

# WINS

28 west 44th street

new york 36, n. y. • bryant 9-6000

Gotham broadcasting corporation

August 10, 1954.

MR. ALAN FREED  
36-13 Ingleside Road  
Baker Heights  
Cleveland 22, Ohio

Dear Mr. Freed:

This is to confirm the agreement between us as WINS and Artist whereby you are to present radio broadcasts exclusively at and for Radio Station WINS in the City of New York for a period of ten years commencing September 8, 1954.

Performance of this agreement will continue for one year from the above-mentioned date. WINS has the exclusive option to terminate this agreement by giving notice to Artist of such termination on or before sixty days prior to September 8, 1955, and to exercise annually thereafter its exclusive option to terminate this agreement by giving notice thereof on or before sixty days prior to September 8 of each succeeding year up to and including sixty days prior to September 8, 1963.

Any and all notices provided by this contract to be given by either party to the other shall be deemed given when delivered personally to the other party or when deposited in the United States mail addressed to the other party at the addresses set forth at the beginning of this letter or at the last known address of the other party. For the purpose of

this paragraph, any officer of WINS or any other person employed by WINS in an executive capacity shall be deemed authorized to receive such notice.

During the entire life of this agreement, you are to perform thereunder as Artist by giving broadcasts for twenty-four hours during every week, except for the annual periods of a two weeks' vacation; during which periods, Artist at his own expense is to supply and pay for the services of acceptable Talent in substitution for his own services. The time of Artist's vacation is to be agreeable to WINS.

In consideration of the extraordinary and unique ability of Artist, WINS promises and undertakes to pay to him for his giving of the broadcasts, twenty-five (25%) per cent. of the net income derived by WINS from the performance by Artist of the aforesaid broadcasts; this net income to be determined by, and subsequent to, the deduction of the total of the applicable discounts and agency commissions; and WINS guarantees to Artist, as further consideration for his performance of this agreement, the annual payment of Fifteen Thousand (\$15,000) Dollars against the twenty-five (25%) per cent. share of Artist to the net income, computed as aforesaid.

WINS has the right to approve or disapprove in advance each of the programs that Artist will give in the performance of this agreement; and the giving of outside broadcast work by Artist will remain at all times subject

to the prior approval in writing by WINS.

WINS will supply Artist with an office and with telephone service.

Artist will supply both office assistance and production help at his own expense.

WINS will afford its facilities for promotion of dances by Artist during the life of this agreement.

In consideration of the affording by WINS as aforesaid of these facilities to Artist, Artist will pay to WINS

% of the net income, computed as hereinabove set forth, received by Artist from these promotions.

As to the GENERAL CONDITIONS:

A. With respect to Use of Name and Likeness:

Artist agrees that, for the period commencing with the date of this Contract and ending three (3) months after the termination of this Contract, or any renewal thereof, regardless of the cause of such termination, WINS and the persons, firms or corporations authorized by WINS shall have the right to make or cause to have made likenesses, portraits, pictures, sketches and caricatures of the Artist, and the right to use such likenesses, portraits, pictures, sketches and caricatures, as well as the names, pseudonym and pseudonyms of Artist, it being understood that said use shall be for purposes incidental to the broadcasting and other activities of WINS and such authorized persons, firms and corporations and the sponsors of programs broadcast by WINS, or which use transcriptions owned or sold by WINS. The use of any one or more of the foregoing may, at the option of WINS or those authorized by WINS, be in conjunction with the name, names, pseudonym, pseudonyms, likenesses, portraits, pictures, sketches and/or caricatures of other persons or objects and may be with or without commercial endorsements of products or firms.

B. With respect to Rehearsals and Incidental Duties:

Artist agrees to take part in all scheduled

rehearsals and to perform all reasonable duties in connection with the aforementioned services as may be requested from time to time by WINS, including but not limited to duties related to the preparation and promotion of programs and transcriptions, and the writing, direction and promotion of programs on which he appears as featured artist.

C. With respect to Proprietary Interest:

(1) Artist agrees that he shall not obtain any right, title or interest in or to any fictitious name, character, program title, theme song, script idea or any material (whether or not originated or suggested by Artist) which Artist may use or which may be used on programs, productions or transcriptions in which Artist renders services during the term of this contract, except as set forth in paragraph (2) of this Section C, it being understood that all such right, title and interest in and to the foregoing shall rest exclusively in WINS or the persons, firms or corporations to whom WINS may assign such right, title or interest; it being further understood that WINS or such assigns may make any use it or they desire of any or all of the foregoing, both during the term of this contract and thereafter.

(2) Artist shall retain the proprietary right in and to all fictitious names, characters and materials with which he has become identified prior to the commencement of the term of this contract; provided, however, that said names, characters or material are identified in a written memorandum signed by the Artist and filed with WINS on or before the commencement of the term; and provided further that WINS, during the term of the contract and any renewal thereof, shall have a non-exclusive license to use and to permit others to use the same or any part thereof. If, at the termination of this contract or any renewal thereof, irrespective of the cause of such termination, WINS is a party to a contract for the performance of which the use of said fictitious names, character or material is necessary, contemplated or appropriate, WINS shall have the right during the life of such contracts to continue to use or permit the use in connection therewith of said fictitious names, characters or material, provided said use shall not extend more than three (3) months after the termination of this contract or any extension or renewal thereof.

