

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

In re Applications of	)	
	)	
Alpha Media Licensee LLC Debtor in	)	Lead File No. 0000138519
Possession for Assignment of Authorization	)	Lead Call Sign: KAAN
to Alpha Media Licensee LLC	)	Lead File No: 0000138678
	)	Lead Call Sign: KHAR
	)	
	)	
	)	
	)	
Alpha 3E Licensee LLC Debtor in	)	Lead File No. 0000138727
Possession for Assignment of Authorization	)	Lead Call Sign: KATE
to Alpha 3E Licensee LLC	)	Lead File No: 0000138774
	)	Lead Call Sign: KFOR

To: Office of the Secretary  
Attn: Audio Division, Media Bureau

**REPLY**

Paul Stone ("Stone"), a minority member of Alpha Media Holdings LLC, files his Reply in the above captioned proceedings.<sup>1</sup> Stone strongly disagrees with Alpha's accusation that he chose not to avail himself of alternative forums.<sup>2</sup> Stone first learned about the Alpha bankruptcy in the trade press on the day the plan was filed. He and other minority shareholders then requested an emergency shareholder meeting to consider alternative plans to the one submitted in the bankruptcy court. They were ignored and entirely shut out of the process.

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<sup>1</sup> This pleading is in reply to the Opposition to Petitions to Deny (the "Opposition") filed by Alpha Media Licensee LLC Debtor in Possession and Alpha 3E Licensee LLC Debtor in Possession (collectively, "Alpha") on April 26, 2021. The declaration of Paul Stone attesting to the information contained in this Petition is attached hereto as Exhibit 1.

<sup>2</sup> Opposition at i.

Stone is aware that a recent line of Media Bureau cases have permitted licensees in bankruptcy to receive a temporary waiver of Section 1.5001(a)(1) of the Commission's rules.<sup>3</sup> Stone respectfully submits that the Media Bureau has not fully considered the long-term implications of these decisions. While the policy of accommodating bankruptcy law is "well established,"<sup>4</sup> the application of this policy to petitions for declaratory ruling regarding foreign ownership is not "well established." As discussed in detail in Stone's Petition, the Commission has a statutory responsibility under Section 310(b)(4) of the Communications Act to evaluate whether foreign interests presented for approval by a licensee are in the public interest.<sup>5</sup> The Commission's public interest analysis considers national security, law enforcement, foreign policy, and trade policy issues that may be raised by the foreign ownership. The Media Bureau cannot perform this vital evaluation in this proceeding because Alpha has not submitted detailed information on its proposed foreign ownership. This is a key distinction between the *Lieberman Cases*, which involve a procedural waiver of Section 1.5001(a)(1), and the "well establish" cases where the Commission waived substantive rules and policies in deference to bankruptcy policies.<sup>6</sup> In the later cases, the full set of facts were presented to the Commission so that it could make an informed decision on whether bankruptcy considerations outweighed the Commission's substantive rules and policy. Here, the Media Bureau is only being asked to

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<sup>3</sup> See, e.g., *America-CV Station Group, Debtor-in-Possession*, DA 21-426 (Med. Bur. 2021); *Lieberman Television of Dallas License LLC, Debtor-in-Possession et. al.*, 34 FCC Rcd 8543 (Med. Bur. 2019) (collectively, the "*Lieberman Cases*").

<sup>4</sup> See, e.g. *LaRose v. FCC*, 494 F.2d 1145 (D.C. Cir. 1974) ("*LaRose*").

<sup>5</sup> 47 U.S.C. § 310(b)(4).

<sup>6</sup> See, e.g., *San Diego Television, Inc., Debtor-in-Possession*, 11 FCC Rcd. 14689 (1996) (waiver of duopoly rule); *Dorothy J. Owens*, 5 FCC Rcd. 6615 (1990) (waiver of cross-ownership rule); *Channel 64 Joint Venture*, 3 FCC Rcd 900 (1988) (waiver of the multiple ownership rule).

waive a procedural rule so that it can make a substantive decision on the public interest ramifications of Alpha's proposed foreign ownership at a later time.

