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July 9, 2019

Christopher J. Sova, Deputy Chief, Enforcement Bureau
Michelle M. Carey, Chief, Media Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Petition for Declaratory Ruling
Spanish Broadcasting System, Inc.

Dear Deputy Bureau Chief Sova and Bureau Chief Carey:

On behalf of Ravensource Fund ("Ravensource"), Stornoway Recovery Fund L.P. ("Stornoway") and West Face Long Term Opportunities Global Master L.P. ("West Face") (collectively, the "Targeted Preferred Shareholders"), we request the Federal Communications Commission ("FCC" or "Commission") resume consideration of — and decide — one issue raised in a Petition for Declaratory Ruling filed by Spanish Broadcasting System, Inc. ("SBS") on December 4, 2017.[1] Specifically, the Commission should review SBS's equity as mandated by seminal Commission precedent and conclude that the Series B Preferred Shareholders, including the Targeted Preferred Shareholders, did not and do not cause SBS to exceed the 25% statutory foreign ownership benchmark contained in Section 310(b)(4) of the Communications Act of 1934, as amended (the "Act").

EXECUTIVE SUMMARY

For more than eighteen months, SBS and the Series B Preferred Shareholders have disputed whether SBS exceeds the 25% foreign ownership limit of the Act, and how to address that issue under the FCC's rules. In their Petition, SBS first asked the Commission to declare that SBS was in compliance with the Commission's foreign ownership rules on the basis of steps

[1] *Spanish Broadcasting System, Inc., Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, MB Docket 17-____ (Dec. 4, 2017) (the "Petition"). The Petition raises issues concerning the treatment of certain investors, specifically foreign investment in SBS's 10 3/4% Series B Cumulative Exchangeable Redeemable Preferred Stock (the "Series B Preferred Shares") by some of the eleven investment funds managed by seven different fund advisors (collectively, the "Series B Preferred Shareholders").

SBS unilaterally took to deprive the Series B Preferred Shareholders of some of their rights. Most recently, SBS unilaterally has attempted to strip entirely the Targeted Preferred Shareholders of their ownership in SBS.

From the beginning, the Series B Preferred Shareholders have strenuously disagreed with SBS's faulty assertion that either the individual or collective interests of the Series B Preferred Shareholders cause SBS to exceed the 25% benchmark in the Act. The Series B Preferred Shareholders specifically have maintained that even if the Series B Preferred Shares are considered equity (which the Series B Preferred Shareholders dispute), the appropriate calculation of equity percentages under Commission precedent demonstrates that the Series B Preferred holdings do not result in foreign ownership in excess of 25% as contemplated by the Act.[2]

Instead of obtaining a Commission ruling on the pertinent foreign ownership issues, SBS now has asked a state court in Delaware to decide them. On May 24, 2019, SBS filed a Motion for Leave to File Counterclaims requesting that the Delaware Court invalidate the interests in SBS of the Targeted Preferred Shareholders.[3] In the Proposed Counterclaims, based wholly on flawed and unsupported interpretations of Commission rules and regulations implementing the Act, SBS seeks to preempt the Commission's consideration of the issue and have the Delaware Court determine the appropriate method for calculating percentages of foreign ownership. The Commission should not acquiesce to SBS's self-serving machinations for asserting violations of the Act in the Delaware Court for its own benefit and instead should exercise its regulatory authority and decide the issue. Specifically, the Commission should confirm that the appropriate methodology to determine the Series B Preferred Shareholders' equity in SBS — if not a simple "count-the-shares" approach — is the "paid-in capital" analysis provided for in the Commission's own precedent. Under the accepted "paid-in capital" analysis, and not the home-

[2] Even if the level of foreign ownership somehow exceeds the 25% limit, the Series B Preferred Shareholders have maintained that the Commission has the authority to approve that level of foreign ownership by declaratory ruling when it is in the public interest, as it would be here. While the Series B Preferred Shares did not and do not constitute 25% of the equity of SBS, the Series B Shareholders provided the Commission with the ownership information sufficient to approve the Series B Preferred Shareholders' ownership under Section 1.5000 of its rules, 47 C.F.R. § 1.5000. *See* Letter from Mark D. Schneider to Michelle M. Carey, March 23, 2018 ("*Series B March Supplement*"); Letter from Mark D. Schneider to Michelle M. Carey and Meredith S. Senter, Jr., Petition for Declaratory Ruling by Spanish Broadcasting System, Inc. Pursuant to 47 C.F.R. § 1.5004(f)(3) (April 27, 2018) ("*Series B April Letter*").

[3] *See Cedarview Opportunities Master Fund, L.P., et al v. Spanish Broadcasting System, Inc.*, C.A. No 2017-0785-AGB, Exhibit A to Defendant Spanish Broadcasting System, Inc.'s Motion for Leave to File Counterclaims (May 24, 2019) ("Proposed Counterclaims").

baked “fair market value” analysis baselessly propounded by SBS, the Commission should conclude that the Series B Preferred Shareholders, including the Targeted Preferred Shareholders, do not cause SBS to exceed the 25% statutory benchmark; as the analysis below demonstrates, SBS is currently and at all other times has been in compliance with Section 310(b)(4).

BACKGROUND

The Lehman Transaction.

The event that triggered the dispute between SBS and the Targeted Preferred Shareholders was the decision by Lehman Brothers Holdings Inc. (“Lehman”) to sell their holdings of 35,130 Series B Preferred Shares through a competitive auction held on July 26, 2017. The Targeted Preferred Shareholders submitted three individual bids which were ultimately accepted by Lehman whereby Ravensource purchased 2,026 shares, Stornoway purchased 5,000 shares and West Face purchased 28,104 shares (the “Lehman Transaction”). Since the closing of the Lehman Transaction on July 31, 2017, the Targeted Preferred Shareholders have not altered their holdings of Series B Preferred Shares nor do they own any SBS common shares or other classes of SBS’s equity securities.

SBS’s Response.

As the Commission is aware, SBS unilaterally filed the Petition in December 2017, and with that Petition has attempted to silence its Series B Preferred Shareholders after those shareholders filed a lawsuit with the Delaware Chancery Court.[4] In that lawsuit, the Series B Preferred Shareholders seek to halt SBS’s violation of its Certificate and the instrument under which SBS issued the Series B Preferred Shares.[5] In its Petition before the FCC, SBS sought Commission approval of its flawed remedial approach to alleged non-compliance with Section 310(b)(4) of the Act: an aggressive attempt to convert the Series B Preferred Shareholders’ interests to a security with almost no rights in SBS. The Series B Preferred Shareholders addressed that Petition in filings, among others, dated December 29, 2017, March 23, 2018, April 27, 2018 and May 16, 2018. As explained therein, SBS incorrectly assumed non-compliance with the FCC’s rules and the Act in its Petition and failed to request a corrective

[4] *See Cedarview Opportunities Master Fund, L.P., et al v. Spanish Broadcasting System, Inc.*, C.A. No 2017-0785-AGB, Verified Complaint (Nov. 2, 2017).

[5] For more than six years, SBS refused to make quarterly payments to the Series B Preferred Shareholders, or to redeem Series B Preferred Shares, as required. Given these defaults, the Series B Preferred Shareholders sued to prevent SBS from incurring indebtedness that is prohibited by SBS’s Certificate absent the consent of the Series B Preferred Shareholders.

declaratory ruling if it were found necessary, which could have resolved the issue in a manner beneficial to all parties.

The Series B Preferred Shareholders made three arguments regarding the appropriate treatment of their shares for purposes of the foreign ownership calculation. *First*, the Series B Preferred Shares are akin to debt and not equity (and thus, do not implicate Section 310(b)(4)).[6] *Second*, even if the Series B Preferred Shares constitute equity in SBS, under an appropriate calculation methodology, the Series B Preferred Share holdings do not exceed the 25% statutory benchmark.[7] *Third*, regardless of the categorization of the Series B Preferred Shares and the calculation of equity, the Commission could and should approve the specific ownership of the current Series B Preferred Share holdings of SBS under Section 1.5000.[8] Indeed, the Series B Preferred Shareholders provided all of the relevant information that would permit the FCC to — if necessary — issue a declaratory ruling to approve SBS's present ownership structure which resulted from free market transactions over time, including the Lehman Transaction. The Series B Preferred Shareholders made a substantial effort to detail even the most indirect *de minimis* interests in SBS through affiliates of the funds that hold Series B Preferred Shares.[9]

By letters dated April 27, 2018 and May 1, 2018, however, SBS took further unilateral actions to disenfranchise the Targeted Preferred Shareholders, and other Series B Preferred Shareholders, and to treat their transactions as invalid under its Charter.[10] SBS attempted to void the legitimate sale of Lehman Brothers' Series B Preferred Shares to the Targeted Preferred Shareholders, and argued that those draconian actions were necessary to bring SBS into compliance with the FCC's foreign ownership rules and Section 310(b)(4).[11] SBS also

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[6] *See Series B March Supplement* at 6-10.