D. With respect to Indemnification:

Artist agrees not to use any material in the performance of his services hereunder without first clearing

the same with the proper WINS supervisory personnel unless such material is furnished to Artist by WINS or through news service to which WINS subscribes. Artist further agrees to protect and indemnify WINS, its agents, servants and employees and other persons, firms and corporations with whom WINS may enter into contract involving Artist's services against any and all loss, cost, liability, damage and expense occasioned by or in connection with any claim, demand, action or cause of action asserted or instituted by any other person, firm or corporation relating to the violation or infringement of the rights of such other persons, firm or corporation in connection with Artist's services or performances or in connection with such names, characters and material as are described in Section C (2) hereof. This warranty, however, shall not extend to claims, demands, actions and causes of action growing out of the violation or infringement of the rights of other persons, firms or corporations occasioned by the use of (1) news material furnished to Artist from news services to which WINS subscribes; or (2) script or material furnished to Artist by WINS (other than fictitious names, characters or material described in Section C (2)).

**E. With respect to Use of Company's Name or Call Letters:**

Artist agrees that, during the term of this contract, and after the termination thereof, irrespective of the cause of such termination, he will not use or permit to be used, without the prior written consent of WINS, except as an incident to the performance of his services hereunder, the name WINS, any trade-mark of such corporation, any call letters of any broadcasting station owned or controlled by WINS, or any abbreviation or contraction of any of the foregoing, or any title or expression so nearly resembling the same as to be likely to confuse or deceive the public in connection with the name of the Artist or any act or performance with which he is in any way connected or in advertising or announcing the Artist's name, his act or performance, or in giving publicity in any manner to said name, acts or performances.

**F. With respect to Availability of Artist:**

The payment of compensation to be made by WINS to Artist as provided in this contract shall be conditioned upon Artist being ready, willing and able at all reasonable times to render services at the request and direction of WINS and, if at any time Artist is not ready, able and willing to perform said services when requested or directed by WINS,

upon reasonable notice, WINS shall have the right, at its sole discretion, to terminate this contract immediately or to make such adjustment in Artist's compensation as may be equitable in view of the circumstances; it being understood that the remedies herein granted are in addition to any other legal rights and remedies available to WINS.

**G. With respect to Artist's Qualifications and Personal Character:**

Artist represents that he now is and, during the term of this Contract, will remain qualified and able to perform competently, in accordance with recognized standards of the industry, the services herein contemplated. Artist further agrees that he will so conduct his personal life as not to reflect discredit on or cause embarrassment to WINS or any of the parties for whom Artist is performing services hereunder, including sponsors of programs in which Artist participates.

**H. With respect to Injunctive Relief:**

Artist represents that he and his services are extraordinary and unique and that, accordingly, WINS may have no complete and adequate remedy at law for a breach by him of this contract or any provision hereof. Accordingly, in the event of such breach, or an attempted or threatened breach, WINS shall be entitled to equitable relief by way of injunction or otherwise in addition to any legal remedies available to it.

**I. Miscellaneous:**

(1) No waiver by WINS of the breach of any covenant in this contract shall be deemed a waiver of any preceding or succeeding breach of the same or any other covenant.

(2) This contract shall be subject to, be construed in accordance with, and all the rights and obligations of the parties shall be determined by the laws of the State of New York.

(3) The term "WINS" shall be deemed to include the WINS radio broadcasting station, its successors, subsidiaries and assigns.

J. With respect to Workweek:

Artist shall render services to WINS in accordance with this contract on such days as WINS may require except that Artist shall not be required to perform services on Sundays except in connection with a special broadcast of public service or other unusual interest. Except as provided herein with regard to extra compensation for the sixth day of the workweek, Artist shall not be entitled to premium compensation by virtue of his performance of work for WINS on more than five consecutive days in a week, and Artist's hours of work need not consist of consecutive hours so that the period of time elapsing between his first performance and his last performance in any day need not be used in computing the number of hours worked.

This letter constitutes the entire agreement between the parties hereto and contains all understandings and covenants of said parties, all previous and contemporaneous understandings, covenants and representations not herein contained being expressly waived.

Yours very truly,

RADIO STATION WINS

By

\_\_\_\_\_  
President

ACCEPTED:

\_\_\_\_\_  
ALAN FREED, Artist

# WINS

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new york 36, n. y. • bryant 9-6000  
Gotham broadcasting corporation

August 10, 1954.

MR. ALAN N. FREED  
36-13 Inglewood Road  
Shaker Heights  
Cleveland 22, Ohio

Dear Mr. Freed:

This is to confirm the agreement between us as WINS and Artist for the disposal of the Syndication and Network Rights to your exclusive presentation of radio broadcasts for WINS for a period of ten years commencing September 8, 1954.

The terms and performance of this agreement are completely subject to the conditions and provisions of the agreement of even date for the presentation by Artist of radio broadcasts at and for Station WINS in New York City, is supplementary thereto and does not vary, amend or qualify said agreement in any wise or manner.

This Syndication will include national broadcasting of any script, disc, taped or otherwise recorded broadcast or program or "live show" broadcast or program given by Artist pursuant to this agreement.

WINS shall have the exclusive right to sell to commercial sponsors, stations and/or others any script, disc, taped or otherwise recorded broadcast or program or "live show" broadcast or program given by Artist pursuant to this agreement.