PHILADELPHIA COURT OF COMMON PLEAS

PETITION/MOTION COVER SHEET

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ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE: 12/26/2018

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CONTROL NUMBER: 18120452

(RESPONDING PARTIES MUST INCLUDE THIS NUMBER ON ALL FILINGS)

May (Month) Term, 2018 (Year)

No. 00074

LUXURY ASSET LENDING, LLC VS PHILADELPHIA TELEVISI

Name of Filing Party: PHILADELPHIA TELEVISION NETWORK IN

INDICATE NATURE OF DOCUMENT FILED:

☐ Petition *(Attach Rule to Show Cause)* ☒ Motion

☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☒ Yes ☐ No

Is another petition/motion pending? ☐ Yes ☒ No

If the answer to either question is yes, you must identify the judge(s): GLAZER J (CASE MGMT DISPUTE), ANDERS, PATRICK

TYPE OF PETITION/MOTION (see list on reverse side)	PETITION/MOTION CODE (see list on reverse side)
MOTION TO STRIKE	MTSTK

ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding):

I. CASE PROGRAM

OTHER PROGRAM

Court Type: JUDGMENTS

Case Type: FOREIGN JUDGMENT

II. PARTIES *(required for proof of service)*

(Name, address and **telephone number** of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)

RICHARD H GLANTON
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III. OTHER

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

(Attorney Signature/Unrepresented Party)	December 4, 2018 *(Date)*	DORON A. HENKIN *(Print Name)*	*(Attorney I.D. No.)*

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.
No extension of the Answer/Response Date will be granted even if the parties so stipulate.

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LUXURY ASSET LENDING, LLC	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
v.	:	
	:	MAY TERM, 2018
PHILADELPHIA TELEVISION	:	
NETWORK, INC., et al	:	
	:	No. 000074
Defendants	:	

Petition by Defendant Philadelphia Television Network, Inc. to Petition to Strike, Vacate, Open or Stay Foreign Default Judgment and to Reconsider, Stay or Vacate Prior Orders Appointing Receiver and Entering Purported Stipulation (the "Petition")

COMES NOW Petitioner, Philadelphia Television Network, Inc. ("PTNI"), by and through its undersigned counsel, being previously unrepresented in this action, and hereby respectfully submits this Petition[1] and in support thereof states as follows:

I. Parties and Related Information.

1. Petitioner, PTNI, is a Pennsylvania business corporation with its offices and principal place of business at 2 Johns Lane, Lafayette Hill, 19444, Montgomery County, Pennsylvania.

[1] A copy of Luxury Asset Lending, LLC's Praecipe to File, Register and Index Foreign Judgment as filed with and entered by this Court on May 4, 2018 is attached as **Exhibit 1**. A copy of the Stipulation and Order as filed with and entered by this Court on May 10, 2018 is attached as **Exhibit 2**. A copy of this Court's Order of November 19, granting Plaintiff's Emergency Petition to Appoint a Receiver, and a copy of that Receivership Petition, are attached as **Exhibit 3**.

2. At all relevant times Eugene Leslie Cliett ("Cliett") has been the President of PTNI and one of its shareholders. He is also Chief Executive Officer, Treasurer and a Director of PTNI.

3. PTNI is the holder of a license issued by the Federal Communications Commission ("FCC") for Low Power Television ("LPTV") broadcast station WEFG-LD, Philadelphia, Pennsylvania ("WEFG").

4. 2 Johns Lane Lafayette Hill, Montgomery County, Pennsylvania, 19444 (the "PTNI Business Location") has been the office and administrative address of PTNI's business since August 2006. PTNI's business records are at this address. PTNI uses this address for its tax returns, for its license and other filings with the FCC, and for all other general business purposes.

5. PTNI does not do business in California and has no contacts with California other than having been named in an unauthorized, undisclosed and largely undocumented purported loan transaction with Luxury Asset Lending, LLC that produced no funds for PTNI.

6. PTNI is a privately-owned Pennsylvania corporation, governed by the following documents, copies of which are attached as Exhibit 4: (i) Articles of Incorporation, Ex. 4, p.3; (ii) Bylaws adopted on March 1, 1999, Ex. 4, p.14 and a First Amendment to Bylaws adopted on June 6, 2018 (the "Bylaws") Ex.4, p.43; (iii) PTNI's Shareholders Agreement, which is dated as of August 19, 1999 (the "Shareholders Agreement" Ex. 4, p.45; and (iv) PTNI's stock certificates, also issued in 1999, each of which bear restrictive legends against transfer on the reverse side (the "Stock Certificates") Ex. 4, p.61. PTNI is also governed by Pennsylvania statutes governing domestic business corporations (generally, the "Associations Code", see 15 Pa. C.S. § 101 *et seq.*).

7. Since the execution of the Shareholders Agreement in August 1999, and at all times relevant to this proceeding, PTNI has had a total of 946 shares issued and outstanding (out of

2,000 shares authorized). The 946 shares were issued with stock certificates in 1999 as follows: (i) Richard H. Glanton, 425 shares, (ii) Eugene L. Cliett, 347 shares, (iii) Walter Moxley, 100 shares, and (iv) Ethel B. Wister, 74 shares). Ex. 4, p.61 et seq. Upon Walter Moxley's death, those 100 shares became titled in Diane Moxley, his wife, as a matter of Pennsylvania decedent's law. She is the administratrix of his estate, as well as fiduciary for beneficiaries of his will. No other shares in PTNI were then or thereafter issued, over and above these 946 issued shares.

8. Provision had been made, in August 1999, for two more shareholders; however, those shares were never issued. As stated in the Shareholders Agreement, in a note at the bottom of page 15, Ex. 4 at p.59, shares for Luther Brady were not issued, and he is not a shareholder, because he did not make the required investment. The Shareholders Agreement also provides for potential issuance of shares to Dimeling, Schreiber & Park ("DSP") which also advanced $4,000,000 in loan funds to PTNI, if DSP exercised warrants for those shares.

9. However DSP did not exercise those warrants, and never became a shareholder in PTNI. If Brady had purchased his shares, and if DSP had exercised its warrants, the result would have been the issue of all 2000 authorized shares, as shown in the right-hand column of page 15 of the Shareholders Agreement. However, since Brady did not purchase his shares and since DSP did not exercise its warrants, the result was that total issued shares remained 946. The number of issued shares, 946, is equal to the center column on page 15 of the Shareholders Agreement, less the 74 shares that were not issued to Luther Brady, Ex. 4, p.60.

10. Plaintiff Luxury Asset Lending, LLC ("Luxury") contends it is a California limited liability company, based in Newport Beach, California.

11. Defendant Richard Glanton ("Glanton") was formerly Chairman, Co-Chief Executive Officer (along with Cliett) and Secretary of PTNI. He was never President or Treasurer. He was

removed from office by majority consent of PTNI shareholders in May 2018, based on his unauthorized and self-interested actions described below. A copy of this Consent of Shareholders in Lieu of Meeting, removing Glanton, and executed in counterparts, is attached at Ex. 4, p.70

12. On information and belief, Glanton's Home Address at all relevant times is and was 26 Snowden Lane, Princeton, New Jersey 08540 ("Glanton's Home Address").

13. Wayne Curtis Weldon ("Weldon") is also named in the caption of the initial case filings by plaintiff as a defendant. He is an individual with no connection with PTNI. He was a former member of the United States Congress, House of Representatives, representing in the Philadelphia area.

14. Newport Investment Group, LLC ("Newport") is a California limited liability company based in Newport Beach California. Newport contends that it is Luxury's assignee in this action; however, it has not been listed as a party on the record in this case. Brian Roche ("Roche") is or has purported to Defendant and others at various times to be a principal, officer, investor or member of both Luxury and of Newport.

II. The Alleged Loans, Judgments and Stipulations of this Case are Unauthorized, Contrary to PTNI's Bylaws and Shareholders Agreement, In Breach of Fiduciary Duties, and Unenforceable.

15. PTNI disputes Luxury's/and or Newport's contentions that Luxury was ever a lender to PTNI, or that it was ever a co-borrower with Glanton and Weldon, under alleged written documents of April and May 2016 for $240,000 and $250,000, after substantial loan fees to Luxury's affiliates, and purportedly signed by Glanton.

16. PTNI also disputes Luxury's and/or Newport's contentions that Luxury was ever a lender to PTNI, or that it was ever a co-borrower with Glanton, under alleged and outrageous oral agreements of June and July 2016 to pay Luxury an additional $3,300,000 in two weeks' time, in exchange for two advances of $30,000 and $10,000.

17. PTNI never received any funds from these alleged loans, and any proceeds went only to the personal projects and purposes of Glanton and Weldon and to Luxury and its affiliates as loan fees and interest.

18. Neither Luxury not Glanton informed or sought approval or consent or any resolution or signature from PTNI's Board or its other Officers, Directors, including Cliett, its President, Co-Chief Executive Officer and Treasurer.

19. Apart from whatever Glanton may have done for his own benefit and without authorization or consent, PTNI did not know that there were any purported loans to or borrowings by PTNI at any time in 2016 or 2017.

20. PTNI disputes Luxury and/or Newport's contention that Luxury and/or Newport hold security interests, liens, pledges and rights against PTNI assets or PTNI's license rights with the FCC license, or that they are or can be an assignee or pledgee of Glanton's stock in PTNI.

21. Any such purported loans and agreements, pledges, liens, judgments, assignments and their enforcement were and are improper, invalid and unenforceable in that they were (i) for Glanton's and Weldon's personal, and largely improper purposes only, (ii) produced no loan funds to PTNI; (iii) were undisclosed to and unknown by PTNI [other than to self-interested former officer Glanton]; (iv) were unauthorized and contrary to PTNI's Bylaws and Shareholders Agreement; (v) were contrary to the Pennsylvania Business Corporation laws and other law

regarding business corporations and self-interested director and officer transactions and in breach of Glanton's fiduciary duties to PTNI; (vi) were for improper purposes and on unenforceable and unconscionable terms, contrary to public policy and [largely] undocumented; and (vii) were contrary to federal law, which prohibits granting or enforcing collateral, security interests or liens in FCC licenses.

II. The Alleged "Loans" were Personal Borrowings sought and lost by Glanton and Weldon, with Knowledge and some degree of Participation by Luxury and Roche, in a venture involving alleged currency from Libyan sources in Ghana. The loss to Glanton occurred because the alleged currency and expenses were a scam.

22. Attached as Exhibit 5 are some of the emails PTNI has collected that were sent by or purportedly from Glanton, Roche and Weldon. Attached as Exhibit 6 is Weldon's Declaration relating to these matters in the California Proceedings.

23. These emails and Declaration state and show that the loans from Luxury were expressly sought and used, by Glanton and Weldon, and with strong evidence of Luxury and Roche's ongoing knowledge and participation, to fund an unsuccessful venture and transactions involving alleged currency located in Ghana that allegedly came from Libyan sources (the "Ghana-Libya Currency Venture").

24. On September 30, 2016, Glanton emailed his own "Chronology of Developments Concerning Ghana Project" dated August 29, 2016, to Roche, Weldon, and several contacts in Ghana describing these matters and the Ghana-Libya Currency Venture. Glanton also forwarded the "Chronology" on September 30, 2016 to Cliett. Ex. 5, p. 1.

25. In this "Chronology" Glanton recounts that former Congressman Weldon had contacted him in April of 2015 about a "pending offer to manage a family fund of $350,000,000.00 owned by a Mr. Alirussi, a former Libyan Oil Minister. Ex. 5., p.2 ¶1. Glanton

recounts that he believed the offer "was real" and informed Weldon that the two of them should "travel to Ghana and make arrangements to release the funds to Curt's custody for investments in rated US securities." Ex. 5, p.2 ¶ 3. Glanton and Weldon traveled to Ghana in September 2015, and there, according to Glanton, began agreements to pay money to various third parties for expenses relating to the alleged currency. E.g., storage fees and fees "to secure fund release" Ex. 5, p.2 ¶5.

