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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 19 1984

FCC
Office of the Secretary

In re Applications of)

FAITH CENTER, INC.)
Hartford, Connecticut)

File No. BRCT-348

For Renewal of License of)
Station WHCT-TV, Hartford,)
Connecticut)

SHURBERG BROADCASTING OF HARTFORD, INC.)
Hartford, Connecticut)

File No. ARN-831202

For Construction Permit for a New)
Commercial Television Station to)
Operate with the Facilities of)
Station WHCT-TV)

TO: The Commission

PETITION FOR EXTRAORDINARY RELIEF

1. Shurberg Broadcasting of Hartford, Inc. ("SBH") hereby petitions the Commission for extraordinary relief in connection with the above-captioned applications, both of which seek authority to operate a commercial television station on Channel 18 in Hartford, Connecticut. Specifically, for the reasons set forth below, SBH requests that the Commission immediately take all steps necessary to designate those two applications for a comparative renewal proceeding, and further to take any additional steps which may be necessary to assure that that proceeding be conducted in the most expeditious manner possible. In view of the truly extraordinary factors involved here, the public interest demands that the Commission take

extraordinary steps to prevent the continued use of a valuable broadcast frequency by a licensee which has consistently proven itself to be unwilling or unable to conform to the reasonable standards of conduct expected of broadcast licensees by the Commission.

Background

2. Familiarity with and understanding of the complex factual background underlying the instant Petition are essential to an appreciation of the urgency of the situation. Faith Center, Inc. ("Faith Center") is the present licensee of Station WHCT-TV, Hartford, Connecticut. It has also been the licensee of several other broadcast stations, including Stations KHOF-TV, San Bernardino, California, and KVOF-TV, San Francisco, California. As the Commission is well aware, Faith Center is controlled by Dr. w. euGene Scott ("Scott"), who is the primary focus of programming broadcast on Faith Center's various stations. That programming consists in large measure (if not exclusively) of presentations by Scott with respect to various subjects. While some of these presentations are cast in religious terms, others appear to relate to aspects of Scott's personal business, including his relationship with the Commission.

3. Scott's relationship with the Commission has not been a smooth one. In 1977, approximately eight years ago, allegations were brought to the Commission's attention concerning the possible use of Station KHOF-TV by Scott for fraudulent fund-

raising practices. See Faith Center, Inc., 82 FCC 2d 1, 48 RR 2d 709 (1980). ^{1/} The Commission sought to investigate the accuracy of those allegations, but encountered almost total resistance from Scott and Faith Center. Faith Center's application for renewal of the license of Station KHOF-TV was designated for a hearing in order to explore these various allegations. See Order and Notice of Apparent Liability, FCC 78-674, released October 11, 1978. That proceeding shed virtually no light on the allegations, however, since Faith Center consistently refused to

^{1/} As an example of the type of conduct which the Commission was informed of, the Bill of Particulars presented by the Broadcast Bureau in the proceeding which was initiated as a result of those allegations included the following, at Paragraph 5 of that Bill:

5. In August 1977 the Commission received allegations that beginning in 1976 Dr. Gene Scott, pastor-president of Faith Center, began broadcasting fund-raising appeals on Television Station KHOF-TV for church projects which never came about and for specific purposes that were promised and not carried through. The allegations concerned fund-raising for audio equipment, studio lights, roof repairs, and a fountain of faith. The Commission also received allegations that Dr. Scott was using some of the money raised through over-the-air appeals for his own personal use by giving it to other organizations in which he had an interest. The Commission also received allegations that fund-raising appeals by Dr. Scott were sometimes accompanied by statements that he had pledged money and that he received only \$1.00 per year in compensation from the church when, in fact, he failed to pay the alleged pledge and the church provided him with a \$185,000 house rent free and a hotel suite in Pasadena, California costing \$2,000 - \$3,000 per month. Since the Commission has not been permitted to examine television Station KHOF-TV's financial documents and other information in order to determine the truth of these allegations, the Commission cannot determine whether fund-raising broadcasts on Station KHOF-TV violated, or presently violate, Title 18, USC, §1343.

