

DOCKET FILE COPY ORIGINAL

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

In re Applications of)
)
Martin W. Hoffman, Trustee-in-Bankruptcy)
for Astroline Communications Company)
Limited Partnership)
)
For Renewal of License of)
Station WHCT-TV, Hartford, Connecticut)
)
and)
)
Shurberg Broadcasting of Hartford)
)
For Construction Permit for a New)
Television Station to Operate on)
Channel 18, Hartford, Connecticut)

MM Docket No. 97-128

File No. BRCT-881201LG

RECEIVED
JUN 23 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

File No. BPCT-831202KF

To: The Commission

MASS MEDIA BUREAU'S
REPLY TO CONSOLIDATED EXCEPTIONS AND BRIEF OF
SHURBERG BROADCASTING OF HARTFORD

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau

Norman Goldstein
Chief, Complaints and Political Programming Branch

James W. Shook

Catherine M. Withers
Attorneys
Mass Media Bureau

Federal Communications Commission
445 Twelfth Street, S.W., Room 3-B443
Washington, D.C. 20554
(202) 418-1430
June 23, 1999

No. of Copies rec'd 0414
List ABCDE

SUMMARY

At issue in this case is whether or not Astroline Communications Company Limited Partnership ("ACCLP") made misrepresentations to the Commission and the federal courts concerning its status as a minority controlled entity. The Initial Decision of Administrative Law Judge John M. Frysiak correctly concluded that ACCLP did not misrepresent its status.

Shurberg argues that the Presiding Judge did not apply the Commission's governing standards relative to limited partnerships and that the Judge ignored "overwhelming evidence" establishing that ACCLP's structure and operation were inconsistent with such standards. In addition, Shurberg argues that ACCLP intentionally withheld information from the Commission which would have established that ACCLP was not a minority owned and minority controlled limited partnership.

In support of its position, Shurberg points to (1) Ramirez' small capital contribution to the partnership; (2) ACCLP's structure and partnership agreements; (3) ACCLP's tax returns; and (4) the involvement of the limited partners in station affairs. However, the issue in this case is solely whether or not ACCLP misrepresented its ownership structure or Ramirez' control of Station WHCT-TV. By definition, misrepresentation is a false statement of fact made with an intent to deceive. The record lacks evidence of any intent to deceive the Commission or federal courts regarding ACCLP's status as a minority controlled limited partnership. Moreover, the cases Shurberg cites in support of its conclusions do not involve the Commission's minority distress sale policy and can be distinguished from this case.

TABLE OF CONTENTS

Table of Authorities.	iv
I. Preliminary Statement.	1
II. Counterstatement of the Case.	1
III. Question Presented.	2
IV. Argument	2
A. Contributions to the Partnership	3
B. Structure of ACCLP/Partnership Agreements.	6
C. ACCLP Tax Returns.	9
D. Control of Station WHCT-TV.	10
V. Conclusions.	12

Table of Authorities

This Case	<u>Page</u>
<u>Hoffman, Martin W., Memorandum Opinion and Order & Hearing Designation Order,</u> 12 FCC Rcd 5224 (1997)	1
<u>Initial Decision of Administrative Law Judge John M. Frysiak,</u> FCC 99D-1, released April 16, 1999.	Passim
<u>Order,</u> FCC 99I-14, released June 7, 1999	1
 Case Precedent	
<u>Abacus Broadcasting Corp.,</u> 8 FCC Rcd 5110 (Rev. Bd. 1993)	6
<u>Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting,</u> 92 FCC 2d 849 (1982)	10
<u>Corporate Ownership Reporting and Disclosure by Broadcast Licensees,</u> 58 RR 2d 604 (1985)	6
<u>Daytona Broadcasting,</u> 103 FCC 2d 931 (1986)	6
<u>Fox River Broadcasting, Inc.,</u> 93 FCC 2d 127 (1983)	5
<u>Fox Television Stations, Inc.,</u> 10 FCC Rcd 8452 (1995), <u>aff'd,</u> 11 FCC Rcd 7773 (1996)	6, 8
<u>Independent Masters, Ltd.,</u> 104 FCC 2d 178 (Rev. Bd. 1986)	6
<u>Mableton Broadcasting Company, Inc.,</u> 5 FCC Rcd 6314, 6317 (Rev. Bd. 1990)	5
<u>Pacific Television, Ltd.</u> 2 FCC Rcd 1101 (Rev. Bd. 1987)	6

