

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

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

Attention: Video Division, Media Bureau

SEVENTH SUPPLEMENT TO PETITION FOR RECONSIDERATION

Philadelphia Television Network, Inc. (“PTNI”), Eugene L. Cliett, an officer, director and shareholder of PTNI (“Cliett”), and DSP Investors, LLC, a secured creditor of PTNI (“DSP”, and together with PTNI and Cliett, the “Petitioners”), by their counsel, and pursuant to Section 1.106 of the Commission’s rules, 47 C.F.R. § 1.106, and the Motion for Leave to File Seventh Supplement being filed by Petitioners on this same date, respectfully submit this seventh supplement (the “Seventh Supplement”) to the Petition for Reconsideration (the “Petition”)¹ of the

¹ The Petition was electronically filed by the Petitioners on December 21, 2018, and supplemented by a Supplement to Petition for Reconsideration filed on January 2, 2019 (the “First Supplement”), and further supplemented by a Second Supplement to Petition for Reconsideration filed on January 28, 2019 (the “Second Supplement”). The First Supplement and Second Supplement were filed by Petitioners as a matter of right, within the time period required for filing a petition for reconsideration under Section 1.106(f) of the Commission’s rules, 47 C.F.R. § 1.106(f). See Second Supplement at ¶ 4 and n.4. A Third Supplement to Petition for Reconsideration (the “Third Supplement”), along with a Motion for Leave to File Third Supplement, were filed by Petitioners on October 28, 2019; a Fourth Supplement to Petition for Reconsideration (the “Fourth Supplement”), along with a Motion for Leave to File Fourth Supplement, were filed by Petitioners on December 10, 2019; a Fifth Supplement to Petition for Reconsideration (the “Fifth Supplement”), along with a Motion for Leave to File Fifth Supplement, were filed by Petitioners on October 30, 2020, and a Sixth Supplement to Petition for Reconsideration (the “Sixth Supplement”), along with a Motion for Leave to File Sixth Supplement, were filed by Petitioners on February 15, 2021.

grant of the above-captioned Form 316 application (File No. BALDTL-20181120AAT, the “Application”) for Federal Communications Commission (“FCC”) consent to the involuntary assignment of the FCC license of Low Power Television (“LPTV”) broadcast station WCFG-LD, Philadelphia, Pennsylvania (Facility ID No. 167606, “WCFG”), to Joseph Bernstein (“Bernstein”), as a temporary receiver.

1. The purpose of this Seventh Supplement is to advise the Commission that the Superior Court of Pennsylvania has now dismissed the only appeal, filed by Newport Investment Group LLC (“Newport”), of the lower Philadelphia court order vacating the appointment of Bernstein as a temporary receiver for WCFG.² Since the Application and this proceeding relate only to whether Bernstein is the temporary receiver for WCFG, and the court order appointing Bernstein as temporary receiver has been vacated and that order is no longer subject to any appeal, there is no legal basis for Bernstein to continue as the temporary receiver or FCC licensee of WCFG, and the time is more than ripe for the Commission to grant the Petition, reinstate and dismiss or deny the Application, and reinstate PTNI as the proper FCC licensee of WCFG.

2. By way of background, the Petition demonstrated that Bernstein was appointed as a temporary receiver by a Philadelphia Court on an ex parte basis, without notice to PTNI or an opportunity for PTNI to respond or object prior to the grant of the Emergency Petition, on a purported “emergency” basis that didn’t exist, based on an underlying judgment that arose from a purported foreclosure on an impermissible security interest in the FCC license for WCFG (that the Commission already has ruled unlawful). See Petition at 1-2, ¶¶ 3-18, nn.1-2 and nn.4-8, and Exhibit A. The Petition also reported that based on these facts and other issues, filings had been submitted to appropriate courts seeking to overturn the Receiver Appointment Order, copies of

² See Order issued April 13, 2021, by the Superior Court of Pennsylvania, Philadelphia County Civil Division (the “Pennsylvania Appellate Court”), Appeal No. 180500074 in Case No. 3529 EDA 2019, a copy of which is attached hereto as Exhibit A (the “Order”). Petitioners note that the Order also, in consolidated Case No. 3215 EDA 2019, vacates and remands for determination a separate Philadelphia court order that declined to hear on the merits PTNI’s challenges to the domestication in Pennsylvania of Newport’s alleged foreign judgment, based on actions by the California courts and their order to vacate Newport’s default, default judgment, and assignment orders on which Newport was relying. See Order at 1-2.

which were attached to the Petition as exhibits.³ The Petition also demonstrated other issues and defects with the Application itself. *Id.* at ¶¶ 19-22. Finally, the Petition requested that based on these circumstances, that the Commission’s grant of the Application be rescinded pending further action by the Philadelphia Court on such filings, or based upon the outcome of same. *Id.* at 2 and ¶¶ 8, 18, and 22-23.

