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April 3, 1984

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FCC  
Office of the Secretary

William J. Tricarico, Secretary  
Federal Communications Commission  
1919 M Street, N.W. - Room 222  
Washington, D.C. 20554

Dear Mr. Tricarico:

I am writing on behalf of Shurberg Broadcasting of Hartford, Inc. ("SBH"), an applicant for authority to construct and operate a new UHF television station in Hartford, Connecticut, to object strenuously to ex parte contacts recently made to the Commission on behalf of Faith Center, Inc. ("Faith Center"), whose application for renewal of the license of Station WHCT-TV, Hartford, is mutually exclusive with that of SBH. SBH also hereby requests that the Commission investigate those contacts so that Faith Center's responsibility in the matter may be fully and completely determined.

Some background information may be helpful in understanding the gravity of the present situation. Faith Center filed an application for renewal of the license of Station WHCT-TV in the late 1970s. That application was designated for hearing with respect to the qualifications of Faith Center to remain a licensee. Faith Center has previously lost three broadcast licenses. See Faith Center, Inc., 82 FCC 2d 1, 48 RR 2d 709 (1980); Faith Center, Inc., \_\_\_ FCC 2d \_\_\_, 52 RR 2d 1547 (Rev. Bd. 1983); Faith Center, Inc., \_\_\_ FCC 2d \_\_\_, 53 RR 2d 797 (ALJ 1983). Rather than undergo a qualifications hearing relative to Station WHCT-TV, Faith Center elected to attempt to assign the license of Station WHCT-TV pursuant to the Commission's "distress sale policy". See Faith Center, Inc., 88 FCC 2d 788, 50 RR 2d 987 (1981). The Commission granted Faith Center permission to avail itself of that policy once, although the assignment was never consummated. See Faith Center, Inc., \_\_\_ FCC 2d \_\_\_, 54 RR 2d 1286 (1983). Faith Center then sought a second opportunity to take advantage of the distress sale policy by filing a second assignment application in September, 1982. The assignee proposed in that application was Interstate Media Corporation ("IMC").

William J. Tricarico  
April 3, 1984  
Page Two

Objections to the second proposed assignment were submitted, including objections filed pro se by Alan Shurberg, the sole principal of SBH. In September, 1983, the Commission granted Faith Center's renewal application at the same time that it determined that Faith Center could properly assign its license pursuant to the distress sale policy. Faith Center, Inc., 54 RR 2d 1286 (1983). In so doing, however, the Commission declined to reach any determination as to whether IMC was qualified to be the assignee. Instead, the Commission deferred that determination to the Chief, Mass Media Bureau. It also conditioned the grant on the successful completion of the assignment. As of December 1, 1983 -- the deadline for filing applications for renewal of the licenses of broadcast stations in Connecticut -- Faith Center's renewal had been granted but the assignment to IMC had not been acted on. On December 2, 1983, SBH filed its application for a new station to operate with the facilities authorized to Station WHCT-TV. In SBH's view, it is entitled to comparative consideration with any effort Faith Center might make to have its license renewed since, at the time SBH filed its application, Faith Center was the licensee of Station WHCT-TV. SBH also believes that, in view of the curious posture of the case, either Faith Center or IMC should have filed an application for renewal of the station's license, since no such application was on file subsequent to the Commission's September, 1983 action, even though Connecticut broadcast licenses were scheduled to expire on April 1, 1984.

On January 3, 1984, the Chief, Mass Media Bureau, released a Memorandum Opinion and Order granting the Faith Center/IMC assignment. Faith Center, Inc.,      FCC 2d     , 55 RR 2d 44 (Mass Media Bureau 1984). SBH has sought both a stay of and reconsideration of that decision. SBH's pleadings in that regard are presently pending, as are the responsive pleadings of both Faith Center and IMC.

This morning undersigned counsel was informally contacted by a member of the staff of the Mass Media Bureau who wished to advise me that a letter from Faith Center had been received by the Commission's staff. That letter was not served on counsel for SBH or on SBH itself, a fact which, apparently, the staff member confirmed in a conversation with the Faith Center representative who had written the letter. The substantive thrust of the letter, according to the Bureau staff member, is that the Faith Center/IMC transaction will not be consummated as a result of certain disabilities on the part of IMC. Further, it appears that the letter reflects at least one

William J. Tricarico  
April 3, 1984  
Page Three

other discussion between a representative of Faith Center and a Bureau staff member during which various matters relating to Faith Center's posture before the Commission were discussed. These included the questions of Faith Center's ability to continue to operate Station WHCT-TV pending further Commission action, Faith Center's likely ability to obtain Commission approval for yet a third distress sale, and similar matters. A copy of the letter is included as an attachment hereto.

As indicated, neither SBH nor its counsel was notified of any of these various discussions or communications before today, even though SBH has had a competing application on file since December, 1983, and petitions for reconsideration and stay on file since January, 1984. Thus, SBH is clearly a party in interest, and should have been apprised of the substance of the communications at the time they were made. SBH takes strong exception to Faith Center's clear violation of the Commission's ex parte rules, which violation may have adversely affected SBH's position with respect to Faith Center. Such a flagrant violation is simply inexcusable from an organization which has been a licensee -- albeit a licensee of questionable qualifications -- of the Commission for several years. As SBH is willing to acknowledge, the contacts were made on behalf of Faith Center by an individual possibly not expert in communications law. That, however, does not excuse Faith Center from its obligation to ascertain the nature of its responsibilities and to assure that any communications made on its behalf are made consistently with those responsibilities.

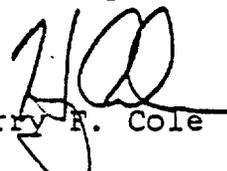
SBH urges the Commission to initiate a formal inquiry into the circumstances surrounding the improper ex parte contacts reflected in Faith Center's letter, as well as any other such contacts which may have been made. The sanctity of the Commission's processes requires nothing less than a full and open investigation intended to develop a complete record relative to Faith Center's apparent unwillingness and inability to comply

William J. Tricarico  
April 3, 1984  
Page Four

with the Commission's ex parte rules, rules intended to assure fairness in all Commission proceedings.

Please call me if you have any questions about this matter.

Sincerely,



Harry F. Cole

Counsel for Shurberg Broadcasting  
of Hartford, Inc.

cc (w/attachment): The Honorable Mark S. Fowler, Chairman  
The Honorable James H. Quello  
The Honorable Mimi Weyforth Dawson  
The Honorable Henry M Rivera  
The Honorable Dennis R. Patrick  
Bruce E. Fein, General Counsel  
David Silberman, Esquire  
James C. McKinney, Chief, Mass Media Bureau  
Roy Stewart, Chief, Video Services Division  
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Edward L. Masry, Esquire