

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

In Re: Application of)
Joseph Bernstein) File No. BAL-20191101AAM
For Consent to an Involuntary) Facility ID No. 167606
Assignment of License of)
Low Power Television Station)
WEFG-LD, Philadelphia, Pennsylvania, to)
Philadelphia Television Network, Inc.)

Attention: Video Division, Media Bureau

FOURTH SUPPLEMENT TO OPPOSITION

Philadelphia Television Network, Inc. (“PTNI”), by its counsel, and pursuant to Sections 1.45(b) and 73.3587 of the Commission’s rules, 47 C.F.R. §§ 1.45(c) and 73.3587, and the Motion for Leave to File Fourth Supplement to Opposition being filed by PTNI on this same date, respectfully submits this Fourth Supplement to Opposition (the “Fourth Supplement”)¹ to the pleading styled as a Request for Dismissal (the “Informal Objection”) filed by a Newport Investment Group, LLC entity (“Newport”) on November 14, 2019, in opposition to the above-captioned Form 316 application (File No. BAL-20191101AAM, the “Application”) for Federal Communications Commission (“FCC”) consent to the involuntary assignment of the FCC license of Low Power Television (“LPTV”) broadcast station WEFG-LD, Philadelphia, Pennsylvania (Facility ID No. 167606, “WEFG”), from Joseph Bernstein (“Bernstein”), who has been removed

¹ Previously in this proceeding, PTNI has filed an Opposition to the Informal Objection on November 26, 2019 (the “Opposition”), a Supplement To Opposition (“Supplement”) and Motion For Leave To File Supplement To Opposition on December 10, 2019, a Second Supplement To Opposition (“Second Supplement”) and Motion For Leave To File Second Supplement To Opposition on October 30, 2020, and a Third Supplement To Opposition (“Third Supplement”) and Motion For Leave To File Third Supplement To Opposition on February 15, 2021.

as a temporary receiver of the FCC license for WEFG by the court that previously appointed him, back to PTNI as the proper FCC licensee.

By way of background, Bernstein was appointed as a temporary receiver by a Philadelphia Court on an ex parte basis, without notice to PTNI or an opportunity for PTNI to respond or object prior to the grant of the Emergency Petition, on a purported “emergency” basis that didn’t exist, based on an underlying judgment that arose from a purported foreclosure on an impermissible security interest in the FCC license for WEFG (that the Commission already has ruled unlawful). See Opposition at ¶ 11. PTNI timely filed to oppose the Emergency Petition, and on October 24, 2019, the day after PTNI finally received a hearing on the merits, the Philadelphia Court that appointed Bernstein as temporary receiver vacated its receiver appointment order, ¶ 13; a copy of the Philadelphia Court order removing Bernstein as temporary Receiver is attached to the Application as Exhibit 6 (the “Receiver Removal Order”).

Newport filed an appeal of the Receiver Removal Order (the only appeal filed); the purpose of this Fourth Supplement is to advise the Commission that Newport’s appeal has now been dismissed.² With the dismissal of Newport’s appeal, there is no legal basis for any further delay in the grant of the Application, and the Commission should act promptly to grant the Application, and consent to the assignment of the FCC license for WEFG back to PTNI, its proper and legal holder.

Newport also argued in its Informal Objection that the FCC license really should be assigned to Newport, based on a purported default judgment and orders from California, domesticated in Pennsylvania; however, PTNI demonstrated previously that it is well-established that the Commission may not consider, in the context of an assignment application, whether an

² See Order issued April 13, 2021, by the Superior Court of Pennsylvania, Philadelphia County Civil Division (the “Pennsylvania Appellate Court”), Appeal No. 180500074 in Case No. 3529 EDA 2019, a copy of which is attached hereto as Exhibit A (the “Order”). Petitioners note that the Order also, in consolidated Case No. 3215 EDA 2019, vacates and remands for determination a separate Philadelphia court order that declined to hear on the merits PTNI’s challenges to the domestication in Pennsylvania of Newport’s alleged foreign judgment, based on actions by the California courts and their order to vacate Newport’s default, default judgment, and assignment orders on which Newport was relying. See Order at 1-2.

FCC license should be assigned to some third party, other than the assignee proposed in the application, see Opposition at ¶ 5, and the Commission has already expressly declined to consent to an assignment of the WCFG license to Newport based on the California default judgment and orders, which the Commission has already expressly found unlawful, and are *void ab initio* under Commission precedent. Id. at ¶¶ 6-10. Furthermore - - and more importantly - - the California appellate court has already ordered that Newport’s underlying California default, default judgment, and assignment orders (on which the appointment of Bernstein as temporary receiver and any other action by Newport was based) be vacated as well. See Second Supplement at 3-5, n.2, and Exhibit A (the “California Appellate Order”).

