

MAR 22 2019

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Office of the Secretary

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March 22, 2019

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Office of the Secretary

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Attn. Tom Sullivan, Chief International Bureau

Re: Request for Confidential Treatment IBFS File No. 325-NEW-20180614-00001

GLR Southern California, LLC ("GLR SC"), and its parent company H&H Group USA LLC ("H&H" and together, "Applicants"), by their attorneys, hereby request that certain information contained in their narrative and certain documents submitted today in response ("Response") to the International Bureau's ("Bureau's") General Information and Document Request dated February 15, 2019¹ be withheld from public disclosure pursuant to sections 0.457 and 0.459 of the Commission's Rules, 47 C.F.R. §§ 0.457, 0.459. Consistent with this request, Text in the narrative Response which has been bracketed with [] denotes areas where Confidential Information has been redacted in the public version of the Response. This text will appear as [] in the public version of the Response. Documents produced in the Response for which the parties are seeking confidential treatment and removed from the public version of the Response are denoted "CONFIDENTIAL - NOT FOR PUBLIC INSPECTION."

At the outset, the Applicants underscore that the Commission has confirmed that "parties under investigation have legitimate interests in keeping the investigative phase of a proceeding non-public."² Additionally, the Applicants are requesting that the designated information and documents be withheld from public inspection under Exemptions 4 and 6 of the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552(b)(4) and (b)(6), and Section 0.457(d)(2) of the Commission's Rules. The designated information and documents contain proprietary and commercially sensitive information, including financial information, that the Applicants do not

¹ See Letter from Thomas Sullivan, Chief, International Bureau, FCC, to David Oxenford and Paige Fronabarger, Wilkinson Barker Knauer, LLP, Counsel to GLR Southern California, LLC and H&H Group USA LLC, IBFS File No. 325-NEW-20180614-00001.

² Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization. 26 FCC Rcd 1594, 1596 (2011).

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in the normal course of business reveal to the public, competitors, or all partners with whom the Applicants transact business.

In support of this request, the Applicants provide the following information, as required by Sections 0.457(d)(2) and 0.459(b) of the Commission's Rules.

1. Information for Which Confidentiality Is Requested. The Applicants are requesting that the designated information and documents be withheld from public disclosure under 5 U.S.C. §§ 552(b)(4) and (b)(6), and 47 C.F.R. § 0.457(d)(2). The designated information contained in the Applicants' response is proprietary and commercially sensitive information regarding the Applicants' finances and commercial operations, as well as personally identifiable information relating to the Applicants' personnel. The documents for which H&H is seeking confidential treatment are: (1) documents related to the programming arrangement between the Applicants and Phoenix Radio, (2) documents related to the purchase of GLR Southern California, LLC by H&H, (3) financial records and information related to Applicants' the operation of XEWW-AM as well as proof of payments with respect to the foregoing, (4) communications between the Applicants and Phoenix Radio regarding the operations of XEWW-AM, (5) documents relating to the initial preparation of the FCC 325(c) application, and (6) documents related to personnel of Applicants. Public disclosure of these documents would place the Applicants at a significant competitive disadvantage, would impair commercial relationships among the Applicants and their business partners, and would disclose personally identifiable employee information.

Applicants note that some Documents included in the Response were provided by third parties. These Documents include materials related to business plans, customer information, financial records, and other information related to Phoenix Radio and its programming.

2. Proceeding/Reason for Submission. The Applicants are submitting the designated information and documents in connection with the International Bureau's General Information and Document Request, IBFS File No. 325-NEW-20180614-00001.

3. Nature of Confidential Information. The information and documents (described in (1) above) contains commercially sensitive information that may be withheld from public disclosure under FOIA Exemption 4. In fact, many of the requested Documents are subject to confidentiality restrictions contained in the provided Documents. The designated information contained in the narrative response and appendices relates to the Applicants' commercial transactions, operations, and finances. The documents contain commercially sensitive information, including information on financing and revenue which are not even shared among the Applicants and their business partners, as well as information about how the Applicants conduct operations at XEWW-AM. The Commission has long recognized that, for purposes of Exemption 4, "records are 'commercial' as long as the submitter has a commercial interest in them." *Robert J. Butler*, 6 FCC Rcd 5414, 5415 (1991), citing *Public Citizen Health Research Group v. F.D.A.*, 704 F.2d 1280, 1290 (D.C. Cir. 1983); *American Airlines v. National Mediation Board*, 588 F.2d 863, 868 (2d Cir. 1978). Additionally, the Applicants' personnel

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information includes personally identifiable information that may be withheld from public disclosure under FOIA Exemption 6.

4. Competitiveness of Market. The commercial information in question derives from and relates to the Applicants' operation of a broadcast radio station and thus "concerns a service subject to competition." 47 C.F.R. § 0.459(b)(4). As such, the information is sensitive internal business and commercial information entitled to protection under 5 U.S.C. § 552(b)(4) and 47 C.F.R. § 0.457(d)(2).

5. Harm from Disclosure. The designated information and documents are confidential because they contain information the release of which would likely cause competitive harm to Applicants. The information requested by the Bureau pertains to non-public transactions among private parties, which, if revealed, could impair Applicants' relationships with their existing business partners and place the Applicants at a disadvantage regarding future business relations. The same is true for public disclosure of the Applicants' financial information. Release of information related to the operations of XEWW-AM would harm the Applicants' ability to compete in the radio broadcasting market. The D.C. Circuit has found parties do not have to "show actual competitive harm" to justify confidential treatment. Rather, "[a]ctual competition and the likelihood of substantial competitive injury" is sufficient to bring commercial information within the realm of confidentiality." *Public Citizen Health Research Group*, 704 F.2d at 1291, quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979). Also, release of personnel information could result in the disclosure of information that would constitute an unwarranted invasion of personal privacy.

6. Measures Taken To Prevent Unauthorized Disclosure. The Applicants treat the information designated in the narrative response and contained in the documents as confidential and proprietary information and do not publicly disclose this information.

7. Previous Disclosure. The Applicants have not publicly disclosed the information for which it is seeking protection. With the exception of the Programming and Sales Agreement between H&H and Phoenix Radio, which GLR Services Inc. required as proof that H&H had arranged for programming prior to the sale of GLR SC (and was provided with the expectation and understanding that it would be treated as confidential, the Applicants have not previously disclosed or made public the documents for which they are seeking protection.

Documents which were in the custody of third parties were generously provided to Applicants for the sole purpose of responding to the Bureau's Request. These Documents were provided with the expectation that they would remain confidential and were not previously disclosed or made publicly available by the third parties.

8. Requested Duration of Nondisclosure. The designated information and documents should never be released for public inspection, as they contain commercially sensitive, confidential information, the release of which could adversely affect the Applicants' competitive position.

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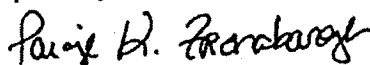
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For the foregoing reasons, the Applicants respectfully request that the Commission withhold the documents from public inspection. Should you need additional information with regard to this request, please contact the undersigned.

Respectfully submitted,



Paige K. Fronabarger

David D. Oxenford

Enclosure

cc: Janice Shields
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Accepted / Filed

MAR 22 2019

In re

GLR Southern California, LLC

Application for Transfer of Control from GLR
Services, Inc. to H&H Group USA, LLC

For Delivery of Programming to Mexican Station
XEWX-AM, Rosarito, Baja California Norte,
Mexico

Federal Communications Commission
Office of the Secretary

File No. 325-NEW-20180614-00001

By Hand Delivery

Office of the Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Attn. Tom Sullivan, Chief International Bureau

RESPONSE TO INFORMATION REQUEST

GLR SOUTHERN CALIFORNIA, LLC
H&H GROUP USA, LLC

By their attorneys

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March 22, 2019

cc. Janice Shields
Brandon Moss

Procedural Response

GLR Southern California, LLC ("GLR SC") and its parent company H&H Group USA LLC ("H&H" and together with GLR SC, "Applicants"). hereby provide below and in the attached Appendix, narrative responses and responsive Documents ("Response") to the International Bureau's ("Bureau") General Information and Document Request ("Information Request") dated February 15, 2019 for IBFS File No. 325-NEW-20180614-0000 ("Application").¹ Capitalized terms used but not otherwise defined herein have the meaning set forth in the Information Request.

Per the instructions in the Information Request, a copy of the Response is being filed in paper via hand delivery pursuant to the Guidelines for Paper Filings and two (2) paper copies of Response are also being filed with the Bureau. Applicants are also submitting a Request for Confidential Treatment pursuant to Sections 0.457 and 0.459 of the Commission's rules along with a redacted version of the Response and requests that such version not be made publicly available except pursuant to an appropriate Freedom of Information Act request that has been filed and granted, and has not been otherwise challenged. Text in this Response which has been bracketed with [[]] denotes areas where Confidential Information has been redacted in the public version of the Response. This text will appear as [REDACTED] in the public version of the Response. Documents produced in this Response for which the parties are seeking confidential treatment and removed from the public version of the Response are denoted "CONFIDENTIAL – NOT FOR PUBLIC INSPECTION."

¹ Documents and Information to be Provided (attachment to Letter from Thomas Sullivan, Chief, International Bureau, Commission, to David Oxenford and Paige Fronabarger, Wilkinson Barker Knauer, LLP, Counsel to GLR Southern California, LLC and H&H Group USA LLC, File No. 325-NEW-20180614-00001. The term "Information Request" shall be deemed to include the matters set forth in the letter from Thomas Sullivan to Paige Fronabarger dated March 14, 2019 ("Extension Order").

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Applicants have tried to limit claims that certain Documents required to be submitted hereunder are privileged under the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection. To the extent that any privileged documents may have been inadvertently produced, such production does not constitute waiver of any applicable privilege. Applicants request that any privileged documents inadvertently produced be returned to Applicants as soon as such inadvertent production is discovered by any party, and reserves all rights to seek the return of any such documents.

In preparing this Response, Applicants have employed diligent, good faith efforts to produce responses and Documents relevant to the Information Request and in the format requested by the Bureau in the allotted time. While the Bureau provided Applicants with a four-day extension of time to respond, the Extension Order (i) ignored the fact that the Information Request took ten days to get to Applicants², (ii) denied Applicants the opportunity to ask questions about the requested matters in order ensure our answers are responsive to the questions posed³, (iii) denied Applicants an opportunity to discuss limitations on items that would be overly burdensome to produce⁴, (iv) ignored that Applicant is a small business without infinite resources to apply to this Response despite their desire to, and (iv) added new requests and new burdens on the Applicants by requiring translation of an extensive number of documents that

² The size of the data request, the short time in which to comply and the lack of clarification of the broad document requests, have left Applicants with no option than to interpret the Bureau's requests, which we have done to the best of our ability.

³ Despite statements in the Information Request inviting Applicants to contact the Bureau with any questions, the Extension Order denied Applicants an opportunity to clarify areas where the Information Request was unclear.