[7] *Id.* at 10-12.

[8] *Id.* at 12-16.

[9] *See Series B April Letter*.

[10] *See Spanish Broadcasting System, Inc., Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, MB Docket 17-____, *Supplement to Petition for Declaratory Ruling* (April 27, 2018) ("*Supplement to PDR*"); Letter from Meredith S. Senter, Jr. to Michelle M. Carey, Petition for Declaratory Ruling by Spanish Broadcasting System, Inc. Pursuant to 47 C.F.R. § 1.5004(f)(3) (May 1, 2018).

[11] *Id.*

suggested to the Media Bureau that the Commission no longer needed to process its Petition in light of its unilateral action.[12]

In a May 16, 2018 letter, the Series B Preferred Shareholders recognized that the Media Bureau might wish to hold the Petition in abeyance at that time, pending resolution of the litigation in the Delaware Chancery Court to adjudicate the rights of the Series B Preferred Shareholders under SBS's Charter.[13] The Delaware Court has not yet resolved the rights of the Series B Preferred Shareholders under the SBS Certificate and there is no schedule in place in that action for any resolution. In any event, for the reasons set forth herein, it is necessary for the Commission to decide the pertinent foreign ownership issues.

SBS's Latest Adverse Action. SBS has recently moved for leave in the Delaware Chancery Court to add counterclaims that seek to have the Targeted Preferred Shareholders' Series B Preferred investment declared null and void solely on the basis of SBS's flawed assessment of the foreign ownership of its equity. This litigation tactic is a blatant attempt to weaponize Section 310(b)(4) of the Act for the benefit of SBS's controlling shareholder. SBS's proposed counterclaims would require the Court to interpret the Act, as well as the rules and orders of the FCC. The Motion proffers a specific "fair market value" approach unsupported by Commission precedent that SBS claims the FCC would use to calculate foreign ownership. Such questions are for the Commission — and not the Delaware Chancery Court — to decide. SBS's attempt to shift the determination of compliance with Section 310(b)(4) of the Act from the expert regulatory agency to the state court is inconsistent with FCC precedent, unfair to the Targeted Preferred Shareholders, and horrible regulatory policy. Indeed, such an approach could result in, among other things, inconsistent rulings on the FCC's foreign ownership rules.

The Targeted Preferred Shareholders maintain that the "fair market value" calculations urged upon the Delaware Chancery Court by SBS are inconsistent with FCC precedent. Instead, FCC precedent mandates that if the "count-the-shares" approach called for in the FCC's rules is

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[12] *Id.*

[13] *See* Letter from Mark D. Schneider to Michelle M. Carey, Petition for Declaratory Ruling by Spanish Broadcasting System, Inc. Pursuant to 47 C.F.R. § 1.5004(f)(3) (May 16, 2018). As the letter explicitly states, the Series B Preferred Shareholders were willing to defer "the interpretive questions surrounding the SBS charter provision" to the Delaware Court, but that does not mean the Series B Preferred Shareholders deemed it appropriate for the Delaware Court to address all issues, as the letter refers to a future point at which the "issues related to the FCC's foreign ownership rules may well be ripe for Commission consideration" and notes that "SBS's attempt to avoid FCC review of these issues at that time in order to secure the private commercial advantage of its common shareholders would constitute an abuse of the Commission's processes." *Id.* at 4-5.

inappropriate, the FCC should use a "paid-in capital" analysis. Because the determination of compliance with Section 310(b)(4) is delegated to — and within the jurisdiction of — the Commission, it must now affirm that the appropriate "count-the-shares" or "paid-in capital" calculation of SBS's equity and reject SBS's flawed methodology designed to disadvantage and dispose of adversary preferred shareholders' interests in SBS.[14]

The Commission should issue a declaratory ruling that addresses the foreign ownership of the Series B Preferred Shareholders in SBS as soon as practicable under the Commission's rules. While the Series B Preferred Shareholders continue to maintain that the Series B Preferred Shares are more akin to debt instruments than equity,[15] a ruling on that issue is not necessary to reach the conclusion that no violation of Section 310(b)(4) occurred through the purchase of Series B Preferred Shares. Instead, even assuming such shares are included in the equity capital structure of SBS, on the basis of either the "count-the-shares" or "paid-in capital" analysis provided for in prior FCC cases, the Commission can conclude that no violation has occurred. Importantly, the Targeted Preferred Shareholders are not seeking to have the FCC adjudicate whether or not SBS can exceed the foreign ownership limitation at this time. Instead, the Targeted Preferred Shareholders simply seek a Commission ruling that based on either methodology of calculating foreign equity consistent with FCC precedent, there is and was no foreign ownership violation by SBS under the Act and the FCC's implementing rules.

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[14] The Targeted Preferred Shareholders understand that on December 6, 2018, the Enforcement Bureau sent a letter of inquiry ("LOI") to SBS related to SBS's processes for investigating SBS's percentage of foreign ownership and the timing of SBS's discovery of the current ownership by the Series B Preferred Shareholders. The Targeted Preferred Shareholders also understand that SBS responded to that LOI on February 8, 2019, but have not received a copy of that filing. It is assumed that SBS has not attempted on an *ex parte* basis to resolve the contested disputes before the Media Bureau in responding to the LOI. The Series B Preferred Shareholders request that notice be provided of any such proceeding that would affect their interests in the contested issues before the Media Bureau. Additionally, the Targeted Preferred Shareholders maintain that SBS received notice of the purchase of the Lehman Brothers Holdings' 35,130 Series B Preferred Shares in July and August of 2017, prior to the filing of the November 2017 complaint with the Delaware Chancery Court. By this letter, we wish to confirm, in light of the Enforcement Bureau's issuance of the LOI, that the Targeted Preferred Shareholders are willing to respond to any questions of the Commission concerning their acquisition of interests in Series B Preferred Stock of SBS and the timing of that disclosure to SBS.

[15] *See Series B March Supplement* at 6-10.

ARGUMENT

The Appropriate Calculation of Equity Under Section 310(b)(4) of the Act.

Section 310(b)(4) of the Communications Act, 47 U.S.C. § 310(b)(4), restricts the parent of an FCC licensee from being directly or indirectly owned by a "corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens." By the statute's plain terms, the 25% threshold applies separately to both voting and equity interests. SBS has not contended that the 25% limitation on foreign *voting* interests has been exceeded here, and could not do so, because the holders of the Series B Preferred Shares have no voting rights on matters coming before SBS's common shareholders. Indeed, Raul Alarcon, Jr., SBS's Chairman and CEO, is the single majority voting shareholder of SBS, having *de jure* and *de facto* control of SBS shares with more than 85% of the votes associated with SBS's common shares and the ability to nominate a minimum of 75% of the SBS directors. The only issue, therefore, is whether SBS remains in compliance with the separate "equity" calculation or if the Targeted Preferred Shareholders' acquisition of Lehman Brothers' Series B Preferred Shares caused SBS to exceed the 25% limitation on foreign equity interests in a licensee.

In the Delaware Chancery Court, SBS contends that it has been forced to exceed Section 310(b)(4)'s 25% limitation on foreign equity because, through the Lehman Transaction, the Targeted Preferred Shareholders have caused more than 25% of the "pecuniary value" of SBS to be owned by foreign entities.[16] SBS then proffers a calculation of the equity ownership interests based on its in-house "fair market value" calculation of SBS's common and preferred stock.[17] For the common stock, SBS uses the closing price of the shares on July 31, 2017. For the Series B Preferred Shares, SBS employs a complicated weighted average of three valuation methods for its determination of the stock's fair market value as of June 30, 2017: (i) Black-Scholes, (ii) income approach, and (iii) yield method.[18]

As an initial matter, the Series B Preferred Shareholders' ownership in SBS is a non-voting interest with a fixed redemption price (with no participation in the residual value of SBS above its face value and accumulated unpaid interest/dividends), a fixed rate of quarterly payments, and no conversion rights to common and/or voting stock. The Series B Preferred Shares are, therefore, most appropriately characterized as debt, and not as equity, under the

[16] Proposed Counterclaims, ¶¶ 3, 6, 21.

