

## **ALIEN OWNERSHIP**

Compliance with Section 310 of the Communications Act of 1934, as amended (the “Act”), is determined by a two-prong analysis, one pertaining to ownership interests and the second to voting interests. *See BC License Subsidiary L.P.*, 10 FCC Rcd 10968 (1995). As demonstrated below, the ownership structure of South Dakota Television License Sub, L.L.C. (the “Assignee”) complies with Section 310 of the Act.<sup>1</sup> The ownership structure set forth in this application, including its foreign ownership, was previously approved by the Commission in FCC File Nos. BALCT-20020807AAY, *et al.*, granted October 8, 2002, which involved the assignment of licenses for five television stations to a sister licensee subsidiary.

### **Ownership Interests**

Peter G. Smith, a Canadian citizen, holds a 20% ownership interest in Wicks Apex, Inc. (“Wicks Apex”) which holds only a 1% ownership interest in Wicks Capital Management, L.P. (“Wicks Capital”), the ultimate parent of the Assignee. Applying the multiplier, Mr. Smith’s ownership interest in Wicks Apex therefore amounts to a 0.006968% alien ownership interest in the Assignee ( $[20\% \times 1\% \times 5\% \times 2.54\%$  (Wicks Parallel (Limited) Partnership I, L.P.’s (“Wicks Parallel”) interest in Wicks Television, L.L.C.)  $]+ [20\% \times 1\% \times 5\% \times 97.46\%$  (Wicks Communications & Media Partners, L.P.’s (“Wicks Communications”) interest in Wicks Television, L.L.C.)  $]\times 69.68\% \times 100\% \times 100\% = 0.006968\%$ ).

The insulated limited partners of Wicks Parallel and Wicks Communications collectively are 15.94% foreign-owned. Applying the multiplier, the alien ownership interest of the various insulated limited partners in those entities is 11.10% ( $15.94\% \times 69.68\% \times 100\% \times 100\%$ ).

Peter Smith’s insulated limited partnership interest in Wicks Capital is 3.27% (16.8694% LLC interest in a 19.387% limited partner).<sup>2</sup> Mr. Smith’s foreign ownership in Wicks Capital amounts to a 0.1139% alien ownership interest in the Assignee ( $[3.27\% \times 5\% \times 2.54\%] + [3.27\% \times 5\% \times 97.46\%] \times 69.68\% \times 100\% \times 100\% = 0.1139\%$ ). Thus, Mr. Smith’s total alien ownership interest in the Assignee is 0.12% ( $0.1139\% + 0.006968\%$  (Mr. Smith’s alien ownership interest attributable to his ownership interest in Wicks Apex)).

Janis L. Smith, a Canadian citizen, also has a 3.27% insulated limited partnership interest in Wicks Capital (16.8694% LLC interest in a 19.387% limited partner).<sup>3</sup> She holds a 0.1139% ownership interest in the Assignee ( $[3.27\% \times 5\% \times 2.54\%] + [3.27\% \times 5\% \times 97.46\%] \times 69.68\% \times 100\% \times 100\% = 0.1139\%$ ).

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<sup>1</sup> The alien ownership and voting interests in the Assignee are reflected in the attached charts.

<sup>2</sup> *See* Assignee’s Exhibit 11, p. 2.

<sup>3</sup> *See* Assignee’s Exhibit 11, p. 2, n.4.

J.P. Morgan Partners (BHCA), L.P. (“JP Morgan”) holds a 17.00% equity interest in North Dakota Holdings, L.L.C. (“ND Holdings”). Applying the multiplier, JP Morgan’s equity interest includes a 1.68% alien ownership interest in the Assignee ( $9.9\% \times 17.00\%$ ).

Through various intervening subsidiaries, Halyard Capital Fund, L.P. (“Halyard”) is wholly-owned by the Bank of Montreal, which is a Canadian-owned entity. Halyard holds an 11.98% equity interest in ND Holdings which is carried over to the Assignee in its entirety.

The collective alien ownership interests of Peter G. Smith, Janis L. Smith, the various insulated limited partners of the Wicks-related entities, JP Morgan, and Halyard amount to 24.99%, which is below the 25% benchmark specified in Section 310 of the Act.

### **Voting Interests**

Mr. Smith holds a 20% voting interest in Wicks Apex which, through various intervening subsidiaries, controls the Assignee. Thus, Mr. Smith’s 20% voting interest is carried through to the Assignee in its entirety.

The only other alien voting interest is held by JP Morgan, which holds a 19.30% voting interest in ND Holdings. J.P. Morgan Chase and Co. (“Chase and Co.”) is a parent entity of JP Morgan. For purposes of calculating the Assignee’s foreign ownership, JP Morgan has requested that the figure of 9.9% be used. Applying the multiplier, JP Morgan’s alien voting interest is 1.91% ( $9.9\% \times 19.30\%$ ). Together, the alien voting interests of Mr. Smith and JP Morgan amount to 21.91% ( $20\% + 1.91\%$ ), which is below the 25% benchmark contained in Section 310 of the Act.

Mr. Smith’s alien ownership interest in an insulated limited partner of Wicks Capital is non-attributable. Thus, it is not included in the alien voting interest calculation. Similarly, the 15.94% foreign ownership in the insulated limited partners of Wicks Communications and Wicks Parallel also are not included in the voting interest calculation because those interests are non-attributable.

Halyard is a non-attributable, non-voting member of ND Holdings, and holds 11.98% of the equity of ND Holdings. Halyard’s interest in ND Holdings is convertible to a voting interest if, and only if, the conversion complies with the Act and the rules and policies of the FCC (and is subject to any necessary prior FCC approval). Because Halyard’s equity interest in ND Holdings is currently non-attributable, it too is irrelevant to the alien voting interest calculation.