⁴ The Extension Order rejected Applicants request to discuss ways to "narrow the scope of the questions in the Information Request" even though one interpretation of the documents required to be submitted in response to one particular Information Request would require production of more than 20,000 pages of documents (10,000 original, plus 10,000 English translations).

were not in English.⁵ Notwithstanding the heavy burden imposed in the Information Request, Applicants have tried to comply with every request made by the Bureau to the best of our ability. If the Bureau believes additional information was required to be produced and is necessary in order to ensure the Bureau has sufficient information to act on the Application, Applicants are happy to produce those items via supplement. The parties will also supplement the Response in the event we discover new documents or documents that were inadvertently left off after the date of this filing. If the Bureau believes any amendments to the Application are required based on its review of the information provided in this Response, Applicants request that the Bureau afford Applicants the opportunity to do so.

Summary Response

The responses below and attached documents amply support the arguments that Applicants have made throughout this proceeding – that the Application complies with the rules, precedent, and guidance the Bureau provided Applicants, and should expeditiously be granted. From the questions asked in the Bureau's request, it appears that there are concerns with (1) whether the Applicants control the Station and can exercise the licensee oversight required by Commission rules and precedent, and (2) whether the airing of programs produced by Phoenix Radio somehow constitutes a threat to national security or somehow otherwise constitutes a violation of the Commission's rules. We believe the documents will show that neither of these concerns are real, and neither provide any justification for the denial of the Application.

⁵ While we have made an effort to obtain translations of relevant communications and Documents, certain Documents cannot be machine translated without risking serious error because they belong to 3rd parties (for example, the IFT broadcast license, standard vendor agreements with Mexican service providers like the internet and security company) that provide services to the Station). If the Bureau believes that translations of these documents are required, they will be produced by supplement through a human translation process which will take longer than machine translations.

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On the control issue, the documents demonstrate that the Applicants' principal, Vivian Huo, initiated and negotiated the transaction terms to acquire GLR SC and the rights associated therewith from the previous holder, on her own. Phoenix Radio was not a party to those negotiations or documents. Other than Phoenix Radio's rights and obligations under the programming agreement and related agent agreement (both provided with this Response), Phoenix Radio has no past, present or future economic interest in Applicants, GLR Services or the Station facilities. Ms. Huo has invested substantial time and financial resources to acquire GLR SC and the ultimate rights to program the Station, and continues to do so in responding to the unfounded objections to the Application and to this very burdensome request for documents.⁶

The acquisition related documents show the Applicants stepped into the shoes of the prior owner and acquired control over the Station's transmission facilities, programming rights and the means by which programming is delivered to the Station consistent with applicable law.⁷

Applicants maintain employees and contractors on site at the Station on a day-to-day basis, who are paid by Applicants and are totally independent of Phoenix Radio. The programming documents require Phoenix Radio to obtain Applicants prior consent for format changes, and allow Applicants to preempt programming supplied by Phoenix Radio at any time that the public interest or rules of the Commission (or of the Mexican government) require. Discussions regarding technical elements of how the Station is set-up also demonstrate that Applicants (not Phoenix Radio) have the ultimate technical means to reject, preempt or supplant Phoenix supplied programming. We believe the documents also show that Ms. Huo has been routinely involved in the selection and approval of programming, and that she maintains active

⁶ The Applicants' substantial legal fees for responding to the pleadings filed against this Application and for responding to this Information Request, are all paid by the Applicants, and not reimbursed by Phoenix Radio.

⁷ Applicants originally planned to acquire the assets used to operate the Station, but in early 2018, agreed to switch to an equity purchase of GLR SC instead.

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oversight of technical issues related to the Station, and regularly monitors the programming content to ensure that it meets the programming standards that the Applicants have established, and to which Phoenix Radio has agreed. In short, Ms. Huo fully meets the long-standing tests established by Commission precedent for establishing control over Station operations.

The programming arrangement here is in all material respects akin to the relationship between a programmer and a station licensee in a time brokerage agreement or "LMA," or that between a network affiliate and the network which provides programming to it. In either of these cases, the licensee (here the Applicants) controls the Station, seeks a source of reliable programming that will reach its intended audience and, in many cases, a source of reliable income with which to operate its Station.⁸ In relationships of this nature, or anytime a broadcaster airs programming from any syndicated radio source, the broadcaster is not required to control the studios where the programming is produced, and they routinely do not pay the specific employees who produce the programs and sell the advertising that is included in this third-party programming. The licensee is not required to directly control each element of the program production process. Rather, they are required to have ultimate control over what gets broadcast on the station and bear the burden to ensure all third-party programming complies with applicable law, meets the objectives of the licensee, and conforms with the contractual limitations established between the licensee and the programmer.

The Commission and its Media Bureau have reviewed countless programming arrangements that are legally and functionally indistinguishable from the one proposed by the Application. The documents and parties' course of dealing, as reflected in this Response, reveal

⁸ While in television, most major networks no longer pay compensation directly to their affiliates, in the past, such payments were common. Today, many radio networks provide compensation to affiliates in major markets who clear the network's commercials, and even some smaller and regional television networks provide similar payments.

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that the facts of this situation do not come near to one that crosses any legal line. As recited above, the Applicants and their principal, Vivian Huo, initiated and negotiated the terms for the Seller financed acquisition of GLR SC; worked with her counsel (and counsel for the seller) to prepare, submit, and prosecute the subject Application; and engaged in arms-length negotiations with Phoenix Radio over terms of for the provision of programming. Ms. Huo has also continuously maintained active oversight and control over the Station and the programming it airs. The documents show and Applicants and Phoenix each certify that they are (and have always been) separate, independent companies. Ms. Huo is not a current or former officer, director, employee, or owner of Phoenix and no officer, director, employee, or owner of Phoenix Radio is an officer, director, employee, or owner of Applicants. While many programming agreements in other contexts grant the programmer an option to acquire the Station and credit all or apply a portion of their brokerage payments towards the purchase price, Phoenix Radio does not have either right⁹. In situations where there was far more evidence proffered by contesting parties of control by outside parties of the licensee than has been offered here (in fact, there has been little or no evidence that the Applicants are not in control of the Station offered here), the Commission has not even requested that an applicant produce any documents probing the relationship between these parties.¹⁰

In addition, Applicants have never intentionally tried to conceal or deceive the Bureau about the fact that programming would be coming from a third party. Prior to entering into the programming arrangement or filing the Application, Applicants sought guidance from Bureau

⁹ [REDACTED] ||
¹⁰ See, e.g., In re: WLDA(FM), Slocumb, Alabama, et. al., 27 Commission Rcd 13363, (Audio Division, 2012) (where local station owner was contacted about station purchase that he could not make consistent with the radio ownership rules, he located a former employee who acquired the stations and immediately entered into a programming agreement with the local owner's brother - the Division denied petitions to deny without requesting any documents finding that these facts, standing alone, did not raise questions that the Commission needed to investigate).

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staff on multiple occasions about the Commission's rules regarding application contents, applicability of U.S. programming standards to the Station, permit assignability, and the like given the limited guidance the rules provide for this particular service. Not only did counsel for Applicants provide a draft of the Application to staff before it was filed (which staff did not comment on), but Applicants informed the Bureau at the beginning of this process via email in November of 2017, that H&H intended to apply for the Section 325(c) permit "to deliver the programming to the foreign radio station and has an agreement with that station" but would be "acting as sort of an intermediary" and "will be receiving the programming from someone else." If the Bureau had concerns with the structure of our arrangement (or believes Phoenix Radio and not Applicants should have applied to hold the permit), we believe staff would have raised it as a concern, either by responding to our direct question on that point or in our conversations prior to filing the Application. The Application was filed based on templates of Commission 308 applications the Bureau already approved and guidance we received from the Commission. The parties did not try to hide Phoenix's role as a content provider. Unlike licensees of U.S. radio broadcast licenses, 325(c) permit holders are not subject to the Commission's foreign ownership limitations. An FCC Form 308 application also does not ask for disclosure of programming sources. Instead, it requests information about (i) the applicant's ownership, (ii) the applicant's relationship with the foreign station (which is XEWW) (but does not ask about the applicant's relationship with other content providers, sponsors or advertisers), and (iii) a description of nature, character and language of programming content (but does not request ownership details about entities providing such content).

Given the wealth of documents Applicants have produced to here demonstrating control by the Applicants, the Commission cannot have an issue with the control of the Station

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consistent with existing precedent. Nor can the Commission have concerns that the Applicants lacked candor in describing the programming since (i) the Application text was modeled on prior 325(c) applications, (ii) Applicants disclosed that programming would come from a third party to the Commission, and (iii) Applicants asked for, but did not receive guidance from Bureau staff on their preferred way for handling intermediary programming relationships.¹¹ Admittedly, Applicants did not mention that the third party was Phoenix Radio, but that was not the result of a nefarious or intentional plan by Applicants or GLR Services. Since (i) the Commission's foreign ownership restrictions do not apply to 325(c) permit holders, (ii) U.S. laws prohibit the Commission from censoring speech solely on the basis of national origin, and (iii) the Commission Form 308 asks about the applicant's ownership, the applicant's relationship with the foreign station (which is XEWW), and for a description of nature, character, and language of programming content proposed (and not the name of any time broker or content provider), Applicants did not believe such information was required or responsive to the application questions. If the Bureau believes the parties should revise the programming description to include Phoenix Radio, we are happy to file an amendment with that information now.

Similarly, the concerns about programming being provided by a company that is the subsidiary of a publically traded company based in Hong Kong are similarly misplaced. First, not a single shred of evidence has been produced to show that the programming (which has been running on the Station for almost 8 months under the STA granted to the Applicants) is anything other than what it purports to be --pre-purchased Chinese music, plus station identifications, news,

¹¹ Lack of candor is "concealment, evasion, or other failure to be fully informative, accompanied by intent to deceive." See *Fox River Broadcasting, Inc.*, Order, 93 Commission 2d 127, 129 (1983). See also *Trinity Broadcasting of Florida, Inc.*, Initial Decision, 10 Commission Red 12020, 12063 (1995) (intent to deceive is necessary and essential element of both misrepresentation and lack of candor).

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traffic, weather and other lifestyle programming directed to Chinese-speaking residents of the Station's service area. No claims of hidden messages or propaganda have been raised. Second, Phoenix does not believe it is required to register under any foreign-entity registration acts based on the advice of U.S. legal counsel retained by Phoenix to provide a legal opinion as to the applicability of any U.S. foreign-entity registration acts on the company and its business.¹² No agency with authority to enforce these registration requirements has concluded that registration is required for Phoenix, and thus the Commission is not in a position to make its own independent determination of the requirements of a statute that it does not enforce.¹³

Moreover, even had it registered, without a showing that the broadcasts imperil national security or produce other cognizable harm, the Commission is forbidden by Section 325 of the Communications Act and the First Amendment from censoring speech even if transmitted by radio signals. In fact, programming provided by entities directly funded by foreign governments which are required to register under the various registration acts are already airing on broadcast stations throughout the United States – including, as highlighted in this week's Washington Post Magazine, in Washington DC.¹⁴ If programmers who are directly funded by and controlled by foreign governments, including the government of China, can air on U.S. stations, how can the Commission deny the Application involving music and lifestyle programming developed by a

¹² See *Response of GLR Southern California, LLC to Unauthorized Filings*, IBFS File No. 325-NEW-20180614-00001 at 13-17 (filed Sept. 24, 2018) ("Response to Unauthorized Filings"). Additional information on this point is provided in Response 25.