Specifically, the California appellate court, in at times a rather scathing fashion, vindicates most if not all of the facts and arguments that have been asserted throughout this proceeding by PTNI, including but not limited to the facts that:

(i) the whole underlying transaction on which the default judgment was based was a “scam”, see California Appellate Order at 3-5, and the purported default judgment holder Newport’s principal, Brian Roche (“Roche”) was a participant in it, and deceptive about it, id. at 5 and 7-8 and 16-17 and 21, with that deception by Newport and Roche being not only to Cliett but also to the California trial court, id. at 22;

(ii) PTNI was not a participant in the underlying scam, and did not receive any loan funds, and PTNI’s shares and assets could not be used as collateral, id. at 6;

(iii) the lower California trial court was not even the correct venue per the purported loan documents themselves, id. at n.9;

(iv) notice of the California litigation that led to the purported default and judgment was never properly served on PTNI, id. at 6-7 and 20-21, and indeed the California Appellate Court observed that the choice to only serve Glanton was “unprofessional if not disreputable”, id. at 17, and such that Cliett and PTNI had no knowledge of the California litigation or purported default and judgment until May 2018, id. at 8-10 and 15, and that what Cliett and PTNI knew of that litigation and purported default and judgment was that it only involved Glanton and/or the roughly 45% of the shares Glanton held in PTNI, id. at 17; and

(v) Newport and Roche's scheme was a "fraudulent, potentially unlawful scheme", such that leaving it intact would be an "injustice" and "would run contrary to public policy and the objectives of the law", since Glanton's actions were "*ultra vires*" and PTNI was "an innocent third party who had no stake in the scheme".

Notably, in deciding to remand the case to the lower California Court with instructions to vacate the default, default judgment, and assignment order, the California Appellate Court specifically stated that "[a] more meritorious case is hard to find." Id. at 19. In response to claims that Newport would be prejudiced, the California Appellate Court had "no sympathy", going on further to state that if "Newport's years-long investment in belligerence and sleight-of-hand come to naught, it seems to us a most deserved and appropriate return." Id. at 22. While Newport then filed a petition for review of the California Appellate Order with the California Supreme Court, Newport's petition for review has been denied, making the California Appellate Order a final order. See Third Supplement at 4-5.

Now that Newport's appeals of both the Philadelphia court's Receiver Removal Order removing Bernstein as temporary receiver of WEEG and the California Appellate Order have been dismissed or denied, the Commission must promptly dismiss or deny Newport's Informal Objection, and grant the Application, allowing PTNI to be reinstated as the proper FCC licensee of WEEG. Any further delay in restoring PTNI as the FCC licensee for WEEG harms PTNI and the station, and is contrary to the public interest, since it delays PTNI from operating the station and completing its repack channel change as authorized subsequent to the Commission's spectrum auction.

Wherefore, the premises set forth above in this Fourth Supplement to Opposition, as well as in the PTNI Opposition, the First Supplement, the Second Supplement, the Third Supplement, the Application, the Philadelphia court's Receiver Removal Order and Order dismissing or denying Newport's appeal of same, and the final California Appellate Order being considered, PTNI respectfully requests that the Commission promptly grant the Application so that PTNI can be reinstated as the proper Commission licensee of WEEG (and with use of its FRN and password restored to PTNI), as required by the Receiver Removal Order.

Respectfully submitted,

Philadelphia Television Network, Inc.

A handwritten signature in black ink, appearing to read "Jeffrey L. Timmons", written over a horizontal line.

By: _____
Jeffrey L. Timmons, Esq.
Its Attorney

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April 15, 2021 (electronically filed in CDBS)

CERTIFICATE OF SERVICE

I, Jeffrey L. Timmons, hereby certify that on this 15th day of April, 2021, a copy of the foregoing "Fourth Supplement to Opposition" has been served by United States first class or priority mail, postage prepaid and mailed on the pleading filing date, upon the following:

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Jeffrey L. Timmons, Esq.

EXHIBIT A

Pennsylvania Appellate Court Order

Attached hereto is a copy of the Order issued April 13, 2021, by the Superior Court of Pennsylvania, Philadelphia County Civil Division (the “Pennsylvania Appellate Court”), Appeal No. 180500074 in Case Nos. 3529 EDA 2019 and 3215 EDA 2019 (the “Order”).

NEWPORT INVESTMENT GROUP, LLC, : IN THE SUPERIOR COURT OF
ASSIGNEE OF LUXURY ASSET : PENNSYLVANIA
LENDING, LLC :

v.

: Philadelphia County Civil
: Division
: No. 180500074

PHILADELPHIA TELEVISION :
NETWORK, INC. AND RICHARD :
GLANTON :

: No. 3215 EDA 2019

APPEAL OF: PHILADELPHIA :
TELEVISION NETWORK, INC. :

NEWPORT INVESTMENT GROUP, LLC, :
ASSIGNEE OF LUXURY ASSET :
LENDING, LLC :

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

Appellant

: Philadelphia County Civil
: Division
: No. 180500074

v.

PHILADELPHIA TELEVISION :
NETWORK, INC. AND RICHARD H. :
GLANTON :

: No. 3529 EDA 2019

ORDER

Upon consideration of the February 20, 2021 "Motion by Philadelphia Television Network, Inc. to Quash or Dismiss Appeal 3529 EDA 2019 and to Vacate and Remand in Appeal 3215 EDA 2019, Upon California Courts' Dispositive Vacatur of the Underlying Judgment and Assignment Order and Upon Appellant's Failure to File a Brief," and upon noting Newport Investment Group, LLC failed to respond to this Court's March 16, 2021 Order, the following is **ORDERED**:

Philadelphia Television Network, Inc.'s Motion is **GRANTED** as follows:

The appeal of Newport Investment Group, LLC at 3529 EDA 2019 is **DISMISSED** for failure to file a brief.

The trial court order of October 3, 2019 denying Philadelphia Television Network, Inc.'s petition to strike, vacate or open foreign judgment is **VACATED** and this matter is remanded to the trial court for a determination as to whether the May 18, 2018 foreign judgment should be stricken and the May 11, 2018 assignment order vacated.

Upon remand, Philadelphia Television Network, Inc. may seek relief in the trial court for return of property, accounts, license rights, and for costs and attorneys' fees. Jurisdiction relinquished.

PER CURIAM