See Faith Center, Inc., 82 FCC 2d 1, 48 RR 2d 709, 718.

cooperate with the Bureau's discovery requests. The Commission and the presiding administrative law judge repeatedly ordered Faith Center to comply with the Bureau's requests, and Faith Center repeatedly responded with answers which the Commission ultimately characterized as "patently evasive", "bad faith contrivance[s]", a "serious[] impairment[ment] [of] the Commission's ability to make an accurate determination of the matters in issue", and, in conclusion, "a grave abuse of the Commission's processes." Faith Center, Inc., supra, 48 RR 2d at 730-734. ^{2/} As a result of Faith Center's singular refusal to comply with the Commission's rules, its application was dismissed for failure to prosecute. Id. That action has since been affirmed by the Courts, and, in May, 1983, Faith Center was required to cease the operation of Station KHOF-TV.

4. Pending the outcome of the Station KHOF-TV proceeding, the remaining applications for renewal of Faith Center's various licenses (including that of Station WHCT-TV) were placed on deferred status. However, in November, 1980,

^{2/} Faith Center's formal response to the Commission's inquiries appears to be consistent with other allegations concerning Faith Center's response to official inquiries. A self-described "right-hand man" of Scott's informed the Commission that Scott had been involved in transporting potentially incriminating tapes and documents to an Arizona warehouse as part of a so-called "wild geese" plan. See Faith Center, Inc., supra, 48 RR 2d at 738. The same informant also accused Scott of advising his employees to avoid service of process by Federal marshals and of initiating lawsuits to harass potential opponents and to discourage investigation. Id.

simultaneously with its dismissal of the Station KHOF-TV application, the Commission instructed the Broadcast Bureau to designate the Station WHCT-TV application for hearing before December 1, 1980. Faith Center, Inc., 48 RR 2d 741 (1980). Faith Center had sought the opportunity to assign the license of Station WHCT-TV pursuant to the Commission's "distress sale" policy. Since the Station WHCT-TV application had not, at that time, been designated for hearing, and since the "distress sale" policy was applicable only to applications designated for non-comparative hearing on basic qualifications issues ^{3/}, the Commission denied Faith Center's request. However, the Commission obviously wished to give Faith Center the opportunity to avail itself of the "distress sale" policy, presumably to avoid a repetition of the Commission's unfortunate experience relative to Station KHOF-TV. After all, an expedited designation for hearing in all likelihood seemed to the Commission a small price to pay in order to avoid yet another confrontation between the Commission and its recalcitrant licensee. Hence, in an order released on November 6, 1980, the Commission ordered that the Station WHCT-TV renewal be designated for hearing "before December 1, 1980, after which a distress sale proposal for that station could be entertained." Id., 48 RR 2d at 742.

3/ See Statement of Policy on Minority Ownership of Broadcast Facilities, 68 FCC 2d 979, 42 RR 2d 1689 (1980); Clarification of Distress Sale Policy, ___ FCC 2d ___, 44 RR 2d 479 (1978).

5. It was necessary to achieve this designation before December 1, 1980 because Faith Center, as a Connecticut broadcast licensee, was required to file a supplemental renewal application on or before that date and, had Faith Center's pending (albeit deferred) application not been designated for hearing by that date, it would have been subject to competing applications. Id., 48 RR 2d at 742, n. 3 (as of the date for filing a supplemental renewal application, "a three-month window for filing competing applications opens.") However, distress sale relief is not available in situations where competing applications have been filed. Thus, it is clear that the Commission's intent in affording Faith Center an expedited designation for hearing was to assure Faith Center's ability to assign the license of Station WHCT-TV and, accordingly, cease its operation of that station at the earliest possible date. This is apparent from the Commission's decision reaffirming the expedited designation of the WHCT-TV renewal application for hearing. See Faith Center, Inc., 86 FCC 2d 891, 49 RR 2d 806 (1981). In sum, it appears that in the Commission's view a distress sale of the station would get Faith Center off the air in Hartford faster than any other available option (such as opening up the "window" for competing applications and designating all such applications for a comparative renewal proceeding with the Station WHCT-TV renewal application).