Request for Declaratory Ruling Concerning the Citizenship Requirements of Sections 310(b)(3) and (4) of the Communications Act of 1934,
103 FCC 2d 511 (1985), recon. granted in part and denied in part,
1 FCC Rcd 12 (1986) 3, 4, 5

Religious Broadcasting Network
3 FCC Rcd 4085 (Rev. Bd. 1988) 6

Roy M. Speer,
11 FCC Rcd 18393 (1996) 5

Southwest Texas Broadcasting Council,
85 FCC 2d 713 (1981) 10

**MASS MEDIA BUREAU'S
REPLY TO CONSOLIDATED EXCEPTIONS AND BRIEF
OF SHURBERG BROADCASTING OF HARTFORD**

I. Preliminary Statement

1. The Mass Media Bureau, pursuant to Sections 1.276 and 1.277 of the Commission's Rules, hereby replies to the exceptions to the Initial Decision of Administrative Law Judge John M. Frysiak, FCC 99D-1, released April 16, 1999 ("ID"), filed by Shurberg Broadcasting of Hartford ("Shurberg").¹ The failure of the Bureau to comment on any particular exception or argument contained in Shurberg's exceptions should not be construed as a concession by the Bureau as to the correctness or accuracy of that exception or argument.

II. Counterstatement of the Case

2. In Hoffman, Martin W., Memorandum Opinion and Order & Hearing Designation Order, 12 FCC Rcd 5224 (1997) ("HDO"), the Commission designated for hearing the application of Martin W. Hoffman, Trustee-in-Bankruptcy ("Hoffman" or "Trustee") for Astroline Communications Company Limited Partnership ("ACCLP" or "Astroline"), for renewal of license of Station WHCT-TV, Channel 18, Hartford, Connecticut, upon the following issues:

- (1) To determine whether Astroline misrepresented facts to the Commission and the Federal Courts, in connection with statements it made concerning its status as a minority controlled entity;
- (2) To determine, in light of the evidence adduced under the preceding issue, whether the public interest, convenience and necessity would be served by a grant of the renewal application filed by the Trustee (File No. BRCT-881201LG).

12 FCC Rcd at 5231.

¹ The Commission granted an extension of time until June 23, 1999, in which to file replies to exceptions. Order, FCC 99I-14, released June 7, 1999.

3. The HDO made Shurberg, a petitioner against the WHCT-TV renewal application, a party to the proceeding. 12 FCC Rcd at 5232. Petitions for Leave to Intervene were filed by Richard P. Ramirez ("Ramirez"), a general partner of ACCLP, and Two If By Sea Broadcasting ("TIBS"), which has an application pending for assignment of Station WHCT-TV (File No. BALCT-930922KE). Both petitions for leave to intervene were granted.

4. The ID correctly concluded that ACCLP did not misrepresent facts to the Commission and the federal courts in connection with statements it made concerning its status as a minority controlled entity. Accordingly, the presiding administrative law judge (the "ALJ") ruled that the public interest, convenience and necessity would be served by grant of the renewal application filed by Trustee-in-Bankruptcy for ACCLP (File No. BRCT-881201LG). ID at ¶ 79.

III. Question Presented

Whether the ID erred in concluding that ACCLP did not misrepresent its status as a minority controlled limited partnership.

IV. Argument

The ALJ Correctly Concluded that ACCLP Did Not Misrepresent its Status as a Minority Controlled Limited Partnership.