3. By the Third Supplement, Petitioners advised the Commission that on October 24, 2019, the day after the Philadelphia Court held its first hearing on the merits of the underlying petition for appointment of receiver,⁴ on which the order appointing Bernstein as a temporary receiver was based, the Philadelphia Court denied the Emergency Petition,⁵ and (having previously granted the temporary receivership on an *ex parte* basis⁶) vacated the Receiver Appointment Order, see Receiver Removal Order at 2, thereby ending - - because not properly granted in the first

³ See Petition at ¶¶ 9-18, and Exhibit C (a copy of PTNI’s “Petition to Strike”), Exhibit D (a copy of PTNI’s “Opposition to Emergency Petition”), and Exhibit E (a copy of the “PTNI Appeal”), each such pleading as filed with the Philadelphia Court. As mentioned *supra* at n.2, the Pennsylvania Appellate Court has remanded the issues raised in PTNI’s Petition to Strike and Opposition to Emergency Petition back to the lower Philadelphia trial court, which had declined to have a hearing on the merits, for a hearing on the merits, and in light of a California court order that Newport’s default, default judgment, and assignment orders (on which Newport has been relying in this proceeding before the Commission) be vacated.

⁴ Copies of the Emergency Petition for Appointment of Receiver (the “Emergency Petition”) and a Memorandum of Law in Support of Petition to Appoint Receiver (the “Memorandum”) were attached to the Petition as Exhibit B. See Petition at Exhibit B. The Emergency Petition and Memorandum were filed with the Philadelphia Court under the name or guise of Luxury Asset Lending, LLC (“LAL”), by some not clearly identified Newport entity as a purported assignee of LAL.

⁵ See Order dated October 24, 2019, by the Philadelphia County Court of Common Pleas (the “Philadelphia Court”) in Case No. 000074, a copy of which was attached to the Third Supplement as Exhibit A (the “Receiver Removal Order”).

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

instance or authorized currently - - Bernstein's temporary receivership of the FCC license for WEEG, and ending any court-ordered authority of Bernstein over the WEEG license.⁷

4. While Newport appealed the Receiver Removal Order to the Pennsylvania Appellate Court, it did not prosecute its appeal, and Newport's appeal (which was the only appeal of the Receiver Removal Order) has now been dismissed, by the Order. As a result, there is no legal basis - - and since the Receiver Removal Order was issued on October 24, 2019, about 18 months ago, there has not been any legal basis - - for the grant of the Application; therefore, the Petition must be promptly granted, the Application reinstated and dismissed or denied, and PTNI promptly reinstated as the FCC licensee of WEEG (which should include providing all of the passwords PTNI may need to use its FCC registration number (or "FRN")).⁸

5. Petitioners note that while it has now been about 18 months since the Receiver Removal Order - - and, as previously documented, even Bernstein expressly acknowledged to the Commission shortly thereafter that he was "no longer the receiver" and that "the [FCC] license shall be removed from [his] name and responsibility", see Fourth Supplement at ¶5, n.10 and Exhibit B), the Commission has taken no action to do so, leaving PTNI and WEEG in the untenable position of the station's FCC license still being shown as held by Bernstein, which is delaying PTNI from operating the station and taking necessary actions related to the Commission's spectrum auction repack. While Bernstein has conceded (through his counsel) that he has

⁷ The Receiver Removal Order is a *denial* of the Emergency Petition, because the proceedings were on remand of the appeal from the *ex parte* receivership order, which remand order provided for a hearing on that Emergency Petition itself and was itself based on the Philadelphia Court's letter to the Superior Court seeking such a remand because procedural issues had prevented the court's earlier holding of a hearing or giving consideration to PTNI's Opposition to Emergency Petition. The Philadelphia Court's letter request for remand of the appeal and the Superior Court's subsequent remand in response to that request are discussed more fully in the Opposition to Leave Request and Second Supplement filed by Petitioners on May 30, 2019 (the "Opposition to Bernstein Second Supplement"). See Opposition to Bernstein Second Supplement at ¶ 9 and Exhibits B and C thereto (copies of the remand request letter and remand order).