[17] *Id.* ¶¶ 29-31.

[18] *Id.* ¶ 30. SBS chooses this date because "that was the last time that SBS calculated the Series B Preferred Stock's market value before July 31, 2017." *Id.* SBS contends that "no material change in the Series B Preferred Stock's fair market value occurred between June 30, 2017 and July 31, 2017." *Id.*

FCC's foreign ownership rules.[19] SBS and their auditors agree with this characterization in their financial statements. Unlike the Series C Convertible Preferred Stock, Class A Common Stock and Class B Common Stock which are classified in the "Stockholder's Equity" section of the financial statements, the Series B Preferred Shares are listed as a "Current Liability," as near term maturing debt would be. The dividend payments for the Series B Preferred Shares are classified as "Interest Expense" and the Series B Preferred Shares do not appear on the "Consolidated Statement of Changes in Stockholders' Deficit," as do the Series C Convertible Preferred Stock, Class A Common Stock and Class B Common Stock.

While the Targeted Preferred Shareholders continue to maintain that their interest should not be treated as equity, for present purposes such a conclusion is not necessary. Even if the four classes of SBS securities are properly considered,[20] SBS does not violate the Section 310(b)(4) benchmark of 25% under the proper methods for calculating equity percentages in FCC licensees.

As demonstrated below, SBS's home-baked "fair market value" approach lacks any support in FCC regulations or orders. To the contrary, it is inconsistent with the pertinent FCC decisions, which set forth two possible methods for calculating equity interests: "count-the-shares" and "paid-in capital."[21] Under either of those methods, the Series B Preferred Shares, including those transferred to the Targeted Preferred Shareholders in the Lehman Transaction, do not cause SBS to exceed the statutory 25% foreign ownership benchmark. SBS's unsupported "fair market value" approach is also far too sensitive to numerous assumptions that can materially affect the outcome of any calculation and lead to volatile results. The proffered "fair market value" approach, therefore, is a transparent attempt to evade Commission-approved

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[19] *See Series B March Supplement* at 6-10.

[20] SBS's capital structure includes 4,166,991 shares of Class A Common Stock; 2,340,353 shares of Class B Common Stock; 380,000 shares of Series C Convertible Preferred Stock; and 90,549 Series B Preferred Shares. *See, e.g.*, Petition at 2-3.

[21] *See, e.g., Applications of GWI PCS, Inc. for Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C*, 12 FCC Rcd. 6441, ¶ 9 (1997) ("The Commission has consistently stated, stock ownership in a corporation generally measures an investor's benefit of ownership in that corporation, including voting rights and distributions of dividends, and generally reflects the amount of shareholder capital contributed to the corporation. It is axiomatic that a prudent investor invests funds that fairly reflect the benefits that it expects to receive in return for its investment. Thus, where the ownership of corporate shares does not correspond to the capital contributed to a corporation, we evaluate both stock ownership and capital contributions to determine the percentage of ownership interests held by an individual investor.") (internal footnotes and quotations omitted) ("*GWI*").

methodologies, because those methodologies do not produce the result that SBS desires: disenfranchisement of the Targeted Preferred Shareholders.

Count-The-Shares Analysis. SBS's Proposed Counterclaims before the Delaware Court do not even mention the FCC regulation that specifies how foreign ownership percentages should be calculated in the first instance.[22] That regulation, Section 1.5000, was enacted in the Commission's September 2016 Foreign Ownership Order.[23] Section 1.5000(e)(5) explains in relevant part that this initial calculation is a simple share count:

> To calculate aggregate levels of foreign ownership . . . [t]he licensee shall aggregate the public company's known or reasonably should be known foreign voting interests and separately aggregate the public company's known or reasonably should be known foreign equity interests. If the public company's known or reasonably should be known foreign voting interests and its known or reasonably should be known foreign equity interests do not exceed 25 percent … *of the company's total outstanding shares (whether voting or non-voting)*, respectively, the company shall be deemed compliant, under this section, with the applicable statutory limit.[24]

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[22] This is so notwithstanding the fact that Article X of SBS's Charter expressly provides that the relevant provisions are governed by the FCC's rules, and specifically mandates the share count approach. While the Charter's provisions are not binding on the Commission, it is worthwhile to note what they disclose to potential purchasers of SBS shares. *See* Article 10.1 ("This ARTICLE X shall be applicable to the Corporation so long as the provisions of Section 310 of the Communications Act of 1934 … are applicable to the Corporation…. If the provisions of Section 310 of the Communications Act … are amended, the restrictions in this ARTICLE X shall be amended in the same way…."; the term "alien" shall "have the meaning ascribed thereto by the [FCC]"); Article 10.4. Limitation on Foreign Ownership ("Except as otherwise provided by law, *not more than twenty-five percent of the aggregate number of shares* of Capital Stock of the Corporation outstanding shall at any time be owned of record by or for the account of aliens….") (emphasis added).

[23] *See* Report and Order, *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, 31 FCC Rcd. 11272 (2016).

[24] 47 C.F.R. § 1.5000(e)(5) (emphasis added).

The regulation includes an example in which both the numerator and denominator consist of share counts.[25] Even before the Commission promulgated the regulation, moreover, it had endorsed a "count-the-shares" approach as an appropriate method of calculating foreign equity ownership.[26]

The Series B Preferred Shares constitute less than two percent of SBS's shares using the "count-the-shares" methodology, as dictated by SBS's own Charter, and do not violate the 25% equity ownership threshold.[27] This analysis is detailed in Exhibit A.

Paid-In Capital Analysis. The Commission also has recognized the need to consider "factors in addition to the number of alien-owned shares of stock where the distribution of shares of stock is not proportionate to equity interests."[28] The Series B Shareholders have demonstrated that an examination of their actual rights reveals that they have *no real current* "proportionate" interest as the result of their holding Series B Preferred Shares. As the Series B Preferred Shareholders have demonstrated, if anything, history has shown that the Series B Preferred Shareholders have *less* power by virtue of their preferred holdings in SBS as a result of their purported "equity" rights than other SBS securities holders. The Series B Preferred Shareholders

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[25] *Id.* ("The licensee would add the U.S. parent's known foreign shares and divide the sum by the number of the U.S. parent's total outstanding shares.").

[26] *See e.g.*, *Fox Television Stations, Inc.*, 10 FCC Rcd. 8452, ¶ 35 (1995) ("*Fox I*") ("in some contexts, counting the number of shares of outstanding stock owned of record by aliens . . . is an appropriate method for determining compliance with the Section 310(b)(4) ownership benchmark"); *Applications of NextWave Personal Communications, Inc. for Various C-Block Broadband PCS Licenses*, 12 FCC Rcd. 2030, ¶ 36 (Wir. Tel. Bur. 1997) ("*NextWave*") ("The statute clearly requires that we calculate the percentage of outstanding shares of foreign-owned stock in a parent corporation to determine whether the Section 310(b)(4) benchmark is exceeded."); *Applications of VoiceStream Wireless Corporation, Powertel, Inc., Transferors, and Deutsche Telekom AG, Transferee, for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310 of the Communications Act*, 16 FCC Rcd. 9779, ¶ 24 (2001) ("*VoiceStream*") (finding that "a count-the-shares approach accurately measures DT's beneficial ownership of VoiceStream"); *GWI*, ¶ 9.

[27] *See, e.g.*, *Series B March Supplement* at 10 (total Series B Preferred count of shares is 1.3%; total par value of 16.9%).