26. According to the Glanton Chronology, Glanton, Weldon and others "inspected 1 box which contained approximately $100,000,000.00 USD in notes of 100 dollar bills. And he was advised there were two more such boxes, through the executive on site "never produced credentials even after we requested them." Ex. 5, p.3 ¶ 6. Glanton and Weldon were then told the "funds were real and [t]otaled $354,120,000 USD plus another $1,200,000.00 which could not be counted by the machine. Ex. 5, p.4 ¶9.

27. Glanton recounts that they were then informed that "every note contained an allegedly invisible insignia in Arabic which had to be removed by experts" at a cost of $2.4 million "which had to be paid from a source other than the funds". Glanton further recounts that they were informed that several of the notes had been "cleaned to make sure the cleaning process would be accomplished." Ex. 5, p.4 ¶10. Glanton recounts that he and Weldon were told that co-venturers Ghana would put in $900,000 of the cleaning cost, if Glanton and Weldon could come up with the rest. Ex. 5, p.5 ¶11.

28. Glanton further states that, "Subsequently, I invested my own personal funds in this project to the total hundreds of thousands of dollars. **I also borrowed fund secured by my owned personal assets to raise capital required."** Ex. 5, p. 5, ¶12. Note here that in this while

Glanton discloses his own borrower and the pledge of his own assets, *he does not disclose, in this chronology, or in the email that he shared with PTNI's President Cliett, that Glanton had purported to cause PTNI to borrow money from Luxury under PTNI's name, and to pledge PTNI's assets as collateral.*

29. Based on the descriptions in the Glanton Chronology, the Ghana-Libya Currency venture appears to have been caught up in a variation of a "black money" or "wash wash" scam, in which an investor is shown allegedly large amounts of foreign currency, and is told these funds can be profitably realized or invested or managed after the investor pays certain, ever-growing fees, expenses and costs to help get those funds cleaned, handled and moved. See, e.g., "Lure of Black Money Scam" http://news.bbc.co.uk/2/hi/technology/3494072.stm (March 1, 2004); "Inside the Mind of British Fraudsters" http://www.cnn.com/2011/WORLD/europe/09/29/vice.uk.fraud/index.html (September 30, 2011); "Black Money Scam" https://en.wikipedia.org/wiki/Black_money_scam.

30. According to the Glanton Chronology, once those funds were raised to "wash" the "currency" the alleged currency was reportedly seized by a governmental unit, purportedly requiring a fine or payoff to get it back, in the amount of $3.6 million, of which Glanton and Weldon were told all but $400,000 had been raised. Ex. 5, pp.5-5, ¶¶14-15.

31. As Glanton recounts, **"Congressman Weldon and I approached Brian** [presumably Brian Roche, though possibly Brian Quinn] **and others as investors in the project who made large loans to bridge the gap**" [i.e. the loan from Luxury Asset Lending, LLC] and that as a result they raised not only those funds, but also an additional $400,000 that was now also needed. Ex. 5., p.6, ¶ 15 (emphasis added_

32. There followed more “expenses” for “pocket change and tips to someone in customs” and “$88,000.00 USD for cost of **cargo aircraft**” and “$500,000.00 USD for certifications and permits” of which Glanton recounts “I paid $300,000 . . . by wire transfer” and following which there was to be a “fake shipment” masquerading as “wooden dolls” via the **Ivory Coast**, which step Glanton recounts he refused to go along with, at which point the Chronology ends. Ex. 5, pp. 6-7 ¶¶ 16-19. (emphasis added)

33. On September 23, 2016, Glanton forwarded to Cliett another email, being one that Brian Roche of Luxury (and now Newport) had sent to Glanton of September 22, 2016, and which in turn purports to be a forwarding of an email from Curt Weldon to Roche of April 8, 2016, **eight days before the dates of the first Notes and Security Agreements with Luxury and that alleged obligated Glanton, Weldon and [allegedly] PTNI**. Ex 5, pp. 9-15.

34. Above the Weldon email, Roche on September 23, 2015 shows knowledge and participation in matters relating to the Ghana-Libya Currency Venture by stating, in all caps (which is his style), “I NEED TALKING POINTS LIKE THIS EMAIL, SO MY GUY CAN GET THIS IN THE HANDS OF POLICE INSPECTOR AND PRESS TOMORROW WE ARENT WAITING AROUND FOR THESE SCAMMERS ANY LONGER.” Ex 5, p.9.

35. The underlying email of April 8, 2016 from Weldon to Roche ties a number of pieces together, including the Luxury loan as funding source, as well as supporting Roche’s knowledge and participation [the email does not mention PTNI is purportedly, a “borrower” in these crazy transactions]. The emails states as follows:

> Begin forwarded message:
>
> From: "Curt Weldon" < curt.weldon@yahoo.com>

> Date: April 8, 2016 at 12:03:31 PM PDT
> To: "Brian Roche" < br@rochecorp.com>
> Subject: Extremely Confidential and Sensitive
>
> Dear Brian,
>
> I was involved in the taping of my Oral History as part of my Archives this morning (see attached) and could not respond.
>
> I just finished a lengthy discussion with my USG partner Tommy Allen and mentioned **your request** [i.e. Brian Roche's request] **to visibly see proof of the assets in Ghana**. . . Every step that I have taken has been with USG knowledge and support.
>
> I discreetly took a series of photos with my IPhone when the first crate and inside metal box was opened in the Security Company Garage in Accra. I have attached one of those **photos as you requested**. Following our review, Richard and I raised $2.4 M to count, verify the legitimacy and certify the entire amount of US currency in 3 such containers. As we explained to you, the total amount was certified to be $360M which is under my legal control as the only Fund Trustee with Richard as Fund Advisor and Legal Counsel.
>
> **Thank you for expediting our loan request so that we can move funds asap today or Monday to close this transaction next week.** Richard and I plan to be in Accra along with our USG partners next week for the closing.
>
> B/R,
>
> Curt
>
> Curt Weldon
> Member of Congress (1987-2007)
> CEO – Jenkins Hill International
> +1-484-340-9944
Ex. 5, pp. 9-10.
>

36. The photograph of the alleged currency that was attached to this email is at Ex. 5, pp. 11, purportedly taken by Weldon on his iPhone.

37. There is also an extensive email of September 28, 2016, with the header "Trip to Accra, Ghana" in which Brian Roche wrote to persons in Ghana with whom he claims, "a

personal relationship", and to Glanton, Weldon, and Luxury principal Brian Quinn, with many details of the Ghana-Libya Currency Venture and his own participation. Ex 5, at pp 17-19.

38. Roche refers in this email to Glanton as "my friend and partner" and refers to Glanton and Weldon as "my partners" and he refers to the "**cargo**" and to "the mess and involvement of transporting our cargo illegally to Abidjan, **Cote d' Ivoire**". He also asks the "Queen Mother of Ghana" to confirm she has a personal relationship with Roche and Quinn and to "**Please confirm we are very close**" and to tell another participant in Ghana that "he better make sure everything is done correctly especially if and when we land in Accra in the next 24 hours and that you are now involved with **helping us as our friend**." Roche further asks in this email to "**Confirm where exactly our cargo is today and if Richard Glanton, Congressman Weldon, Brian Quinn and I as personal guests of you and Nana Asafo Boakye fly to Accra tomorrow that it will be released to us immediately. Confirm he will be meeting with us on Friday. Ex 5, p.17 (emphasis added).**

39. By September 30, 2016, which was shortly before Luxury filed its Complaint against Glanton, Weldon and [unknown to it] PTNI in the California Proceedings, Glanton appears convinced he was scammed. In his cover email of that date to the Chronology, Glanton says "the alleged invisible insignia on the notes if it existed was unknown and there was no verification as to what the inscription meant. . . The basis for the original reference was from the scammers to urge that fees be paid to them." Ex 5. p.1

40. In the California Proceedings Weldon filed papers to open and contest the default judgment that had been entered by Luxury against him on the same sets of loan documents

from April and May 2016 by which PTNI is an alleged co-borrower. Weldon filed a sworn Declaration, a copy of which is attached as Exhibit 6 (the "Weldon Declaration").

41. In the Weldon Declaration, he asserts that the Luxury loans were arranged by Glanton in April 2016 with Roche and Luxury, starting with the borrowing of $240,000 (i.e. the same $240,000 loan on which PTNI is allegedly made a co-borrower). Ex. 6 ¶3.

42. Weldon declared that "Roche facilitated and encouraged the transaction, for example by boasting about and purportedly leveraging his relationships with royal family members and other top-level government contacts in Africa and coordinating trips to Africa to further the deal. Mr. Roche admitted that the entire transaction was a scam.". Declaration, Ex.6. ¶5.

43. Weldon's declaration also contended Roche had engaged in threats and intimidation, and that Glanton had called the local police department regarding Roche's threats." Id., ¶6. And the Declaration further states that, "based on correspondences and other discussions with Plaintiff's President, Brian Quinn, I believe that Mr. Quinn was fully aware of Mr. Roche's efforts to facilitate the transaction and his subsequent threatening conduct." Ex. 6, ¶7.

44. Attached as Exhibit "B" to Weldon's declaration are several emails among Weldon, Quinn and Roche of November 26, 2016. Weldon stated in one of the November 26 emails to regarding a purported "plan to satisfy your situation pending Richard's liquidation of the TV station he pledged as collateral." Brian Quinn choose to avoid a direct response, and instead responds "Roche is a joke and not involved with me or my company [Luxury] and will explain." None of this was told or disclosed to PTNI, which had no knowledge of any such loan, collateral, or plan.

III. The "Loans," Agreements and any Stipulations were Invalid and Unauthorized.

45. The Bylaws and Shareholders Agreement impose restrictions on the authority of PTNI's officers to enter into loans or grant security interests in the company's assets or stock.

46. Under the Bylaws, only the President, Vice President, or Treasurer (or "any other person or persons" specifically authorized by the board of directors, but the board has taken no such action) are authorized to execute any or "[a]ll notes, … guarantees and all evidences of indebtedness of [PTNI] whatsoever," as well as "all deeds, mortgages, contracts and other instruments requiring execution." See Bylaws at §5.01, Ex. 4, p.40. In addition, the Treasurer is responsible for keeping PTNI's contracts and other business records. Id. at §3.07, Ex.4, pp.35-36.

47. Glanton was not and has never been a President, Vice President or Treasurer of PTNI, and no loans or agreements with Luxury have ever been authorized by PTNI's board of directors.

48. Despite these limitations, and without any other authorization, consent or knowledge of PTNI or its Board, Glanton purportedly signed documents with Luxury in April 2016 and May 2016 naming both himself and PTNI as borrowers, purportedly in the principal amount of $250,000 plus $240,000. [And also, purportedly *orally* agreed thereafter to make himself and PTNI liable for an *additiona*l $3,000,000, in exchange for personal advances to Glanton [for the Ghana-Libya Currency Venture] of $30,000 and $10,000]:[2]

[2] The alleged "oral" agreement is discussed in more detail in following sections of this Petition. As to purported written agreements, Luxury contends there was a Secured Promissory Note dated April 16, 2016, by and between PTNI and Luxury, with a principal amount of $240,000 (the "April 2016 PTNI Note") Exhibit 3, p.62; (ii) a Security Agreement dated April 16, 2016, by and between Glanton and PTNI with Luxury (the "April 2016 Security Agreement") Exhibit 3, p.77; (iii) a Guaranty Agreement dated April 16, 2016, by and between Glanton and PTNI with Luxury (the "April 2016 Guaranty") Exhibit 3, p.85; (iv) a Secured Promissory Note dated May 16, 2016, by and between PTNI and Luxury, with a principal amount of $250,000 (the "May 2016 PTNI

49. In addition, under the Shareholders Agreement, no shareholder of PTNI (including Glanton) is permitted to pledge or assign any shares a shareholder may hold in PTNI, or "any beneficial interest" in such shares, see Shareholders Agreement at § 3, Ex. 4, p. 46 and any such action taken in violation of those limitations are "void" and not recognizable by PTNI. Id. at § 15, p.57.

50. These restrictions against transfer and disposition were stated in conspicuous typed legends on each of the Stock Certificates of PTNI, including those issued to Glanton. Ex. 4, pp. 61-62.