5. The ID concluded that "Ramirez controlled ACCLP and that there is no evidence of misrepresentation in this regard." ID at ¶ 73. Shurberg argues that the ALJ did not apply the Commission's governing standards relative to limited partnerships. Moreover, Shurberg alleges that the ALJ ignored overwhelming evidence establishing that ACCLP's structure and operations were inconsistent with the Commission's governing standards relative to limited

partnerships. Finally, Shurberg asserts that ACCLP intentionally withheld information from the Commission which would have established ACCLP's non-compliance with limited partnership requirements.

6. In support of its position, Shurberg points to: (1) Ramirez' small capital contribution to the partnership; (2) the structure of ACCLP and its partnership agreements, particularly ACCLP's Amended and Restated Partnership Agreement, effective December 31, 1985 (the "Amended and Restated Agreement"); (3) ACCLP's tax returns; and (4) the involvement of the limited partners in ACCLP and station affairs. As set forth below, Shurberg's arguments are not supported by the record or by case precedent.

A. Contributions to the Partnership

7. Shurberg argues that the ALJ erroneously concluded that "at all times Ramirez had at least twenty-one percent of the equity" in ACCLP. ID. at ¶ 77. Citing to Request for Declaratory Ruling Concerning the Citizenship Requirements of Sections 310(b)(3) and (4) of the Communications Act of 1934, 103 FCC 2d 511 (1985) ("Citizenship Requirements"), recon. granted in part and denied in part, 1 FCC Rcd 12 (1986) ("Citizenship Requirements Reconsideration"), Shurberg claims that Ramirez' equity interest in ACCLP must be calculated solely on the basis of his capital contribution to the partnership and that his sweat equity contribution may not be considered.² Shurberg contends that the ALJ incorrectly

² Shurberg also questions whether or not Ramirez really gained an ownership interest in return for his sweat equity since the limited partnership agreements do not contain any reference to sweat equity contribution. This is a red herring. Both the original and amended ACCLP partnership agreements contained a specific schedule stating that Ramirez had a twenty-one percent partnership interest. Trustee/Ramirez/TIBS Ex. 2, Appendix E, pp. 29, 32, and Appendix F, p. 39; Shurberg Ex. 2, p. 29, Ex. 7, p 3, Ex. 9, p. 45. Moreover, certified public accountant Kent Davenport testified that sweat equity contribution is an

concluded that Citizenship Requirements applies only in an alien ownership analysis and is not relevant in a minority distress sale context. ID at ¶ 63. Shurberg argues that there is no reason that the Commission would adopt different standards for calculating ownership of a limited partnership in different regulatory contexts.

8. Shurberg has cited no case in which the Commission applied Citizenship Requirements in the context of a minority distress sale. Moreover, contrary to Shurberg's assertions, the Commission has held that different standards may apply in different contexts. In fact, the Commission specifically stated that "attribution standards and alien ownership provisions differ in scope and effect." Citizenship Requirements, 103 FCC 2d at 524, n. 56. In addition, the Commission recognized that the Commission has "no opportunity for discretion" in a 310(b)(3) alien ownership analysis and that "the provisions pertaining to alien interests are clearly intended to apply to many cases that do not constitute de jure or de facto control under Section 310(d)" of the Communications Act. Citizenship Requirements, 103 FCC 2d at 517-18 and n. 32.

9. In any event, contrary to Shurberg's contention, the Commission has not, even in an alien ownership analysis, completely rejected the measurement of ownership by sweat equity. Rather, the Commission has specifically recognized that equity capital contributions may not be the only way to measure limited partnership ownership interests and that sweat equity may be an alternative measurement. Citizenship Requirements Reconsideration, 1 FCC

extremely common practice, and that partnership agreements often will not contain a specific reference to "sweat equity." Tr. 436, 445-46. Finally, Ramirez repeatedly testified as to his understanding that the bulk of his contribution to the partnership was in sweat equity. Tr. 223-24, 228, 237-38.