[28] *Fox I*, ¶ 36.

have received no monetary payments in more than six years and they had to resort to litigation to enforce SBS's obligations under its Charter.[29]

Nevertheless, assuming the Commission determines that circumstances warrant treatment of the Series B Preferred Shares as equity and that a methodology beyond "count-the-shares" is necessary, the Commission should then "consider the amount of foreign capital contributions to a corporation in determining compliance with the statutory ownership benchmark."[30] In *Fox I*, the only case cited by SBS to the Delaware Chancery Court, the Commission explained that "[u]sing equity capital contributions to measure ownership interests in corporations is consistent with and reflects the customary method by which corporate ownership interests were measured at the time of Section 310(b)'s enactment."[31] The Commission quoted the Supreme Court's ruling in *Georgia R.R. & Banking*, and noted that capital stock is "the capital upon which the business is to be undertaken, and is represented by the property of every kind acquired by the company. Shares are the mere certificates which represent a subscriber's contribution to the capital stock, and measure his interest in the company."[32]

The Commission thus made clear in *Fox I* that where a share count does not reflect adequately the proportionate equity contribution of the shareholders, it will undertake an analysis of the "relative amounts of shareholder capital contributions," (*i.e.*, a "paid-in capital" analysis).[33] The Commission conducted a "paid-in capital" analysis in *Fox I* because the alien's "true ownership interest" was "not revealed by simple reference to the total number of shares of

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[29] *See Series B March Supplement* at 8-12.

[30] *Fox I*, ¶ 36.

[31] *Id.* ¶¶ 45-46 (*citing Wilner & Scheiner*, 103 F.C.C.2d 511 (1985), and discussing *Wright* v. *Georgia R.R. & Banking Co.*, 216 U.S. 420, 425 (1910)).

[32] *Id.* ¶ 46 (*quoting Georgia R.R. & Banking Co.*, 216 U.S. at 425, and noting this case was part of a line of cases including *Ray Consol. Copper v. United States*, 268 U.S. 373, 377 (1925); *Bank of Commerce* v. *Tennessee*, 161 U.S. 134, 146 (1896)). The FCC also noted in *Fox I* that the "understanding of the significance of shares of corporate stock" as a reflection of a subscriber's capital contribution "has not changed under modern corporate law." *Fox I*, ¶ 46 (citing *Fletcher Cyc. Of the Law of Private Corporations* §§ 5083 at 24, 5100 at 99-100).

[33] *Id.* ¶¶ 47-48 (in part based on "[j]udicial decisions contemporaneous with the passage of the statute"); *see also VoiceStream*, ¶ 24 (the Commission "will use a *paid-in-capital analysis* to determine foreign ownership in those instances where 'a simple "count the shares methodology" leads to patently absurd results'") (quoting *Fox I*, ¶ 43) (emphasis added).

stock it holds," where the alien provided "more than 99 percent of the corporate equity capital" of the licensee's parent, but held "only 24 percent of [the parent's] voting stock."[34]

The FCC's "paid-in capital" analysis in *Fox I* is consistent with its approach in subsequent foreign ownership cases. In *NextWave*, the Commission similarly stated that where "the ownership of corporate shares does not correspond to the capital contributed to the corporation, we consider both stock ownership and *capital contributions* in our determination of beneficial ownership interests under the foreign ownership benchmark of Section 310(b)(4)…."[35] The Commission analyzed "capital contributions" in *NextWave* because "the ownership of corporate shares [did] not correspond to the capital contributed to the corporation."[36] Specifically, the foreign owners in *NextWave* had "paid a higher percentage of capital into [the FCC licensee] for a lesser portion of [the licensee's] issued and outstanding stock."[37]

The Commission's approach also reflects sound policy. Unlike fair market value calculations, "paid-in capital" calculations do not vary on an hourly, daily, weekly and monthly basis, and are much less likely to subject a licensee to non-compliance based on volatile shifts in market prices or assumptions that it cannot anticipate or control. The "paid-in capital" measure is also easier to calculate, and thus easier for other licensees and their investors to apply and use to monitor in their own situations. As the Commission's precedent cited above recognizes, the paid-in capital of a company is an accurate reflection of the financial value contributed to the enterprise by its equity holders, reflecting the allocation of the equity held in the company, accounted for by the company and scrutinized by its auditors. Here, no rights held by the Series B Preferred Shareholders suggest that the paid-in capital analysis understates the influence these security holders have on SBS.

In sum, as a group, the Series B Preferred Shareholders do not hold more than 25% of the "equity" of SBS under Section 310(b)(4) of the Act. If the FCC concludes the "count-the-

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[34] *Fox I*, ¶¶ 2, 45; *see also VoiceStream,* ¶ 25. (Commission "adopted a paid-in-capital analysis" in *Fox I* because of "the widely divergent characteristics of the various classes of stock and the disparity between the ownership of corporate shares and the beneficial ownership"). Of course, here the Series B Preferred Shareholders have demonstrated that their ownership in SBS is more appropriately reflected by their share count, unlike the case in *Fox I*. *See Series B March Supplement* at 8-12.

[35] *NextWave*, ¶ 36.

[36] *Id.*

[37] *Id*. ¶ 40.

shares" approach is not sufficient, SBS must follow the relevant precedent mandated in *Fox I* and *NextWave*.[38] As demonstrated below, and in Exhibit B, if SBS and the FCC apply the "paid-in capital" approach because of the multiple classes of SBS stock with different voting rights and other characteristics, as well as the fact that the SBS stock is not widely held,[39] SBS's foreign ownership interests did not exceed the 25% equity ownership benchmark after the Lehman Transaction, notwithstanding the self-serving assertions by SBS's controlling majority shareholder before the Commission and the Delaware Chancery Court.

<u>SBS's Use of Fair Market Value Is Not Supported By Precedent or Policy.</u>

Rather than use either of the Commission-approved methods for calculating foreign equity ownership (both of which demonstrate that there is no foreign ownership violation), SBS has made up its own "fair market value" method. The Commission has never suggested or approved a "fair market value" measure of foreign equity ownership. SBS's scant citations to Commission decisions do not even mention such a method, much less support its method of calculation.

SBS premises its calculation on the notion that the Commission's regulations require it to determine the "pecuniary value" of the equity interests.[40] The term "pecuniary value," however,

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[38] As noted above, in *VoiceStream*, *see supra* nn. 33 & 34, the Commission also recognized that where a simple share count does not capture the equity determination under Section 310(b)(4), a "paid-in capital" analysis is appropriate. *VoiceStream*, ¶¶ 24-25. In the VoiceStream transaction, however, the Commission found that the "paid-in capital" approach was *not necessary* for the Section 310(b)(4) analysis, because VoiceStream and Deutsche Telekom presented the case of a "widely-held, publicly-traded company." *Id.* ¶ 26. In that circumstance, the Commission explained, "paid-in capital" was not appropriate as a measure of foreign equity ownership because public share prices vary as a result of normal market fluctuations, and the fact that a particular shareholder paid a higher price does not mean that it has a higher equity stake. *Id.* Instead, in assessing whether Deutsche Telecom had prematurely acquired more than a 25% foreign interest in the licensee, the Commission used a simple "count-the-shares" approach. *Id*. *See also GWI* ¶ 9 ("[W]here the ownership of corporate shares does not correspond to the capital contributed to a corporation, we evaluate both stock ownership and capital contributions to determine the percentage of ownership interests held by an individual investor.").

[39] Raul Alarcon, Jr. controls 17.6% of the Class A Common Stock, almost 100% of the Class B Common Stock (and 85% of the votes associated with the Common Stock), and all of the Series C Convertible Preferred Stock. The Series B Preferred Shares are tightly held by investment funds. SBS stock is not frequently traded on public markets.

[40] Proposed Counterclaims, ¶ 3.

does not appear in the Commission's regulations, or in the *September 2016 Foreign Ownership Order*, which, other than *Fox I*, is the only FCC order cited by SBS.[41] For example, SBS cites paragraphs 44-52 of the *September 2016 Foreign Ownership Order* in support of its "pecuniary value" approach.[42] The cited paragraphs, however, say nothing about how to calculate the amount of foreign equity, much less to determine the amount of a pecuniary interest. The Commission instead discusses, in the cited paragraphs, the evidentiary standard that United States licensees must apply to ascertain their foreign ownership: they must consider information that is "known or reasonably should be known" to the company. SBS also attempts to rely on the FCC's Order in *Fox I*,[43] but as shown above, the Commission endorsed and used the "paid-in capital" approach in that case, not a fair market value calculation. SBS's reliance on *Fox I*, therefore, actually undercuts its position.