51. The Shareholder Agreement was known to Glanton and Luxury at the time of these the Purported PTNI Loan Documents, indeed the PTNI Shareholders Agreement was expressly referenced in the Purported Loan Documents Glanton signed with Luxury. See April 2016 Security Agreement, Ex. 3, p.77 and May 2016 Security Agreement at §2(a), Ex 3, p.105 (expressly referencing the Shareholder Agreement); see also, April 2016 Guaranty, Ex. 3, p. 87 and May 2016 Guaranty at § 9(a) (same), Ex 3, p,115.

52. The Pennsylvania Associations Code also provides that third parties are bound by restrictions against transfer of shares, if *either* they knew of the agreement *or* if those restrictions are conspicuously referred to on stock certificates. 15 Pa.C.S. § 1529. Both of these conditions are met here, and Luxury/Newport is therefore bound by the restrictions. As a

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Note") Ex 3 p.91; (v) a Security Agreement dated May 16, 2016, by and between Glanton and PTNI with Luxury (the "May 2016 Security Agreement") Ex. 3, p.105; and (iv) a Guaranty Agreement dated May 16, 2016, by and between Glanton and PTNI with Luxury (the "May 2016 Guaranty") Exhibit 3, p.113 (collectively, the "Purported PTNI Loan Documents").

result, the purported pledge or assignment of shares from Glanton to Luxury/Newport is void and unenforceable.

53. PTNI received none of the funds or proceeds of any loan from Luxury, which instead went for Glanton's personal purposes.[3]

54. It was a breach of a fiduciary duty, apparent on its face to Glanton and to Luxury, for there to be promissory notes and borrowing purporting to obligate PTNI and for which the funds were not wired to PTNI or a PTNI account.

55. As a director and officer of PTNI, Glanton owed PTNI and its shareholders a fiduciary duty to act in PTNI's "best interests". 15 Pa. C.S. §§ 512(a) and (c) and 1712 (a) and (c).

56. Moreover, self-interested or self-dealing transactions by a director or officer, or transactions otherwise in breach of fiduciary duty or lacking in good faith, are entitled to no presumption that the acts in question were in the best interests of a corporation. 15 Pa. C.S. §§ 515(d), 516 (c), 1715 (d).

57. Self-interested acts are not protected from being void or voidable for that reason, unless all the material facts are disclosed to Board or to the shareholders, and thereupon the informed Board or shareholders authorize or ratify the transaction by affirmative vote of a majority of disinterested directors or shareholders. 15 Pa. C.S. § 1728 (a).

58. For these reasons, any reasonable lender seeing that funds were not paid directly to PTNI, would have been, and Luxury was therefore on notice of the need for further due diligence

[3] Under the April 2016 PTNI Note $40,000 was to be paid to Net Gain Financial, LLC, an affiliated company of Luxury and Brian Quinn, Luxury's President as a loan fee, and $200,000 was to be wired according to wire instructions at Exhibit "A". Ex. 3, p. 68. Under the May 2016 PTNI Note $100,000 was paid to Luxury's affiliate Net Gain Financial, LLC as a loan, and $150,000 was to be wired according to wire instructions at Exhibit "A". Ex 3, p.97. However, there is no Exhibit "A" to either of these Notes, and none has ever been attached in California Proceedings or before this Court, nor has Newport produced an Exhibit "A". PTNI did not receive those funds and has no knowledge of to where, or even if, such funds may have been wired.

inquiries, and full supporting documentation showing[4] that Glanton had the authority, on express consent by informed and disinterested directors or shareholders, to execute the Loan Documents on behalf of PTNI.

59. Absent such further due diligence inquiries or supporting documentation, it was not reasonable to assert that Glanton had "apparent authority" to execute the purported loan documents.

60. Even when loan funds go directly to named borrowers, accepted commercial lending practice is to request copies of a corporate borrower's governing documents (articles of incorporation and bylaws), any shareholder agreements, and/or certified resolutions from the corporation's board of directors and/or shareholders authorizing a transaction, supporting documents which, in this case, would have revealed to Luxury and Newport that Glanton lacked the authority to execute the Purported PTNI Loan Documents.

61. Particularly in the circumstance of loan funds not going directly to PTNI, Luxury and Newport were not entitled to rely on boilerplate and false representations made by Glanton is the Purported PTNI Loan Documents themselves.

[4] False representations included that: (i) the loan proceeds would be used for PTNI's commercial purposes; see Ex. 3: April 2016 PTNI Note and May 2016 PTNI Note at § 9 [*sic*]; see also, April 2016 Guaranty and May 2016 Guaranty at § 3; (ii) no other approvals or consents were required; see April 2016 PTNI Note and May 2016 PTNI Note at § 10(b) [*sic*]; see also, April 2016 Guaranty and May 2016 Guaranty at § 4(b); (iii) Glanton had the authority to execute, and PTNI's board of directors had passed a resolution authorizing execution (PTNI's board has not done so) of the notes, see April 2016 PTNI Note and May 2016 PTNI Note at § 17 [*sic*]; see also, April 2016 Security Agreement and May 2016 Security Agreement at § 1; see also, April 2016 Guaranty and May 2016 Guaranty at § 1(b); (iv) PTNI (as "Borrower") had shares of stock in Fidelity and Schwab accounts, see April 2016 Security Agreement and May 2016 Security Agreement at § 2(b)-(c) [*sic*]; see also, April 2016 Guaranty and May 2016 Guaranty at § 9(b)-(c); and (vi) PTNI's executive offices and principal place of business was located at Glanton's Home Address of 26 Snowden Lane, Princeton, New Jersey 08540, see April 2016 Security Agreement and May 2016 Security Agreement at §§ 3 and 13.

62. In addition, as set out further below, Luxury/Newport and Roche as an officer or principal knew that the transactions in question had numerous hallmarks indicating lack of knowledge, consent or approval by other directors and officers, and also indicating that the transactions themselves were an improper purpose as to PTNI, and there is also significant evidence of participation by Luxury/Newport/Roche in those transactions, which prevents them from claiming any protections that might otherwise go to third-party lenders with no knowledge or participation.

IV. The "Loans to PTNI" and the California Proceedings were Concealed from PTNI.

63. PTNI did not know, and was not informed, at any point in 2016 or 2017, that there were any Purported Loan Documents obligating PTNI, or that that PTNI was a supposed borrower from Luxury, or that there were any supposed oral agreements between Glanton and Luxury that purportedly made PTNI liable on any debts to Luxury. PTNI's President Eugene did not understand that this was, if fact, what had occurred until his FCC counsel pulled documents together and discussed them with him on or about May 17, 2018.

64. PTNI learned in September 2016, that Glanton had purported to pledge his own shares in PTNI as collateral for loans Luxury made to him, but not that there were any alleged loans or borrowings by PTNI.

65. In communications from and with Roche and Glanton in the first week of September 2016, PTNI learned that Glanton owed money to Luxury/Roche and that there was a purported pledge of Glanton's stock in PTNI in connection with that debt.

66. A conference call was then held, on or about September 4, 2016, including Glanton, Cliett, PTNI Director Steven Park and Peter Schreiber. In the call, Glanton said he owed Roche

$480,000 and that "he'll (Roche) be paid in a week." When Glanton was asked in the call what Roche had as collateral, he responded "**just my PTN Stock**".

67. In the succeeding correspondence, Glanton and Luxury concealed from PTNI, and did not state or point out that, there were any alleged loans on which PTNI was a borrower, or that there were any purported pledges or grants of security interest in PTNI's assets or as to PTNI's licenses with the FCC.

68. Luxury filed the California Proceeding that gave rise to the default judgment against PTNI on October 13, 2016, naming Glanton, Weldon and PTNI as defendants (though PTNI was not served with the Complaint and did not otherwise learn it was a defendant in the action until well into 2018).

69. Attached as Exhibit 8 is a copy of Luxury's Complaint in the California Proceedings, followed by Additional Documents from those California Proceedings. The Purported PTNI Loan Documents were Exhibits to Luxury's Complaint but are not included here because they appear to be substantially the same as already appearing here in Exhibit 3.

70. This Complaint alleges that PTNI, Weldon and Glanton are liable as co-borrowers to Luxury under the alleged PTNI April 2016 Note in the amount of $240,000, plus 12% interest and $24,000 in late charges; and that Glanton and PTN were co-borrowers are liable to Luxury under the alleged PTNI May 2016 Note in the amount of $250,000 plus 12% interest and $25,000 in late charges.

71. The California Complaint also alleges, in Count Eight and Nine, that Glanton and PTNI owe Luxury an **additional $3,300,000**, contending that between "June 21 and June 27, 2016" and again on "July 12-13, 2016" there were **oral** agreements for Luxury to loan an

additional **$30,000 and $10,000** to "close the underlying transaction which was already behind schedule" [Count Eight – i.e. the Ghana transaction], and "to close the underlying transaction" [Count Nine – i.e. the Ghana transaction], all to be "due and repaid in **two weeks**" to Luxury. Ex 8, pp. 13-14.

72. It is almost impossible to count the effective return on an alleged advance of $40,000 that returns $3,330,000 two weeks later.

73. The overall provision, as well as its use in context here, is void or voidable as being unconscionable, penal and contrary to public policy, which principle in fact applies to the entire claim against PTNI, and not only this outrageous addition of another $3,330,000.

74. The untenable and shocking proposition here by Luxury is that an officer of a corporation can purportedly bind the business, even in a self-interested transaction that did not benefit the corporation, to pay $3,300,000 in exchange for having lent that officer $40,000 for his personal purposes over the preceding month. The provision is doubly against public policy in that the use of the funds was for an improper overseas currency fiasco, and one in which the lender or at least the lender's principals have knowledge and a fair degree of participation. The provision is also penal in the sense that it is punishment for the failure to repay the previous $490,000 [of which none went to PTNI, and of which $140,000 was in loan fees]. participated. is that by oral agreement a self whether under Pennsylvania law or California law. This provision is unenforceable as a penalty.

75. The pattern, and particularly the claim that it was "oral" strongly suggest that this claim by Luxury/Newport is a scheme or subterfuge to try to sap potential value in PTNI's assets, either with or without Glanton's concurrence, and that had no commercial loan reality,

and the pattern also calls into question whether the Purported PTNI Loan Documents are authentic and contemporaneous documents, which has not been tested in this case because all actions have been done by default or *ex parte.*

76. The foregoing is more than ample grounds for this court to open the default judgment and following orders, for plenary review, evidence and consideration, even if this Court determines not to strike them.

77. The California Complaint also alleges a right to foreclose on alleged security and collateral interests, which include Glanton's 425 shares in PTNI, notwithstanding the prohibition in the Shareholder Agreement and the prohibition under federal law against granting security interests in an FCC license.

78. The Complaint further conceals from view, and misleads any potential PTNI reader of the Complaint, as to the extent of Luxury's later claims against PTNI Assets as alleged collateral, by including an itemization of collateral security in Count Seven on which it seeks foreclosure, while omitting to mention that it seeks foreclosure on PTNI's own property or relating to an impermissible security interest in PTNI's license rights with the FCC. Ex. 8 pp.10-12.

79. Counts Eleven and Twelve of the California Complaint **allege and admit that Glanton "did not have the right to pledge or assign his ownership interest** in the stock he owns in Philadelphia Television Network, Inc. Moreover, at all times relevant hereto, GLANTON was a signatory and party to a Shareholder's Agreement, pertaining to Philadelphia Television Network, Inc. which explicitly restricted the sale, pledge, transfer, assignment or disposition of any such shares of stock held by Glanton unless done in accordance with the terms of such

Shareholder Agreement, which includes a right of first refusal to be given to the remaining shareholders prior to any pledge or assignment of such stock to third parties." (emphasis added). Ex 8, p.19.

80. PTNI was not served with the California Complaint, other than whatever effect it may have had to deliver a copy to Glanton.

81. Luxury concealed the California Proceedings from PTNI by serving it at Glanton's Home Address, 26 Snowden Lane, Princeton, New Jersey 08540, and not PTNI's Business Location at 2 Johns Lane, Lafayette Hill, Pennsylvania 19444. Ex 8, p.26.