⁸ Oddly, while the Application was filed as only for an involuntary assignment of the FCC license for WEEG to Bernstein as a temporary receiver, and not a transfer of control of PTNI itself (an issue raised in the Petition, see Petition at ¶ 19), the Commission allowed Bernstein to take control of the FRN and its password for PTNI itself, when there was no legal basis nor any need for doing so.

obligations and duties to preserve the asset and to give effect to the Receiver Removal Order, by ensuring that PTNI is restored as the FCC licensee of WCFG now that he is no longer the court-appointed temporary receiver, and Bernstein (through his counsel) even has voiced some willingness to cooperate in that process, to date he has proven reluctant to take the positive steps necessary to do so. In any event, the clearest and simplest path is for the Commission to acknowledge and give effect to the Receiver Removal Order by granting the Petition, rescinding the grant of and then dismissing or denying the Application, and thereby restoring PTNI as the FCC licensee of WCFG.

6. Wherefore, the premises set forth above in this Seventh Supplement (as well as in the Petition and all of the other pleadings filed by Petitioners in this proceeding), and the Philadelphia Court's Receiver Removal Order (the only appeal of which now having been denied by the Order) and the now final Opinion of the California Appellate Court being considered, Petitioners respectfully request that the Commission promptly rescind the grant of the Application, dismiss or deny the Application, and take appropriate actions to reinstate or reflect that PTNI is the proper FCC licensee of WCFG (and with use of its FRN and password restored to PTNI).

Respectfully submitted,

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



By: _____
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Their Attorney

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April 15, 2021 (electronically filed in CDBS)

CERTIFICATE OF SERVICE

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

Mr. Richard H, Glanton
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Newport Investment Group, LLC
Attention: Brian Roche
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Jeffrey L. Timmons, Esq.

EXHIBIT A

Pennsylvania Appellate Court Order

Attached hereto is a copy of the Order issued April 13, 2021, by the Superior Court of Pennsylvania, Philadelphia County Civil Division (the “Pennsylvania Appellate Court”), Appeal No. 180500074 in Case Nos. 3529 EDA 2019 and 3215 EDA 2019 (the “Order”).

NEWPORT INVESTMENT GROUP, LLC, : IN THE SUPERIOR COURT OF
ASSIGNEE OF LUXURY ASSET : PENNSYLVANIA
LENDING, LLC :

v.

: Philadelphia County Civil
: Division
: No. 180500074

PHILADELPHIA TELEVISION :
NETWORK, INC. AND RICHARD :
GLANTON :

: No. 3215 EDA 2019

APPEAL OF: PHILADELPHIA :
TELEVISION NETWORK, INC. :

NEWPORT INVESTMENT GROUP, LLC, :
ASSIGNEE OF LUXURY ASSET :
LENDING, LLC :

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

Appellant

: Philadelphia County Civil
: Division
: No. 180500074

v.

PHILADELPHIA TELEVISION :
NETWORK, INC. AND RICHARD H. :
GLANTON :

: No. 3529 EDA 2019

ORDER

Upon consideration of the February 20, 2021 "Motion by Philadelphia Television Network, Inc. to Quash or Dismiss Appeal 3529 EDA 2019 and to Vacate and Remand in Appeal 3215 EDA 2019, Upon California Courts' Dispositive Vacatur of the Underlying Judgment and Assignment Order and Upon Appellant's Failure to File a Brief," and upon noting Newport Investment Group, LLC failed to respond to this Court's March 16, 2021 Order, the following is **ORDERED**:

Philadelphia Television Network, Inc.'s Motion is **GRANTED** as follows:

The appeal of Newport Investment Group, LLC at 3529 EDA 2019 is **DISMISSED** for failure to file a brief.

The trial court order of October 3, 2019 denying Philadelphia Television Network, Inc.'s petition to strike, vacate or open foreign judgment is **VACATED** and this matter is remanded to the trial court for a determination as to whether the May 18, 2018 foreign judgment should be stricken and the May 11, 2018 assignment order vacated.

Upon remand, Philadelphia Television Network, Inc. may seek relief in the trial court for return of property, accounts, license rights, and for costs and attorneys' fees. Jurisdiction relinquished.

PER CURIAM