It is not surprising that the Commission has never endorsed a "fair market value" approach, because "fair market value" is the wrong metric. The Commission's foreign ownership rules are concerned with the economic entitlements and other ownership rights that create conditions for control and often accompany equity ownership when the company adopts a capital structure. As the Commission's statements and actions in *Fox I* and *NextWave* demonstrate, those rights do not and should not change when the "fair market value" of different securities in the company swing up or down.

SBS's own analysis illustrates the flaw in using this metric. SBS's calculation values all of SBS's common shares equally, even though SBS's Class B Common Shares carry enhanced voting rights that allow Raul Alarcon, Jr. to control the company. Additionally, SBS's Class C Convertible Preferred shares are associated with additional rights that SBS does not consider in its analysis. The "fair market value" method does not capture the important economic realities of SBS's common and convertible stock, much less the economic reality that although SBS claims its Series B Preferred Shares dominate the "fair market value" of the company, SBS has paid the Series B Preferred Shareholders *nothing* over the past six years and failed to redeem any of these securities, notwithstanding its obligations under the security.[44]

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[41] Indeed, the term "pecuniary value" does not appear in a potentially relevant FCC decision of any kind.

[42] *See* Proposed Counterclaims, ¶ 21 n.3.

[43] *Id.* ¶ 28 n.7.

[44] Contrary to SBS's allegation, the Series B Preferred Shareholders have no obligation to make Section 13 disclosures because the Series B Preferred Shares are not (and have never been) registered under Section 12 of the Securities Exchange Act of 1934. The Series B Preferred Shares were never listed on a securities exchange (Section 12(b) registration) and have never been

Moreover, as the Commission is well aware, market value fluctuates continuously, which means that a company's foreign equity ownership percentage would constantly change under SBS's approach. In fact, using SBS's flawed method, in a short period of time, a licensee could shift from compliant with the benchmark, to non-compliant, and back to compliant again, without its stockholders engaging in a single transaction or being affected by any change to their contracted rights as security-holders. Such an approach to determining foreign ownership equity levels would make it extraordinarily difficult and burdensome for licensees and investors to monitor their foreign ownership and to comply with the benchmarks of the Act. Worse even, this approach would result in the absurd conclusion that a shareholder who paid $10 per share held 10x the rights and influence compared to a shareholder who paid $1 for a share of the exact same class at a different point in time. Liquidation and fair market values are not objective, vary over even short time periods, are difficult to calculate by consensus, and are open to manipulation by interested parties.

In SBS's case, "fair market value" is especially difficult to calculate for shares that are not publicly traded on public markets. The relevant models are often complex and rely on unobservable and subjective inputs. For example, SBS has concocted the "fair market value" of the Series B Preferred Shares using the Black-Scholes method, an income approach, and the yield method to determine their own "fair market value" of the Series B Preferred Shares in June 2017. The Black-Scholes approach is a complex, assumption-based model that can yield different hypothetical values when applied by different financial professionals and would be difficult for arms-length investors to independently assess.

For all of these reasons, the Commission must reject SBS's valuation approach and instead follow its own precedent and apply a "paid-in capital" analysis rather than leave these issues for the Delaware Chancery Court to decide. Indeed, the FCC's determination that compliance with the "paid-in capital analysis" precedent is the appropriate alternative valuation of equity (when the "count-the-shares" approach is not appropriate) will provide important guidance to third parties contemplating investments in licensees subject to the Commission's foreign ownership rules, while a contrary determination would result in confusion, arbitrary application, and the potential for manipulation of the FCC's foreign ownership rules.

The Paid-In Capital Analysis for SBS.

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registered under Section 12(g). While it is true that reporting under Sections 13D and 13G may also be required if the security is convertible or exchangeable at the option of the holder within 60 days for a class of equity securities that is so registered, the Series B is exchangeable only for debt securities (not equity) and the right to exchange belongs to the company (not the holders). Accordingly, no such filings are required of any Series B Shareholder, and indeed, SBS's own disclosures never included Series B Preferred Shareholder ownership of 5% or greater.

For purposes of performing the "paid-in capital" analysis called for by *Fox I* and *NextWave* for SBS, the Series B Preferred Shares will be considered equity/capital stock. This "paid-in capital" analysis considers SBS's foreign ownership at three points in time utilizing information contained in publicly available SEC filings and submissions to the FCC that prevailed at those moments. A summary of this analysis is attached to the letter as Exhibit B.

At the time of the Lehman Transaction. In SBS's 2017 first quarter 10Q filed with the SEC on May 15, 2017 — the most recent publicly available information at the time of the Lehman Transaction — the total paid-in capital for all of SBS's common and preferred stock was $616,631,000. Of this total, the Series B Preferred Shares represented $90,549,000, which reflects the capital provided by investors when the Series B Preferred Shares were originally issued along with the additional shares issued to Series B Preferred Shareholders in lieu of receiving cash interest payments.[45] The paid-in capital from the rest of SBS's equity securities was $526,082,000.[46] In other words, SBS's paid-in equity capital — actual dollars of capital invested in the company — from the Series B Preferred Shareholders amounted to approximately 14.7% of the total paid-in capital of SBS. The common and convertible stock — SBS's other capital providers — accounted for 85.3% of the capital contributed to SBS, which is six times greater than the amount raised from the Series B Preferred Shareholders. These figures alone stand in stark contrast to SBS's claim that the Series B Preferred Shareholders account for 83.3% of SBS's equity while the common stock represented only 16.7% of that interest.

To determine the applicable foreign ownership of SBS's capital stock, the paid-in capital approach takes the paid-in capital for each class of stock and multiplies it by the percentage of that class of stock held by foreign owners. After giving effect to the Lehman Transaction, West Face owned approximately 31% of the outstanding Series B Preferred Shares while Stornoway owned 5.5% and Ravensource, affiliated with Stornoway by management and ownership as disclosed in the *Series B March Supplement*, owned 2.2%. In calculating the percentages of equity capital attributable to these shares, West Face's percentage independently would be 4.6% of the paid-in SBS capital (*i.e.*, 31% * 14.7%), and Stornoway (0.8%) and Ravensource (0.3%) would independently account for 1.1% (*i.e.*, 7.7% * 14.7%) of the paid-in SBS capital.[47] Based on a paid-in capital approach, the Lehman Transaction resulted in only a 5.7% addition to SBS's

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[45] The Series B Preferred Shares' paid-in capital is equivalent to the 90,549 shares of Series B Preferred Shares that remain outstanding multiplied by their issue price of $1,000.

[46] This includes all capital paid in for the SBS Class A Common Shares, the Class B Common Shares, and the Series C Convertible Preferred Shares.

[47] Ravensource, Stornoway, and West Face are each considered "foreign" for purposes of the FCC's rules because their relevant entities' are domiciled in the Cayman Islands and Canada with substantial ownership from Canadian citizens. *See Series B April Letter* at 16-21.

foreign ownership (assuming that Lehman is directly and indirectly 100% domestically owned).[48]

In addition, Bluestone Financial LTD, a British Virgin Islands Entity, owned 340,618 shares of Class A Common at the time of the Lehman Transaction, representing 4.7% of SBS's common shares and 4.0% of paid-in capital bringing SBS's total foreign paid-in capital to 9.7%, well below the threshold required to be in compliance with Section 310(b)(4). These calculations are detailed in Exhibit B in the columns entitled "As of Lehman Transaction."

At the time of Supplement to PDR. The paid-in capital analysis can be extended to include information on the foreign status of Series B Preferred Shareholders as characterized and disclosed by SBS in the *Supplement to PDR* filed on April 27, 2018. This information was obtained through the cooperation of the Series B Preferred Shareholders including the Targeted Preferred Shareholders. In addition, this analysis includes SBS's financial information as of December 31, 2017 and subsequent foreign equity ownership memorialized in13D/G filings. All of this incremental information was not available to the Targeted Preferred Shareholders, nor SBS, at the time of the Lehman Transaction.