82. Glanton's Home Address in New Jersey is not and has never been a registered office of PTNI, or the address of a designated agent for the service of process with the Pennsylvania Secretary of State.

83. On or about December 6, 2016, Luxury filed in the California Proceeding a Request for Entry of a Default against PTNI for failing to answer the California Complaint, seeking entry of a Clerk's Judgment under California Code of Civil Procedure § 585(a). A copy of this Request for Entry of Default. Ex. 8, p.27.

84. The California form for Request for Entry of Default, Civ-100, completed and signed by Luxury's counsel, requires the requesting party to serve the Request for Entry of Default to, and to state the "last known address" of the defendants. The Request for Entry of Default at Exhibit 8, p. 28 falsely states, over the signature of Luxury's counsel and under penalty of perjury, that PTNI's last known Business Location [to which a copy of the Request was being mailed] was 26 Snowden Lane, Princeton, NJ 08540, i.e., Glanton's Home Address.

85. The foregoing resulted in a default judgment that PTNI never knew about and had no reasonable opportunity to defend against, in violation state law and requirements of due process.

86. On March 30, 2017, Luxury filed in the California proceeding a Request for Entry of a Court Judgment against PTNI, based on the Default previously entered on December 6, 2016, and

again on form CIv-100. A copy of this Request for Entry of Court Judgment Default is attached as Exhibit 8 at p.29.

87. This Request for Entry of Default falsely states, over the signature of Luxury's counsel under penalty of perjury, that PTNI's last known Business Location to which a copy of the Request for Entry of Judgment was being mailed was 26 Snowden Lane, Princeton, NJ 08540, i.e., Glanton's Home Address. Ex 8, at p.30

88. Based on these submissions, and also a declaration dated March 30, 2017 from Brian Roche on behalf of Luxury, the Court entered a Default Judgment on April 6, 2017 against PNTI, Glanton and Weldon. A copy of the Declaration by Roche is attached as Exhibit 8, p. 31.

89. In the Declaration Roche ambiguously claims to be "an investor working with the Plaintiff Luxury" and that he "**personally handled all details of the transactions and loans**"

90. Roche's own Declaration makes clear that the loans had nothing to do with any advances to or benefit of PTNI. Instead he says he was contacted by Glanton, and on behalf of Weldon, to fund "a very large-scale transaction that they were trying to close, for which they required additional funds." Ex 8, p.32. The Roche Declaration describes the co-borrower as Weldon (and not as PTNI). Ex 8., p33 ¶7. The Roche Declaration further states that the second set of documents was done in May 2016 as "a second loan was needed quickly since the underlying financial transaction that GLANTON and WELDON [and not PTNI] were working feverously to close was in trouble". Ex. 8, p.34, ¶14.

91. Roche's Declaration says that collateral was required, but **his description of the collateral conspicuously omits to mention any assets of PTNI being part of the collateral**. Ex 8, p.39.

92. The Roche Declaration further states that Glanton and Weldon [not PTNI] had critical need for some more money to close the transactions, and that there was a resulting oral agreement with them to advance $30,000 more, in exchange for which "they would repay LUXURY all amounts due on the previous loans but in addition, they would repay Luxury an **additional $3,300,000 as part of the deal**."

93. The Declaration appears also to say; however, this "oral" deal was with Roche himself. Roche words the "deal" as follows: "**Under the belief that making the additional smaller loan** to Defendants would help protect the prior loans, and in light of the agreement to pay an additional $3,300,000, **I then entered into an oral agreement for LUXURY to loan** Defendants GLANTON AND WELDON and PTN an additional $30,000" to be due in two weeks' time. Ex 8, p.38. Similar language appears for a subsequent advance of $10,000. Ex 8, p.39.

94. Emails among Roche, Glanton and Weldon from 2016 also support the view that Roche may have advanced the $30,000 and $10,000 from his own or separate funds, and not through or under Luxury, and further suggesting there is no actual contract between the co-borrowers [and of coursed PTNI] to pay the $3,300,000 return for Roche's investment. See emails at Ex. 5, pp. 19-22 (red highlighting added) (all caps are in the original).

95. Roche writes to Glanton and Weldon on November 2, 2016, i.e. after having commenced the California Proceedings, that "Brian Quinn [President of Luxury] doesn't fucking control me, we are 2 separate entities and he is a rat and your deal was with me and your life and death oath was to me." Ex. 5, p.20.

96. On November 3, 2016, Glanton emails Weldon to say "we just got scammed out of hundreds of thousands of dollars. Brian Quinn owns the company and stated that I should not have any contact with Brian Roche and he only invested about $15 or $20 thousand of his own money but borrowed funds from others but through Luxury Assets but doesn't own any interest in Luxury Asset.; misrepresented to Luxury assets lenders what they did with the money and ask me to lie about it to the people in Ghana as some of them may have loaned Brian monry [sic] in other deal which they jointly understok [sic]."

97. It appears that this link from Glanton to Roche of November 3 made Roche very angry, who wrote to Glanton on November 6, 2016, stating "[YOU] LIED TO BRIAN QUINN ABOUT ME AND OUR DEAL, AND PICKED YOUR SIDE WITH HIM. NOW I WILL DESTROY YOU. . . USING MY OWN GOVERNMENT CONTRACTS AND MY MAN ON THE STREET TO DESTROY YOU AND WELDON ONCE AND FOR ALL THE LYING (following expletives deleted) (all caps in original) Ex 5, p.21.

98. PNTI was not served with and did not receive a copy of the $3.9 million default dollar judgment against it in 2017, nor did it receive any demand to pay it or attachment or execution papers based on it, nor did it know there was a judgment against PTNI or that Luxury was contending that PTNI was a borrower from it, all of which remained concealed from PTNI throughout 2016 and 2017, and well into the Spring of 2018. Cliett, as PTNI's President, did not understand these were the case until he discussed matters with his FCC counsel on or about May 17, 2018, who had pulled and reviewed documents after Cliett discovered the pending FCC Transfer Application had been filed by Glanton and Newport in May 2018.

V. **The California Proceeding Also Violated Loan Document Requirements for Binding Arbitration.**

99. If the Purported PTNI Loan Documents were authorized and valid (they are not), Luxury and/or Newport violated the arbitration requirements in each of the Loan Documents by initiating the California Proceeding without first going to binding arbitration.

100. These arbitration provisions are set out at April 2016 PTNI Note and May 2016 PTNI Note at § 11; see also, April 2016 Security Agreement and May 2016 Security Agreement at § 15; see also, April 2016 Guaranty and May 2016 Guaranty at § 16.

VI. Richard Glanton Files for Chapter 11 and Continues to Conceal PTNI's Position.

101. In July 13, 2017, Glanton filed for personal Chapter 11 Bankruptcy protection in New Jersey at Case No. 17-24279-CMG. In his bankruptcy papers, he described the value of his interest in PTNI as "unknown" or as $0 in his schedule of personal assets.

102. His bankruptcy papers fail to mention that he and PTNI were alleged co-borrowers on any money from Luxury.

103. PTNI received some correspondence and communications in the following months, while the Glanton bankruptcy was pending, that appeared to relate to purported efforts by Luxury to realize on Glanton's stock in PTNI and possibly to turn that realization on his stock into some purported ability to thereby cause a sale of PTNI's assets.

104. PTNI responded, as it had before, by repeating that Glanton did not have the ability to pledge his stock under the Shareholder Agreement, and also that Glanton was not the majority shareholder in PTNI, and that his ownership percentage was 45% and not 55% as was being now contended by Glanton and Luxury.

105. In none of this did PTNI know or understand that there was a judgment against PTNI or purported indebtedness for PTNI borrowings.

106. It was then that the previously concealed and hidden loan documents and judgment proceedings were now sprung against PTNI by Luxury and Glanton.

VII. In 2018, Glanton, Roche, Luxury and A Non-Existent "Newport" Joined Forced and Purported to Take PTNI's Assets, including its FCC License, as a Deal to End Glanton's Personal Bankruptcy

107. At that time, or more likely somewhat earlier, a deal was struck among Glanton, Luxury and "Newport" to permit Glanton to emerge from his **personal** debts and **personal** bankruptcy, in exchange for his purported transfer to them of **all of PTNI's assets, including its rights under its FCC License.**

108. On April 27, 2018, with consent of Luxury, Glanton voluntarily dismissed his Chapter 11 bankruptcy. Exhibit 2, p.15.

109. Acting in each case without PTNI's knowledge, authorization or consent, and without serving or notifying PTNI of any of the new filings, Glanton, Luxury and "Newport" filed defective papers between April 27, 2018 and May 10, 2018, in California, before this Court, and before the FCC, all purporting to implement this personal deal.

<u>The California Assignment to Non-Existent Newport</u>

110. On April 27, 2018, the same day Glanton's personal bankruptcy was dismissed, Luxury filed in the California Proceedings a purported Assignment of the April 6, 2017 Default Judgment. Exhibit 2, p.10.

111. The Assignment purports to be from Luxury to "Newport Investment Group, LLC, located at 2620 S. Maryland Pkwy Suite 14-136, Las Vegas, NV 89109." Exhibit 2, p.11.

112. Apart from all other defects relating to the April 6, 2017 default judgment, which had never been noticed to PTNI, the Assignment, everything that followed upon that Assignment was invalid because **Newport did not exist.**

113. The records of the California Department of State, including documents produced to the undersigned counsel by Newport in response to informal discovery requests, show that Newport was formed by the filing of a Certificate of Organization in California on July 25, 2018. This entity therefore did not exist before July 25, 2018. The filings in California show that Newport was a new entity filed in California and that time and was not filed as a California domestication of any pre-existing entity. Newport has also supplied copies of certificates of organization for two other Montana limited liability companies, both of which happen also to be named Newport Investment Group, LLC. However, both of these Montana entities were dissolved according the Montana state records, and went out of existence, before April of 2018.

114. A copy of the Certificate of Organization of Newport Investment Group, LLC, produced by Newport, is attached as Exhibit 9.

115. As of April 27, 2018, April 30, 2018 or any date before July 25, 2018, there was no Newport Investment Group, LLC that was or could have been an assignee from Luxury, or that

signed or could have signed, or filed, any of the documents of April or May 2018, or that could have been a proper party in any of the proceedings.

The Unauthorized and Improper FCC Transfer Application to Newport

116. On May 3, 2018, Glanton sent an application to the FCC to transfer the holding of PTNI's broadcast license rights to Newport (the "FCC Transfer Application"). Ex. 3, p.50.

117. The FCC Transfer Application incorrectly called that the address of PTNI was 26 Snowden Lane, Princeton, NJ (Glanton's Home Address), rather than 2 Johns Lane Lafayette Hill, and gives Glanton's phone and email as contacts. He states that his is Chairman & CEO without disclosing that Cliett is President and Co-CEO.

118. The FCC Transfer Application was invalid in that, *inter alia*, it was not authorized, or consented to, or disclosed to PTNI and its other Officers and Directors and it was contrary to federal law prohibiting collateralization and collateral enforcement against FCC licenses.

119. On November 13, 2018, the FCC ruled against Newport and Glanton and dismissed the FCC Transfer Application. Exhibit 3, p.57.

120 The FCC Dismissal Ruling of November 13 finds that, that as a matter of federal law and policy, there can be no collateral assignment or pledge of FCC license rights, and that any such rights were not enforceable, whether stated in agreements, judgments or court orders. Exhibit 3, pp. 59-60.

The Defective Praecipe to Enter the California Judgment in Pennsylvania

121. On May 4, 2018, Luxury filed and this Court entered judgment against PTNI pursuant to a Praecipe to File, Register and Index Foreign Judgment in favor of Luxury, with the

effect of registering a default judgment for Luxury [and not Newport] in the California Proceedings, which default judgment had been entered in favor of Luxury in California on April 6, 2017, in the purported amount of $3,897,919.22. Exhibit 1. ("Luxury's Foreign Judgment Filing").