6. That logic, however, proved faulty. Faith Center did, indeed, present the Commission with a distress sale

proposal, and, approximately one year after Station WHCT-TV's application had been designated for hearing, the Commission granted that proposal. Faith Center, Inc., 88 FCC 2d 788, 50 RR 2d 987 (1981). Due to problems concerning the assignee proposed therein, however, that assignment was never consummated, and the distress sale application was ultimately dismissed. The hearing did not begin then, however, as Faith Center indicated a desire to attempt to arrange another distress sale. Some ten months later -- i.e., in September, 1982, almost two years after designation for hearing -- Faith Center filed a second distress sale application, seeking this time to sell Station WHCT-TV to Interstate Media Corporation ("IMC"). A number of petitioners -- including SBH's sole principal, Alan Shurberg, who appeared pro se -- opposed that application on various grounds. A year after that application was filed, on September 30, 1983, the Commission released a Memorandum Opinion and Order granting Faith Center the authority to assign the license of Station WHCT-TV to IMC, on condition that the Mass Media Bureau determine that IMC was qualified to be a licensee. Faith Center, Inc., ___ FCC 2d ___, 54 RR 2d 1286 (1983). In so doing, the Commission formally granted the renewal of Station WHCT-TV and terminated the proceeding (BC Docket No. 83-448) involving that renewal. Id.

7. Applications for renewal of broadcast licenses in Connecticut were due to be filed on or before December 1, 1983. As of that date the Mass Media Bureau had not acted on the Faith Center/IMC application. Neither Faith Center nor IMC filed an

application seeking to extend the authority of either to operate Station WHCT-TV beyond the then-applicable April 1, 1984 expiration date of the station's license. On December 2, 1983, SBH filed a competing application for authority to utilize Channel 18. No other competing applications were filed during the three-month "window" period between December 1, 1983 and March 1, 1984.

8. On January 3, 1984, the Mass Media Bureau released a Memorandum Opinion and Order granting the Faith Center/IMC assignment. SBH immediately filed petitions for reconsideration and stay of that action, and both Faith Center and IMC opposed SBH's petitions. In mid-February, 1984, IMC notified the Commission that it could no longer certify that it was financially qualified to purchase Station WHCT-TV. On March 29, 1984, Faith Center notified the Commission orally (later confirmed by letter of the same date) that it would not be able to consummate the sale of the station to IMC. In its letter -- and apparently in its oral communication -- Faith Center indicated a desire to attempt yet a third distress sale, and requested an additional 120 days within which to make arrangements for such a sale. In view of Faith Center's communications, the Mass Media Bureau dismissed SBH's petitions for reconsideration and stay by letter dated April 6, 1984. A copy of that letter is included as Attachment A hereto.

9. Throughout the pendency of these various matters, Faith Center has continued to operate Station WHCT-TV. Despite

the designation of that station's renewal application for hearing almost three and one-half years ago, the hearing has not commenced in any respect.

10. To summarize, despite the substantial questions relative to Faith Center's qualifications -- questions which have been before the Commission for some eight years already -- Faith Center has been allowed to continue its operation of Station WHCT-TV. While Faith Center has ostensibly presented to the Commission two prospective purchasers for the station, neither of those two has, in the end, been able to consummate the transaction. The result is that, even though the Commission initially designated the Station WHCT-TV renewal application for hearing in order to assure the most expeditious means of removing Faith Center as that station's licensee, that plan has failed twice already. The further result is that Faith Center, irrespective of its past misconduct before the Commission, has been permitted an additional three and one-half years of operation of the station, with no real end in sight at this point. Can this possibly be what the Commission intended? Can it possibly be in the public interest?