As seen in Exhibit B under the columns entitled "As of Supplement to PDR," even using conservative assumptions on the foreign status of various shareholders, the total foreign ownership of SBS based on a paid-in capital method is below 18%. The Series B Preferred Shareholders as a group represent only 10.8% of the paid-in capital while the Targeted Preferred Shareholders — West Face (4.6%), Stornoway (0.8%) and Ravensource (0.3%) — account for only 5.7% of the total paid-in capital. Of course, West Face and Stornoway were unaware of the identities of the other Series B Preferred Shareholders at the time of the Lehman Transaction, let alone whether their status was domestic or foreign.[49] The Targeted Preferred Shareholders, however, were well aware that Raul Alarcon, Jr., a United States citizen, held command and control of SBS's operations through his ownership of over 85% of SBS's voting stock.

The paid-in capital analysis as of the *Supplement to PDR* includes the additional 264,158 common shares acquired by Bluestone Financial in the fourth quarter of 2017 that was disclosed in a 13D filed subsequent to the Lehman Transaction and increased SBS's foreign ownership by 7%.

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[48] SBS appears to assume that Lehman Brothers is a domestic entity, and that it is also indirectly owned by domestic citizens and entities. The Targeted Preferred Shareholders cannot confirm these assumptions.

[49] The percentage of foreign ownership capital paid in by the other Series B Preferred Shares included 1.9% for Stonehill Capital Management, 0.4% for Cetus Capital, 0.8% for Wolverine Asset Management, 1.1% for Corrib Capital, and 0.7% for Cedarview.

Utilizing all of the above added information, the paid-in capital approach demonstrates that SBS was not in violation of Section 310(b)(4) even including the additional foreign ownership of the Series B Preferred Stock that the Targeted Preferred Shareholders were unaware of at the time of the Lehman Transaction.[50] Given these facts, SBS's flawed and self-serving "fair market value" calculations can hardly be used to substantiate a finding that investments by the Targeted Preferred Shareholders caused SBS to breach the 25% foreign ownership threshold.

At the time of this letter. Notwithstanding that SBS has focused solely on the Lehman Transaction in an attempt to disregard the Targeted Preferred Shareholders' interests, the paid-in capital analysis can be extended up to the present by including up-to-date financial information and publicly disclosed acquisitions of SBS stock after the Lehman Transaction. Specifically, the acquisition of 160,000 common shares by Bluestone Financial disclosed in the fourth quarter of 2018 and the foreign ownership associated with an entity named HCN LP, a Cayman Islands-based LP, under the Bardin Hill umbrella, which acquired 292,540 common shares disclosed in a 13G filed on February 14, 2019 is included in this extension.[51]

Under the paid-in capital analysis conducted in *Fox I* and *NextWave*, the Series B Preferred Shareholders account for 10.8% foreign ownership while Bluestone Financial (765,000 common shares) and HCN LP (292,540 common shares) collectively account for 12.3% of SBS's paid-in capital. Even if all of the additional common stock acquired by Bluestone Financial and HCN LP were deemed to be foreign-owned — and the Targeted Preferred Shareholders have no way of knowing if that is the case — SBS's capital stock would be at most 23.1% foreign-owned, confirming that SBS remains in compliance with Section 310(b)(4).[52] This is detailed in Exhibit B under the columns titled, "As of Request for Declaratory Ruling."

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[50] *See id*. SBS's filing was based on information provided by the Series B Shareholders to the FCC and SBS, conservatively applies the FCC's rules and interpretive notes under Section 1.5000, and is correct and accurate to the best of our knowledge as of this date, notwithstanding that trading in Series B Preferred Shares has not been halted and the eleven different funds represented in the Series B Preferred Shareholders have continued to conduct their normal business.

[51] The ultimate foreign or domestic ownership of HCN LP is not known to the Targeted Preferred Shareholders. For purposes of this analysis, it has been conservatively assumed that HCN LP is 100% foreign owned.

[52] Again, the ultimate domestic or foreign ownership of Bluestone Financial and HCN LP is unknown. But notwithstanding the substantial acquisitions of positions in SBS's common stock ownership *subsequent* to the Lehman Transaction, some by previously recognized foreign entities, SBS has remained focused on asserting unilateral actions against the Targeted Preferred Shareholders.

CONCLUSION

The FCC should reject SBS's unsupported, flawed, and home-baked approach to the calculation of its equity percentage of foreign ownership and its efforts to have that approach enforced in the Delaware Court. SBS's approach to determining the percentage of foreign ownership is inconsistent with Commission precedent and sound policy, and creates the possibility that now and in the future, licensees and investors will arrive at different results and seek conflicting opinions in multiple jurisdictions. Despite the Media Bureau's encouragement that SBS and the Series B Preferred Shareholders work together to ensure compliance with Section 310(b)(4), and the Commission's statement that SBS did not need to take any unilateral action to remedy its perceived non-compliance pending the FCC ruling on the Petition, SBS continues to take a unilateral, self-serving, and protectionist approach to the Series B Preferred Shareholders notwithstanding the Bureau's statements.[53]

The Commission can promptly conclude this proceeding by reaffirming its own precedent in *Fox I* and *NextWave*. SBS's attempt to invalidate ownership and transactions using its home-baked "fair market value" argument is unsupported. Notwithstanding the resolution of any other issue in this matter, the Commission must conclude that using a "count-the-shares" approach or the "paid-in capital" approach and calculation set forth and applied in *Fox I* and *NextWave*, the Series B Preferred Shareholders do not cause SBS to exceed the 25% foreign ownership benchmark of Section 310(b)(4) of the Act. Specifically, the Targeted Preferred Shareholders' acquisition of the Lehman Brothers interest at most added 5.7% to SBS's foreign equity ownership, which means that the entire Series B Preferred Shareholders' holdings amount to less than 11% foreign ownership in SBS. Using SBS's own reports of the remainder of its foreign ownership, there is no violation of Commission rules that can justify SBS's unilateral actions before the FCC and the Delaware Chancery Court.

We request that the Commission issue a declaratory ruling consistent with its precedential cases and find that SBS has not violated Section 310(b)(4). At a minimum, the Commission should mandate that SBS not undertake its unilateral actions addressed at the Targeted Preferred Shareholders until the Commission has resolved the issues raised by the Petition. A failure to decisively act here could allow SBS and other similarly situated parties to misuse the foreign

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[53] *See* Letter from Michelle M. Carey to Meredith S. Senter, Jr., DA 18-73, at 4 (Jan. 25, 2018). ("As provided in the Commission's rules, SBS will not be required to redeem the non-compliant foreign interest or to remedy the non-compliance while its PDR is pending.") (footnote omitted); *see also* Letter from Michelle M. Carey to Meredith S. Senter, Jr., DA 18-235, at 3 (March 9, 2018) ("As provided in the Commission's rules and as we stated in the *Abeyance Letter*, SBS will not be required to redeem the non-compliant foreign interest or to remedy the non-compliance while its PDR is pending.") (footnote omitted).

ownership rules for their own benefit and not to support the purposes for which the rules were designed. Without clear guidance from the Commission, market participants and regulated entities could rely on a flawed state court ruling to assess compliance with Section 310(b)(4) and compound SBS's errors elsewhere.

* * *

Please do not hesitate to contact us with any questions regarding this matter.[54] You may contact me (mschneider@sidley.com) if necessary, as well as contact Jacqueline Cooper (jcooper@sidley.com) and Marc Korman (mkorman@sidley.com) of our firm.

Sincerely,

/s/
Mark D. Schneider

cc: Chairman Ajit Pai
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Commissioner Geoffrey Starks
Megan Henry
David Roberts
Holly Saurer
Meredith Senter

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[54] This letter has been filed as part of the proceeding initiated by SBS's filing of its Petition in December 2017. To the extent the FCC believes the issues are more appropriately directed to a new proceeding, notwithstanding the volume of relevant information already included in the pending Petition's proceeding, the Targeted Preferred Shareholders are prepared to file a new comprehensive request. Moreover, while the Series B Preferred Shareholders believe this proceeding can be completed based on the limited ruling requested herein, to the extent the FCC's conclusions find SBS to have exceeded the Section 310(b)(4) benchmark, the affected shareholders would pursue the relief provided for in Section 1.5000 to reflect the public interest in the transaction resulting from Lehman Brothers' auction of its SBS securities to provide funds to its unsecured creditors.

