

WINS

7 central park west

new york 23, n. y. • jackson 2-7000

Gotham broadcasting corporation

NOT FOR PUBLIC INSPECTION

August 5, 1960

RECEIVED

AUG 15 1960

Mr. Ben F. Waple
Acting Secretary
Federal Communications Commission
Washington, 25, D. C.

Complaints & Compliance
Division

Re: Application for Renewal of License
on Radio Station WINS

Dear Mr. Waple:

It has been indicated that the renewal of the license of Station WINS as well as certain other New York stations has been held in abeyance because of questions relating to so-called payola.

In the case of WINS, the New York Grand Jury returned indictments against a Mr. Mel Leeds and a Mr. Ronnie Granger, both former employees of the station. The indictments alleged violations of the Penal Laws Section 430, the Commercial Bribery Statute of New York State.

As we believe can be amply demonstrated, the very fact that these indictments have been returned constitutes strong evidence of the lack of knowledge and therefore responsibility on the part of the licensee of Station WINS.

I am therefore writing this letter for inclusion in the file in connection with our renewal application to set forth more formally our position in regard to this matter. You will find enclosed a copy of Sub-section 1 of the New York Commercial Bribery Statute under which these two men have been indicted. The underlined portions of the Statute constitute the precise clause of the law which it is claimed they have violated. I believe it will be clear to the Commission that no offense is committed under this act if payments are accepted by an employee from outside sources with the knowledge and consent of his employer. The fact that the District Attorney's office, after a very thorough investigation, has recommended that these men be indicted is clear evidence that they have concluded that the conduct alleged was without the knowledge or consent of the management of the station.

It has been indicated that it might be helpful if confirmation of our understanding of the significance of the indictment could be obtained from the office of the District Attorney. I am enclosing herewith a copy of a letter to Mr. Joseph Stone, Assistant District Attorney for the County of New York, which I

believe is self explanatory. I think it will be obvious that it is not customary for the office to provide explanations of this character, but I am hopeful that because of the responsibilities of the Commission in this field, Mr. Stone may be willing to supply you with a letter with regard to this point.

As further evidence that the alleged conduct of these men while employed by the station should not be charged to the management of the licensee corporation, I believe you will be interested in action which was taken by us with regard to Ronnie Granger long before the House Committee on Legislative Oversight began its hearings on payola, and in fact before there had been any substantial public discussion of this subject. Sometime in May or June of 1959, we received an indication that Mr. Granger may have accepted payments from a record supplier. We promptly undertook an investigation of the matter but were unable to substantiate this charge in any degree which would have justified the man's discharge. We nonetheless concluded that it would be sound policy to transfer him to another phase of the operation in the station where it would be absolutely impossible for him to influence music policy. Effective June 22, 1959, Mr. Granger was transferred to News Operations where he served very briefly, resigning on July 8, 1959. I submit that the action taken by the station with regard to this matter long before public attention had been directed toward payola is evidence that the Licensee had never knowingly acquiesced in any of the practices objected to. In fact, this should make it clear that the management of the station reacted promptly and effectively upon receipt of the first report of such conduct on the part of an employee of the station.

We believe that the situation in New York is unique, by virtue of the fact that this State has on its books a commercial bribery statute applicable to conduct of this kind. The District Attorney's office has conducted a very careful and complete investigation of all suggestions that personnel of stations in this area may have been involved in violations of the act. We have cooperated fully with that investigation insofar as it involves employees of this station. As I have indicated above, we feel very strongly that the District Attorney would not have recommended the indictment of these individuals, nor would the Grand Jury have concurred, unless they had concluded that the alleged payments received by these men had been without the knowledge and consent of the management of this station. We believe this also applies to the employees of other New York stations who have been similarly indicted. It appears to me that, in effect, the local District Attorney's office has conducted an investigation of these matters locally which perhaps obviates any further inquiry on the part of the Commission itself. We would, of course, be glad to cooperate in further investigation by the Commission staff if this were felt desirable. However, we believe that this would simply duplicate work already done and are sure that the results of such an investigation would be identical with those already reached by the local law enforcement agencies.

*See attached letter of February 5, 1960, filed that date with the Commission in reply to the Commission's inquiry of December 2, 1959 to all station licensees. The dates "July and August, 1959", referred to on pages 1 and 4 of the letter were recently determined to have been "May and June 1959", specifically May 19, 1959.

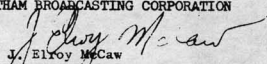
Mr. Ben F. Waple

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August 6, 1960

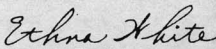
For the reasons set forth above, it is my sincere hope that the Commission will conclude that the pendency of indictment against Messrs. Leeds and Granger provides no basis whatsoever for delay in acting upon our pending application of the renewal of our station license.

Very truly yours,
GOTHAM BROADCASTING CORPORATION


BY J. Elroy McCaw
President

JEM/a

Subscribed and sworn to before me this ninth day of August, 1960


Ethna White
Ethna White
Notary Public
District of Columbia

My commission expires February 14, 1961