Discussion

11. SBH submits that the time has come for the Commission to acknowledge that the public is ill-served by the continued operation of Station WHCT-TV by Faith Center. Further, the Commission must also recognize that its approach to the

situation at Station WHCT-TV has thus far achieved nothing more than precisely that continued operation. The Commission apparently thought that the expedited designation for hearing would serve to remove Faith Center from the Hartford airwaves sooner rather than later. Instead, not only is Faith Center still on the air there, it has remained effectively insulated from any challenge as a result of its "hearing" status, a status which exists only on paper -- as noted above, no hearing has yet commenced with respect to Station WHCT-TV, even though its renewal application was designated for hearing in November, 1980. Accordingly, the Commission must take immediate steps to reverse its course. The present procedural posture relative to the applications of Faith Center and SBH clearly permits -- and, indeed, compels -- just such a reversal. Additionally, continuing misconduct by Faith Center provides still greater impetus for taking the steps proposed herein by SBH. In brief, SBH submits that the Commission should immediately accept SBH's application for filing and designate for it a "B" cut-off date. Immediately following that date, the Commission should designate for comparative hearing the Faith Center and SBH applications, taking such steps in that designation as may be necessary to assure an expedited hearing. Further, Faith Center should be placed on notice in the designation order that any failure by it to respond to timely discovery requests will not be tolerated, and that, in view of the Commission's experience relative to Station KHOF-TV, any such failure will result in the immediate

dismissal of Faith Center's application. Such measures may be extraordinary; under the circumstances, the public interest requires nothing less.

The applications are ripe for designation.

12. It is clear that the applications of Faith Center and SBH are ready for the processing proposed herein by SBH. The Faith Center application has been on file for years. SBH's application was timely filed on December 2, 1983. No other competing applications were filed during the three-month "open window" period between December 1, 1983 - March 1, 1984. Thus, there is no impediment to their immediate designation.

13. SBH is aware that some representatives of the Mass Media Bureau may take the position that, as a result of the failure of the Faith Center/IMC assignment, Faith Center's application should return to some sort of protected status as a result of its earlier designation for hearing in 1980. While cosmetically appealing, that approach suffers a number of difficulties. As an initial matter, by its Memorandum Opinion and Order released on September 30, 1983, the Commission itself granted Faith Center's then-pending renewal application and terminated the proceeding, subject to certain conditions. As of the date on which the window for competing applications for Connecticut broadcast licenses opened (i.e., December 1, 1983), the grant of Faith Center's renewal was still operative, i.e., there was at that time an outstanding license for Station WHCT-

TV, and, as a result of the Commission's September, 1983 action, that license was not in a hearing posture. This continued to be the case throughout the three-month "open window" period. Thus, the Station WHCT-TV renewal application was properly the subject of one or more competing applications. As SBH has indicated in pleadings submitted relative to the proposed Faith Center/IMC assignment, it may not have been clear which of the two applicants -- Faith Center or IMC -- SBH (and any other competing applicants who might have chosen to file) would have been entitled to comparative consideration with, had IMC been able to consummate the sale. There is no question, however, but that timely filed competing applications were and are entitled to comparative consideration. 4/

14. Further confirmation of the fact that Faith Center is no longer entitled to any protected status arises from the observation that Faith Center has, either by design or

4/ The validity of this proposition is apparent when it is recognized that, since Faith Center's renewal application was granted in September, 1983, that station's license was scheduled to expire on April 1, 1984. Nothing in the Commission's September, 1983 Memorandum Opinion and Order indicates that it intended somehow to extend the license term of Station WHCT-TV beyond that which had otherwise been authorized by the Commission pursuant to the Communications Act of 1934, as amended. Of course, in view of the limitations on license terms set forth in the Act, it is far from clear that the Commission could, absent some further application for renewal of license by either Faith Center and/or IMC, have extended the license term of Station WHCT-TV beyond April 1, 1984. However, in the absence of any indication that the Commission intended to effect some such extension, speculation on this particular point appears unnecessary.

