

February 5, 1960

Miss Mary Jane Morris, Secretary  
Federal Communications Commission  
Washington 25, D. C.

Dear Miss Morris:

This is the response of Gotham Broadcasting Corporation to paragraph one of the Commission's inquiry of December 2, 1959, reference 81378. Gotham is licensee of station WINS, New York, New York. WINS's response to paragraph two of the inquiry was sent to the Commission on December 30, 1959.

WINS has maintained continuously strict controls to enable the station to ascertain the possible existence at WINS of the practices described in paragraph one of the inquiry. Those controls are described in the station's answer dated December 30, 1959, responsive to paragraph 2 of the Commission's inquiry. As an example of the application of these controls, and as stated below, WINS took action in July and August of 1959 [prior to the time that the subject of "payola" became an issue in the broadcasting industry] following the discovery that a member of the staff had been said to have received compensation from an outside source, and that such source had the expectation that he would influence the broadcasting of certain records. The station's immediate action, pending investigation, was to shift the employee to another department of the station wherein no opportunity was offered for him to influence the selection and presentation of broadcast matter. This employee resigned shortly after the transfer.

Based upon the licensee's experience in applying these controls and based on investigations made by station WINS, as described below, we have found no evidence that any matter was broadcast by WINS between November 1, 1958, and the date of this statement, for which service, money or any other valuable consideration has been directly or indirectly paid, or promised to, or charged, or accepted by WINS, or anyone in its employ, or independent contractor, engaged by WINS in furnishing programs, from any person, which matter at the same time so broadcast has not been announced or otherwise indicated as paid for or furnished by such person. In support of the foregoing statement the information set out below is presented:

1. WINS management on November 18, 1959 held a meeting of program personnel at which it was explained to the announcers, music librarians, program director and other personnel concerned that the station must know of any instance where "payola" practices exist or are proposed. All personnel were asked then to state whether they knew of any such activities, and no such activities were reported. Each person was then asked individually whether he knew of such activities, and none were reported. Key disc jockeys were specifically questioned, and no information was obtained as to the existence of such practices.

2. On December 4, 1959, station WINS directed to some 600 \* record companies and record distributors an inquiry in the form attached hereto. The inquiry was made to determine whether any form of

compensation had been given to WINS employees by the record companies and distributors. A substantial number of these groups have answered an inquiry and stated that they gave no such compensation to WINS employees. Many firms have not answered the inquiry, however.

3. On January 16, 1960 all present and former personnel were \* sent the attached questionnaire and requested to furnish an affidavit, the form of which is attached. All but two parties [and they are on vacation] answered and supplied affidavits, and all affiants responded in the negative to question 3. Some former personnel have not answered the request as yet.

4. The station announced the sources of its program matter such as the news programs, the Drew Pearson program, the programs featuring national, state and local elected officials [the governor, congressmen, and the like], forum programs, and so on.

5. A large quantity of records are received constantly by WINS, from record manufacturers and distributors, and others are addressed to individuals. Most of these records are discarded as unsuitable. A small percentage are used. The selection of records to be used in no way is related to the fact that some are received at no cost to the station. The records of quality and acceptability are used; those which are not of broadcast quality and acceptability are discarded.

6. Prizes awarded on various programs are clearly identified as to source.

7. At times a personal appearance by a WINS disc jockey is announced on WINS. The announcement states the name of the disc jockey, and describes the event sufficiently to inform the public as to the identity of the participants in the event.

8. According to press accounts published on December 23, 1959, a former employee of station WINS, Ronald Granger, has stated that record manufacturers gave him sums of money at various times. Mr. Granger was music librarian for WINS until the summer of 1959. In July and August of 1959 Mr. Granger was reported to have been given a sum of money by a record manufacturer. This came to the attention of station WINS, and the station transferred him from the music librarian's position to another position in the news department of WINS, pending investigation of the incident. Mr. Granger resigned a few days after being transferred, and station WINS has not employed him since August of 1959. Mr. Granger was asked to prepare and sign an affidavit in the form attached. He has not yet done so.

9. Mel Leeds, former program director of WINS, stated that he had received consulting fees for advisory services from four record manufacturers. The management of WINS asked that he furnish evidence of the actual performance of such services, of the agreement pursuant to which such services were rendered, and a list of persons to whom he had rendered such services. Mr. Leeds advised that he would furnish such data, which as yet has not been received. However, he was ill for a considerable period

and has subsequently resigned. His attorney assures us that Mr. Leeds can amply substantiate the fact that services were performed for the compensation received which he stated was quite nominal. He further stated that the record companies involved have already testified under oath that substantial and adequate services were performed by Mr. Leeds.

10. These men, Granger and Leeds, had close contact with station WINS's music programming, but there is no evidence that they influenced the preparation or presentation of broadcast matter as a result of having received money or other valuable consideration from sources outside the station. On the contrary, WINS received a complaint from the firm who assertedly had paid sums of money to Granger that the record of that firm had not in fact been played by WINS. There is considerable evidence that over a period of time numerous offers of "payola" were made to Mr. Leeds which were firmly rejected. Furthermore, the selection of music to be played on WINS was, and is, accomplished by the program director and the disc jockeys of WINS based on published lists in trade journals. Some extra records, not on the lists, are carried. However, since our disc jockeys have all stated under oath that they have not received or been promised anything of value for influencing WINS's broadcasts, we cannot conclude that any matter was carried by WINS as a result of improper payments or promises as described in paragraph 1 of the Commission's inquiry.

11. One employee of WINS advised that he once bought small interests in two music publishing companies, but had sold these interests

Miss Mary Jane Morris  
page 6

some time before the subject of "payola" had become a public issue. He advised that he had not profited on the sale. One disc jockey advised that some of his relatives owned a firm which produced an album featuring the disc jockey. The album has been played on WINS. In neither case, however, have we found any reason to believe that WINS's programs were presented under the circumstances outlined in paragraph 1 of the Commission's inquiry.

In sum, station WINS has consistently forbidden the acceptance of "payola" in connection with the station's broadcasts. The station has investigated several unfair and false rumors as to the existence of the forbidden practices among personnel at WINS, and the station has determined that such rumors had no basis in fact. WINS's programs are not surreptitiously influenced by outside sources. The station staff has cooperated in enabling WINS to make a complete and thorough investigation. WINS has endeavored to be extremely careful not to harm any innocent individuals and to wait until we have all facts before making any decision which might affect a person's career, reputation or livelihood. Furthermore, WINS has continued to cooperate with official governmental bodies which are investigating the practices known as "payola". The nature and extent of the current investigation are such to assure that all of the facts will be developed fully. The investigatory bodies through powers of subpoena and requiring testimony under oath are in a position to develop information of a type which no private

Miss Mary Jane Morris  
page 7

individual or company can do. if the Commission requires additional  
information, we will be happy to supply it.

Gotham Broadcasting Company

/s/ J. Elroy McCaw

By

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J. Elroy McCaw  
President

Subscribed and sworn to before  
me this fifth day of February, 1960.

/s/ Ethna White

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Ethna White, Notary Public  
for the District of Columbia

My commission expires: February 14, 1961.