¹³ In fact, even the Commission's 1986 Character Policy Statement states that "while it may be appropriate for the Commission to consider the relationship of the policies underlying other Federal statutes to effectuation of the policies behind the Communications Act, the inclusion of a public interest standard in the Communications Act did not automatically give the Commission "either the authority or the duty to execute numerous other laws." See, 5 Commission Rcd 3252 (11) 5 Commission Rcd 3252 (11)" to "See *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 F.C.C.2d 1179, 1207-08 (1986).

¹⁴ See, *This American sells Russia radio airtime. The U.S. says that makes his firm a foreign agent*, Washington Post Magazine, March 11, 2019. See, also, Radio China programming schedule on US stations here: <http://chinaplus.cri.cn/radio/relays-across-america/1448/20171222/68504.html> (last visited, March 16, 2019).

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U.S. subsidiary of a publicly traded foreign company that is looking to make money, and is subject to the active oversight and control of a U.S. citizen? Moreover, denying this Application will not have any impact on Phoenix's ability to supply program content for broadcast on other radio stations in the U.S. because under current U.S. law, Phoenix Radio can broker time on a U.S. station or act as a syndicator and run the exact same programming line-up it currently running on the Station on other U.S. radio stations, without Commission approval.¹⁵

In short, the documents that have been produced demonstrate that this Application can be and should be granted. The Commission and its International Bureau obviously have to review these allegations made and respond to the petitions filed against this Application. We believe that this Response more than adequately demonstrates that the grant of the Application is in the public interest. Nothing that has been raised in any pleading has suggested otherwise. The basis of the objections filed in this case seems to be that this programming is in Chinese, and a for-profit Chinese company has provided it. This is nothing but stereotyping – somehow implying that anything Chinese is bad or that U.S. citizens of Chinese heritage are untrustworthy without any evidence whatsoever that this is the case, and without giving the Commission any justification to deny the Application. Thus, the Application must be granted.

Our response to each item in the Information Request are attached and provided below. For purposes of this Response, references to (i) "Phoenix Radio" refer to Phoenix Radio US, LLC, (ii) "Phoenix" refer to Phoenix Radio and any person or entity affiliated with Phoenix Radio, including any owner, officer, or employee of Phoenix Radio or any entity that controls, is

¹⁵ Phoenix currently provides its programming on DISH, DIRECTV and the leading cable companies. As a result, more than 100 million U.S. homes have access to Phoenix TV channels. In the Los Angeles area, Spectrum (formerly Charter) has placed Phoenix programming on its basic tier, making it available to all Spectrum subscribers at no additional charge. See, Supplemental Declarations of Xiaoyang Wu provided herewith. *See also, Opposition to Petition to Deny of GLR Southern California, LLC*, IBFS File No. 325-NEW-20180614-00001 at fn. 9 (filed Aug. 29, 2018) ("Opposition to Petition to Deny")

controlled by or is under common control with Phoenix Radio (including any entity listed in the organizational chart and documentation provided in response to Question 26), (iii) "GLR Services" refer to GLR Services, Inc. and any person or entity affiliated with GLR Services, including any owner Prisa Radio, officer, or employee of GLR Services or any entity that controls, is controlled by or is under common control with GLR Services (which includes Prisa Radio). Unless expressly stated otherwise, references to (i) "Applicants" which relate to any period of time from and after June 26, 2018 ("Closing Date") or (ii) "GLR Services" which relate to any period of time prior to the Closing Date, shall be deemed in both instances to include their respective equity interests in W3 COMM CONCESIONARIA, S.A. de C.V., a Mexican Sociedad Anonima de Capital Variable company ("Concesionaria") and W3 COMM INMOBILIARIA, S.A. de C.V., a Mexican Sociedad Anonima de Capital Variable ("Inmobiliaria") and the option rights to acquire the remaining shares in Concesionaria and W3 COMM, S.A. de C.V., a Mexican Sociedad Anonima de Capital Variable company ("W3 Comm").

Response 1. Provide a copy of any Programming Arrangement or Arrangements between Applicants and Phoenix.

See Appendix, Tab 1, which includes (1) the station programming and sales agreement dated April 18, 2018 between H&H and Phoenix Radio; (2) an amendment to the station programming and sales agreement dated June 26, 2018 adding GLR SC as a party as a result of consummation of H&H's acquisition of GLR SC and GLR SC's interests in the Station; and (3) the amended and restated station programming and sales agreement dated August 28, 2018 consolidating the original agreement and amendment and clarifying certain rights and responsibilities among the parties. References to the "TBA" used throughout this Response refer to the amended and restated station

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programming and sales agreement dated August 28, 2018 unless otherwise noted. Except for the documents noted above and the Agent Letter Agreement referenced in response to Question 5 below, there are no other Programming Arrangements between Applicants on the one hand, and Phoenix.¹⁶

Response 2. Provide a copy of any and all contracts, and a description of any oral understandings, between and among H&H, GLR, and Phoenix, including their respective predecessors-in-interest.

The documents and descriptions provided in response to Questions 1 and 3 represent all contracts or oral understandings, past or present between and among Applicants, on the one hand and GLR Services and/or Phoenix, on the other hand, as well as their respective predecessors-in-interest. To Applicants information and belief (and based on responses made to Applicants by GLR Services and Phoenix in response to Applicant's question on this matter), no contracts or oral agreements (past or present) exist between Phoenix and GLR Services, including their respective predecessors-in-interest.

Response 3. Provide a complete copy of the purchase agreement whereby H&H acquired the assets of GLR Southern California, LLC and any other Documents that set forth arrangements between GLR Services, Inc. and H&H relating to the purchase of GLR Southern California, LLC.

See Appendix, Tab 3, which includes the purchase agreement and all associated closing documents executed in connection with the purchase of GLR SC. Applicants

¹⁶ As disclosed in Applicant's Application, GLR SC has the right to program the Station pursuant to an agreement with Concesionaria, a copy of which was filed with the Commission on November 2, 2006 ("Concesionaria Agreement"). Phoenix Radio is not a party to the Concesionaria Agreement. Except for the TBA and Agent Letter Agreement, Phoenix Radio (and its affiliates) are not a party to any programming arrangement, financial agreement or any other agreements (including oral agreement) with (i) Applicants, Concesionaria or Applicant's affiliates (including any of the Mexican affiliates described in this Response) or (ii) GLR Services and its affiliates.

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have also included the letters of intent executed in connection with the transaction between H&H and GLR Services for the Station. As noted above, no agreements (oral or otherwise) exist between Phoenix and GLR Services to acquire assets, equity or programming rights with respect to the Station. Applicants, GLR Services and Phoenix Radio certify to the Commission that the negotiations for the purchase of GLR SC were the result of extensive arm's length negotiations between H&H and GLR Services and did not include Phoenix Radio, its agents, employees, or counsel as a party to those discussions or communications.¹⁷ Applicants have provided background correspondence related to the purchase of GLR SC, but these materials were not binding on the parties. These materials do not include all drafts and preliminary correspondence related to the purchase of GLR SC because doing so is expected to require production of thousands of pages of additional documents and privileged emails (including hundreds of Spanish language communications between Mexican counsel for H&H and GLR Services), none of which are binding on the parties or are expected to introduce any material information about the terms related to the acquisition and financing of GLR SC or the programming for the Station that are not already addressed in our Response and memorialized in the final documents. If requested by the Bureau, Applicants can provide drafts and preliminary correspondence between H&H and GLR Services by supplement; provided, however, doing so will impose a tremendous and unreasonable burden on Applicants to produce and on the Bureau to review. Also see Appendix, Tab 6, which includes

¹⁷ [REDACTED]

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documentation showing the wire transfers made by H&H to acquire GLR SC (as well as related correspondence).

Response 4. Provide a copy of GLR's programming standards with which Phoenix must comply.

The programming standards with which Phoenix Radio must comply (called the H&H Programming Standards in the TBA) can be found in Schedule 2.2.2 of the TBA. Section 2.2.2 of the TBA requires Phoenix Radio to comply with the H&H Programming Standards, and with any applicable policies and regulations of the IFT or Commission. Section 1.1 of the TBA grants GLR the right to "preempt" Phoenix Radio's programming, including in situations where (i) H&H Programming Standards are not being followed or as necessary to comply with Mexican or U.S. law or (ii) GLR SC reasonably believes preemption is necessary to serve the public interest and comply with GLR SC or Concesionaria's obligations as a broadcast licensee under Mexican and/or U.S. law, such as, emergency broadcast interruptions, preemptions made to protect national security, or preemptions to broadcast matters of greater local or national importance. Section 1.2 of the TBA also restricts Phoenix Radio's right to broadcast certain types of advertising, sponsorship, infomercial and programming content. See Appendix, Tab 1, which includes the relevant provisions of the TBA. Applicants have also included a copy of the Phoenix studio policy¹⁸ in Appendix, Tab 4.

Response 5. Provide any Documents that set forth any arrangements relating to the transmission of programming from the Studio to the Station's facilities in Mexico, including any Documents setting forth any arrangements with the GLR agent who accepts programming from Phoenix for transmission to the Station's facilities in Mexico.

¹⁸ Note that the Phoenix studio policy was recently updated to include a specific (but redundant) reminder that employees involved in programming must comply with the H&H Programming Standards.

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[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]]] Copies of the invoices/ payments made

for the services noted above are provided in Appendix, Tab 5.

Response 6. Provide a copy of all Documents relating to the acquisition of all equipment used for the transmission of programming from the Studio to the Station's facilities in Mexico, including copies of all invoices, bills, rental/lease agreements, checks written or received, credit card charges, wire transfers or deposits of funds.

As described in the response to Questions 5 above and 9 below, programming is sent via static IP addresses which are owned by GLR SC. As such, no specific equipment was purchased for this purpose. The equipment (including the computers) used by Phoenix Radio to create the content which Phoenix Radio has the contractual right to have broadcast on the Station is (to Applicant's knowledge, based on inquiries to Phoenix Radio) owned by Phoenix. This equipment was either already owned by Phoenix Radio's affiliate, Phoenix Satellite Television (U.S.) Inc. which creates and distributes Mandarin and Cantonese television programs for broadcast globally (including throughout the United States) or was acquired for the purpose of creating the "U-Radio" content. All other equipment used in connection with the operation of the Station is owned by Applicants and was acquired as part of the purchase of GLR SC documented in Appendix, Tab 3 (including all computers and internet connections which receive the

programming in Mexico and then send the programming to the Station's tower facility for broadcast). No additional equipment was purchased at that time.