misfortune, proven itself peculiarly incapable of locating a qualified purchaser for Station WHCT-TV. The situation involving IMC is a clear case in point. As SBH demonstrated in its petitions for reconsideration and stay, significant questions concerning IMC's qualifications were apparent on the face of its application. Even though the Mass Media Bureau, in the first instance, determined that IMC was qualified, it is clear from the ultimate fate of IMC's application that, in fact, SBH was substantially correct with respect to its observations concerning IMC. It is difficult to imagine that Faith Center, in considering potential distress sale assignees, could not have perceived in advance the weaknesses of IMC's position. The fact that, irrespective of those weaknesses, Faith Center elected to contract with IMC suggests that Faith Center may not be the best judge of who should be entitled to operate on Channel 18 in Hartford. 5/

5/ Of course, in view of Faith Center's demonstrated inability or unwillingness to comply with reasonable Commission Rules and policies, the possibility exists that Faith Center's various unsuccessful efforts to consummate a sale of Station WHCT-TV may be part of a concerted effort by Faith Center to retain control over that station for as long as possible. Whether or not by design, Faith Center has certainly succeeded in remaining on the air on Station WHCT-TV for almost four years after designation, without ever having had to undergo any actual hearing proceeding.

Designation for comparative renewal hearing would provide the most expeditious means of resolving the Station WHCT-TV situation.

15. As indicated above, in designating the Station WHCT-TV renewal application for hearing in 1980 on an expedited basis, the Commission made an obvious effort to avoid any prolonged proceeding involving that renewal. The approach taken by the Commission was obviously intended to permit Faith Center to sell the station through the distress sale process, and thus permit -- indeed, encourage -- Faith Center to give up its license in Hartford at the earliest possible date. Also as indicated above, that approach has unquestionably failed, whether or not through the design of Faith Center. Now Faith Center appears prepared to seek yet a third distress sale purchaser. As an initial, and quite obvious, matter, there is no guarantee that any such purchaser would be any more likely than its two predecessors to consummate the transaction. If, as has happened twice before, a third deal were to fall through, Faith Center would continue to operate Station WHCT-TV, irrespective of the substantial questions which have been raised about its qualifications to operate broadcast stations. In other words, further deferral of action relative to Station WHCT-TV would not provide any assurance that Faith Center would not continue to operate the station; indeed, if past is prologue, it could lead to even more extended operation of the station by Faith Center in the long run. And, of course, any such reliance on the distress sale approach would, during its pendency, further insulate Faith

Center from any actual scrutiny of its operations by the Commission. Thus, Faith Center would be getting the best of all possible worlds: it would be free to operate Station WHCT-TV without fear that the Commission would investigate its qualifications any further.

16. By contrast, designation for an expedited comparative renewal proceeding with SBH's application would provide the Commission with assurance either that Faith Center would be found to be qualified to be a licensee or, if not, that Faith Center's control of Station WHCT-TV could be eliminated with little or no additional effort. Unlike the distress sale process, which is effective only if the proposed distress sale is consummated, the comparative renewal process will ineluctably result in a resolution of Faith Center's status. And, unlike a non-comparative revocation/renewal proceeding, a comparative renewal proceeding provides the Commission with a choice of applicants. As a result, if the Commission does determine that Faith Center is not qualified to be the licensee, the Commission will still have before it SBH, ready, willing and able to begin operation of the station. Thus, the Commission need not fear that viewers in Hartford would be deprived of a service. To the contrary, if, as SBH firmly believes, Faith Center is unqualified to be a licensee, the removal of its programming and the replacement of that programming with SBH's alternative will afford the Hartford area more meaningful public interest-related programming than is presently available on Station WHCT-TV.

