

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

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

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 Supplement to Opposition being filed by PTNI on this same date, respectfully submits this Supplement to Opposition 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 WFGD-LD, Philadelphia, Pennsylvania (Facility ID No. 167606, “WFGD”), from Joseph Bernstein (“Bernstein”), who has been removed as a temporary receiver of the FCC license for WFGD by the court that previously appointed him, back to PTNI as the proper FCC licensee.

In an Opposition to the Informal Objection filed on November 26, 2019 (the “PTNI Opposition”), PTNI demonstrated that the Informal Objection cites no relevant authority or any relevant factual basis why the Application should not be granted (but rather offers only a list of

false or intentionally misleading representations, that are not relevant to this Application), therefore the Informal Objection must be dismissed or denied and the Application promptly granted. Among other arguments, Newport mentioned that it had filed a motion in California seeking to have Bernstein appointed as a receiver by a court there, see Informal Objection at 8 (at ¶ 24), while neglecting to mention that it withdrew a similar motion filed with the same California court back in June 2019 (after that court expressed extreme skepticism about appointing a receiver in California over assets located in Philadelphia, and which already are the subject of a Philadelphia court receivership, which Newport still seeks to prolong by having filed an appeal of the Receiver Removal Order). Nor did Newport mention that the California court had already denied, on November 12, 2019, Newport’s motion to have Bernstein appointed as a receiver by that court on an “emergency” and *ex parte* basis. See PTNI Opposition at ¶ 15, n.9 and Exhibit D (providing a copy of the California court order denying Newport “emergency” motion for appointment of receiver there).

PTNI did note, however, that the California court would still hear Newport’s motion on a non-emergency basis, with that hearing scheduled for December 5, 2019. Id. The purpose of this Supplement to Opposition is to advise the Commission that shortly after that hearing, and on the same day, the California court has now denied Newport’s motion.¹ As a result, there is no reason for any further delays in Commission action on the Application, which now may be granted based on the Receiver Removal Order.

PTNI also notes that over a month ago, Bernstein expressly acknowledged to the Commission that he was “no longer the receiver” and that “the [FCC] license shall be removed from [his] name and responsibility”,² restoring PTNI as the FCC licensee for WEEG, yet to date

¹ See Minute Order dated December 5, 2019, by the Superior Court of California, County of Orange, Central Justice Center (the “California Court”) in Case No. 30-2016-00880965-CU-BC-CJC, a copy of which is attached hereto as Exhibit A (the “California Receiver Denial Order”).

² See Email of October 30, 2019 from Kathleen Victory, Esq., FCC Counsel to Bernstein, forwarding to the Commission staff an October 29, 2019 email from Bernstein, copies of which are attached hereto as Exhibit B, in which Bernstein acknowledges that he is no longer the receiver and that the FCC license should be put back in PTNI’s name.

the Commission has taken no action to do so, despite the clear Receiver Removal Order from and action by the Philadelphia Court. 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 returning the station to the air.³ While Bernstein has conceded (through his counsel) that he has obligations and duties to preserve the asset and to give effect to the Receiver Removal Order, by ensuring that PTNI is restored as the FCC licensee of WEEG now that he is no longer the court-appointed receiver, and Bernstein (through his counsel) even has shown some willingness to cooperate in that process, to date he has proven reluctant to take the positive steps necessary to do so (apparently due, at least in part, to concerns of threats of legal action by and potential interference from Newport). In any event, the Commission should respect and give prompt effect to the Philadelphia Court's Receiver Removal Order by granting the Application, and thereby allowing PTNI to be restored as the FCC licensee of WEEG.

³ PTNI notes that since Bernstein advised the Commission that WEEG was taken off the air on January 22, 2019 (despite the station still being on the air at that time), the station faces a deadline of January 22, 2020 to have WEEG back on the air to avoid automatic cancellation of its FCC license under Section 312(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 312(g). While PTNI is able to put WEEG back on the air quickly, PTNI is not be able to take the necessary steps to do so if Bernstein remains shown as the FCC licensee of WEEG in the Commission's records, with control of PTNI's FRN and password. Indeed, but for Bernstein's decision to notify the Commission that WEEG was off the air in January 2019 (when it was not), and actions taken by Newport and Bernstein since October 24, 2019 contrary to the Receiver Removal Order - - that Newport and Bernstein have taken with the intention of delaying reinstatement of PTNI as the FCC licensee of WEEG, directly contrary to the Receiver Removal Order - - PTNI would have put WEEG back on the air already.

Wherefore, the premises set forth above in this Supplement to Opposition, as well as in the PTNI Opposition, the Application, and the Philadelphia court's Receiver Removal 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 WFG (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

Jeffrey L. Timmons, Esq.
974 Branford Lane NW
Lilburn, Georgia 30047-2680
(678) 463-5116 telephone
jeff@timmonspc.com

December 10, 2019 (electronically filed in CDBS)

CERTIFICATE OF SERVICE

I, Jeffrey L. Timmons, hereby certify that on this 10th day of December, 2019, a copy of the foregoing "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:

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

Newport Investment Group, LLC
Attention: Brian Roche
2510 E. Sunset Road #5-518
Las Vegas, Nevada 89120

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

Jeffrey L. Timmons, Esq.