See, Appendix, Tab 5 for evidence of payment of the Internet and Skycasters bills and Appendix, Tab 6, which includes documentation of the payments associated with the acquisition of the Station.

Response 7. Provide any Documents relating to the preparation and filing of the initial Application for a permit to deliver programs to a foreign broadcast station on June 14, 2018 and the revised Application on June 20, 2018.

Counsel of Applicants and GLR Services worked together to prepare and file the initial Application for a permit to deliver programs to a foreign broadcast station on June 14, 2018 and the revised Application on June 20, 2018. Documents related to the Applications are provided in Appendix, Tab 7. To ensure our response is complete, we have also included information about the initial draft Application H&H's counsel prepared in their own name in December of 2017 when the transaction was structured as an asset acquisition.

Applicants employed good faith efforts to comply with Commission rules in preparing the Application, including reaching out to Commission staff for clarification on questions where the Section 325(c) permit rules were unclear. For example, on November 15, 2017, H&H Counsel Howard Liberman informed Janice Shields via e-mail that "our client [H&H] is planning to apply for the authorization to deliver the programming to the foreign radio station and has an agreement with that station, but our client will be receiving the programming from someone else."

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We also believe the e-mail correspondence and other communications provided in response to this question demonstrate that (i) Applicants sought guidance from the Bureau to ensure they were completing the Application correctly because the Commission rules and precedence with respect to 325(c) permits did not clearly address the facts of this Application, (ii) Applicants informed the Bureau in writing that programming would be supplied by a third party and asked the Commission to advise if this raised any concerns, and (iii) other than communications from H&H to Phoenix confirming the accuracy of H&H's description of the proposed programming and general status updates, the June 14, 2018 and June 20, 2018 Applications were prepared by counsel to GLR Services and H&H without input from Phoenix Radio. As the correspondence illustrates, Applicants originally thought Phoenix should obtain the permit, but after working through the control issues, came to believe that Applicants were the real party in interest given the fact that they have ultimate control over the programming put on the Station.

Response 8. Provide any Documents relating to the control of the Studio's operations since July 25, 2018. State whether Applicants have communicated with Phoenix regarding management or operation of the Studio, and if so, state the date and describe the nature of each such communication.

Applicants maintain active and on-going oversight of the operations at the Irwindale and Mexican studios. Ms. Huo regularly communicates with Phoenix Radio employees about the programming running on the Station and she and the Station's Mexican employees regularly communicate with Phoenix personnel about technical

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issues impacting the Station's broadcast signal. See Appendix, Tab 16, which includes the evidence of such communications.

These communications, coupled with GLR SC's rights, through its ownership of the Mexican station assets and the primary programming agreement with Concesionaria (which requires them to pay all Station related expenses), demonstrate that Applicants have legal and operational control of the studio in Mexico and well as the transmission point from which programming originates in the United States. This is consistent with long-standing Commission precedent that a licensee may delegate day-to-day operations without surrendering de facto control, so long as the licensee continues to set the policies governing station programming, personnel, and finances. See, e.g., *WGPR, Inc.*, 10 Commission Rcd 8140, 8142 (1995); *Choctaw Broadcasting Corp.*, 12 Commission Rcd 8534, 8539 (1997); *Southwest Texas Broadcasting Council*, 85 Commission 2d 713, 715 (1981).

As described in the introduction to this Response and in Question 16, Applicants, like other Commission licensees who obtain programming from a network or syndicated radio source, do not need and need not control all of the content production elements or physical locations where such content is produced in order to be deemed in control of a Station for Commission purposes. Applicants do not and are not required to hire, pay or oversee the specific employees hired by a content provider to produce programs or sell the advertising that is included in third-party programming. Instead, Applicants must have ultimate control over (i) the transmission functions required for broadcasting on the Station and (ii) what gets broadcast on the Station. Applicants also bear the burden to

ensure all third-party programming complies with applicable law. All of these facts are present in this case.

And while Applicants have a contractual right via the TBA to use space at the Los Angeles studio and have appointed an agent to facilitate transmission of the Phoenix programming to the Station at that location, Commission rules no longer require that a broadcast licensee maintain a studio. The Commission rule requiring that owners of U.S. radio and television stations maintain a main studio in or near their community of license was eliminated in 2017.²⁰ And since the Commission made clear in *Fox Television*, that stations applying for permission to export programming under Section 325 cannot be treated differently than the treatment of Applications for a station license in the United States under provisions of the North American Free Trade Agreement ("NAFTA"), elimination of the main studio rule should be applied to this Application.²¹ The Fox case precludes the Commission from imposing a local main studio requirement on GLR SC since such a requirement is no longer applicable to U.S. radio stations.

Response 9. What action does GLR take to transmit programming to XEWW-AM?

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²⁰ Commission Chairman Pai acknowledged in his statements supporting the Commission's action to eliminate the main studio rule, that the main studio rule had become outdated because in the digital age, the community has access and can engage with stations via social media or email without having a physical studio nearby.

²¹ *Fox Television Stations*, 11 Commission Rcd at 14878 ¶¶ 24-25 (1996).

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These actions are also consistent with the Applicants contractual obligations under the TBA. Sections 1.4 and 2.1.5 of the TBA, require GLR SC to be responsible for delivering the programming from the United States to the Mexican studio and from the Mexican studio to the Station's transmitter. See Appendix, Tab 1, for the relevant portions of the TBA.

Response 10. What policies do H&H and GLR have in place regarding the timing and frequency of review of Phoenix's programming?

Prior to entering into the TBA with Phoenix, Ms. Huo conducted due diligence regarding the type of programming Phoenix Radio was contemplating developing for its internet radio steaming business in the United States. She reviewed the proposed U-Radio program format and approved of U-Radio's planned format consisting of mostly music from a pre-purchased music catalog , as well as entertainment, shows pulled from the global Phoenix channel and other original, local content designed to be responsive to

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the needs and interests of Chinese and Mandarin speaking residents living in the Los Angeles metro area. These concepts were incorporated into the TBA as well as other provisions designed to ensure Phoenix Radio's content would comply with applicable Mexican and U.S. law.

The TBA imposes significant restrictions on the content Phoenix Radio may supply for broadcast on the Station. It also provides Applicants with multiple contractual remedies to cure any breaches of these provisions. To ensure that Phoenix Radio is complying with the H&H Programming Standards and the TBA, Ms. Huo provides extensive and ongoing personal oversight of the programming content on the Station.

Ms. Huo regularly listens to the Station, often as much as 30 hours a week, as do the Station's employees, her friends and family members. Since entering the TBA, Phoenix staff have regularly informed Ms. Huo about programming content, and Ms. Huo often communicates with Phoenix staff to suggest additional programs and promotions which would appeal to the local audiences. These contacts allow Ms. Huo to regularly discuss programming to ensure it is serving the public interest as required by applicable law and to inquire if any programming complaints have been received. Other than the objections Chinese Sound and Heritage have filed with the Commission (which seem to be commercially driven despite Chinese Sound being a non-profit station), no complaints have been received.²²

²² Chinese Sound and Heritage ("Chinese Sound") has spent significant resources to oppose this Application. Given, the nature and extent of their pleading comments which seem to be drafted to influence the Commission and others about Chinese policies, Applicants question whether Chinese Sound continues to meet the eligibility criteria for noncommercial educational broadcasters and urge the Commission to inquire into the funding and operations of Chinese Sound to ensure they are in fact an eligible licensee.

As noted above, a large portion of the programming consists of which comes from a catalog to which Phoenix has purchased. As noted above, Ms. Huo familiarized herself with the music catalog prior to entering the TBA with Phoenix, which makes ongoing review redundant. Nevertheless, Ms. Huo provides ongoing oversight to ensure that the programming of the Station complies with the H&H Programming Standards and serves the public interest as required by applicable law.

Schedule 2.2.2 of the TBA specifies that Phoenix Radio must comply with the H&H programming standards, which Ms. Huo personally reviewed and helped establish. The programming standards specify that Phoenix Radio shall not change the Programming in a manner that materially differs from the Programming description in the Commission permit without prior written consent of Applicants. The TBA prohibits Phoenix Radio from making changes to Programming format until Applicants have filed any necessary amendment and obtained approval from the Commission, IFT, or other Mexican authority required to implement such change. Schedule 2.2.2 of the TBA requires Phoenix Radio to work with Applicants in good faith to ensure compliance with the H&H programming standards. Relevant provisions from the TBA are located in Appendix, Tab 1.

Response 11. Do H&H and GLR have the right to alter or make changes to the programming? If so please explain.

Yes, as described in response to Question 4, Applicants possess the right to alter and make changes to the Programming. Under Sections 2.2.2 and 2.2.3 and Schedule 2.2.2 of the TBA, Applicants may preempt the programming of Phoenix under certain circumstances. For example, Applicants may preempt Phoenix's programming in

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situations where Applicants determine that Phoenix's programming does not meet the H&H programming standards. Applicants can also preempt Phoenix's programming decisions if Applicants reasonably believe it is necessary to serve the public interest and comply with obligations under applicable Mexican or U.S. law or GLR SC or Concesionaria's obligations as a broadcast licensee. For example, GLR SC may preempt Phoenix programming for emergency broadcast interruptions, protect national security or to broadcast matters of greater local or national importance.

Applicants also have the contractual right to preempt Phoenix programming to conduct necessary maintenance. In the event that Applicants desire to exert its preemption rights, engineers and other personnel under Applicants direction can disconnect the Phoenix audio feed and substitute non-Phoenix audio programming to the transmitter. Applicants have ensured appropriate substitute content is available for broadcast should that become necessary.

Applicants also control programming transmissions through their contractual authority over the Agent, as further described in response to Questions 17 and 19 below.

In essence, Applicants have retained significant functional and contractual authority to change programming of the Station where necessary. Relevant provisions from the TBA are located in Appendix, Tab 1.

Response 12. Do H&H and GLR have the right to direct Phoenix to provide programming covering certain content or programming in a certain format? If so, please explain?

Applicants have retained rights to ultimate control over the content Phoenix Radio broadcast on the Station, including the right run their own programming on the Station in certain circumstances. As described in response to Questions 4 and 11, GLR SC has the

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contractual right to certain "Preemptions" which allow it to direct the programming of the Station in certain situations, particularly when necessary to comply with applicable U.S. or Mexican laws. These preemptions allow GLR SC to direct the programming content under certain circumstances, such as where programming provided by Phoenix does not comply with the H&H programming standards.

Applicant approved the general content proposed for the Station before entering into the TBA. Additionally, Schedule 2.2.2 of the TBA states that Phoenix shall not change the Programming in a manner which materially differs from the Programming description in the Commission Permit without GLR SC's prior written consent, which shall not be unreasonably withheld. The TBA also prohibits Phoenix from making any changes to the Programming which require GLR SC's consent until GLR SC has filed any necessary amendment and obtained any required approval from the Commission, IFT, or other Mexican authority. Applicants actively monitor the programming supplied by Phoenix to ensure compliance with these standards. If Phoenix breaches the TBA, including by violating the H&H Programming Standards, Applicants have retained contractual remedies under the TBA. These remedies include the right to seek specific performance to enforce the TBA terms or the right to terminate the TBA. In sum, Applicants maintain ultimate control of the content. Relevant provisions from the TBA are located in Appendix, Tab 1.

