

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

In Re: Application of)	
)	
Philadelphia Television Network, Inc.)	File No. BALDTL-20181120AAT
)	Facility ID No. 167606
For Consent to an Involuntary)	
Assignment of License of)	
Low Power Television Station)	
WEFG-LD, Philadelphia, Pennsylvania, to)	
Joseph Bernstein, as a Receiver)	

Attention: Video Division, Media Bureau

SECOND SUPPLEMENT TO PETITION FOR RECONSIDERATION

Philadelphia Television Network, Inc. (“PTNI”), Eugene L. Cliett, an officer, director and shareholder of PTNI (“Cliett”), and DSP Investors, LLC (“DSP”, and together with PTNI and Cliett, the “Petitioners”), by their counsel, and pursuant to Section 1.106 of the Commission’s rules, 47 C.F.R. § 1.106, respectfully submit this second supplement (the “Second Supplement”) to the petition for reconsideration (the “Petition”) of the grant of the above-captioned Form 316 application (File No. BALDTL-20181120AAT, the “Application”) for Federal Communications Commission (“FCC”) consent to the involuntary assignment of the license of Low Power Television (“LPTV”) broadcast station WEFG-LD, Philadelphia, Pennsylvania (Facility ID No. 167606, “WEFG”), to Joseph Bernstein (“Bernstein”), as a receiver, which Petition was electronically filed by the Petitioners on December 21, 2018, and first supplement by a Supplement to Petition for Reconsideration filed on January 2, 2019 (the “First Supplement”). In support of this Second Supplement, the following is shown:

1. **Background.** The Petition demonstrated that Bernstein was appointed as receiver by a Philadelphia court¹ on an ex parte basis, without notice to PTNI or an opportunity to object, 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 WEEG (that the Commission already has ruled unlawful). See Petition at 1-2, ¶¶ 3-18, nn.1-2 and nn.4-8, and Exhibit A. The Petition also reported that based on these facts and other issues, filings have been submitted to appropriate courts seeking to overturn the Receiver Appointment Order, copies of which were attached to the Petition as exhibits.² The Petition also demonstrated other issues and defects with the Application itself. Id. at ¶¶ 19-22. Finally, the Petition requested that based on these circumstances, that the Commission’s grant of the Application be rescinded pending further action by the Philadelphia Court on such filings, or based upon the outcome of same. Id. at 2 and ¶¶ 8, 18, and 22-23.

2. In the First Supplement, PTNI reported that based on the Petition to Strike filed by PTNI, on December 28, 2018, the Philadelphia Court issued a Rule to Show Cause (a copy of which was attached to the First Supplement as Exhibit A, the “Rule to Show Cause”) why the relief requested in PTNI’s Petition to Strike should not be granted, and setting a hearing on the matter for Wednesday, February 6, 2019. See Rule to Show Cause at 1. In turn, the “relief requested” in PTNI’s Petition to Strike includes: (i) vacating the defective and/or invalid default judgment in the California court proceeding on which this whole matter is based (the “California Judgment”), and its domestication in Pennsylvania by the Philadelphia Court; (ii) vacating the Receiver Appointment Order, on which the Commission’s grant of the Application was based; and/or (iii) staying the Receiver Appointment Order and the appointment of Bernstein as receiver. See Petition to Strike at 44-45, 47-51. The Philadelphia Court’s issuance of the Rule to Show

¹ See Order dated November 19, 2018, by the Philadelphia County Court of Common Pleas (the “Philadelphia Court”) in Case No. 000074, a copy of which was attached to the Application with Exhibit 6 (the “Receiver Appointment Order”).

² See Petition at ¶¶ 9-18, and Exhibit C (a copy of PTNI’s “Petition to Strike”), Exhibit D (a copy of PTNI’s “Opposition to Emergency Petition”), and Exhibit E (a copy of the “PTNI Appeal”), each such pleading as filed with the Philadelphia Court.

Cause, which is a discretionary action by that court, demonstrates that the court recognizes the serious issues and concerns with the Receiver Appointment Order demonstrated by PTNI to that court, and the potential for that action to be overturned, such that the Commission should reconsider and rescind its quick grant of the Application (or, in the alternative, at the minimum, delay finality of such grant) until such underlying legal issues and concerns have been addressed by final action by appropriate courts.

3. **Purpose Of This Second Supplement.** The purpose of this Second Supplement is to report that based on certain pleadings filed by PTNI,³ on January 22, 2019 (and after a hearing that same date), the Philadelphia Court issued an *Ex Parte* Order (a copy of which is attached hereto as Exhibit F, the “Stay Order”) staying the Receiver Appointment Order (and any authority of Bernstein to act as a receiver for WEEG) and the prior domestication of the California Judgment, vacating the Abeyance Order, and staying all other matters in the proceeding pending the outcome of the PTNI Appeal. See Stay Order at 1. As a result of the Stay Order, Bernstein currently has no court-ordered authority giving him any ownership or control over PTNI or WEEG, and therefore the grant of the Application must be rescinded.