EXHIBIT A

Calculation of Foreign Ownership of SBS

'Count the Shares' Approach

Foreign Ownership of Spanish Broadcasting Inc. Capital Stock based on 'Count the Shares' Approach

($ in thousands, except share data)

	As of LBHI Transaction [1]		As of Supplement to PDR [2]		As of Request for Declaratory Ruling [3]	
	Shares Out. / Owned	% of Total Shares	Shares Out. / Owned	% of Total Shares	Shares Out. / Owned	% of Total Shares
Capital Stock [4]						
Series B Preferred Stock [5]	90,549	1.2%	90,549	1.2%	90,549	1.2%
Common Stock [5]	7,267,344	98.8%	7,342,344	98.8%	7,342,344	98.8%
Total Shares of Capital Stock	7,357,893	100.0%	7,432,893	100.0%	7,432,893	100.0%
Foreign Ownership of Capital Stock [6]						
Series B Preferred Shareholders						
LBHI Transaction [7]						
West Face Capital	28,104	0.4%	28,104	0.4%	28,104	0.4%
Stornoway Recovery Fund LP	5,000	0.1%	5,000	0.1%	5,000	0.1%
Ravensource Fund	2,026	0.0%	2,026	0.0%	2,026	0.0%
Total LBHI Transaction	35,130	0.5%	35,130	0.5%	35,130	0.5%
Other Foreign Series B Shareholders [8]			31,258	0.4%	31,258	0.4%
Total Series B Preferred Shareholders	**35,130**	**0.5%**	**66,388**	**0.9%**	**66,388**	**0.9%**
Common Shareholders						
Bluestone Financial Ltd [9]	340,618	4.6%	604,776	8.1%	765,000	10.3%
HCN LP [10]					292,540	3.9%
Total Common Shareholders	**340,618**	**4.6%**	**604,776**	**8.1%**	**1,057,540**	**14.2%**
Total Foreign Ownership of Capital Stock		**5.1%**		**9.0%**		**15.1%**

Notes

[1] Figures as of March 31, 2017 10Q, the most recent public information at the time of LBHI Transaction

[2] Figures as of December 31, 2017 10K, the most recent public information at time of March 2018 supplement disclosing Series B ownership declaration for PDR

[3] Figures as of March 31, 2019 10Q, the most recent public information at time of July 2019 request for Declaratory Ruling

[4] Capital Stock assumes that the Series B Preferred Stock is included in the definition of Capital Stock for the purpose of this analysis

[5] As per the most recent SBS Financial Statements denoted by the column. Common Stock reflects the shares of the Series C Convertible Preferred, Class A and Class B Common Stock. The Series C Convertible Preferred treated on an "as-converted" basis into common shares (2:1).

[6] Calculation of foreign ownership attributable to each owner based on pro rata ownership of the shares

[7] LBHI Transaction closed on July 31, 2017 and was disclosed to SBS's Board of Directors in August 2017

[8] Disclosed by SBS in their April 27, 2018 Supplement to PDR with data provided by Series B Preferred Shareholder Ad Hoc Committee; this information was not previously publicly available

[9] Disclosed Class A common shares ownership of 340,618 on January 20, 2016; 604,776 on March 1, 2018; and 765,000 on October 26, 18. Foreign status confirmed by SBS on April 27, 2018

[10] Ownership disclosed in 13G filed by Bardin Hill Partners on February 14, 2019 on behalf of HCN LP. HCN LP is domiciled in Cayman Island and assumed to be 100% foreign for this analysis.

EXHIBIT B

Calculation of Foreign Ownership of SBS

Paid-in Capital Approach

Foreign Ownership of Spanish Broadcasting Inc. Capital Stock based on Paid-in Capital Approach

($ in thousands, except share data)

	As of LBHI Transaction [1]				As of Supplement to PDR [2]				As of Request for Declaratory Ruling [3]			
	Shares Out. / Owned	**Shares as a % of Class**	**Paid-in Capital**	**% of Total PIC**	**Shares Out. / Owned**	**Shares as a % of Class**	**Paid-in Capital**	**% of Total PIC**	**Shares Out. / Owned**	**Shares as a % of Class**	**Paid-in Capital**	**% of Total PIC**
Capital Stock [4]												
Series B Preferred Stock [5]	90,549		$90,549	14.7%	90,549		$90,549	14.7%	90,549		$90,549	14.7%
Common Stock [5]	7,267,344		526,082	85.3%	7,342,344		526,151	85.3%	7,342,344		526,195	85.3%
Total Capital Stock			$616,631	100.0%			$616,700	100.0%			$616,744	100.0%
Foreign Ownership of Capital Stock [6]												
Series B Preferred Shareholders												
LBHI Transaction [7]												
West Face Capital	28,104	31.0%	$28,104	4.6%	28,104	31.0%	$28,104	4.6%	28,104	31.0%	$28,104	4.6%
Stornoway Recovery Fund LP	5,000	5.5%	5,000	0.8%	5,000	5.5%	5,000	0.8%	5,000	5.5%	5,000	0.8%
Ravensource Fund	2,026	2.2%	2,026	0.3%	2,026	2.2%	2,026	0.3%	2,026	2.2%	2,026	0.3%
Total LBHI Transaction	35,130	38.8%	$35,130	5.7%	35,130	38.8%	$35,130	5.7%	35,130	38.8%	$35,130	5.7%
Other Foreign Series B Shareholders [8]					31,258	34.5%	$31,258	5.1%	31,258	34.5%	$31,258	5.1%
Total Series B Preferred Shareholders	**35,130**	**38.8%**	**$35,130**	**5.7%**	**66,388**	**73.3%**	**$66,388**	**10.8%**	**66,388**	**73.3%**	**$66,388**	**10.8%**
Common Shareholders												
Bluestone Financial Ltd [9]	340,618	4.7%	$24,657	4.0%	604,776	8.2%	$43,338	7.0%	765,000	10.4%	$54,824	8.9%
HCN LP [10]									292,540	4.0%	$20,965	3.4%
Total Common Shareholders	**340,618**	**4.7%**	**$24,657**	**4.0%**	**604,776**	**8.2%**	**$43,338**	**7.0%**	**1,057,540**	**14.4%**	**$75,789**	**12.3%**
Total Foreign Ownership of Capital Stock			**$59,787**	**9.7%**			**$109,726**	**17.8%**			**$142,177**	**23.1%**

Notes

Color-coded capital stock calculations are detailed in Appendix A. Support for all other figures are provided in Appendix B.

[1] Figures as of March 31, 2017 10Q, the most recent public information at the time of LBHI Transaction

[2] Figures as of December 31, 2017 10K, the most recent public information at time of March 2018 supplement disclosing Series B ownership declaration for PDR

[3] Figures as of March 31, 2019 10Q, the most recent public information at time of July 2019 request for Declaratory Ruling

[4] Capital Stock assumes that the Series B Preferred Stock is included in the definition of Capital Stock for the purpose of this analysis

[5] As per the most recent SBS Financial Statements denoted by the column; Common stock reflects the par value and additional paid-in capital of the Series C Convertible Preferred, Class A and Class B Common Stock Series C Convertible Preferred treated on an 'as converted' basis (2:1) for the purposes of share count

[6] Calculation of Paid-in Capital attributable to each owner based on pro rata ownership of the class of shares multiplied by the Paid-in Capital of that class

[7] LBHI Transaction closed on July 31, 2017 and was disclosed to SBS's Board of Directors in August 2017

[8] As calculated by SBS in their April 27, 2018 Supplement based on the information disclosed by Series B Preferred Shareholder Ad Hoc Committee in March 2018 supplement to PDR; prior to the disclosure, the information was not publicly available

[9] Initially disclosed ownership of 340,618 Class A common shares in 13D filed January 20, 2016. Disclosed ownership of 604,776 Class A common shares in 13D filed on March 1, 2018. Filed subsequent 13G on October 26, 2018 to disclose additional purchase of 160,224 shares. Foreign status confirmed by SBS in their PDR Supplement dated April 27, 2018

[10] Ownership disclosed in 13G filed by Bardin Hill Partners on February 14, 2019 on behalf of HCN LP. HCN LP is a Cayman Island-based entity and thus assumed to be foreign for the purposes of this analysis.