Response 13. How are Phoenix's employees who assemble the programming made aware of GLR's programming standards or changes thereto?

As discussed in response to Question 4, the H&H programming standards are included in the TBA between Applicants and Phoenix. Pursuant to Schedule 2.2.2 of the

TBA, Phoenix and Applicants will work together in good faith to ensure compliance with the H&H Programming standards.

Because the H&H Programming Standards are included as a schedule to the TBA, updates to the H&H Programming Standards require the amendment of the TBA. As such, Phoenix will become aware of any changes to the H&H Programming Standards when presented with the proposed amendment. Additionally, H&H requires Phoenix to ensure that Phoenix personnel involved in Station programming are provided with a copy of the H&H Programming Standards and Ms. Huo has confirmed that Phoenix is complying with this requirement.

In addition, Phoenix posts a copy of its own studio policies (which contain many of the same restrictions) at its California location. These standards make it clear that in addition to the Phoenix Radio requirements (also designed to comply with law) Phoenix employees must comply with the H&H Programming Standards. A copy of the studio policy can be found in Appendix, Tab 4. Relevant provisions from the TBA with the H&H Programming Standards and other provisions cited in this response are located in Appendix, Tab 1.

Response 14. Is Phoenix the only programming provider contracted by Applicants? a. If so, do the Applicants currently plan to contract with additional programming providers? b. If Phoenix is not the only programming provider contracted by the Applicants, identify the other programming providers and provide copies of any and all agreements with such programming providers.

Phoenix is the only programming provider currently under contract with Applicants. As noted in previous filings, Ms. Huo considered multiple options for

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programming in New York and Los Angeles before deciding on the deal with Phoenix. Ms. Huo continues to receive offers from other foreign language programmers interested in broadcasting on the Station. Ms. Huo has not considered them because she is solely interested in provided high quality Chinese content and has no interest or intention to use any programming provider other than Phoenix at this time. Copies of background ad rate sheets and station sales data Ms. Huo reviewed as part of her due diligence to decide whether to provide her own programming on the Station or to contract with Phoenix Radio or other third parties is provided in Appendix, Tab 14.

While programming produced by other 3rd parties has appeared on the Station, including programming produced by such reputable entities as the BBC, NPR, and the Associated Press, this programming is contracted by Phoenix, not H&H or GLR SC. Section 2.2.1 of the TBA gives Phoenix the contractual right to obtain programming from third party sources. However, any third party programming that Phoenix acquires and broadcasts is still subject to the same terms of the TBA that apply to Phoenix-produced programming, including the H&H Programming Standards.

The only additional programming that has appeared on the Station is audio for political programming required by the government of Mexico. This programming is provided by the Mexican federal government, Mexican political parties, and the National Electoral Institute of Mexico and is sent by the Station's employees to Phoenix via email for inclusion in the broadcast log. Because this programming is required under Mexican law, there is no programming contract with H&H or GLR and the Station is not compensated for this time. Relevant provisions from the TBA can be found in Appendix, Tab 1.

Response 15. What policies do H&H or GLR have in place regarding (a) the maintenance of existing transmission equipment used to transmit the Station signal to the U.S. and transmission equipment used to transmit programming from the Studio to the Station, and (b) the purchase of additional transmission equipment?

Representations about the transmission facilities H&H acquired from GLR Services related to the Mexican operations are described in the Purchase Agreement. Obligations related to the maintenance of transmission equipment and the purchase of additional equipment for the Station are described in the TBA and the underlying programming agreement on file with the Commission. Section 2.1.1 of the TBA specifies Applicant's responsibility for maintenance of the Station and transmission equipment and Section 2.1.2 specifies that Applicants shall retain a qualified engineer responsible for maintaining the transmission and other technical facilities of Station and ensuring compliance with IFT technical, operating, and reporting requirements. Applicants have retained multiple engineers and one head engineer to oversee daily operations in Mexico.

Applicants are also responsible for maintaining the public internet connection to receive program from Phoenix, and the backup satellite internet from Skycasters. No additional transmission equipment was purchased by Applicants beyond what was included in the purchase agreement and since programming is sent via private link over the public internet, none are required. Notwithstanding the foregoing, Section 1.4 and Schedule 1.5 of the TBA grants Phoenix the right to acquire and install (at its own cost) any additional equipment needed for the Station to receive Phoenix programming. No such equipment is required or has been acquired. Relevant provisions from the TBA are

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located in Appendix, Tab 1. See also, Appendix, Tab 16, which includes the evidence of communications between Ms. Huo and Phoenix.

Response 16. State whether Phoenix personnel have ever communicated with Station, GLR, or H&H personnel about transmission equipment owned by GLR/H&H or other aspects of Station operations, and if so, state the date and describe the nature of the communications.

Ms. Huo is actively involved in the day to day management of the Station and communicates with Station personnel and Phoenix Radio personnel on a regular basis. Ms. Huo frequently communicates with Victor Cheng of Phoenix via phone, email, and WeChat. These communications entail discussion of programming (already aired and prospective), signal issues, advertising, and a variety of other topics customary where airtime of a station is leased to a third party for broadcast on a radio station subject to the licensee's ultimate control. Victor Cheng also provided Applicants with online listen resources which enable Ms. Huo to monitor the content of programs through Simple Radio, TuneIn and YouTube every day. Since the commencement of operations, Ms. Huo has consistently overseen and monitored the content supplied by Phoenix. Copies of WeChat logs and other documentation related to such activities between Phoenix Radio and Ms. Huo are provided in Appendix, Tab 16.

As noted in response to Question 18 below, Station staff, including the Station's chief engineer are employees and contractors of Concesionaria and are paid by and subject to the direction of Applicants (and not Phoenix). Station personnel have communicated with Ms. Huo and Phoenix Radio regarding various technical issues for the Station, including coverage of Station during nighttime operation, difficulties in picking up the signal inside homes, audio interruptions due to internet connection

failures, and an echoing problem experience in late 2018. While personnel at the Station communicate with Phoenix Radio on issues related to transmission of the Station's signal, the Station employees are ultimately responsible for the transmission of programming on the Station.

Response 17. By whom is the H&H-appointed agent responsible for transmitting the programming to XEWW-AM recruited, hired, employed, supervised, and directed? a. If there is more than one agent, state how many there are and by whom each agent is recruited, hired, employed, supervised, and directed.

Pursuant to the TBA, H&H has the contractual right to have an employee or appoint an Agent to work in the Phoenix Studio. H&H has chosen to appoint an Agent and has selected an employee of Phoenix for this role. The Agent is responsible for facilitating the delivery of programming to the Station, and is subject to the ultimate control of H&H with respect to that programming. The Agent is also responsible for contacting Ms. Huo whenever there is a signal or transmitting issue. The scope of the Agent's responsibilities can be found in the Agent Letter Agreement. While Applicants do not believe the Agent Letter Agreement is required, it is yet another layer of protection that Applicants have put in place to ensure Applicants are in control of the Station. H&H has the contractual right to terminate the Agent and appoint a new Agent at any time. See Appendix, Tab 1 for relevant portions of the TBA and See Appendix, Tab 5 for the Agent Letter Agreement.

Response 18. Identify all employees of Applicants, including any employees that are provided to Applicants by Phoenix or another entity through a lease or arrangement. a. For the period from July 25, 2018 to the present, for each employee, state where the employee works, describe the

employee's duties, and identify any third party that provides the employee to an Applicant. b. Provide all contracts relating thereto, including Documents containing the terms of or discussing or describing the operation of any employee lease or other arrangement by which a third party provides an employee to an Applicant. c. For each employee identified in subpart (a), state whether the employee works for or has any contractual relationship with Phoenix.

Ms. Huo is the only employee of H&H.

All personnel working in the Station under H&H and GLR SC in Mexico are employees of Concesionaria, S.A. de C.V. under a contract through which GLR SC pays Concesionaria each month for the salaries of the employees. No employees of H&H or GLR SC, or Concesionaria were provided by Phoenix and no employees have any financial or contractual relationship to Phoenix. Appendix, Tab 18 includes a detailed list of employees and contractors work for Applicants at the Station in Mexico, employee duties, and monthly costs associated.²³

As previously noted, except for the Agent appointed to assist Applicants under the Agent Agreement, no Phoenix employee is employed by or leased to Applicants.

Similarly, no Station employees or contractors work for Phoenix.

Response 19. Are H&H and GLR involved in the recruiting, hiring, supervision, management, promotion, or termination of any personnel at the Studio? If so, please explain.

The H&H appointed Agent at the Phoenix studio is the only individual at the Los Angeles studio for whom Applicants can be said to have any responsibility. However,

²³ Applicants also contract with a company to provide security services at the Station. Security guards provided by the security company protect and keep order on the Station premises and report any anomalies. The security guards are not employees of Applicants and Applicants do not have a list of all guards provided by the security company. Applicants can ask the security company for such a list if the Bureau believes it is necessary. The contract with the security company can be found in Appendix, Tab 18.

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the Agent is not an employee of Applicants and merely an employee of Phoenix appointed by H&H to ensure transmission of programming from Irwindale to Rosarito. While Applicants have authority to supervise the Agent in his capacity as the Agent, Applicants have no authority over the recruitment, hiring, supervision, management, promotion, or termination of that individual in his capacity as an employee of Phoenix. See Section 2.1.5 of the TBA, which discusses the appointment of the Agent in Appendix, Tab 1, which includes the relevant portions of the TBA.

With respect to the Mexican studio, Applicants have the right and obligations to select, hire, supervise and terminate employees at the Mexican studio. Since Applicants acquired the Station via an equity transaction, Applicant's employees are the same personnel employed by GLR Services prior to closing of the sale. There have been no changes in staff at the Mexican studio since the sale of the Station to H&H. All employees at the Station are employed by Applicants, not Phoenix.

Response 20. Describe with specificity the extent to which Phoenix, including any agent of Phoenix, participates or has participated in the hiring, supervision, promotion, or termination of Station, GLR, or H&H employees, including recruitment, processing of employment Applications, interviews of prospective employees, recommending candidates to GLR or H&H, extending offers to prospective employees, training employees, reviewing employee performance, and signing payroll checks or otherwise authorizing payroll disbursements.

Please see Applicants response to Question 19 above. Phoenix has no role in the hiring, supervision, promotion, or termination of any employees at the Station, GLR SC, or H&H. All employees in the Mexican studio and the Station are employed by Applicants through GLR SC and W3 Concesionaria, and are the same employees who

worked for Prisa Radio under the prior ownership of the Station and studio. There have been no changes made to the staff in the Mexican operations since H&H completed its purchase

Phoenix is solely responsible for hiring, supervision, promotion, and termination of its employees who create content for the Station, as well as the H&H appointed Agent, who is a Phoenix employee. As discussed in response to Questions 17 and 19, the H&H appointed Agent serves a limited role of ensuring Applicants not only control the Mexican side of the transmissions (which port into the U.S. and pull content down), but they have legal authority to act on their instructions in Los Angeles. See Appendix, Tab 1, for the relevant sections of the TBA.

