

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

In re Applications of ) MB Docket No. 17-85  
 )  
Entercom Communications and CBS )  
Radio Seek Approval to Transfer )  
Control of and Assign FCC )  
Authorizations and Licenses )

TO: Office of the Secretary

ATTN: Chief, Media Bureau

**SECOND SUPPLEMENT TO PETITION TO DISMISS OR DENY**

Edward R. Stolz II d/b/a Royce International Broadcasting Company (Stolz), Golden State Broadcasting, LLC (Golden), Silver State Broadcasting, LLC (Silver) and Major Market Radio, LLC (Major) (collectively "Petitioners"), by their attorney, hereby respectfully submit this Second Supplement to their May 1, 2017 "Petition to Dismiss or Deny". In support whereof, the following is shown:

1. In the FCC's Public Notice of March 31, 2017 setting the procedural dates for this proceeding, DA 17-299, the Commission wrote that: "Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered" (DA 17-299 at 3). In this instance, the fifteenth day after the incident described herein was Saturday,

July 1, 2017; this supplement is being filed on the first working day thereafter, and thus is within the time frame for pleadings based on newly discovered facts established in DA 17-299. 47 C.F.R. §1.4(j).

2. This supplement involves the "CBS Evening News" broadcast of June 16, 2017. The pertinent excerpt can be seen on the CBS Evening News youtube.com channel, <https://www.youtube.com/watch?v=gHCxuuaTWq8>; this serves as an admission against interest. Also, the FCC can take official notice that the broadcast did occur.

3. The anchor of the broadcast was Scott Pelley, who according to various news articles had been dismissed from his duties with the CBS Evening News sometime around May 30-31, 2017. Usually in broadcasting, when a program host is terminated, he is told after his last broadcast that his services are no longer required. Therefore, by allowing him to remain on the air through June 16, 2017, the principals of CBS Corporation knew or had to have known what Pelley was going to say on the air.

4. The key language from the Pelley broadcast is as follows:

It's time to ask whether the attack on the United States Congress, yesterday, was foreseeable, predictable and, to some degree, self-inflicted.

Too many leaders, and political commentators, who set an example for us to follow, have led us into an abyss of

violent rhetoric which, it should be no surprise, has led to violence.

5. In the federal Constitution, at Article I, Section 6, clause 1, the so-called "Speech and Debate Clause", it is stated:

[Senators and Representatives] shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; **and for any Speech or Debate in either House, they shall not be questioned in any other Place.**  
[emphasis supplied]

6. 18 U.S.C. §351(c) provides that:

Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

7. It is also a federal crime pursuant to 18 U.S.C. §245(b) and 18 U.S.C. §1505 to intimidate a member of Congress, as that individual is engaging in a federally protected activity, and is engaging as a member of Congress in the due administration of the laws.

8. Therefore, it is "fake news" for CBS and Pelley to intimate that the wounding and attempted murder of Representative Steve Scalise by a would-be assassin with different political views was in any way "self-inflicted". Moreover, by asserting that a member of Congress could give a speech that deserved death or serious injury, CBS has crossed the line and committed conduct which is criminally actionable. For example, 18 U.S.C. §241 states:

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

9. As it took at least two persons to effectuate the broadcast of the June 16, 2017 episode of the CBS Evening News, federal law enforcement, including the FCC, needs to investigate CBS Corporation. Clearly, CBS and Pelley have engaged in intimidation of members of Congress who dare to speak their minds in a way contrary to the political leanings of CBS Corporation and its principals and management.

10. The June 16, 2017 broadcast of the CBS Evening News is yet another example of "intentional news distortion" by CBS Corporation, by intimating that Congressman Scalise's dreadful injuries were self-inflicted because Congressman Scalise may have availed himself of the "Speech and Debate Clause", while not informing the public that Congressman Scalise was protected by the Speech and Debate clause and by several provisions of the United States Code. CBS Corporation has no business holding

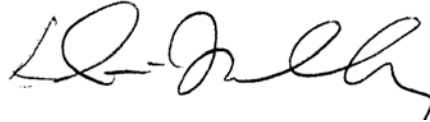
broadcast licenses where, as here, it has abdicated its fiduciary responsibilities to the public to serve as a responsible public trustee.

11. On the state of this record, in light of the foregoing, the FCC cannot make a statutory finding that the CBS principals who wish to transfer control of their 177 radio stations to Entercom have the basic character qualifications to be Commission licensees. ***Policy Statement on Character Qualifications in Broadcast Licensing***, 102 FCC 2d 1179 (1986). Without possessing basic qualifications, CBS Corporation has nothing to assign to Entercom. ***Jefferson Radio Co., Inc. v. FCC***, 340 F.2d 781 (D. C. Cir. 1964)

**WHEREFORE**, it is urged that this "Second Supplement to Petition to Dismiss or Deny" **BE CONSIDERED ON THE MERITS** and that the above-captioned applications be dismissed, denied, designated for hearing with the undersigned parties as intervenors/parties respondent, or that a Section 403 proceeding be commenced before an independent Administrative Law Judge to determine whether CBS Corporation has engaged in "intentional news distortion" and/or violations of the above-referenced sections of the Criminal Code of the United States, which in this case are broadcast-related felonies, and, if so, whether CBS Corporation possesses the basic qualifications to be a Commission licensee.

Respectfully submitted,

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By \_\_\_\_\_  
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DATED: July 3, 2017

## **CERTIFICATE OF SERVICE**

It is hereby certified that true copies of the foregoing "Second Supplement to Petition to Dismiss or Deny" have been served by e-mail and first-class United States mail, postage prepaid, or by e-mail only where shown by "\*", on this 3<sup>rd</sup> day of July, 2017 upon the following:

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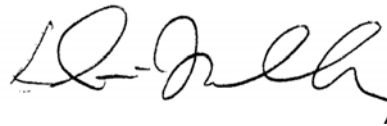
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Dennis J. Kelly