122. Registration of foreign-state judgments in Pennsylvania is done pursuant to the Uniform Enforcement of Foreign Judgments Act, 42 Pa. C.S. § 4306. Under that Act, the "judgment creditor or his attorney" must file authenticated judgment records from the foreign state, together with an affidavit setting forth the name and last- known address of the judgment debtor, and the judgment creditor, which affidavit must also include a statement that the foreign judgment is valid, unenforceable and unsatisfied. 42 Pa. C.S. § 4306 (c). Once this is filed, the court is to mail notice of that judgment to the judgment debtor at the address shown in the affidavit.

123. Luxury's Foreign Judgment Filing filed to meet these requirements.

124. Though Luxury filed for entry of the judgment in Pennsylvania, and though the judgment was entered by this Court in favor of Luxury as plaintiff, Luxury was not the "judgment creditor" entitled to make the filing under 42 Pa. C.S. § 4306, nor was it entitled to receive judgment in its name as plaintiff, because there already was an assignment of the California judgment of record on April 27, 2018 to Newport Investment Group, LLC.

125. To this day, Luxury and not Newport is the plaintiff and judgment holder of record in this case.

126. The exemplified judgment record attached to Luxury's Foreign Judgment Filing was certified and dated March 9, 2018, and therefore it was also defective and insufficient in that it did not reflect events after March 9, 2018. Ex. 1, p.12.

127. The existence of the previous assignment of record to Newport Investment Group, LLC, though not stated in the Luxury's Foreign Judgment Filing or reflected in the outdated judgment record filed with this Court, can only be seen through inference from the docket entries that Luxury also attached, because those docket entries ran through May 1, 2018 and contain entries of April 27 and 30, 2018 relating to the assignment of judgment. Ex. 1, p.18, Docket Entries 93 and 97.

128. Luxury's Foreign Judgment Filing with this Court on May 4, 2018 also did not mention or seek to register or index before this Court the April 30, 2018 Stipulation and Order in the California Proceedings.

129. The required affidavit filed by Luxury's counsel was also defective under 42 Pa. C.S. § 4306 because the affidavit misstated the Business Location of PTNI, and also because, for the many reasons presented in this Petition, the underlying judgment was not valid and enforceable.

130. That affidavit states incorrectly that the Business Location of Defendant Philadelphia Television Network, Inc., was 1515 Market Street, Philadelphia, PA 19102" Ex. 1, p.10. PTNI had not been at that address since moving out in 2004, which was well known to Luxury and Glanton, as was PTNI's address since August 2006 at 2 Johns Lane, Lafayette Hill, Pennsylvania, 19444. The further result of this was that PTNI did not receive notice that judgment had been entered against it by this Court.

132. Even if the above the requirements of 42 Pa. C.S. § 4306 had been complied with, which they were not, under the Act, and even if Luxury or somehow Newport were deemed an appropriate "judgment creditor", which they were not, the judgment in any event remains "subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of any court of common pleas of this Commonwealth and may be enforced or satisfied in like manner." 42 Pa. C.S. § 4306(b).

133. In addition, under the Act, "If the judgment debtor shows the court of common pleas any ground upon which enforcement of a judgment of any court of common pleas of this Commonwealth would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this Commonwealth. 42 Pa.C.S. § 4306(d). Those grounds plainly exist in this case for all the reasons set out above.

The Escalation to Seeking Transfer of All of PTNI Assets

134. Following the entry of judgment by this Court on May 4, 2018, Luxury filed a "Stipulation for Issuance of an Assignment Order" with this Court on May 10, 2018, which this Court also signed that day. ("The Pennsylvania Stipulation") Exhibit 2.

135. As with all the above documents, the Pennsylvania Stipulation was not served upon or sent to PTNI's offices at 2 Johns Lane, Lafayette Hill, Pennsylvania, nor was it consented to or authorized by PTNI's Directors or Shareholders.

136. The Pennsylvania Stipulation was not signed by Luxury.

137. It was signed by Glanton and by "Newport" through Brian Roche as its "Managing Member"; however, Newport did not exist on May 10, 2018, and could not have entered into binding Stipulation, nor present it to this Court for action.

138. The Pennsylvania Stipulation asserts, that [non-existent] Newport, Glanton and [purportedly] PTNI "have agreed to transfer Glanton's 425 shares in PTNI stock to Newport, and, subject to FCC approval, to transfer to Newport all of PTNI's assets, including as to its FCC license.

139. The Pennsylvania Stipulation recites that it was part of the consideration for the treatment of Glanton's personal debts and for the dismissal of Glanton' bankruptcy, and that in exchange, Glanton had agreed with Luxury and/or Newport " "to transfer, assign and convey, upon FCC approval**, the License and all PTN Assets of Defendant PHILADELPHIA TELEVISION NETWORK, INC. to NEWPORT INVESTMENT GROUP, LLC, including all rights, title and interest to all shares of stock in partial satisfaction of this Judgment."** Ex. 2, pp. 4-5. (emphasis added).

140. In the Pennsylvania Stipulation Glanton falsely warranted that he had "the authorization and right to enter into the referenced Agreement assigning the rights and assets referenced therein and this Stipulation." However, the Stipulation [and the resulting Order it fostered] was an unauthorized, and self-interested deal to get Glanton out of bankruptcy in exchange for a **transfer of all the assets** of a company in which he was an officer, out from under its other shareholders, which is contrary to Pennsylvania corporate law.

141. The Pennsylvania Stipulated Order that was entered in false reliance on this invalid Stipulation is itself invalid, and invalidly provides that Glanton assigns his rights in PTNI to

Newport *[which did not exist]* including his 425 shares of PTNI to Newport [*though contrary to PTNI's Shareholder Agreement]*; and that upon approval by the FCC Glanton and PTNI are transferring all control, possession, assets and ownership of PTNI, including its FCC license to Newport; *[though unknown to this Court, this was unauthorized by PTNI and this was contrary to federal law*]. Indeed, FCC approval was denied on November 13, 2018 for this reason].

142. The resulting transfer also violated Pennsylvania corporate law governing transfers of all or substantially all assets of a corporation.

143. By statute, even a disinterested disposition of all or substantially all the property and assets of a business corporation "may be made only pursuant to a plan of asset transfer" and with shareholder approval under 15 Pa. C.S. § 1932(b). The statute sets out the procedures and requirements for that process, which include setting out the terms and conditions, consideration and any distributions, and including any special treatment afforded any shareholder or group of shareholders, for consideration at a duly noticed meeting shareholders. Shareholders who object to such a disposition have dissenters rights and remedies. 15 Pa.C.S. § 1932(c).

144. In sum, the Pennsylvania Stipulation [and the Order that it generated] was invalid, defective and improper in that, *inter alia* (i) it built upon the foundation of a defective transferred foreign judgment (ii) Newport did not even exist and was not and could not have been a party before this Court; (iii) the Stipulation was not authorized, or consented to, or disclosed to PTNI and its other Officers and Directors; (iv) the Stipulation amounted to approval of an agreement to transfer all assets, without compliance with Pennsylvania corporate law for such transactions; (v) Glanton was not authorized to transfer away PTNI's assets for his own

personal benefit which was also in breach of his fiduciary duties to the corporation; (vi) share transfers were contrary to the Shareholder Agreement; and (vii) any transfer to the "lender" of FCC rights as purported collateral was contrary to federal law

All of the Above Efforts were Also Defective for Continuing Lack of Notice

145. None of the above described filings of April and May 2018 were served upon PTNI, or sent to PTNI's offices, nor did PTNI receive a copy of them or otherwise consent to them or have any notice or knowledge of Glanton's intention to sign any of them or his actual signing of any of them.

146. The April 2018 California Proceeding documents and now the May 2018 Pennsylvania documents recite and give affidavits that the last-known address of PTNI is 1515 Market Street, Philadelphia, Pennsylvania, notwithstanding that the April 6 Default Judgment was obtained on the basis of having previously stated and given affidavits that PTNI's last-known address was Glanton's Home Address, 2 Snowden Lane, Princeton, NJ 08540.

147. Because Luxury/Newport used this address, PTNI was not served with Luxury's Foreign Judgment Filing, nor any of the other filings of April and May 2018. However, at all relevant time, the long-established address of PTNI was neither of those addresses, but was 2 Johns Lane, Lafayette Hill, PA. This actual Business Location was at all times well-known to Luxury, Roche, and now Newport (to whatever extent if any Newport existed).

VIII. PTNI Puts the Pieces Together. Newport Brings New Retaliatory Suit in California

148. PTNI President Cliett regularly goes onto the FCC databases and online logins to do ongoing and routine work for PTNI relating to its license, permits, and other matters. He

attempted to log on to the FCC system as usual on May 7, 2018, but discovered, to his surprise, that he was unable to access PTNI's files at the FCC because of a password change.

149. In investigating why there had been a password change at the FCC, Cliett discovered, again to his surprise, the existence of the FCC Transfer Application filed by Glanton on May 3, 2018.

150. Cliett contacted the other shareholders, and a written consent that removed Glanton as an officer and director of PTNI was signed, dated as of May 14, 2018, by a majority of the shareholders, which became effective no later than Sunday, June 3, 2018.[5] Ex. 4, p.70.

151. In the course of consulting with PTNI's FCC Counsel, Cliett as President of PTNI came to fully understand, on or about May 17, 2018, what had not been disclosed to him before by Glanton and what had not been served upon him and PTNI by Luxury: that not only did Glanton owe Luxury/Newport money, and not only had Glanton tried to pledge his PTNI shares to Luxury/Newport, but that Luxury somehow claimed PTNI was a co-borrower from Luxury, and that Luxury had already brought suit and obtained a judgment against PTNI in California, and that Luxury/Newport had now gone on to assert those rights in Pennsylvania and before the FCC.

152. Because PTNI's was still learning and putting together many missing facts and determining a reasonable and cost-efficient strategies, its immediate approach was to oppose

[5] Pursuant to the Bylaws, exhibit 4, p.14, this written consent became effective ten (10) days after notice of its adoption was given to Glanton as the only non-consenting shareholder. See Bylaws at § 1.04(b), Ex. 4, p.18. Glanton has conceded in the FCC proceedings that he received written notice of the written consent no later than May 24, 2018 (and had actual notice even earlier, by email, on May 22, 2018), therefore the written consent and any actions taken thereby became effective no later than Sunday, June 3, 2018.

Glanton's and Newport's now-exposed efforts before the FCC to transfer PTNI's license rights to Newport.

153. On or about June 5, 2018, PTNI filed a Request for Dismissal with the FCC, opposing the FCC Transfer Application and contending that the transfers, and any purported judgments or assignment stipulations based thereon, were unauthorized, invalid and contrary to federal law prohibiting the collateral assignment of FCC license rights.

154. On or about June 20, 2018 Newport and Glanton filed with the FCC an Opposition to the PTNI Request for Dismissal.

155. The briefing by both PTNI and Newport before the FCC raised the issue, ultimately decided in PTNI's favor by the FCC, that FCC license rights may not be assigned to lenders or given as collateral. The briefing by both PTNI and Newport before the FCC also addressed numerous other issues of enforceability, validity, authorization, and shareholder and corporate matters among others.

156. At various points while all these matters were pending, Roche, Glanton, Luxury and Newport communicated with some of the shareholders, offering them notes and other terms in an attempt to induce the shareholders to side with them in the disputes.

157. These communications also threatened, that Luxury, Newport or Roche would sue all the shareholders other than Glanton, and others as well, if they didn't give in to the Roche, Glanton, Luxury, and Newport position.