Response 21. Identify all sources and amounts of financing, including any equity or debt financing obtained in connection with any purchase, for the purchase of GLR, the purchase of assets, if any, used to deliver programming from the Studio to the Station's facilities in Mexico, and the purchase of assets, if any, used to operate the Station following the purchase of GLR by H&H.

Under the terms of the purchase agreement, GLR SC was acquired using a combination of Ms. Huo's personal funds, H&H funds [REDACTED] and seller financing. Additional details about the financial terms for the purchase of the Station are provided in Appendix, Tab 3 and Appendix, Tab 6, which includes documentation evidencing payments related to the acquisition of the Station..

Response 22. State who establishes the operating budget for the Station and GLR, including the programming budget. a. State whether any person identified in response to this question receives

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any direction or input from persons or entities other than Applicants, and if the answer is yes, identify such persons or entities providing direction or input and provide all Documents relating thereto.

Ms. Huo alone establishes the operating budget for Applicants and the Station.

Ms. Huo receives no direction or input from Phoenix or other persons or entities in this regard.

As specified in Schedule 1.5 to the TBA, H&H is responsible for the Station's operating costs, including costs associated with the tower and transmission facilities at the Station, salaries and benefits of Station personnel, and other costs associated with the operation of the Station. The only situation where Phoenix may be responsible costs at the Station is where Phoenix requests the installation of additional equipment for the receipt of programming at the Station. In such circumstances Phoenix would be responsible for the costs associated with the purchase and installation of that equipment. No such requests have been made by Phoenix as of the date of this response.

Based on inquiries made to Phoenix Radio, Phoenix Radio establishes the programming budget for the content that it delivers to Applicants pursuant to the TBA. Ms. Huo, H&H, and GLR SC have no role in the establishing the programming budget for Phoenix for the programming that it delivers pursuant to the TBA . As specified in Schedule 1.5 of the TBA, Phoenix is solely responsible for all programming, marketing, and broadcast production expenses to produce and procure programming, including any music rights payments. Applicants have contracted with Phoenix Radio to deliver specific amounts of programming that Applicants, in turn, air on the Station. Applicants are not involved in the costs to Phoenix Radio to develop and produce programming for

delivery under the TBA. The Applicants only require that the content delivered complies with H&H's programming standards which were created to ensure compliance with applicable law as well as ensuring that programming is responsive to the needs of the community the Station serves. See Appendix, Tab 1, for relevant provisions from the TBA.

Response 23. Identify and quantify all sources of income to the Station and GLR.

Applicants are required to pay for all salaries, capital costs and operational expenses incurred in connection with the operation of the Station in Mexico pursuant to the terms of the primary programming agreement with the Station which is on file with the Commission. See Appendix, Tab 5 and Appendix, Tab 18 for evidence of payment of such costs and expenses by H&H. These payments are the sole source of income for the Station.

H&H and GLR SC are entitled to receive a programming fee and certain expense reimbursements from Phoenix Radio as set forth in the TBA. Other than these amounts, Applicants do not receive income from any other source. See Appendix, Tab 1, to review Sections 1.5, 2.1.5, and 3.1 and Schedule 1.5 from the TBA.

GLR Services no longer has any ownership interest in GLR SC or the Station. Other than debt service payments that H&H pays GLR Services under the seller financing documentation executed in connection with the purchase agreement, Applicants are not aware of any other sources of income to GLR Services. Based on inquiries made to GLR Services and Phoenix, GLR Services does not (and has not) received any income from Phoenix related to the Station.

Response 24. Has any person or entity paid or promised to pay Consideration in exchange for airing or granting such entity the right to air any programming on XEWW-AM now or in the future? a. If so, describe the circumstances in detail, and provide the form, nature, and value of the Consideration paid or promised to be paid, specifying the date(s) on which it was paid and the retail value on such date(s). b. Provide all Documents including but not limited to the contracts, agreements, or arrangements described in your response to Inquiry 24a that relate to the broadcast or future broadcast of programming on XEWW-AM in exchange for Consideration. If such agreements are oral, provide a full summary of such oral agreements, including identifying the parties thereto, the date of such agreement, and all material terms and conditions of any such agreement. c. State whether any person or entity has disclosed to the Applicants that the entity received Consideration for programming provided to Applicants. d. If any person or entity made such a disclosure, provide a summary of any oral disclosure and a copy of any Document containing or relating to such disclosure; identify the person(s) who tendered the disclosure to Applicants and the date(s) on which such person(s) did so. e. Have the Applicants inquired of any supplier of programming as to whether that supplier has received Consideration from any third party with respect to the broadcast of such programming? If so, describe the terms and conditions relating thereto and provide any Documents received by Applicants relating to such matter. f. State whether the Station or XEWW-AM have broadcast any sponsorship identification announcements since July 2018 relating to its programming or programming subject to a disclosure set forth in the response to Inquiry 24c-e, and, if so, specify the date(s) and time(s) that each announcement was broadcast. If the Applicants assert that sponsorship identifications were not required in connection with programming aired in exchange for Consideration, explain fully the basis for such assertions.

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Except for (i) programming fees paid to Applicants under the TBA and (ii) radio announcements obligations imposed by applicable U.S. or Mexican law as a condition to holding the IFT license, the 325(c) permit and/or operating the Station, Applicants have not received any consideration for airing or granting such any person or entity the right to air any programming on XEWW-AM now or in the future.

As noted throughout this Response, a large portion of the programming is un-hosted music. Of the remaining programming time (i.e., time that is not music or broadcast announcements required by law for which no consideration is received), most is created by Phoenix Radio (known as URadio) , or purchased by them (e.g, news from traditional media outlets), so Phoenix Radio does not receive consideration for that programming time. Phoenix Radio also re-broadcasts has a few shows like TED TALKs and talk shows that are owned by Phoenix and run on its televisions networks. Phoenix Radio does not receive consideration for this time either.

[[

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]]

See also Appendix, Tab 24, which includes additional information relevant to this response as well as the list of paid programming on the Station. We have produced the programming logs that show programs and ads run; however, these records are

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maintained in Chinese and English. and there is simply no way to provide the Bureau with accurate translations detailing every ad spot run during an 8 month period. While we have obtained this information, we do not believe this information is relevant to review of our Application since advertising information is not required by the Application and we are not aware of any instance where the Commission has required any licensee, programmer or 325(c) applicant to provide granular details about every ad spot run during an 8 month period before granting or renewing a broadcast license or 325(c) permit.

Response 25. Describe any relationship that GLR, H&H, Phoenix, or any of their owners, principals, or agents have with any foreign government, whether any of the foregoing is a representative of a foreign government, and if not, state the basis for your conclusion. Address the applicability of Article 11 of China's 2015 National Security Law and Article 7 of its 2017 National Intelligence Law to each of the foregoing and explain how any such Application relates to the question whether any of them is a representative of a foreign government.

As discussed extensively in previous filings²⁴ there is no relationship between H&H, GLR SC (and their respective owners, officers or employees) and any foreign government. GLR SC and H&H are U.S based limited liability companies. H&H owns 100% of the membership interests in GLR SC. H&H in turn is owned by two investors. Vivian Huo owns 97% of the membership interests H&H and Julian Sant, a U.S. citizen owns 3% of the membership interests in H&H. While Ms. Huo was born in China, she is a naturalized U.S. citizen who resides in the United States with her husband and children, all of whom are natural born U.S. citizens. Ms. Huo is not, and has never been, a

²⁴ Opposition to Petition to Deny at 4-9 & Exhibit I; Response to Unauthorized Filings at 7-11 & Exhibit B.

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representative of the Chinese government and has no relationship with the Chinese government. No evidence has been presented to the contrary.

Instead, she is a minority female businesswoman with a corporate finance background who looks for investment opportunities in the United States in real estate and other industries. One of her primary reasons for wanting to pursue this transaction is that it coupled her knowledge about real estate (the total size of the land upon which the studio and tower site sit measured in acres is approximately 77 acres) and her desire to get into broadcasting.

Phoenix Satellite Television Holdings Co., Ltd., (its new name is Phoenix Media Investment Holdings Ltd.) is a publicly traded company in Hong Kong. The company's year book explains everything, including its shareholders, its board of directors, its subsidiaries, and its business activities. The company was launched in 1996 when Today's Asia (Mr. Liu Changle's company) and StarTV (Mr. Rupert Murdoch's wholly owned Hong Kong subsidiary) reached agreement to form a joint venture. Phoenix Satellite Television Co., Ltd. was formed in 1996 and its first television channel, Phoenix Satellite Television Chinese Channel started broadcasting on March 31, 1996. The share structure at that time was 50/50. Later, a new shareholder, China Wise (an advertising sales company in Hong Kong commissioned by CCTV) became the third shareholder and the structure became 45/45/10. Later, China Wise was transferred to Bank of China. And in 2000, the company went public through IPO in the Hong Kong Stock Exchange. After that, all the changes to the company shareholder structure became public information and can easily be searched for and acquired. Mr. Liu's company, Today's Asia, remains the majority shareholder.

Phoenix Satellite Television (U.S.) Inc. was incorporated in 2000 and began its Chinese television service via major satellite and cable television platforms in North America. It is a wholly owned subsidiary of Phoenix Satellite Television Co., Ltd., now Phoenix Media Investment Co., Ltd. Information on the company can be found on the internet.²⁵ It is now the largest Chinese language television service provider in the U.S. and Canada, and broadcasts three channels 24/7 and has more than 200,000 subscribers on all major cable and satellite networks.

As set forth in previous filings made in this proceeding, Phoenix Radio obtained an opinion of counsel that Phoenix is not a representative of a foreign government as that has been defined by relevant statutes and has not received a request or demand to register from the U.S. government.²⁶ To the best of the Applicants' knowledge, that determination has not been challenged by any government agency with jurisdiction over the administration of these statutes. See the Supplemental Declaration of Xiaoyang Wu.

Regarding the foreign laws referenced in this question, the Applicants and its counsel are not experts in Chinese law, and cannot provide (nor should they be required to provide) an opinion on the applicability of Chinese law to non- Chinese citizens. Moreover, Applicants do not believe that the activities the parties are engaged in raise any national security concerns. Neither Applicants nor Phoenix own or are seeking to acquire U.S. radio spectrum. The Mexican operations and equipment required to transmit the Station's signal are controlled by Applicants who are U.S. companies with owners

²⁵ See *Phoenix Satellite Television (U.S.) Inc.*, <http://ifengus.com/?q=content/english> (last visited March 22, 2019)

²⁶ [REDACTED]

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who are U.S. citizens. Phoenix has produced TV content to broadcast in the U.S. from its U.S. studio for years without having to obtain Commission approval.