Immediate designation for hearing is imperative in view of Faith Center's continued violation of the Commission's Rules.

17. Perhaps the most astonishing aspect of Faith Center's continued operation of Station WHCT-TV is the fact that, notwithstanding the licensee's history of problems with the Commission and notwithstanding the fact that it has already been forced to shut down one of its stations, it continues to flout the Commission's Rules. SBH is acutely and directly aware of at least two violations which have occurred since SBH filed its application little more than four months ago. In late December, 1983, Alan Shurberg visited the transmitter/studio site of Station WHCT-TV 6/ in order to inspect the station's local public records file. He was refused access to the file which, under the Commission's Rules, is required to be available to any interested

6/ It should be noted that, under a special temporary authorization ("STA") granted by the Broadcast Bureau, Faith Center is apparently operating Station WHCT-TV from studio facilities located at the station's transmitter site approximately 3.8 miles southeast of Avon Village, Connecticut, a suburb of Hartford. According to representations of Faith Center's then-counsel as set forth in Faith Center's request for the STA, the driving time to the transmitter site is approximately 15 minutes from downtown Hartford, down an interstate highway. A review of available Commission files does not indicate that Faith Center provided any further detail concerning the accessibility of its "temporary" studio site to residents of Hartford. Nonetheless, the requested STA -- an ostensibly "temporary" authorization -- was granted by the Broadcast Bureau in 1981, three years ago. While Commission records indicate that Faith Center permitted its authorization to lapse for approximately nine months, between June, 1982 and February, 1983, Faith Center has continued to utilize its Avon Village transmitter site as its studio site since 1981.

member of the public at all times during regular business hours. See Section 73.3526 of the Commission's Rules. The facts and circumstances of Mr. Shurberg's efforts to view Station WHCT-TV's public file were set forth in detail in a letter to the Chief, Mass Media Bureau filed on January 3, 1984. A copy of that letter is included herewith as Attachment B. As indicated therein, the station's refusal to provide him access to its file was completely unjustified and a clear violation of the Commission's Rules.

18. In view of that refusal, SBH filed its letter with the Mass Media Bureau in the hope of obtaining some relief. As stated at page 4 of that letter, SBH specifically requested that the Bureau issue an order requiring Faith Center to permit Mr. Shurberg, and any other interested member of the public, to inspect the local public records file of Station WHCT-TV during regular business hours. Expedited consideration of SBH's letter was also requested. To date, however, no formal action has been taken by the Bureau. SBH understands that at least one Bureau staff member has sought, through informal telephonic contacts with representatives of Faith Center, to secure some prospect of compliance. Those efforts have, however, been unavailing. As recently as April 12, 1984, Mr. Shurberg again attempted to inspect Station WHCT-TV's public file, and again his request was refused. See Attachment C hereto. In other words, the unquestionable violation which was called to the Commission's and, more importantly, the licensee's attention in January, 1984,

continues to the present.

19. A second violation of Commission Rules by Faith Center occurred in late March, 1984. SBH was notified by a Bureau staff member that counsel for Faith Center had sent to the Commission a letter concerning the status of the IMC transaction without serving a copy on SBH. When SBH obtained a copy of that letter, it was apparent from the contents of the letter that, in fact, counsel for Faith Center had also made an oral ex parte presentation to the Bureau staff member. While these contacts were made by Faith Center's California counsel, and not by a member of the communications bar, they are nevertheless inexcusable. This matter was brought to the Commission's attention by SBH in a letter, dated April 3, 1984, a copy of which is included herewith as Attachment D. Again, Faith Center has thus far offered no response and, to the best of SBH's knowledge, neither the Bureau nor the Commission has yet taken any formal steps with respect to SBH's letter. A violation of the ex parte rules might be understandable with respect to an applicant otherwise unfamiliar with the Commission's processes. In this case, however, Faith Center has, perhaps more than most, had ample opportunity to gain first-hand experience with the Commission's processes and procedures. It has, therefore, no excuse available to it for its flagrant transgression.