158. None of the shareholders accepted or agreed with these offers or threats or changed their position.

159. On July 27, 2018, Newport then filed a new, vexatious and retaliatory action in Orange County, California, seeking damages and other relief against a collection of out-of-state individuals for opposing Newport before the FCC and for signing the Shareholder Consent that removed Glanton. (The "2018 Personal Action"). [6]

160. Since the crux of the 2018 Personal Action appears to be retaliation for or deterrence of opposition to Newport's license transfer efforts before the FCC, the 2018

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[6] The 2018 Personal Action sued the following persons (the "Sued Individuals"):

> **Eugene Cliett**, a Pennsylvania resident who is and was PTNI's President, Chief Executive Officer, Treasurer and a director and who has been a PTNI shareholder since its inception in 1999. He had been Co-CEO along with Richard Glanton until Glanton's removal in 2018.
>
> **Steven Park**, a Pennsylvania resident who is and was a director of PTNI and who has since been designated as PTNI's Vice President and Secretary upon Glanton's removal in 2018, but who is not and never has been a PTNI shareholder.
> **Ethel Wister**, a Pennsylvania resident who has never been an officer, director or employee of PTNI, and who has been a PTNI shareholder since its inception in 1999.
>
> **William Wister**, a Pennsylvania resident who is Ethel Wister's son, but has never been a shareholder nor has he ever been an officer, director or employee of PTNI.
>
> **Diane Moxley**, a North Carolina resident who has never been an officer, director, or employee of PTNI, and whose husband, the late Walter Moxley had been a PTNI shareholder since its inception in 1999 until his death. Upon his death, those shares became titled in her as a matter of Pennsylvania decedent's law, as both administratrix of his estate and as fiduciary for beneficiaries of his will.
>
> **Barbara Scarlata,** a Florida resident who is Diane Moxley's lawyer, and had been lawyer for Walter Moxley, and who herself has never been a shareholder nor has she ever been an officer, director or employee of PTNI.

Personal Action likely violates California law protecting against SLAPP suits (i.e. Strategic Lawsuits Against Public Participation). See Cal. Civ. Proc. §§ 425.16, 425.17 and 425.18.

161. The Sued Individuals removed the 2018 Personal Action to the United States District Court for the Central District of California, based on diversity of citizenship and the pendency of the federal FCC questions. The 2018 Personal Action is currently stayed, by order of the court.

162. When the stay ends, the Sued Individuals intend to seek dismissal of the 2018 Personal Action, including for lack of personal jurisdiction, and alternatively to seek transfer of the action to Pennsylvania.

IX. **The FCC Rules in favor of PTNI that there Can be No Security Interest in FCC Licenses or Resulting Transfer to a Lender, and that Loan Documents, Judgments and Orders based thereon are Contrary to Federal Law and Policy.**

163. The FCC's November 13, 2018 ruling in favor of PTNI and dismissing the FCC Transfer Application decided that federal law prohibited the assignment of rights relating to FCC licenses to Newport, because FCC licenses are neither property rights, nor are they permitted to be collateral or security for loan obligations, nor may they be transferred in connection with loan obligations to the lender or holder of a purported security interest. However, the FCC expressly determined not to then decide the other issues that had been briefed by the parties.

164. The FCC stated, quoting previous authority, that the Commission cannot defer to the state court orders in this case "because the April 16, 2016 Promissory Note between PTN and LAL listed, as collateral, the license for station WEFG-LD." (FCC Nov 13, 2018 Ruling, Ex 3 p.59 The FCC ruling stated that under the Commission's "exclusive authority to license

broadcast stations" when a "state court's decision is contrary to Commission policy; the Commission is neither bound by the state court order nor need recognize it." Id.

165. The FCC further observed, citing and quoting prior precedent, that "It is well established that a broadcast license does not confer a property right, but rather is a valuable privilege to utilize the airways, subject to certain limitations, including restrictions on the right to assign licenses. As the Commission has stated, "the extraordinary notion that a station license issued by this Commission is a mortgageable chattel in the ordinary commercial sense is untenable." Id.

166. Based on these principles, the FCC ruling concluded that the FCC Transfer Application must be dismissed as "patently not in accordance with the FCC rules, regulations or other requirements" and that the grant of the assignment **"is patently defective because the state courts at issue held that PTN defaulted on loans that contained provisions prohibited by the [Federal Communications] Act and Commission policy.**" Id. Ex 3, p. 60 (emphasis added).

167. The FCC expressly did not reach the other questions briefed by the parties, including as to lack of notice and lack of authorization, stating that "We further find that, on this basis, the other arguments raised in this proceeding are moot" *, id.,* and further stating: "**We are not reaching this issue as we find that the security interest in the license, which in part provided the basis for the default judgment, violated the Act and Commission policy**." Id. p.60 n.34 (emphasis added).

168. Since it has been held by the FCC that this key underpinning of the prior orders, loans, and judgments was invalid, this is another ground for this Court to open the transferred

and default judgment, either to rule in favor of PTNI, or in favor of plenary proceedings on a full record and vacate the other prior orders of this Court.

X. Newport's Followed with an "Emergency" Petition to this Court to Appoint a Receiver. That Petition is Unfounded and this Court's Ex Parte Order granting that Petition Should be Vacated or Reconsidered.

169. The FCC ruling pointed out that FCC staff on some prior occasions had "accommodated" the efforts of a court-appointed receiver to sell assets to appropriate buyers, by permitting the temporary holding of license rights by a court-appointed receiver, and then considering whether to permit transfer of a license to buyer(s) found through the receiver's efforts. Id., Ex 3 at pp. 59-60.

170. This launched yet another race by Luxury/Newport for *ex parte* and non-noticed relief, this time the filing of a purported "emergency" Petition to appoint a receiver before this Court, which was both filed and granted, appointing a *temporary* receiver on November 19, 2018. Ex. 3.

171. No contemporaneous notice of this Petition was provided to PTNI, although this time a copy of the already-granted Petition and Order, which had been addressed to PTNI's long-ago address at 1515 Market Street, where PTNI had not been located since 2004, and somehow found its way to PTNI's Business Location at 2 Johns Lane, Lafayette Hill, arriving there the day after Thanksgiving, Friday November 23, 2018, which is how PTNI learned of the Petition and the entry of the Order.

172. The Receivership Order should be vacated, stayed or reconsidered, and there was and is no "emergency" supporting it.

173. Upon learning of the Emergency Receivership Petition and Order, PTNI retained the undersigned as counsel and I entered my appearance before this Court on the next business day, Monday November 26. As soon as that appearance was accepted by this Court, PTNI through the undersigned counsel filed a Notice of Case Management Program Dispute on November 27, 2018, seeking assignment to the Commerce Court program of this Court.

174. The Notice of Case Management Program Dispute advised the Court that this Petition to Strike, Open or Vacate was being prepared; that the matter was appropriate for Commerce Court determination; and that PTNI was seeking assignment to the Commerce Court program and also entry of a proposed Order for a hearing to determine whether the temporary receivership entered on November 19, 2018 should rescinded, stayed or otherwise modified.

175. As also stated in the Notice of Case Management Program Dispute, the alleged exigent circumstance supporting the emergency appointment of a receiver was that PTNI needed to go back on the air in Philadelphia by December 29, 2018 to maintain its FCC license. However, this issue is resolved and moot since PTNI was back on the air by November 25, 2018, and broadcasting in the Philadelphia market, notice of which was sent to the Federal Communications Commission ("FCC") and to Newport's FCC counsel on November 26, 2018. See Notice to the FCC attached as Exhibit 10.

176. This alleged emergency was in any event a red herring, since as Newport already knew and was already shown in various previous filings before the FCC, PTNI was already very close to turning the "on" switch for going back on the air when Newport filed its emergency Petition. Roche and his FCC counsel also knew that PTNI had engaged a broadcast engineer (Goetz) who was working to put the station on the air to preserve the license, and Roche was

also making calls to Goetz who was doing the FCC filings required to do steps required to put the station back on the air.

177. The real "emergency" was Newport's desire to get a receivership order as soon as possible, so that it could return to the FCC with that in hand, having just lost the FCC Transfer Application.

178. As PTNI also stated in its Notice of Case Management Program Dispute, "Even more fundamentally, and as PTN has also been actively contending before the FCC [and now also in this Petition], plaintiff's alleged "consensual" loan, security agreements and judgment/assignment orders in excess of $3,000,000, were at best self-dealing, undocumented, unauthorized and undisclosed transactions that at most provided some personal funds to Richard Glanton, a former officer, on invalidly onerous terms, with none being provided to PTN. Moreover, as the FCC has already determined, federal law prohibits enforcement of any part of those documents, judgments or orders that purportedly give security or collateral interests in PTN's FCC license."

179. The Court has not as yet considered PTNI's request for a hearing as to vacating, reconsideration or modification as to the Receivership, which was submitted as part of its Notice of Case Management Dispute. The Court has, however, entered a response date of December 5, 2018 to that Notice of Case Management Dispute.

180. The Petition for Receivership and resulting Ex Parte Order had several other defects requiring its rescinding, vacating or reconsideration by this Court.

181. It was proposed by and issued in favor of Newport, even though Newport is not a party in this case, and even though Newport did not even exist at the time the purported underlying judgment and judgment orders were entered in April and May of 2018.

182. It was not noticed to PTNI, just as the prior underlying actions had not been noticed to PTNI.

183. It was based on underlying judgments and orders that this Court should Open, Strike or Vacate for the reasons set out in this Petition.

184. There was no bond or money security entered to support issuance of an *ex parte* receivership, even though such a bond or money security is expressly required by Pa. R. Civ. P. 1533 (a)(1) when a receivership is ordered without a hearing. Moreover, as set out in Pa. R. Civ. P 1533(d): "Except as otherwise provided by an Act of Assembly, a receiver, whether temporary or permanent, must give such security for the faithful performance of the receiver's duty as the court shall direct. A receiver shall not act until he or she has given the security required."

185. The Petition and Order also appear to grant powers to the receiver that, even for permanent (and not temporary) receivers are contrary to and in conflict with Pa R. Civ. P. 1533 governing receivers. Under Pa R. Civ. P. 1533(e), receiverships are also required to be only for a fixed period of time, subject to extension by the Court on cause shown, Pa. R. Civ. P. 1533(e); however, there is no fixed period provided in the Petition or the Order appointing the temporary Receiver.

186. Under Pa R Civ. P 1533(f) appraisers are to be appointed by Court Order "who shall promptly inventory and appraise all assets of the defendant. The compensation of the

appraisers shall be determined by the court" however, the Petition and Order here make no provision for such appraisal to be ordered or done.

187. Under Pa R. Civ. P. 1533(g) the order appointing the appraiser, even for permanent receivers "shall fix the time within which the receiver shall file a report setting forth the property of the debtor, the interests in and claims against it, its income-producing capacity and recommendations as to the best method of realizing its value for the benefit of those entitled."

188. By contrast, the Petition and Order entered by the court provide no mechanism for by which the Receiver is to do such reports, or make such recommendations for consideration by this Court, and in their absence may be read to imply instead that the Receiver could act without any such reporting or supervision, which would be contrary to Pennsylvania law governing receiverships.

189. The receivership order here inappropriately appears to require only that "plaintiff" approve of such actions, and which is further inappropriate and confusing, since "plaintiff" in this case was and still is Luxury Asset Lending, LLC and not Newport.

CONCLUSION

WHEREFORE, for all the reasons set out above, and in the accompanying Memorandum of Law and the Exhibits to this Petition, Defendant, Philadelphia Television Network, Inc., respectfully requests that this Court enter the accompanying proposed Interim Order Staying Emergency Receivership Pending Further Action by this Court and also the accompanying

proposed Order Granting Petition to Strike Judgment and Related Relief, and also that this Court grant such other relief as is just and appropriate.

Respectfully submitted,

Dated: December 4, 2018

/s/ Doron A. Henkin, Esq.
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Attorney I.D. No. 40650
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Radnor Financial Center
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Radnor, PA 19087
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VERIFICATION

I, Eugene Leslie Cliett, the President and Chief Executive Officer of Philadelphia Television Network, Inc., do hereby verify, subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities, that the facts in the foregoing Petition are true and correct to the best of my knowledge, information and belief.