The Application relates to the broadcast of radio programming designed to entertain and provide lifestyle information to the Chinese-speaking residents of the Station's service area. If this kind of programming was somehow troublesome, the logical extension would be that no Chinese citizen could ever appear on a U.S. broadcast station or otherwise provide programming to a U.S. stations, which is clearly a position that has never been taken by the Commission. Moreover, Applicants monitor the programming provided by Phoenix Radio on a regular basis, and the actual broadcast of the programming on the Station is physically in the control of Station personnel who work for Applicants not Phoenix. Were legitimate objections to the Phoenix Radio programming to be raised by government authorities, or noted by the Applicants, the Applicants' own employees could "pull the plug" on the Phoenix programming at any time. Thus, the Applicants cannot see that this Chinese statute has any relevance to the evaluation of the Application now pending before the Commission.

Response 26. Provide an organization chart showing the complete ownership structure of Phoenix.

Appendix, Tab 26 includes an ownership chart of Phoenix Radio. See also the Supplemental Declaration of Xiaoyang Wu which provides information on Phoenix ownership.

Response 27. Provide copies of all Documents that relate to any of the responses to all the Inquiries above, to the extent not already provided.

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Except as disclosed in this Response, we are not aware of any other documents which are responsive to the Information Request.

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Respectfully submitted,

GLR SOUTHERN CALIFORNIA, LLC
H&H GROUP USA, LLC

A handwritten signature in cursive script, appearing to read "Paige Fronabarger".

Paige Fronabarger
David Oxenford

Its attorneys

cc. Janice Shields
Brandon Moss

March 22, 2019

Appendix

This Appendix includes responsive Documents to the questions described in the Information Request.²⁷ Included in this Appendix are copies of Documents which have been translated from Spanish or Chinese into English using various free electronic translation services. These translations have been provided at the Bureau's request and the parties have made best efforts to provide the most complete and accurate translations possible given the limited time available for production. The parties have relied on such translations without alteration and have not reviewed each translation with a linguist or the speakers to confirm that the English translation correctly translated the foreign words, or correctly interpreted the meaning and context of the translated communications. As such, certain translations provided in this Response may not accurately convey the meaning of the foreign communications and should not be substituted for the foreign language versions of the documents which alone should be relied upon as official text. The parties reserve their rights to obtain linguistic translations of any foreign documents if the meaning of the English translation differs materially from the meaning in the foreign language version. Additionally, because not all foreign language documents were originally created by Applicants, a number of documents were in formats that are not readable by electronic translation software. While we have tried to accommodate the Bureau's request for translation by providing brief explanations for these documents when possible, but we have not provided full translations in all cases. If there are any questions or concerns regarding the translations for specific documents, or if the Bureau determines that a document for which no translation was provided requires a translation, applicants will gladly supply an official translation to the Bureau upon request.

²⁷ Note that gaps in production numbers are intentional and do not reflect that a document is missing from the Appendix.

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**EXHIBIT B
DECLARATIONS**

DECLARATION

I, Vivian Huo, hereby declare that:

- (1) I am the President of H&H Group USA, LLC and GLR Southern California, LLC ("Applicants").
- (2) I am authorized to execute this Declaration on behalf of Applicants.
- (3) I have personal knowledge of the factual statements and representations made by and about Applicants in the Response and such information is true, correct and complete to the best of my knowledge, information and belief.
- (4) Except as disclosed in the Response, all documents which are responsive to the Information Request, and which are in Applicants or its counsel's possession, control and knowledge, have to the best of my knowledge, information and belief, been produced.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this __ 21 __ day of March, 2019.



Name: Vivian Huo,
Title: President of GLR Southern California, LLC and H&H Group USA LLC

DECLARATION

I, Eduardo Liano, hereby declare that:

- (1) I am the General Manager and Chief Engineer (Contractor) for XEWW-AM, Playas de Rosarito, Baja California, Mexico ("Station") and am employed as a full-time contractor by W3 COMM CONCESIONARIA, S.A. de C.V., a Mexican Sociedad Anonima de Capital Variable company.
- (2) I am authorized to execute this Declaration on behalf of Applicants in the capacity stated herein. I, along with the other employees noted in Response to 18, worked with GLR Services in its operation of the Station prior to closing.
- (3) I have personal knowledge of the factual statements and representations made by and about Applicant's business in Response 5 (transmission of programming), Response 6 (payments related to the acquisition of equipment used for the transmission of programming from Los Angeles to Mexico), Response 9 (programming actions of Applicants), Response 15 (maintenance of transmission equipment), Response 16 (station communications), Response 18 (regarding employees who are employees by or leased to Applicants), Response 20 (hiring of Applicant personnel), and such information is true, correct and complete to the best of my knowledge, information and belief.
- (4) As to other general matters stated in the Response regarding operations at the Station in Mexico, to the best of my knowledge, information and belief, such statements are true, correct and complete.
- (5) Except as disclosed in the Response, the documents and knowledge in my possession and control which are required to the Information Request in Response 18, and, have to the best of my knowledge, information and belief, been produced to the best of my ability.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21 day of March, 2019.



Name: Eduardo Liano, General Manager and Chief Engineer for XEWW-AM

DECLARATION

I, Lourdes Betancourt, hereby declare that:

- (1) I am the Assistant Manager for XEWW-AM, Rosarito, Baja California, Mexico and am employed by W3 COMM CONCESIONARIA, S.A. de C.V., a Mexican Sociedad Anonima de Capital Variable company.
- (2) I am authorized to execute this Declaration on behalf of Applicants in the capacity stated herein.
- (3) I have personal knowledge of the factual statements and representations made by and about Applicant's business in Response 6 (payments related to the acquisition of equipment used for the transmission of programming from Los Angeles to Mexico) and Response 18 (regarding employees who are employees by or leased to Applicants) and such information is true, correct and complete to the best of my knowledge, information and belief.
- (4) As to other general matters stated in the Response regarding operations at the Station in Mexico, to the best of my knowledge, information and belief, such statements are true, correct and complete.
- (5) Except as disclosed in the Response, the documents and knowledge in my possession and control which are required to the Information Request (including Response 6 and Response 18), and, have to the best of my knowledge, information and belief, been produced to the best of my ability.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21 day of March, 2019.



Name: Lourdes Betancourt,
Title: Assistant Manager

DECLARATION

I, Chewei("Victor")Cheng, hereby declare that:

- (1) I am the Director of Phoenix Satellite Television (U.S.) Inc.'s wholly owned subsidiary Phoenix Radio US, Inc.
- (2) I am authorized to execute this Declaration on behalf of Phoenix Radio US, Inc.
- (3) I have personal knowledge of the factual statements and representations made by and about Phoenix in the Response for questions 2, 4, 5, 6, 13, 24, 25, and 26, and such information is true, correct and complete to the best of my knowledge, information and belief.
- (4) As to other general matters stated in the Response regarding Phoenix, to the best of my knowledge, information and belief, such statements are true, correct and complete.
- (5) Except as disclosed in the Response, the documents and knowledge in my possession and control which are required to the Information Request, and, have to the best of my knowledge, information and belief, been produced to the best of my ability.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of March, 2019.



Name: Chewei Cheng

Title: Director, Phoenix Radio US, Inc.

DECLARATION

I, Xiaoyong Wu, hereby declare that:

- (1) I am the Chief Executive Officer of Phoenix Limited's wholly owned subsidiary, Phoenix Satellite Television (U.S.) Inc.
- (2) I am authorized to execute this Declaration on behalf of Phoenix Satellite Television (U.S.) Inc.
- (3) I have personal knowledge of the factual statements and representations made by and about Phoenix in the Response for questions 2, 4, 5, 6, 13, 24, 25, and 26, and such information is true, correct and complete to the best of my knowledge, information and belief.
- (4) As to other general matters stated in the Response regarding Phoenix, to the best of my knowledge, information and belief, such statements are true, correct and complete.
- (5) Except as disclosed in the Response, the documents and knowledge in my possession and control which are required to the Information Request, and, have to the best of my knowledge, information and belief, been produced to the best of my ability.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of March, 2019.



Name: Xiaoyong Wu

Title: Chief Executive Officer, Phoenix Satellite Television (U.S.) Inc.

Supplemental Declaration of Xiaoyong Wu

My name is Xiaoyong Wu. I have worked for Phoenix Media Investment Holdings Co. Limited ("Phoenix Limited") since its founding in 1996 and currently serve as Chief Executive Officer of Phoenix Limited's wholly owned subsidiary, Phoenix Satellite Television (U.S.) Inc. ("Phoenix US").

I received a bachelor's degree from Beijing Foreign Languages Institute (1977), where I majored in English Literature and Translation, and a Master of Art degree in Broadcast Journalism from the University of Missouri's School of Journalism (1982). I also studied at Harvard University under its Nieman Fellowship of Journalism program in 1994, which enabled me to spend a year studying at the Kennedy School of Government.

I am aware that, in a proceeding initiated by China Sound of Oriental and West Heritage ("CSO") before the Federal Communications Commission ("Commission"), CSO alleged that Phoenix US must register with the Department of Justice under the Foreign Agents Registration Act ("FARA") because it is a "front" for the People's Republic of China ("PRC") that allegedly will spread Chinese "propaganda" in the US. I provide this affidavit to refute that contention and to provide additional information regarding the relationship between Phoenix US and H&H Group USA, LLC ("H&H"). I make this affidavit on the basis of my personal knowledge.

1. Phoenix Limited was founded in 1996. Its shares are publicly traded on the Hong Kong Stock Exchange. The majority of Phoenix Limited's shares are owned by shareholders that have no known linkage to the Government of the People's Republic of China ("Chinese Government") or the Chinese Communist Party ("CCP"). The company's Directors are elected by the Company's shareholders. As provided in the listing rules of the Hong Kong Stock Exchange, the Company's governance is not capable of being unduly influenced by any possible shareholder linkage to the Chinese Government or the CCP.
2. Of the significant shareholders of Phoenix Limited, Extra Step Investments Limited ("Extra Step") and China Wise International Limited ("China Wise") are the only two that have any linkage to the Chinese Government. This linkage results from the ownership interest that the Chinese Government holds in China Mobile and the Bank of China, which, in turn, have ownership interests in entities that, in turn, have indirect ownership interests in Extra Step and China Wise, respectively. The combined percentage ownership of Phoenix Limited of these two shareholders totals only 27.9 percent. Neither shareholder has ever been involved in any way in the daily operations the television or radio services that Phoenix Limited or its subsidiaries provide. By contrast, Phoenix's largest shareholder, Today's Asia, which is primarily owned by Phoenix's founder, Liu Changle, owns 37.07% of Phoenix's stock. The fourth largest stockholder is TPG China Media, L.P., which is ultimately controlled by David Bonderman and James G. Coulter, co-founders of TCP Capital, a US-based company that is one of the world's largest private equity firms.
3. Phoenix Limited is licensed in Hong Kong. The activities of Phoenix Limited and its subsidiaries (including Phoenix US and its wholly-owned subsidiary Phoenix Radio LLC, a Delaware limited liability company ("Phoenix Radio")) are not supervised, controlled, directed or regulated by the Chinese Government or the CCP. On the contrary, the programming content of Phoenix Limited often differs from the programming provided by broadcasting companies on the Chinese Mainland. For example, when the last presidential election in Taiwan took place, government-run television services in China were not allowed to cover or report on it, but Phoenix Limited covered the whole process live. Similarly, when the US was attacked on September 11, 2001, Phoenix Limited provided 60 hours of live coverage, while the Chinese state broadcaster, CCTV, gave the event only three minutes of airtime. The activities of Phoenix Limited and its subsidiaries are not financed or subsidized by the Chinese government or the CCP.