EXHIBIT A

California Receiver Denial Order

Attached hereto is a copy of the Minute Order dated December 5, 2019, by the Superior Court of California, County of Orange, Central Justice Center in Case No. 30-2016-00880965-CU-BC-CJC.

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 12/05/2019

TIME: 01:30:00 PM

DEPT: C22

JUDICIAL OFFICER PRESIDING: Glenn Salter

CLERK: Karen Nordin

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: Fidel Ibarra, Jr

CASE NO: **30-2016-00880965-CU-BC-CJC** CASE INIT.DATE: 10/13/2016

CASE TITLE: **LUXURY ASSET LENDING, LLC vs. PHILADELPHIA TELEVISION
NETWORK, INC.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT ID/DOCUMENT ID: 73163344

EVENT TYPE: Motion to Appoint Receiver

MOVING PARTY: Newport Investment Group, LLC

CAUSAL DOCUMENT/DATE FILED: Motion - Other Appointing Temporary Receiver, 11/08/2019

APPEARANCES

John A. Crose, Jr., from Isaacs Clouse Crose & Oxford LLP, present for Defendant(s).

Stuart A. Katz, from Law Offices of Stuart A. Katz, P.C., present for Assignee, Interested Party(s).

Tentative Ruling posted on the Internet as follows:

The motion of Judgment Creditor Newport Investment Group, Inc., for a post-judgment appointment of a receiver for a broadcast station in Philadelphia, Pennsylvania, is DENIED. (See Code Civ. Proc., § 564, subd. (b).)

This matter is better left to the sound discretion of the Pennsylvania courts and the FCC, even if this court has the power to issue the relief requested.

It is this Court's understanding that the proposed receiver, Pennsylvania resident Joseph Bernstein of Spina & Company, was in place and later removed by the Pennsylvania courts and that his removal is the subject of appellate review in the Pennsylvania courts and the FCC.

The Judgment Creditor shall give notice.

In open court at 1:40pm:

Defense submits on the Court's tentative ruling.

The Court hears argument.

The tentative ruling becomes the order of the Court.

Court orders Judgment Creditor to give notice.

EXHIBIT B

October 2019 Emails From Bernstein's FCC Counsel and Bernstein

Attached hereto is a copy of an email on October 30, 2019 from Bernstein's FCC counsel forwarding an October 29, 2019 email from Bernstein acknowledging that he had been removed as temporary receiver.

Jeff Timmons

From: Kathleen Victory <victory@fhhlaw.com>
Sent: Wednesday, October 30, 2019 6:57 PM
To: Barbara Kreisman; David Brown - FCC; Hossein Hashemzadeh
Cc: Jeff Timmons; Joseph Bernstein (jbernstein@spinacpa.com)
Subject: FW: Philadelphia Television Network, Inc. WEFG

At the request of Joseph Bernstein, I am providing the email below.

Kathleen Victory



Kathleen Victory, Co-Managing Member
1300 N. 17th Street, Suite 1100 | Arlington, VA 22209
Tel: 703.812.0473 | Fax: 703.812.0486 | Cell: 202.255.0922
✉ victory@fhhlaw.com | www.fhhlaw.com | www.commlawblog.com

From: Joseph Bernstein [mailto:jbernstein@spinacpa.com]
Sent: Tuesday, October 29, 2019 10:17 AM
To: elcliett phillytvnews.com <elcliett@phillytvnews.com>
Cc: Doron Henkin <dhenkin@henkinlaw.com>; pscheuritzel@larssonlaw.com; Jeff Timmons <jeff@timmonspc.com>; jcrose@icclawfirm.com; Kathleen Victory <victory@fhhlaw.com>
Subject: RE: Philadelphia Television Network, Inc.

Hello Mr. Cliett,

Thank you for your email and for providing me with the Courts recent order which I had not yet received.

I can confirm that since I am no longer the receiver the license shall be removed from my name and responsibility. Please let me know if you need any assistance from me to complete this transition.

There are no contracts that bind PTN that were executed in my capacity as the Receiver. I had entered into a market brokerage agreement for the potential sale/ auction of the asset as the Receiver and in my name which has since been canceled and confirmed canceled.

Best regards,

Joseph Bernstein,
Spina & Company, LLC :
Court Appointed Receiver,
p: 215 235 5015 ext. 2 | e: jbernstein@spinacpa.com |
a: 2220 Fairmount Ave. Phila. PA 19130

From: elcliett phillytvnews.com <elcliett@phillytvnews.com>
Sent: Friday, October 25, 2019 6:18 PM
To: jbernstein@spinacpa.com

Cc: Doron Henkin <dhenkin@henkinlaw.com>; pscheuritzel@larssonlaw.com; Jeff Timmons <jeff@timmonspc.com>; jcrose@icclawfirm.com; victory@fhhlaw.com

Subject: Philadelphia Television Network, Inc.

Dear Mr. Bernstein:

As you may be aware, the Court of Common Pleas of Philadelphia has vacated the Order of November 18, 2018 which established Mr. Bernstein of Spina and Company as Receiver for Philadelphia Television Network, Inc. ("PTNI")

Please confirm that since you are no longer the receiver, the license shall be removed from your name and responsibility. In addition, please provide me with any copies of correspondence or contracts that bind PTN that you executed in your capacity as Receiver.

Please see the enclosed pdf of the Court Order vacating the Receiver.

Sincerely,

Eugene L. Cliett

Chairman, CEO and President

Philadelphia Television Network.