Rcd at 14. See Fox Television Stations, Inc., 10 FCC Rcd 8452, 8474 (1995), aff'd, 11 FCC Rcd 7773 (1996) (equity capital contributions may not fairly measure the true extent of an ownership interest, including sweat equity, and a case-by-case analysis is appropriate in such circumstances).³

10. More importantly, at issue in this proceeding is not whether or not Ramirez had a twenty-one percent equity interest in ACCLP, but whether or not ACCLP engaged in misrepresentation when it reported to the Commission and the federal courts that Ramirez had such an interest. A misrepresentation is a material false statement of fact made with an intent to deceive the Commission. Fox River Broadcasting, Inc., 93 FCC 2d 127, 129 (1983). See also Roy M. Speer, 11 FCC Rcd 18393, 18421 (1996) ("misrepresentation is characterized by making a material false statement to the Commission"). Shurberg would have us believe that ACCLP represented that Ramirez held a twenty-one percent ownership interest, even though it could not validly have claimed such an interest following the release of Citizenship Requirements, and that it knew its representations were false. However, as discussed above, case precedent does not support a finding that ACCLP's representations were false. Further, there is no evidence in the record that ACCLP was aware of the Commission's ruling in Citizenship Requirements or that it ever contemplated the possible impact of that ruling upon its representations to the Commission and the courts. Thus, there is no evidence of any intent to deceive the Commission in this regard. Before a licensee may be found to have withheld information, it must be shown that the licensee "knew that the information was relevant and

³ See also Mableton Broadcasting Company, Inc., 5 FCC Rcd 6314, 6317 (Rev. Bd. 1990) (the lack of financial contribution by a general partner is not, by itself, a dispositive factor as to the bona fides of an ownership structure).

intended to withhold it." Fox Television Stations, Inc., 10 FCC Rcd at 8478, citing Abacus Broadcasting Corp., 8 FCC Rcd 5110, 5112 (Rev. Bd. 1993).

B. Structure of ACCLP/Partnership Agreements

11. Citing to Corporate Ownership Reporting and Disclosure by Broadcast Licensees, 58 RR 2d 604 (1985) ("Ownership Attribution Reconsideration"), Shurberg argues that in order to have "complete control" sufficient to satisfy the minority distress sale requirements, limited partners must be prohibited from having any material involvement in the partnership's day-to-day media activities and such prohibitions must be included in the partnership agreement.⁴ Shurberg asserts that the ID erred in not applying Ownership Attribution Reconsideration and other subsequent decisions relative to limited partnerships to ACCLP. This is particularly true, Shurberg contends, because ACCLP amended its agreement effective as of December 31, 1985, after the Commission set out its limited partnership requirements in Ownership Attribution Reconsideration.

12. Shurberg is again attempting to cloud the issue. The issue in this case is misrepresentation and ACCLP never represented that it was an insulated limited partnership.

⁴ Shurberg also challenges the ID's reliance on Daytona Broadcasting Co., Inc., 103 FCC 2d 931 (1986) and Independent Masters, Ltd., 104 FCC 2d 178 (Rev. Bd. 1986) for the proposition that the requirements set forth in Ownership Attribution Reconsideration would not be applied retroactively to partnerships formed prior to June 1985. In support of its position, Shurberg cites to Pacific Television, Ltd., 2 FCC Rcd 1101 (Rev. Bd. 1987) ("Pacific") and Religious Broadcasting Network, 3 FCC Rcd 4085 (Rev. Bd. 1988) ("Religious"). Contrary to Shurberg's assertions, however, both Pacific and Religious are inapposite. In fact, Religious actually supports the ID, in that it holds that the Commission would not retroactively demand literal compliance with the strictures of its Ownership Attribution Reconsideration for partnerships formed prior to June 1985. Thus, the Review Board found that the absence of specific contractual clauses articulated in the Ownership Attribution Reconsideration was not determinative. Religious, 3 FCC Rcd at 4095-96.