Stone respectfully submits that this is a dangerous precedent. If, for example, the foreign ownership structure of Alpha included ownership by a foreign government, approval of such structure would presumably not be in the public interest and would not outweigh bankruptcy considerations. However, if the Media Bureau were to deny Alpha's yet-to-be filed petition for declaratory ruling, Alpha would already be operating under the structure approved in the Assignment Applications and by the Bankruptcy Court and such approvals would presumably be final. There would then be no simple way to unwind the transactions. To counter this argument, Alpha relies on *OTA Broadcasting*, where "prior staff decisions have found unpersuasive the argument that it will be difficult for the parties to undo an additional assignment if a grant is eventually reversed."<sup>7</sup> Alpha's case, however, does not involve an additional assignment application with a separate ownership structure. It involves a petition for declaratory ruling with same ownership structure as proposed in the Assignment Applications.

As the Court of Appeals recognized in *LaRose*: "[T]he Commission should assure that licensees do not use bankruptcy as a means of circumventing their obligation to operate in the public interest."<sup>8</sup> This is exactly what Alpha is proposing in its waiver request. It is using bankruptcy to circumvent its obligation to demonstrate that its proposed foreign ownership is in the public interest. Further, the FCC should only defer to bankruptcy "if it will not unduly interfere with the FCC's mandate to ensure that licenses are used and transferred in accordance with the Communications Act."<sup>9</sup> The Commission cannot make a determination that the Alpha

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<sup>7</sup> *OTA Broadcasting (SFO), LLC*, 35 FCC Rcd 638, n.25 (2020).

<sup>8</sup> 494 F.2d 1145, n.2.

<sup>9</sup> *Metropolitan Counsel of NAACP Branches v. FCC*, 43 F.3d 1154, 1163 (D.C. Cir. 1995).

licenses are being transferred in accordance with the Communications Act because Alpha has not disclosed the full extent of its proposed foreign ownership.

For the reasons stated herein and in the Petition, Stone respectfully requests that the Media Bureau deny Alpha's request for a waiver of Section 1.5001(a)(1) of the Commission's rules. The Commission's public interest obligations significantly outweigh any benefit under bankruptcy law and the Commission has a statutory obligation under the Communications Act to determine if the proposed foreign ownership is in the public interest prior to approval of the Assignment Applications.

Respectfully submitted,

**PAUL STONE**

By: \_\_\_\_\_/s/\_\_\_\_\_  
Scott Woodworth  
Edinger Associates PLLC  
1725 I Street NW, Suite 300  
Washington, DC 20006

May 5, 2021

His Attorney

**Exhibit 1**  
**Declaration of Paul Stone**

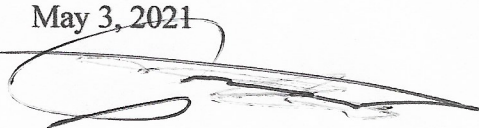
**AFFIDAVIT OF PAUL STONE**

I, Paul Stone, hereby declare as follows:

1. I am a minority member of Alpha Media Holdings LLC. I make this declaration in support of a Reply to an Opposition to a Petition to Deny the assignment applications filed by Alpha Media Licensee LLC Debtor in Possession and Alpha 3E Licensee LLC Debtor in Possession.
2. I have read Petition to Deny and the facts recited there in are true and correct to the best of my knowledge, information and belief.

I certify under penalty of perjury that the following is true and correct.

May 3, 2021

A handwritten signature in black ink, appearing to read 'Paul Stone', written over a horizontal line.

Paul Stone

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day May, 2021, I caused copies of the foregoing “**Reply**” to be mailed via first-class postage prepaid mail to the following:

Kathleen Kirby  
Wiley Rein LLP  
1776 K Street, NW  
Washington, D.C. 20006

Mark J. Prak  
Patrick Cross  
Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.  
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\_\_\_\_\_/s/\_\_\_\_\_  
Scott Woodworth