4. **Procedural Issues.** Public notice that the Application was accepted for filing was published on Monday, November 26, 2018, see Public Notice, Broadcast Applications, Report No. 29369 at 1 (released 11/26/18), and the Application was granted two days later, on Wednesday, November 28, 2018, with public notice of that grant published on December 4, 2018, see Public

³ Specifically, on January 7, 2019, PTNI filed with the Philadelphia Court a Motion as Emergency by Philadelphia Television Network, Inc. for Stay Pending Further Court Order, Including Determination of Rule to Show Cause Scheduled for Hearing February 6, 2019 (the “Emergency Motion”), as well as a Memorandum of Law in Support of [the Emergency Motion] (the “Emergency Motion Memo”). On January 8, 2019, the Philadelphia Court entered an *Ex Parte* Order holding the Emergency Motion in abeyance, pending the outcome of the PTNI Appeal (the “Abeyance Order”), and so on January 21, 2019, PTNI filed its Emergency Motion for Reconsideration of Order of January 8, 2019, Holding the Emergency Motion of January 7 in Abeyance Pending Appeal (the “Emergency Motion Reconsideration”), as well as a Memorandum of Law in Support of [the Emergency Motion Reconsideration] (the “Emergency Motion Reconsideration Memo”). Copies of each of the Emergency Motion, Emergency Motion Memo, Abeyance Order, Emergency Motion Reconsideration, and Emergency Motion Reconsideration Memo, are attached hereto as Exhibits A through E.

Notice, Broadcast Actions, Report No. 49375 at 1 (released December 4, 2018).⁴ Therefore, the Petition and any supplements must be filed within the thirty (30) day period after December 4, 2018, see § 1.106(f), which normally would have meant by January 3, 2019; however, since the Commission was closed on that date due to the federal government shutdown, this Second Supplement is timely-filed as a matter of right on this first day that the Commission is re-opened. See Public Notice, DA 19-10 (released January 2, 2019).

⁴ Counsel for PTNI notes that previously in the Petition and First Supplement, he inadvertently used the November 28, 2018 date of grant of the Application in error as the date of the public notice (though citing the correct public notice report number), instead of the correct public notice publication date of December 4, 2018, see Petition at ¶ 1 and First Supplement at ¶ 3, and apologizes for any confusion this error may have caused.

5. **Conclusion.** Wherefore, the premises set forth above in this Second Supplement as well as in the Petition and First Supplement being considered, Petitioners respectfully request that the Commission rescind the grant of the Application while the challenges to the Receiver Appointment Order that have been filed and are pending before the appropriate courts are considered, and final action taken, or in the alternative, that the Commission allow the petition for reconsideration to remain pending while the court challenges to the Receiver Appointment Order are considered and final action taken, such that upon court reversal of the Receiver Appointment Order, grant of the Application may be rescinded at that time, and appropriate actions taken to reflect that PTNI remains the Commission licensee of WEEG

Respectfully submitted,

**Philadelphia Television Network, Inc.,
Eugene L. Cliett, and DSP Investors, LLC**



By: _____
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January 28, 2019 (electronically filed in CDBS)

CERTIFICATE OF SERVICE

I, Jeffrey L. Timmons, hereby certify that on this 28th day of January, 2019, a copy of the foregoing "Second Supplement to Petition for Reconsideration" has been served by United States first class or priority mail, postage prepaid and postmarked by the pleading filing date, upon the following:

Mr. Richard H, Glanton
26 Snowden Lane
Princeton, New Jersey 08540

Kathleen Victory, Esq.
Fletcher, Heald & Hildreth, PLC
1300 N. 17th Street, Suite 1100
Arlington, Virginia 22209
Counsel to Joseph Bernstein

A handwritten signature in black ink, appearing to read "Jeffrey L. Timmons", written in a cursive style.

Jeffrey L. Timmons, Esq.

EXHIBIT A

Emergency Motion

Attached hereto is a copy of the Motion as Emergency by Philadelphia Television Network, Inc. for Stay Pending Further Court Order, Including Determination of Rule to Show Cause Scheduled for Hearing February 6, 2019, filed by PTNI with the Philadelphia Court on January 7, 2019.

EXHIBIT B

Emergency Motion Memo

Attached hereto is a copy of the Memorandum of Law in Support of Motion as Emergency by Philadelphia Television Network, Inc. for Stay Pending Further Court Order, Including Determination of Rule to Show Cause Scheduled for Hearing February 6, 2019, filed by PTNI with the Philadelphia Court on January 7, 2019.

EXHIBIT C

Abeyance Order

Attached hereto is a copy of the *Ex Parte* Order entered by the Philadelphia Court on January 7, 2019.

EXHIBIT D

Emergency Motion Reconsideration

Attached hereto is a copy of the Emergency Motion for Reconsideration of Order of January 8, 2019, Holding the Emergency Motion of January 7 in Abeyance Pending Appeal, filed by PTNI with the Philadelphia Court on January 21, 2019.

EXHIBIT E

Emergency Motion Reconsideration Memo

Attached hereto is a copy of the Memorandum of Law in Support of Emergency Motion for Reconsideration of Order of January 8, 2019 Order Holding Motion for Stay in Abeyance Pending Appeal, filed by PTNI with the Philadelphia Court on January 21, 2019.

EXHIBIT F

Stay Order

Attached hereto is a copy of the *Ex Parte* Order entered by the Philadelphia Court on January 22, 2019.