Eugene Leslie Cliett

LUXURY ASSET LENDING, LLC	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
v.	:	
	:	MAY TERM, 2018
PHILADELPHIA TELEVISION NETWORK, INC., et al	:	
	:	No. 000074
Defendants	:	

ORDER GRANTING PETITION TO STRIKE AND RELATED RELIEF

AND NOW this ____ day of _____, _____, upon consideration of Defendant Philadelphia Television Network's ("PTNI") Petition to Strike or Open Entry of Foreign Default Judgment and to Stay, Strike, Vacate or Reconsider Orders of this Court Granting Emergency Appointment of Receiver and Entering Purported Stipulations (the "Petition") it is hereby:

ORDERED AND DECREED that the Petition is GRANTED

1. The Foreign Judgment entered on the docket of this Court by Praecipe on May 4, 2018 is struck and vacated, being the entry in this Court of the default judgment that had been entered against Philadelphia Television Network, Inc. in California on April 6, 2017.
2. The Court further finds that the underlying judgment, and its entry before this Court were without adequate notice and opportunity to defend, and also that the PTNI has raised material and meritorious issues on the validity of that underlying judgment and

the applicable purported debts and instruments, which issues were not addressed by applicable courts with full and fair opportunity to appear and defend.

3. The court further finds that by reason of the foregoing, the transferred judgment did cannot be recognized under the Uniform Enforcement of Foreign Judgments Act, 42 Pa. C.S. § 4306, and that entry and recognition of the foreign judgment is also improper because (i) the holder of judgment rights when Praecipe was submitted to this Court was not Plaintiff, but was Newport Investment Group, LLC; (ii) Newport Investment Group, LLC did not exist at the time of assignment from Luxury Asset Lending, LLC or at the time of the Praecipe before this court.
4. The court further finds that the foreign judgment may not be recognized because, in whole or in substantial part, it is includes matters that are contrary to federal law and policy, as determined by the Federal Communications Commission in its ruling of November 13, 2018.
5. The Court therefore also vacate the subsequent orders by this Court that depend on same: being the Order of May 10, 2018 approving and entering a purported Stipulation in furtherance of the foreign judgment, and the Emergency Order of November 19, 2018, appointing a Receiver.
6. The Court further finds that the foregoing entry of judgment and additional Orders of this Court must be vacated in that (i) the filings seeking same were not served upon PTNI's business address at 2 Johns Lane, Lafayette Hill, PA 191444; (ii) Newport Investment Group, LLC, stated beneficiary of these Orders, was not and is not a party in this case and did not exist until July 25, 2018; (iii) the relief sought was contrary to the FCC's Ruling of November 13, 2018 and federal law prohibiting

security interests or property rights in FCC licenses or foreclosures thereon, and prohibiting assignment or transfer of interests in FCC licenses to lenders as purported collateral; and (iv) PTNI has raised significant and meritorious issues in the Petition to Strike that the purported agreements, documents and actions involved were ultra vires and unenforceable, requiring plenary determination on a full record.

7. The Court further finds that the Receivership Order was also defective because the requirements of Pa. R. Civ. P. 1533 were not met, including as to bond, security, duration, reporting to the court, appraisal of property, and development and presentation and consideration of proposals and procedures to realize upon assets.

BY THE COURT:

_____

J.

LUXURY ASSET LENDING, LLC	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
v.	:	
	:	MAY TERM, 2018
PHILADELPHIA TELEVISION NETWORK, INC., et al	:	
	:	No. 000074
Defendants	:	

INTERIM ORDER STAYING EMERGENCY RECEIVERSHIP PENDING FURTHER ACTION BY THIS COURT

AND NOW this ____ day of _____, 2018, upon consideration of Defendant Philadelphia Television Network's Inc.'s ("PTNI") Petition to Strike or Open Entry of Foreign Default Judgment and to Stay, Strike, Vacate or Reconsider Orders of this Court Granting Emergency Appointment of Receiver and Entering Purported Stipulations (the "Petition") it is hereby:

ORDERED AND DECREED AS FOLLOWS:

1. This Court's Emergency Order of November 19, 2018, appointing Joseph Bernstein of Spina & Company as Receiver, is stayed along with further action by the Receiver thereunder, pending further consideration and determination by this Court.
2. The Court will notify the parties whether and when it requires further briefing or submissions as to Receivership issues.
3. The Court will notify the parties of the time and place for appropriate hearing(s), which may be in conjunction with consideration of defendant Philadelphia Television Network Inc.'s Notice of Case Management Dispute or its Petition to Strike or Open

Entry of Foreign Default Judgment and to Stay, Strike, Vacate or Reconsider Orders of this Court Granting Emergency Appointment of Receiver and Entering Purported Stipulations.

4. Pending further Order by this Court, the parties, the receiver and Newport Investment Group, LLC shall take no action to transfer, auction, sell or pledge the assets of PTNI or any license rights pertaining to PTNI, other than continuation of PTNI's operation in the ordinary course.

5. Within ____ days of this Order, the receiver shall report to the Court, with copies to the parties and counsel, any actions the receiver may have taken relating to this case.

BY THE COURT:

_____ J.

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Radnor, PA 19087
Telephone No.: 610-977-2083
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Attorney for Philadelphia Television Network, Inc.

LUXURY ASSET LENDING, LLC	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
v.	:	
	:	MAY TERM, 2018
PHILADELPHIA TELEVISION	:	
NETWORK, INC., et al	:	
	:	No. 000074
Defendants	:	

Memorandum of Law in Support of Petition to Strike, Vacate, Open or Stay Foreign Default Judgment and to Reconsider, Stay or Vacate Prior Orders Appointing Receiver and Entering Purported Stipulation

I. STATEMENT OF FACTS AND STATEMENT OF THE CASE

Petitioner Philadelphia Television Network, Inc. ("PTNI") is a Pennsylvania business corporation, with its business office since August 2006 at 2 Johns Lane, Lafayette Hill, PA, a and which holds an FCC license for a lower power television broadcast station, WEFG-LD Philadelphia. PTNI has four shareholders, no one of whom holds a majority interest in the company's stock.

This case is in the realm of situations so crazy you can't make them up. To PTNI's shock and disbelief, California-based persons or entities, steered by Brian Roche, have worked with PTNI's former Co-Chief Executive Officer, Richard Glanton, to take all of PTNI's assets, including its FCC license rights, all without notice, consent or knowledge of PTNI's Board or shareholders. PTNI in its Petition prays that this Court take that one step and roll back the unwarranted prior

actions by Luxury/Newport and or Roche, and the prior Orders of this Court, having been misled by the filings that have been in front of this Court. The key to how the situation got this far along, is that all these prior steps were done so as to avoid giving PTNI notice or an opportunity to defend itself.

As PTNI is now piecing it together, what has happened, as documented in detail in PTNI's Petition, is the following: (i) there were some purported but unauthorized and undisclosed "loan documents" and "agreements" between an alleged lender and a former officer and director of PTNI who (ii) purported to sign for PTNI even though PTNI got no loans or funds; and who also (iii) purportedly agreed "orally" to borrow another $30,000 so as to make PTNI liable to pay $3,300,000 two weeks later; (iv) which loans were for the express, but improper, purpose of literally laundering and retrieving $350,000,000 in marked US currency allegedly located in Ghana and deriving from Libyan sources, in a venture that also included a former US Congressman who was also a co-borrower, and also the active and ongoing knowledge and participation by the lender and/or its principals; but which venture (vii) turned out to be a scam; following which (viii) the lender and the former executive agreed to to rescue the former executive from bankruptcy by (ix) agreeing that the lender would receive **all of PTNI's assets** with the former executive's assistance through stipulations; which would be achieved by (x) judicial enforcement of the purported loan documents, purported oral agreements and purported Stipulations; which would be especially effective because (x) no notice was provided to PTNI.

The resulting judicial and administrative actions PTNI seeks to unwind, or at least be able to contest on a full record, and to do so before PTNI's assets are dismembered or

liquidated are: (A) the purported transfer to this Court on May 4, 2018 of a purported (but defective) California default judgment dated April 6, 2017, (B) the purported assignment of rights as to that judgment to Newport Investment Group, LLC, controlled by Roche; (C) the entry as judicial orders of alleged "Stipulations", including before this Court on May 10, 2018, that purport to transfer all of PTNI's assets to Newport, and (D) most recently the granting of **ex parte** relief by this Court on November 19, 2018, establishing an apparently unlimited, unbonded, unregulated, and unjustified "emergency" receivership for all of PTNI's assets.

RELIEF SOUGHT: PTNI seeks to unwind all of the above (A) through (D), of which the most urgent is vacating or at least staying the receivership so that PTNI does not lose its assets before this Court can consider, hear and determine the appropriate issues presented. PTNI submits two proposed orders. One is an interim order seeking relief pendente lite to vacate or stay the receivership. The second is a plenary order that addresses the overall unwinding of the prior wrongful actions and resulting prior judicial relief.[1]

[1] It has taken considerable time and effort for PTNI, a very small business, to unravel and piece together what has happened, and to catch up with the large number of previously non-noticed "agreements" and proceedings. PTNI has been absorbed with contesting Newport/ Glanton's effort to transfer of PTNI's license rights in proceedings before the FCC, in which PTNI prevailed on November 13, 2018, when it held license rights are not collateral and cannot be transferred to the lender under federal law and policy. Both parties also extensively questions of loan documents, agreements, authorization, corporate law, and other related matters before the FCC; however, the FCC decided not to reach any of those questions. Therefore, these questions need addressing by this Court. PTNI submits that in light the above, including its participation in these vigorously contested proceedings raising many of the same issues, and in light of PTNI's small size and informational disadvantage, it has acted reasonably diligently under the circumstances to preserve and protect its rights to contest these matters and should be heard as to all issues by this Court.

II. QUESTIONS PRESENTED

A. Should this Court Reconsider, Vacate or Stay its Emergency Receivership Order of November 19, 2018.

Suggested Answer: Yes

B. Should this Court Strike, Open or Stay the Foreign Judgment as Entered in this Case on May 4, 2018.

Suggested Answer: Yes

C: Should this Court Vacate, Open or Stay its Order approving the Purported Stipulation of May 10, 2018.

Suggested Answer: Yes

III. ARGUMENT

A. This Court should Reconsider, Vacate or Stay its Emergency Receivership Order of November 19, 2018

A court has inherent power to reconsider and to vacate its own rulings, *Moore v. Moore,* 535 Pa. 18, 26, 634 A. 2d 163, 167 (Pa. 1993). While the general standard is abuse of discretion, the legal principles disfavor the institution or continuation of receiverships as to existing businesses. At least as to existing businesses, "a receiver will not be appointed unless it appears that the appointment is necessary to save the property from injury or threatened loss or dissipation. Nor will one be appointed if there is another safe, expedient, adequate and less drastic remedy." *Northampton Nat'l Bank v. Piscanio,* 475 Pa. 57, 61, 379 A.2d 870, 872 (1975)(quoting several prior cases). Although the "decision as to whether a receiver should be appointed is within the sound discretion of the court" it must be recognized that "there is nothing, however, which affects a corporation with such serious consequences as does the appointment of a receiver; it is a severe, and may be termed heroic, remedy, and the conditions

that call it into action should be such as would, if persisted in, ordinarily be fatal to corporate life." *Id*., 457 Pa. at 63, 379 A.2d at 873 (quoting and citing several prior cases).

The alleged emergency in Luxury/Newport's Petition was that PTN needed to go back on the air in Philadelphia by December 29, 2018 to maintain its FCC license. However, this issue was not a serious risk at the time and is in any case resolved and moot since PTN went back on the air on November 25, 2018, notice of which was sent to the Federal Communications Commission ("FCC") and to Newport's FCC counsel on November 26, 2018. See PTNI Petition at ¶ 185 and Notice to the FCC attached to PTNI Petition as Exhibit 10.[2]

Even more fundamentally, the Receivership should be Reconsidered and either Vacated or Stayed Pendent Lite so that this Court may determine the issues raised in PTNI's Petition without having PTNI dismembered or liquidated in the interim, and he alleged exigent situation of needing to go back on the air are moot. And in the absence of an Order Vacating or Staying the Receivership, PTNI risks suffering irrevocable loss given that the Receiver's presence is disruptive to business, and the Receiver's aim is to move to liquidation. The Receivership is also

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[2] No contemporaneous notice of the Emergency Petition to Appoint a Receiver was provided to PTNI. It appears a copy was mailed to 1515 Market Street, where PTNI had not been located since 2004, and this copy somehow found its way to PTNI's business address at 2 Johns Lane, Lafayette Hill, arriving four days after the Emergency Petition was granted, on the day after Thanksgiving, Friday November 23, 2018. PTNI has also presented the questions regarding the receivership, in its pending Notice of Case Management Dispute filed on November 27, 2018.

