

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

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

Attention: Video Division, Media Bureau

MOTION FOR LEAVE TO FILE THIRD SUPPLEMENT TO OPPOSITION

Philadelphia Television Network, Inc. (“PTNI”), by its counsel, and pursuant to Section 1.41 of the Commission’s rules, 47 C.F.R. § 1.41, respectfully submits this Motion for Leave to File Third Supplement to Opposition (“Motion for Leave”), to supplement the Opposition filed by PTNI on November 26, 2019 (the “Opposition”) to the pleading styled as a Request for Dismissal (the “Informal Objection”) filed by a Newport Investment Group, LLC entity (“Newport”) on November 14, 2019, in opposition to the above-captioned Form 316 application (File No. BAL-20191101AAM, the “Application”) for Federal Communications Commission (“FCC”) consent to the involuntary assignment of the FCC license of Low Power Television (“LPTV”) broadcast station WEFG-LD, Philadelphia, Pennsylvania (Facility ID No. 167606, “WEFG”), from Joseph Bernstein (“Bernstein”), who has been removed as a temporary receiver of the FCC license for WEFG by the court that previously appointed him, back to PTNI as the proper FCC licensee.

In its Opposition, PTNI demonstrated that the Informal Objection cites no relevant authority or any relevant factual basis why the Application should not be granted (but rather offers

only a list of false or intentionally misleading representations, that are not relevant to this Application), therefore the Informal Objection must be dismissed or denied and the Application promptly granted. Among other arguments, Newport mentioned that it had filed a motion in California seeking to have Bernstein appointed as a receiver by a court there, see Informal Objection at 8 (at ¶ 24), which PTNI informed the Commission had already been denied on an “emergency” and *ex parte* basis, but would still be heard on a non-emergency basis at a hearing scheduled for December 5, 2019. See Opposition at ¶ 15, n.9 and Exhibit D (providing a copy of the California court order denying Newport “emergency” motion for appointment of receiver there).

The purpose of a Second Supplement to Opposition filed on October 30, 2020 (the “Second Supplement”), was to advise the Commission that the California appellate court has now ordered that the original default, default judgment, and assignment order - - on which the Philadelphia Court relied in appointing Bernstein as receiver (before the Philadelphia Court then vacated its appointment order, leaving Bernstein with no legal basis or authority to be or act as the receiver for WEEG) - - be vacated.¹ See Opinion at 1 and 23. Such actions by the Opinion render all of the arguments raised by Newport in its Informal Objection moot, such that the it is dispositive in this matter. As a result, there is no reason for any further delays in Commission action on the Application, which now may be granted based on the Receiver Removal Order.

The purpose of the third supplement that PTNI is filing is to advise the Commission that a petition for review filed by Newport with the California Supreme Court has been denied, making the Opinion a final order no longer subject to any further review or appeal, and to advise that the California Appellate Court has sent notice to the underlying trial court advising that the Opinion is a final order, so that the lower court shall take the ministerial action of vacating the default, default judgment, and assignment order, all as ordered by the Opinion. Considering this

¹ See Opinion issued October 29, 2020, by the Court of Appeal of the State of California, Fourth Appellate District, Division Three (the “California Appellate Court”) in Case No. G057766 (Superior Court Case No. 30-2016-00880965), a copy of which was attached to the Second Supplement as Exhibit A (the “Opinion”).

Third Supplement would serve the public interest by updating the record in this proceeding, and allowing the Commission to take prompt action to grant the Application now that all issues and arguments raised in the Informal Objection are now moot.

Wherefore, the premises set forth above in this Motion for Leave being considered, PTNI respectfully requests that the Commission grant this Motion for Leave, accept and consider the Third Supplement to Opposition being filed by PTNI on this same date, as well as the Opposition and the two other supplements filed previously, and promptly grant the Application so that PTNI can be reinstated as the proper Commission licensee of WCFG (and with use of its FRN and password restored to PTNI).

Respectfully submitted,

Philadelphia Television Network, Inc.



By: _____
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February 15, 2021 (electronically filed in CDBS)

CERTIFICATE OF SERVICE

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

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