In fact, the structure of the partnership, as expressly approved by the Commission in 1984, in and of itself precluded ACCLP from being considered an insulated limited partnership.⁵

Accordingly, the cases which Shurberg cites regarding the requirements for establishing an insulated limited partnership are inapposite.

13. Shurberg appears to be arguing that once ACCLP amended its partnership agreement it was obligated to report to the Commission and the courts that it was still a non-insulated limited partnership. This is absurd. ACCLP was a non-insulated limited partnership when it was formed in 1984 and remained a non-insulated limited partnership following the amendment to its partnership agreement in 1985.⁶

14. Shurberg spends much time citing to documents which, it contends, demonstrate that ACCLP knew that as a non-insulated limited partnership it was not in compliance with the minority distress sale requirements. Shurberg contends that ACCLP intentionally did not file the Amended and Restated Agreement because of a concern that the profit and loss reallocation in that agreement negated its representations regarding Ramirez' ownership

⁵ WHCT Management, Inc., one of the two general partners of ACCLP, was wholly owned by Astroline Company which was also a limited partner of ACCLP. Moreover, Fred Boling, a non-minority, who served as a general and limited partner of Astroline Company, was also President of WHCT Management, Inc. Trustee/Ramirez/TIBS Ex. 2, pp. 9 and 20-21, Appendix A, pp. 1-2, and Appendix B, pp. 3-4, 41 and 49; Shurberg Ex. 2, p. 29, Ex. 14, pp. 1-2, and Ex. 15, pp. 7-8, 45-46, and 53.

⁶ Shurberg insinuates that Ramirez had no role in the preparation of the Amended and Restated Agreement and that adoption of that agreement was solely at Boling's direction. Shurberg Exceptions at 11-12. The record, however, does not support Shurberg's position. It was Arthur Anderson which recommended changes to the partnership. Trustee/Ramirez/TIBS Ex. 2, pp. 22-23 and Ex. 13; Shurberg Exs. 38, 39 and 40; Tr. 435-36, 459-60. Moreover, the record reflects that it was at Ramirez' insistence that the Amended and Restated Agreement contained a special allocation for the general partners. Tr. 392-93.

interest in ACCLP and because of the absence of insulation terms in that agreement.⁷

Moreover, Shurberg asserts that on August 3, 1987, ACCLP filed a letter instead of an ownership report because it did not want to respond to the question on the report regarding limited partner insulation and did not want to reference or file the Amended and Restated Agreement.

15. Shurberg's conclusions in this regard are not supported by the record. Although there is evidence that the partnership was concerned as to how Shurberg itself would react to an amendment of the partnership agreement (Shurberg Ex. 37, p. 4, and Ex. 39, p. 7), there is nothing in the record to indicate that the partnership believed the agreement deviated from ACCLP's representations in connection with the minority distress sale policy. Moreover, both Ramirez and Thomas Hart, who served as communications counsel for ACCLP, testified at hearing that there was no conscious decision not to report the reallocation or file the Amended and Restated Agreement. Trustee/Ramirez/TIBS Ex. 2, pp. 24-25; Tr. 331-36, 654-55.⁸ As discussed in paragraph 10 above, a licensee may not be held accountable for withholding information if it did not intend to withhold that information. Fox Television Stations, Inc., 10 FCC Rcd at 8478.

⁷ The Commission's ownership files for Station WHCT-TV are incomplete. Trustee/Ramirez/TIBS Ex. 5. Thus, although the record does not reveal that a copy of the Amended and Restated Agreement was ever filed with the Commission (Tr. 330, 346; Shurberg. Ex. 22), it cannot be conclusively determined that ACCLP did not file a copy of the agreement.

⁸ This testimony is credible, particularly since the Commission suspended the filing of annual ownership reports from 1985 until 1987. Trustee/Ramirez/TIBS Ex. 2, p. 24 and Appendix H; Shurberg Ex. 74; Tr. 337-38, 586-87. Moreover, when ACCLP next filed a full ownership report, on December 7, 1988, it specifically referenced the Amended and Restated Agreement. Trustee/Ramirez/TIBS Ex. 2, Appendix D, p. 123.