A copy of Luxury/Newport's Receivership Filing and the Order of this Court of November 19, 2018 are attached to PTNI's Petition at Exhibit 2. Facts and issues regarding the Receivership are set out in PTNI's Petition in more detail at ¶¶ 169-189. This alleged emergency was a red herring, since as Newport already knew and was already shown in various previous filings before the FCC, PTNI was already very close to turning the "on" switch for going back on the air when Newport filed its emergency Petition. PTNI Petition ¶ 176.

defective in that it was proposed and entered it by Newport, and for Newport's benefit, even though Newport is not a party in this case.[3] For all the reasons set out here, and in PTNI's Petition, PTNI respectfully submits that this Court's Emergency Order of November 19, 2018 should be vacated or stayed.

B. This Court Should Strike, Open or Stay the Foreign Judgment as Entered in this Case on May 4, 2018.

A Petition or Motion to Strike a Foreign State Judgment that has been domesticated presents questions of law, fact and discretion. For the judgment to be entered, or for the Petition to Strike to be denied, there judgment must comply with the specific requirements of the as a matter of law there must be compliance with the specific requirements of the Uniform Enforcement of Foreign Judgments Act, 42 Pa. C.S. § 4306. In addition, there must have been full and fair opportunity, upon adequate notice and compliant with applicable law and requirements of due process, for the judgment debtor to have a full and fair opportunity to appear and defend in the foreign state. Thus, in *Perkins v. TSG, Inc.,* the court reversed and ordered a Maryland default judgment that had been entered in Pennsylvania stricken, because service had not been made at the ongoing business address of the corporate defendant, such

[3] The Receivership/Order has other defects that must also be addressed if any aspect of the Receivership continues. One is that there is no mechanism for determining whether or not this temporary receivership may become permanent, or as to its duration. There was also no bond or security as was required under Pa. R. Civ. P. 1533 (a)(1) (when entered without a hearing) and 1533 (d)(1) when entered either with or without a hearing. The Order was also improper in that it had no time period or duration, nor any provisions for reporting, appraisal and inventory, compensation, reporting, determination of claims, best method for realizing value, and determination of recommendations and methodology for sale or liquidation as required by 15 Pa. R.Civ.P. § 1533(e), (f), (g). In addition, the Receivership Order was also unduly one-sided, specifying the need for approval from Newport but giving no space for any other parties-in-interest, including PTNI and its shareholders.

that enforcement of the resulting default judgment would violate both due process and applicable principles at Maryland and Pennsylvania law. In that case, the attorney knew the defendant's true address and that of his counsel but did not serve there. Service had been made on the Maryland Department of Assessments and Taxation rather than the "true address". It was apparent that counsel knew the actual address since, later in the case, more than 30 days after the entry of the default, a notice was mailed there. The Court found this was "not reasonably calculated to provide appellant with notice of the suit" thereby denying his due process rights, such that the Maryland judgment was not entitled to full faith and credit." *Perkins v. TSG, Inc.,* 390 Pa. Super. 303, 306-07, 568 A.2d 665, 666-67 (1990). The Court cited the "reasonably calculated to provide notice" standard as the measure of due process, citing to *Hanson v. Denckla*, 357 U.S. 235 (1958); *Barnes v. Buck*, 464 Pa. 357, 364, 346 A.2d 778, 772 (1975); *Noetzel v. Glascow, Inc*., 338 Pa. Super. 458, 469, 487 A.2d 1372, 1377 (1985), and the court further noted that failure to make that good faith effort "amounts to constructive fraud"

Here, the California procedure on form Civ-100, which was actually used by Luxury's counsel for the notice of intention to take the default required certification of and service to the last known address of PTNI. That address was not and could not have been Glanton's home address in New Jersey, which is what counsel certified and sent. PTNI Petition ¶¶ 129-130. California law requires this certification precisely "to prevent the taking of default against an unwary litigant" and also "to prevent entry of defaults and default judgments procured by chicanery." *Slusher v. Durrer*, 69 Cal. App. 3d 747, 755-756, 138 Cal. Rptr. 265 (1977). The certification requirement therefore includes "a duty on the part of plaintiff and counsel to make a reasonably diligent search to ascertain that mailing address." *Id.*

It could not have been a good faith effort to serve Glanton's home in lieu of searching for the actual business premises, and this was shown when Luxury later stopped using that address for service and notices. PTNI Petition ¶¶ 129-30. Luxury/Newport also began to file UCC Financing Statements against PTNI, at which time it did not use Glanton's home address as the address for PTNI. Since the service prior to the entry of the default judgment did not include a good faith effort to find and serve the true business address, the foreign default judgment must be stricken.

The Foreign Judgment filing also fails to meet other legal requirements applicable under 42 Pa. C.S. § 4306. That statute specifies that the filing is to be made by the "judgment creditor". The May 4, 2018 filing with this Court was done by Luxury as plaintiff, and judgment was entered in this Court in favor of Luxury. However, Luxury was not the "judgment creditor" entitled to make the filing under 42 Pa. C.S. § 4306, nor was it entitled to receive judgment in its name as plaintiff, because there already was an assignment of the California judgment of record on April 27, 2018 to Newport Investment Group, LLC. See PTNI Petition Exhibit 2, p.11.

The exemplified judgment record attached to Luxury's Foreign Judgment Filing was certified and dated March 9, 2018, and therefore it was also defective and insufficient in that it did not reflect events after March 9, 2018. Ex. 1, p.12. Because the filed record was stale, it did not pick up the Assignment of the Judgment to Newport, and nothing in Luxury's Praecipe called this to the attention of the Court. The result was that there was no judgment requested by or entered in favor of the "judgment creditor" and for this reason as well the judgment must be stricken. Nor could Newport Investment Group, LLC then have substituted and filed as "judgment creditor" because, as set out in PTNI's Petition, Newport Investment Group, LLC did

not exist on May 4, 2018, and was not formed until July 25, 2018. PTNI Petition ¶¶ 112-115 and Ex. 9. Therefore, Newport Investment Group, LLC also was not and could not have been a viable "judgment creditor" to support the filing.

42 Pa. C.S. § 4306 (c) also requires that the "judgment creditor or his attorney" give an affidavit setting forth the name and last-known address of the judgment debtor, and to which address the Pennsylvania court will be mailing notice of the judgment. That affidavit states incorrectly that the business address of Defendant Philadelphia Television Network, Inc., was 1515 Market Street, Philadelphia, PA 19102" Ex. 1, p.10. There are two fatal problems with this. First it demonstrates that Glanton's Home address in New Jersey could not have been PTNI's last-known address, although precisely that address had been used to obtain the underlying default judgment California. Second, 1515 Market Street had not been PTNI's business address since moving out in 2004, which was well known to Luxury and Glanton, as was PTNI's address since August 2006 at 2 Johns Lane, Lafayette Hill, Pennsylvania, 19444. PTNI Petition ¶130. The further result of this was that PTNI did not receive notice that judgment was now against it by this Court.

In the alternative, the judgment, if it continues to exist, should be vacated, opened or stayed. Even if the technical requirements of 42 Pa. C.S. § 4306 were met, and especially since the California judgment was entered by default and not as result of actual decision-making on the merits, the result would only be to put the judgment in the same position it would be in if it had been a Pennsylvania judgment. A foreign judgment even if duly entered, is still "subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of any court of common pleas of this Commonwealth and may be enforced or

satisfied in like manner." 42 Pa. C.S. § 4306(b). In addition, "If the judgment debtor shows the court of common pleas any ground upon which enforcement of a judgment of any court of common pleas of this Commonwealth would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this Commonwealth. 42 Pa.C.S. § 4306(d).

Ample grounds are set out in the Petition as a whole, in law and in equity, to support vacating, staying or reopening the judgment, if it had been correctly entered in the first place (which it was not), including but not limited to the lack of notice afforded to PTNI to contest it, and also including the desirability of making a full and fair determination whether the extremely suspect loan documents and agreements at issue were in fact binding, authorized and enforceable as determined in plenary proceedings. These grounds are elaborated in detail throughout PTNI's Petition to Strike, with statutory citations as to Pennsylvania corporations, and these grounds are incorporated here by reference.

C. This Court should this Court Vacate, Open or Stay its Order approving the Purported Stipulation of May 10, 2018.

Following the entry of judgment by this Court on May 4, 2018, Luxury filed a "Stipulation for Issuance of an Assignment Order" with this Court on May 10, 2018, which this Court also signed that day. ("The Pennsylvania Stipulation") Exhibit 2. It was filed by Luxury as plaintiff, but the parties to it were Newport Investment Group, LLC and Glanton, purportedly on his own behalf and on behalf of PTNI.

As noted above, this Court has inherent power to reconsider and to vacate its own rulings, *Moore v. Moore,* 535 Pa. 18, 26, 634 A. 2d 163, 167 (Pa. 1993). PTNI submits that if the May 4, 2018 judgment is stricken, stayed or opened, then (i) there was nothing and no

proceeding by which either the May 10, 2018 Order could have been entered or (ii) the November 19, 2018 Receiver Order could have been entered, and those subsequent Orders must fall at the same time.

Even if that were not the case, the May 10, 2018 purported Stipulation and Order must be vacated, or alternatively opened and stayed. First, as with all the other proceedings, it was not served upon PTNI's business address. PTNI Petition ¶¶ 134-35. Second, it was not signed by the actual [putative] judgment holder and plaintiff of record in this Court, which was Luxury. Third, the actual signatory, Newport, did not even exist on the date of the Stipulation and would not exist until July 25, 2018. Fourth, the Stipulation purports to transfer shares in PTNI even though this is prohibited by PTNI's Shareholder Agreement as is set out in detail in PTNI's Petition. Fifth, a main purpose of the Stipulation is to transfer FCC license rights to Newport, which the FCC has ruled violates federal law and policy.

Sixth, and importantly, the Stipulation's express foundation was to implement and give consideration for allowing Glanton to dismiss his personal bankruptcy, and for Glanton in exchange to give Newport all of PTN's assets including all its stock. PTNI Petition ¶ 139 and Ex 2 pp.4-5. It was thus a self-interested transaction by which Glanton benefitted at the expense of PTNI's other shareholders who had not consented to or approved this transfer, and did not have any prior knowledge of it, nor of the underlying transactions that gave rise to it. The transfer thus violates **both** the fiduciary provisions of Pennsylvania corporate law applicable to self-interested director and officer transactions, see 15 Pa. C.S. §§ 512(a) and (c), 515(d), 516(c), 1712 (a) and (c) and 1715(d) and violates the clear requirement that for transfers of all or substantially all assets, a majority of the **disinterested** directors and shareholders must be given

full information about and then consider and approve same, following statutory procedures, following which there are dissenter rights and remedies available. 15 Pa. C.S. § 1932 (c).

For all the reasons set out above in the PTNI Petition, the Stipulation and Order of May 10, 2018 are a nullity. If they continue to have existence, they should be stricken or vacated by this Court for the reasons set out here and in PTNI's petition.

CONCLUSION

For the reasons set out here and in the PTNI Petition, PTNI respectfully submits that this Court should grant the relief stated in the sections above and that it should enter both of the proposed Orders that have been submitted with the Petition and grant such other and related relief as may be just and appropriate. A number of other legal issues are addressed in the Petition, many with citations to statutes and applicable rules. In particular, there is considerable discussion of the underlying enforceability of the purported loan documents and obligations, and whether same are authorized, or comply with Bylaws or Shareholder Agreement, or are enforceable generally at law. Since it is not clear whether the Court will reach those issues, this Memorandum leaves for later a more expanded discussion of those points, and those points from the PTNI Petition are also incorporated here by reference.

Respectfully submitted,

Dated: December 4, 2018

/s/ Doron A. Henkin, Esq.

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