20. The matter of Faith Center's continuing violations should, in and of itself, be of grave concern to the Commission. That concern should be heightened by the knowledge

that the various program-related violations of which Faith Center has been accused, and which formed the core of the issues designated against Faith Center with respect to Stations KHOF-TV and WHCT-TV, still have not been resolved. As a result, in addition to the known violations, there remains the possibility of additional violations. 7/ The Commission simply cannot tolerate the continued use of a valuable television frequency by a licensee about whom so many serious questions have already been raised. This is especially true where the Commission has not even begun the hearing into some of those charges, a hearing which the Commission first designated three and one-half years ago.

21. The urgent need for Commission action here is further compelled by the fact that the Mass Media Bureau appears

7/ The potential impact of any continued program-related violations by Faith Center cannot be overstated. It is important to note in this regard that Faith Center has been accused of, inter alia, fraudulent fund-raising practices, and the Commission has deemed these accusations of sufficient weight to warrant designation of Faith Center's applications for hearing relative to those accusations. See footnote 1, supra. A recent study has indicated that as many as 40 percent of those who view religious television programming send money to religious broadcasters. See Attachment E hereto (article from April 17, 1984 Washington Post). In other words, religious programming continues to be a potentially lucrative source of funds for religious programmers. By the same token, such programming can also be subject to fraud and other abuses of the type of which Faith Center has been accused. Such fraud is not likely to stop unless appropriate authorities -- including the Commission -- with jurisdiction over such activities take affirmative steps to put a stop to it. In view of the history of the Commission's treatment of the Faith Center allegations, it is apparent that such steps have yet to be taken here.

to be acting under the impression that it has virtually no control over Faith Center, and thus is not inclined to take any steps against it. As an example, faced with SBH's January 3, 1984 complaint concerning the non-availability of the Station WHCT-TV local public records file, the Bureau has to date taken no formal action whatsoever. Similarly, the Bureau has offered no indication that it intends to take any action with respect to the ex parte communications made to the staff on behalf of Faith Center. 8/ SBH understands that the Bureau may well be frustrated at its inability thus far to force Faith Center to comply with even the most rudimentary of the Commission's Rules. That frustration, however, cannot justify inaction by the Bureau in the face of continuing violations. The regulatory process as well as fundamental fairness require that all licensees be subjected to equal treatment by the regulatory body. Here it is clear that, for whatever reason, Faith Center has thus far been able to maintain its grasp on the license of Station WHCT-TV in spite of conduct and alleged conduct which would -- one likes to assume -- have been arrested long ago, had

8/ In that regard, SBH specifically requests that any and all Bureau staff members who have been the subject of such ex parte communications be foreclosed from any further participation in connection with this proceeding. The appearance of fairness, as well as actual fairness, are important aspects of the administrative process. Because of that, it is only fitting that SBH be permitted to prosecute its application before Commission officials who have not thus far been subject to inappropriate ex parte communications.

a different licensee been involved. Because of this, the solution proposed herein by SBH appears to be the approach most likely to assure the fairest, most expeditious resolution of the various questions posed by the Faith Center application.

Conclusion

22. In summary, it is clear that the Commission must take some action in order to prevent Faith Center's continued use of Channel 18 in Hartford under the circumstances presented. Substantial questions exist with respect to Faith Center's qualifications to remain a licensee, questions which have been before the Commission for more than seven years. Indeed, the Commission has already designated Faith Center's application for renewal of the license of Station WHCT-TV for hearing once, almost four years ago, in order to explore precisely those questions. Nevertheless, Faith Center has managed to avoid both that hearing, and the loss of its license, since that designation, and there is no sign that the Commission is any closer now to resolving those questions -- either by absolving Faith Center of any blame, or of depriving it of its license -- than it was in 1980, when that application was first designated for hearing.