16. It is true that ACCLP was concerned about its status as a non-insulated limited partnership and eventually amended its structure to comply with the insulation requirements. However, Ramirez specifically testified at hearing that while he was concerned about the insulation requirements, his concern arose because of the possibility of a comparative renewal hearing wherein integration credit would be considered, not because of a concern that ACCLP's status as an entity that acquired a station pursuant to the Commission's minority distress sale policy was in jeopardy. Tr. 356-73, 418; Trustee/Ramirez/TIBS Ex. 2, p. 25. In light of Ramirez' clear and unrefuted testimony, Shurberg's claim that ACCLP was in fact concerned with its representations in the minority distress sale context is speculative. Moreover, while ACCLP's August 3, 1987, letter certainly did not answer all the questions contained in an ownership report, it did not misrepresent the information contained therein.

C. ACCLP Tax Returns

17. Shurberg contends that the information contained on ACCLP's 1985, 1986, and 1987 tax returns "accurately reflected that Ramirez's equity interest had, as a result of the revised partnership agreement, decreased to approximately 0.7%." Shurberg Exceptions at 14; Shurberg Exs. 26, 27, and 28. Shurberg asserts that to read the tax returns otherwise is "inconsistent with the evidence, and with common sense." Shurberg Exceptions at 14.

18. In reaching this "common sense" conclusion, Shurberg has completely ignored the testimony of Ramirez and ACCLP's accountant, Kent Davenport from Arthur Andersen. Davenport testified, and the audited financial statements for ACCLP prepared by Arthur Andersen confirmed, that Ramirez' twenty-one percent ownership interest did not change between 1984 and late 1988. Trustee/Ramirez/TIBS Exs. 7, 8, 9, and 10; Tr. 381-85, 439-44.

Davenport, who prepared the tax returns at issue, specifically stated that the ownership of capital line entry on Schedule K-1 to ACCLP's tax returns did not refer to equity or voting interest in the partnership. Rather, he explained that it reflected a commonly used practice of reallocating profits and losses among the partners for tax purposes until capital contributions were recovered, so that the limited partners would be able to deduct the substantial losses they were incurring. Thus, contrary to Shurberg's speculations, the less than one percent interest reported on ACCLP's tax forms does not mean that Ramirez had a less than one percent interest in the partnership. It simply related to profit and loss allocations if the partnership were to be dissolved as of that moment. Tr. 381-85; 439-44.

D. Control of Station WHCT-TV

19. Shurberg contends that the ALJ did not follow established Commission precedent in analyzing Ramirez' control of Station WHCT-TV and that the ALJ improperly relied on Southwest Texas Broadcasting Council, 85 FCC 2d 713, 715 (1981). There is simply no support for Shurberg's position. In fact, the Commission specifically cited Southwest Texas Broadcasting Council in its 1982 Minority Ownership Policy Statement which set out the requirements for limited partners under the minority distress sale policy. Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, 92 FCC 2d 849, 855, n. 29 (1982).

20. Shurberg further alleges that the limited partners' involvement with the station demonstrates that Ramirez was not in control of Station WHCT-TV. In particular, it argues that the limited partners, and not Ramirez, were in control of station finances. However, all station expenses were incurred at the direction of Ramirez or his staff and Ramirez could not

recall any instance where his payment requests were denied. Tr. 415; Trustee/Ramirez/TIBS Ex. 2, p. 18. Moreover, Ramirez and his staff were solely responsible for preparing the station's budget and Ramirez never changed an operating budget to accommodate the limited partners. Tr. 410-11; Shurberg Exs. 108 and 109.

