stay.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 84-1600

September Term, 19 84

Two scenarios are possible under the Commission's December 7, 1984 order. Either the distress sale between Faith Center, Inc. ("Faith Center") and Astroline Communications Company ("Astroline") will be consummated or a comparative hearing will be held between Faith Center, Shurberg, and any other applicants who file during the new ninety day "window". In either event, if Shurberg is ultimately successful on its appeal, the Commission could provide complete relief to Shurberg because the successful licensee would take the license subject to judicial review. See Teleprompter Corp., 50 Rad. Reg. 2d (P&F) 125, 127 (CATC Bur. 1981); 47 U.S.C. § 402(h)(1982). See also Grand Broadcasting Company, 4 Rad. Reg. 2d (P&F) 205, 206 (F.C.C. 1964) (at conclusion of administrative proceedings unsuccessful applicant for new television station license denied stay because "possible commencement or the pendency of a judicial review proceeding has not been considered a sufficient reason for staying the Commission's decision in these circumstances"). Appellant's claim that it might be unable to meet the costs of pursuing the litigation simply does not amount to irreparable injury. See Renegotiation Bd. v. Bannerkraft Clothing Co., Inc., 415 U.S. 1, 24 (1974) ("mere litigation expense, even substantial unrecoupable costs, does not constitute irreparable injury"). Further, both Astroline's interest in consummating the transaction and the public's interest in ridding the Hartford area of a broadcaster of Faith Center's questionable reputation would likely be harmed by the issuance of the stay. Thus, although appellant may ultimately prevail on the merits of its appeal -- a question which the court need not and does not reach at this stage -- it has failed to satisfy the requirements for the issuance of a stay. It is

FURTHER ORDERED by the court that the Interim Stay issued on December 11, 1984 is vacated. It is

FURTHER ORDERED by the court that the Commission's Motion to Dismiss, filed December 14, 1984, is held in abeyance pending the response from appellant.

The Clerk is directed to transmit a certified copy of this order to the Federal Communications Commission.

Per Curiam

*Circuit Judge Mikva did not participate in this order.

EXHIBIT C

**Notice From ACC To The Commission
Of The Assignment Of WHCT-TV**

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Of Counsel

BY HAND

Mr. Roy Stewart
Chief, Video Services
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 702
Washington, D.C. 20554

RECEIVED

JAN 23 1985

FCC
Office of the Secretary

Re: WHCT-TV; Channel 18; Hartford, Connecticut

Dear Mr. Stewart:

Astroline Communications Company Limited Partnership ("Astroline"), through counsel, hereby notifies you of the consummation of the transfer of the license and assets of the above-referenced facilities from Faith Center, Inc. ("FCI") to Astroline. The transfer was consummated today.

This notice is being provided in response to a letter from the Federal Communications Commission ("Commission") dated December 14, 1984 which notified Astroline of the Commission's consent to the assignment of FCI's license pursuant to its Transfer Assignment Application (FCC Form 314) which was granted on December 10, 1984 (Public Notice Report No. 19376, December 12, 1984). Within 30 days of this letter, counsel for Astroline will file an Ownership Report (FCC Form 323) pursuant to the Commission's Rules.

Pursuant to § 73.1615(a)(3) of the Commission's Rules, Astroline hereby informs the Commission of its intent to discontinue operation of the facilities of Channel 18. Astroline is discontinuing operation of the station to modify and upgrade the existing studio, transmitting equipment and other facilities of Channel 18 so that it will be able to better serve

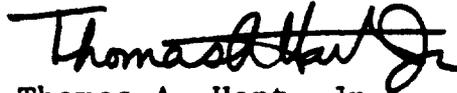
Mr. Roy Stewart
January 23, 1985
Page Two

Collier, Shannon, Rill & Scott

the needs and interests of the residents of the Hartford community once the station recommences normal commercial operation.

If you have any questions regarding this matter, please contact the undersigned.

Sincerely,



Thomas A. Hart, Jr.
Counsel for Astroline Communications
Company Limited Partnership

cc: William J. Tricarico
Clay Pendarvis
LeAudry Alexander

TAH/tdh

CERTIFICATE OF SERVICE

I, Tracey B. Holmes, do certify that a copy of the foregoing Motion to Dismiss was served first-class, postage prepaid on this 31st day of January 1985 addressed as follows:

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Federal Communications Commission
1919 M Street, N.W.
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Mr. Alan Shurberg
President
Shurberg Broadcasting of Hartford, Inc.
100 Cold Spring Road
Rocky Hill, CT 06067


TRACEY B. HOLMES

*/ Served by hand.