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4. Phoenix has won viewers and advertisers by providing quality programming. In the United States, Phoenix currently provides its programming on DISH, DIRECTV and the leading cable companies. As a result, more than 100 million U.S. homes have access to Phoenix TV channels. In the Los Angeles area, Spectrum (formerly Charter) has placed Phoenix programming on its basic tier, making it available to all Spectrum subscribers at no additional charge.

5. Phoenix radio is party to an agreement with H&H and GLR Southern California LLC ("GLR"). On information and belief:

- (a) Ms. Vivian Huo, through her attorneys (and without involvement from Phoenix and its lawyers) negotiated and completed a transaction for H&H to acquire 100% of the equity of GLR.
- (b) H&H and its newly acquired subsidiary GLR are parties to an agreement (a copy of which is on file with the Commission) with W3 Concesionaria, S.A. de C.V., a Mexican corporation ("Licensee") that holds the radio concession title granted by the Instituto Federal de Comunicaciones of the United States of Mexico to operate radio station XEWW, located in Tijuana, Mexico ("XEWW" or the "Station") ("Concession Agreement");
- (c) The Concession Agreement grants GLR the right to cause programming delivered to XEWW by GLR to be broadcast on the Station.
- (d) GLR owns a Mexican subsidiary which owns the technical and operational facilities of the Station in Mexico, including the real property underlying the Station's transmission facilities and studio in Mexico and has an equity interest in the Licensee consistent with Mexican law;
- (e) Ms. Huo, who is a United States citizen, owns 97 percent of H&H which, in turn, owns 100% of GLR.
- (f) Ms. Huo acquired GLR (and thereby GLR's rights in the Concession Agreement) for the purpose of converting the programming broadcast by XEWW from the Spanish language to the Chinese language targeting the Chinese-American population in Southern California.
- (g) Other than the Programming Agreement described below, neither H&H, GLR nor Ms. Huo currently have or have had in the past any employment or other contractual relationship with Phoenix US or Phoenix Limited.

6. Ms. Huo was introduced to me by Mark Jorgenson, an American media broker who had previously introduced her to GLR. Ms. Huo approached Phoenix US about possibly providing programming to her company to be broadcast on the Station. After due diligence and negotiations, H&H and GLR signed a programming agreement with Phoenix US (the "Programming Agreement").

7. Pursuant to the Programming Agreement, Phoenix US provides programming for broadcast on XEWW. Phoenix hands off the program to an agent appointed by H&H, who is physically based in the Phoenix Studio in Los Angeles. The agent is responsible for delivering the programming from the Studio to XEWW in Tijuana. The studio and transmission facilities in Tijuana are operated, controlled and

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financed by GLR (through the Licensee) and without input, oversight or control by Phoenix. Phoenix does not have employees or contractors who work at the Station's facilities in Mexico.

8. H&H and GLR retain ultimate control over the programming under the Programming Agreement. The Programming Agreement provides that all programming supplied by Phoenix will comply with H&H's programming standards and expressly requires that all programming meet all applicable US and Mexican legal requirements and serve the public interest. H&H and GLR retain the right to reject any programming that does not satisfy these criteria.

9. Neither Phoenix Limited nor Phoenix US nor Phoenix Radio has any debt, equity or voting ownership interest in H&H, GLR, or the Licensee nor do they intend to acquire such a voting interest, directly or indirectly.


10. XEWW began broadcasting in Mandarin Chinese in late July, 2018. Phoenix has not received any complaints about the Chinese-language programming broadcast by XEWW.

11. Approximately 50 (50%) percent of the total programming broadcast by XEWW in Chinese over the course of a week is un-hosted music, punctuated by commercials and station identifications. The remaining programming includes news and information content. For the most part, this content addresses local issues in southern California (e.g., local traffic and weather), as well as entertainment and programming about lifestyle matters such as real estate, education, travelling in the U.S., looking after the elderly people, food, health and technology. All non-music content is produced by Phoenix US at its studio located near Los Angeles, California. News headlines are sometimes broadcast as part of world news updates. These are drawn from a variety of reputable sources, including Asian-language broadcasters and publishers in Hong Kong and Taiwan, as well as internationally recognized providers in the US and UK such as the Associated Press, the LA Times, NPR and the BBC.

12. Phoenix US has assembled a multinational team to develop the content for broadcast on XEWW. The team consists of: a Director, Che Wei Cheng, who is from Taiwan; a Senior Program Planner, Hazel Kuang, a U.S. citizen, who is originally from Taiwan; a Program Planner, Po Hsien Lee, who also is from Taiwan; a Music Editor, Min Jia, who is from China; and a Marketing Planner, Kelly Fang, who is from China.

13. Jackie Pang, also known as Zhe Pang, is an employee of Phoenix US. She has been employed as a reporter by Phoenix since 2001. Ms. Pang has signed the Phoenix TV handbook, which requires full time employees to disclose any employment with employers other than Phoenix TV. She has not made any such disclosure. Phoenix has not directed, instructed, or permitted Ms. Pang to work with H&H. Ms. Pang has not been involved with the XEWW project.

I swear under penalty of perjury that the foregoing is true and correct.


Xiaoyong Wu

3-21-2019.
Date

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p.s. My personal background information that is relevant to answering the allegations.

My resume indicates that I used to work for the Chinese Government radio service, Radio Beijing, which was later changed to China Radio International. I was a reporter, editor, program host, news director and deputy department director of its English Service. I started the job in 1977 and ended in 1989, when the Tian An Men massacre happened.

On the most tragic morning of June 4, 1989, I was on morning shift and rode my bicycle from home to my office in downtown Beijing. It was 3:00 a.m. and what I saw on the road was unbelievable. Military vehicles were burning. Bricks and all sorts of debris were on the road. They included cement blocks, bicycles, even buses that apparently were meant to block or slow down the advancing martial law troops. Blood was on the ground here and there, it was particularly obvious on the road leading to hospitals. Literally, the city I was born and grew up in had turned into a war zone.

It was later learned that martial law troops were ordered to force their way into Beijing and retake Tian An Men Square, which was taken by student protesters for weeks. Fire power was used, tanks and military personnel carriers crushed their way into the city.

When I arrived in the newsroom, I was surprised to see that all my morning shift staff had arrived, except one, Weihua, who had to go cross town and through Tian An Men Square to Radio Beijing. She called and was hardly able to talk with uncontrollable crying.

Everybody began to tell what they saw on the road, the conflicts, shooting, injuries and deaths.

I checked the wire service, Xinhua News Agency. There was nothing. I went to the office of the director of Radio Beijing, and found him cursing the shooting with the station's director of security, a former military officer. We talked a little about the terrible event which was still unfolding in the city. Then came a phone call from a local hospital, enquiring if we knew Runing Zhang. We told the caller, yes, Mr. Zhang was deputy director of Radio Beijing's Russian Department. And the caller told us he was hit by a bullet in his liver and there was no way to save him.

Runing Zhang went home after night shift and was shot on his way.

I was speechless after hearing this and went back to the English Department newsroom. I sat in front of the computer and wrote this story:

This is Radio Beijing.

Please remember June the Third, 1989. The most tragic event happened in the Chinese capital, Beijing.

Thousands of people, most of them innocent civilians, were killed by fully-armed soldiers when they forced their way into city. Among the killed are our colleagues at Radio Beijing. The soldiers were riding on armored vehicles and used machine guns against thousands of local residents and students who tried to block their way. When the army convoys made the breakthrough, soldiers continued to spray their bullets indiscriminately at crowds in the street. Eyewitnesses say some armored vehicles even crushed foot soldiers who hesitated in front of the resisting civilians. [The] Radio Beijing English Department deeply mourns those who died in the tragic incident and appeals to all its

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listeners to join our protest for the gross violation of human rights and the most barbarous suppression of the people.

Because of the abnormal situation here in Beijing there is no other news we could bring to you. We sincerely ask for your understanding and thank you for joining us at this most tragic moment.

I decided to run this story on our next broadcast and the announcer of the day was Yuan-neng Chen. The story was heard across the world and was rebroadcast by numerous radio and television services.

The recording of that broadcast can be found in the link bellow:

<https://www.lbreport.com/sounds/rbeijing/jun389.mp3>

When day broke and people at various language departments at Radio Beijing learned about my action, there was cheering and literally hundreds of people came over to shake my hands, though discretely. Not much was said but understanding was in our eyes.

Naturally, the "system" and the authority came down on me soon. I was taken away from my office by police a few weeks after that and thrown into a jail.

It was a 10 by 15-foot jail shared by 4-5 inmates. There was no toilet facility, just two buckets, one for the inmates to piss in and the other holds clear water (not necessarily clean) for them to drink. There was no bed, but just a sleeping "platform" supported by several bricks no more than six inches from the floor. It occupied more than half of the cell. Inmates slept on it, sharing 2 feet of space each.

In summer time, the cell smelt like a toilet or worse. And hundreds of mosquitos shared the space with us.

In winter time, the temperature would go down to 9 degrees below zero Celsius and there was hardly any heating.

Food there could hardly be called food and there was never enough of it.

My cell mates were murderers, rapists, street hooligans or thieves. The condemned murderers waiting for execution were hand cuffed and shackled all the time. And they needed help from those of us with free hands, for putting on clothes, going to toilets or scratching mosquito bites.

I spent 13 months in that cell, without formal charges or prosecution, let alone a trial.

They allowed me to go home on medical probation in September, 1990 when my stomach ulcer was bleeding again and I could die if I was not sent to a hospital. They finally cleared me in 1993, saying there would not be any criminal charges against me. And I immediately applied and was accepted by the Harvard University Nieman Fellowship program of journalism (1994).

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When I studied journalism at University of Missouri (1980-1982), my teachers taught me to tell the truth and serve the public by reporting to them what they need to know.

I had no regret of what I did almost 30 years ago. I did what a journalist was supposed to do.

Today, I'm still doing what a journalist is supposed to do, operating radio and television services to tell the truth, and service the audience with what they need to know.

I would be happy to provide more information if it's needed.

CERTIFICATE OF SERVICE

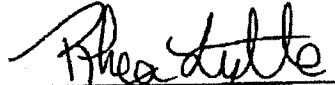
I, Rhea Lytle, a legal secretary with the law firm of Wilkinson Barker Knauer, LLP, hereby certify that on this 22nd day of March, 2019, I served copies of the foregoing "RESPONSE TO INFORMATION REQUEST" on the following:

Reid Avett*
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