21. Shurberg attempts to second-guess Ramirez' recollection, speculating that the fact that payment requests began to "stack up" and that Ramirez had to "work with Fred [Boling] to determine the priority of that month's allocation," indicate that the limited partners controlled payment of station expenses. Shurberg Exceptions at 15, citing ID at ¶ 35 and Tr. 282. The record does not support Shurberg's interpretation. Rather, the record reflects that until late 1987 or early 1988, checks were routinely issued pursuant to Ramirez' request without any discussion between Ramirez and the limited partners. In late 1987 or early 1988, "when things got crunched," payables did begin to "stack up." However, this was not because of any dispute over Ramirez' requests for payment but, rather, because, by that time, the partnership was short on funds. Moreover, even then, Ramirez testified that he continued to manage the station's payables and that Boling simply provided the money. Tr. 281-85.⁹

22. The record demonstrates that Ramirez reasonably believed that he was in control of the station. Additionally, the record lacks evidence of any intent by ACCLP to deceive the Commission and federal courts regarding Ramirez' control of the station. Moreover, although

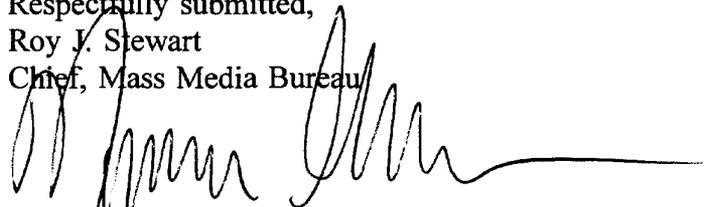
⁹ It was originally anticipated that after the initial capital contributions of the partners, funding would be obtained by bank loan. However, because of the ongoing litigation, neither a bank loan nor any other outside funding was ever obtained. Trustee/Ramirez/TIBS Ex. 2, pp. 13-14. Moreover, there were no station revenues until late 1985 and, even then, station expenses exceeded revenues until the partnership went into bankruptcy in 1988. Thus, ACCLP was almost totally dependent upon the limited partners for funding. Trustee/Ramirez/TIBS Ex. 2, p. 18; Tr. 320-21.

the limited partners certainly were not insulated from station activities as the Commission has defined insulation, ACCLP never claimed the limited partners were insulated and, accordingly, it cannot be accused of misrepresentation in this regard.

V. Conclusions

23. The Presiding Judge correctly determined that ACCLP did not misrepresent facts to the Commission and the federal courts concerning its status as a minority controlled entity. Accordingly, the Bureau submits that the ID should be affirmed, except as noted in its Exceptions filed May 17, 1999.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Norman Goldstein
Chief, Complaints and Political Programming Branch



James W. Shook



Catherine M. Withers
Attorneys
Mass Media Bureau

Federal Communications Commission
445 Twelfth Street, S.W., Room 3-B443
Washington, D.C. 20554
(202) 418-1430
June 23, 1999

CERTIFICATE OF SERVICE

I, Talya Lewis, a secretary in the Complaints and Political Programming Branch, Mass Media Bureau, hereby certifies that she has on this 23rd day of June, 1999, sent by regular first class U.S. mail, copies of the foregoing "Mass Media Bureau's Reply to Consolidated Exceptions and Brief of Shurberg Broadcasting of Hartford" to:

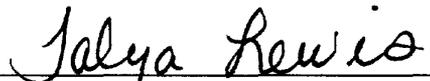
The Honorable John M. Frysiak (via interoffice mail)
Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W., Room 1-C861
Washington, D.C. 20554

Harry F. Cole, Esq.
Bechtel & Cole, Chartered
1901 L Street, N.W., Suite 250
Washington, D.C. 20036

Peter D. O'Connell, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Kathryn R. Schmeltzer, Esq.
Fisher, Wayland, Cooper, Leader & Zaragoza, L.L.P.
2001 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20006-1851

Howard A. Topel, Esq.
Fleischman and Walsh, L.L.P.
1400 16th Street, N.W., Suite 600
Washington, D.C. 20036



Talya Lewis