23. By contrast, SBH is a qualified applicant which filed its competing application in a timely fashion in light of

the Commission's action of September, 1983, when the Commission renewed Faith Center's license and terminated its qualifications proceeding. All other interested parties were on notice, as was SBH, that the window for competing applications against Connecticut renewals would open on December 1, 1983, and all other interested parties were equally on notice of the Commission's September, 1983 action. Indeed, the filing of SBH's application was even noted in the pages of Broadcasting magazine (January 9, 1984, page 132). The fact that no other parties chose to file competing applications should thus not be a matter of concern to the Commission. Indeed, the limited nature of the two-party hearing (involving only Faith Center and SBH) will serve further to expedite the resolution of this proceeding which has gone unresolved for far too long.

WHEREFORE, for the reasons stated, Shurberg Broadcasting of Hartford, Inc. hereby petitions the Commission to accept its above-captioned application for a construction permit to utilize the facilities currently used in the operation of Station WHCT-TV, Hartford, and immediately to take all steps

necessary and appropriate to designate the two above-captioned applications for an expedited comparative renewal proceeding.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

Flood, Bechtel, Ward and Cole
1000 Potomac Street, N.W.
Suite 402
Washington, D.C. 20007
(202) 298-6910

Counsel for Shurberg Broadcasting
of Hartford, Inc.

April 19, 1984

Attachment A

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

IN REPLY REFER TO:

April 6, 1984

Harry F. Cole, Esquire
Flood, Bechtel, Ward and Cole
1000 Potomac Street, N.W.
Suite 402
Washington, D.C. 20007

Dear Mr. Cole:

This is in reference to the petition for reconsideration and the petition for stay, which you filed January 3, 1984 on behalf of Shurberg Broadcasting of Hartford, Inc. (SBH).

As you are aware, in November of 1980, the license renewal application filed by Faith Center, Inc. (Faith Center) for Station WHCT-TV, Hartford, Connecticut was designated for an evidentiary hearing in BC Docket No. 80-730 on various basic qualification issues regarding the licensee. To date, however, no evidentiary hearing sessions have been held since Faith Center has twice sought to assign the WHCT-TV license to a qualified minority buyer, pursuant to the Commission's distress sale policy. Faith Center's latest attempt was approved on September 29, 1983, when the Commission granted its petition for special relief, requesting authority to assign the WHCT-TV license to Interstate Media Corporation (IMC). Faith Center, Inc., 54 RR 2d 1286. The Commission's approval, however, was "subject to the conditions that IMC is found fully qualified to be a Commission licensee as a result of the Mass Media Bureau's review of the assignment application, and that the contemplated assignment is in fact consummated within 90 days of the Bureau's grant of the assignment application becoming final." 1/ Id. at 1287. Thereafter, the Mass Media Bureau, acting pursuant to delegated authority, found the applicants qualified and granted the WHCT-TV assignment application, subject to the '90-day consummation condition earlier specified by the Commission. Faith Center, Inc., 55 RR 2d 41 (1983). On January 3, 1984, however, SBH petitioned the Mass Media Bureau to stay the effectiveness of this action and to reconsider its finding as to the qualifications of IMC.

Please be advised that on February 15, 1984, counsel for IMC informed the Mass Media Bureau that with the withdrawal of financial support from certain entities upon which it was relying, IMC could no longer certify that it was financially qualified to consummate the instant transaction and initially operate WHCT-TV. IMC also indicated that it would attempt to obtain

1/ At the same time, the Commission granted the WHCT-TV renewal application and terminated the renewal proceeding, "subject to" the aforementioned conditions. "Should either of these conditions not be met," stated the Commission, "this proceeding will return to its status prior to the filing of Faith's Petition for Special Relief." 54 RR 2d at 1287.