Appendix A

Paid-in Capital Support

A.1. Annotated Excerpt of Spanish Broadcasting March 31, 2017 10Q, as filed May 22, 2017 (page 5)

For calculation of paid-in capital as of the LBHI Transaction

SPANISH BROADCASTING SYSTEM, INC. AND SUBSIDIARIES
Unaudited Condensed Consolidated Balance Sheets
(In thousands, except share data)

Assets	**March 31, 2017**	**December 31, 2016**
Current assets:		
Cash and cash equivalents	$ 30,191	$ 23,835
Receivables:		
Trade	27,162	32,952
Barter	255	270
	27,417	33,222
Less allowance for doubtful accounts	860	745
Net receivables	26,557	32,477
Prepaid expenses and other current assets	7,275	6,597
Total current assets	64,023	62,909
Property and equipment, net of accumulated depreciation of $62,672 in 2017 and $61,735 in 2016	25,533	26,406
FCC broadcasting licenses	322,197	323,961
Goodwill	32,806	32,806
Other intangible assets, net of accumulated amortization of $1,140 in 2017 and $1,116 in 2016	1,408	1,432
Assets held for sale	3,141	1,377
Deferred tax assets	1,573	1,615
Other assets	449	384
Total assets	$ 451,130	$ 450,890
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable and accrued expenses	$ 14,220	$ 12,733
Accrued interest	15,862	7,290
Unearned revenue	754	1,325
Other liabilities	3	4
Current portion of 12.5% senior secured notes due 2017, net of unamortized discount of $91 in 2017 and $629 in 2016 and net of deferred financing costs of $285 in 2017 and $1,138 in 2016.	274,624	273,233
Current portion of other long- term debt	—	4,616
10 3/4% Series B cumulative exchangeable redeemable preferred stock outstanding and dividends outstanding, $0.01 par value, liquidation value $1,000 per share. Authorized 280,000 shares: 90,549 shares issued and outstanding at March 31, 2017 and December 31, 2016 and $67,732 and $65,299 of dividends payable as of March 31, 2017 and December 31, 2016, respectively.	158,281	155,848
Total current liabilities	463,744	455,049
Other liabilities, less current portion	3,108	2,955
Derivative instruments	—	17
Deferred income taxes	109,144	106,986
Total liabilities	575,996	565,007
Commitments and contingencies (note 6)		
Stockholders' deficit:		
Series C convertible preferred stock, $0.01 par value and liquidation value. Authorized 600,000 shares; 380,000 shares issued and outstanding at March 31, 2017 and December 31, 2016, respectively	4	4
Class A common stock, $0.0001 par value. Authorized 100,000,000 shares; 4,166,991 shares issued and outstanding at March 31, 2017 and December 31, 2016, respectively	—	—
Class B common stock, $0.0001 par value. Authorized 50,000,000 shares; 2,340,353 shares issued and outstanding at March 31, 2017 and December 31, 2016, respectively	—	—
Additional paid- in capital	526,078	525,999
Accumulated other comprehensive loss, net	(92)	(102)
Accumulated deficit	(650,856)	(640,018)
Total stockholders' deficit	(124,866)	(114,117)
Total liabilities and stockholders' deficit	$ 451,130	$ 450,890

Series B Preferred Stock per Balance Sheet	$158,281
Less: Dividends Payable	(67,732)
Series B Preferred Stock Paid-in Capital	$90,549

Series C Convertible Preferred Par Value	$4
Class A Common Par Value	–
Class B Common Par Value	–
Additional Paid-in Capital	526,078
Common Stock Paid-in Capital	$526,082

A.2. Annotated Excerpt of Spanish Broadcasting December 31, 2017 10K, as filed May 23, 2018 (page 82)

For calculation of paid-in capital as of the filing of the Supplement to the PDR

SPANISH BROADCASTING SYSTEM, INC.
AND SUBSIDIARIES
Consolidated Balance Sheets
December 31, 2017 and 2016
(In thousands, except share data)

Assets	December 31, 2017	December 31, 2016
Current assets:		
Cash and cash equivalents	$ 16,141	$ 23,835
Receivables:		
Trade	32,046	32,952
Barter	288	270
	32,334	33,222
Less allowance for doubtful accounts	1,529	745
Net receivables	30,805	32,477
Prepaid expenses and other current assets	8,055	6,597
Total current assets	55,001	62,909
Property and equipment, net	23,464	26,406
FCC broadcasting licenses	322,197	323,961
Goodwill	32,806	32,806
Other intangible assets, net of accumulated amortization of $1,212 in 2017 and $1,116 in 2016	1,336	1,432
Assets held for sale	409	1,377
Other assets	691	384
Total assets	$ 435,904	$ 449,275
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable and accrued expenses	$ 18,763	$ 12,733
Accrued interest	1,797	7,290
Unearned revenue	715	1,325
Other liabilities	11	4
12.5% senior secured notes, net of unamortized discount of $0 in 2017 and $629 in 2016 and net of deferred financing costs of $0 in 2017 and $1,138 in 2016.	260,274	273,233
Current portion of other long- term debt	—	4,616
10 3/4% Series B cumulative exchangeable redeemable preferred stock outstanding and dividends outstanding, $0.01 par value, liquidation value $1,000 per share. Authorized 280,000 shares: 90,549 shares issued and outstanding at December 31, 2017 and 2016 and $75,032 and $65,299 of dividends payable as of December 31, 2017 and 2016, respectively.	165,581	155,848
Total current liabilities	447,141	455,049
Other liabilities, less current portion	3,406	2,955
Derivative instruments	—	17
Deferred tax liabilities	81,271	107,039
Total liabilities	531,818	565,060
Commitments and contingencies (Note 13, 15 and 16)		
Stockholders' deficit:		
Series C convertible preferred stock, $0.01 par value and liquidation value. Authorized 600,000 shares; 380,000 shares issued and outstanding at December 31, 2017 and 2016, respectively	4	4
Class A common stock, $0.0001 par value. Authorized 100,000,000 shares; 4,166,991 shares issued and outstanding at December 31, 2017 and 2016, respectively	—	—
Class B common stock, $0.0001 par value. Authorized 50,000,000 shares; 2,340,353 shares issued and outstanding at December 31, 2017 and 2016, respectively	—	—
Additional paid- in capital	526,147	525,999
Accumulated other comprehensive loss, net	—	(102)
Accumulated deficit	(622,065)	(641,686)
Total stockholders' deficit	(95,914)	(115,785)
Total liabilities and stockholders' deficit	$ 435,904	$ 449,275

Series B Preferred Stock per Balance Sheet	$165,581
Less: Dividends Payable	(75,032)
Series B Preferred Stock Paid-in Capital	$90,549

Series C Convertible Preferred Par Value	$4
Class A Common Par Value	–
Class B Common Par Value	–
Additional Paid-in Capital	526,147
Common Stock Paid-in Capital	$526,151

A.3. Annotated Excerpt of Spanish Broadcasting March 31, 2019 10Q, as filed May 15, 2019 (page 4)

For calculation of paid-in capital as of the Series B Preferred Request for Declaratory Ruling

SPANISH BROADCASTING SYSTEM, INC. AND SUBSIDIARIES
Unaudited Condensed Consolidated Balance Sheets
(In thousands, except share data)

Assets	March 31, 2019	December 31, 2018
Current assets:		
Cash and cash equivalents	$ 22,204	$ 22,468
Receivables:		
Trade	29,227	32,769
Barter	185	431
	29,412	33,200
Less allowance for doubtful accounts	1,525	1,649
Net receivables	27,887	31,551
Prepaid expenses and other current assets	7,219	7,480
Total current assets	57,310	61,499
Property and equipment, net of accumulated depreciation of $61,223 in 2019 and $60,446 in 2018	22,685	22,414
FCC broadcasting licenses	321,714	321,714
Goodwill	32,806	32,806
Other intangible assets, net of accumulated amortization of $1,308 in 2018	—	1,239
Operating lease right- of- use assets	15,451	—
Other assets	5,132	4,640
Total assets	$ 455,098	$ 444,312
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable and accrued expenses	$ 19,297	$ 20,370
Accrued interest	1,513	1,513
Unearned revenue	661	798
Other liabilities	—	9
Operating lease liabilities	2,440	—
12.5% senior secured notes (note 10)	249,864	249,864
10 3/4% Series B cumulative exchangeable redeemable preferred stock outstanding and dividends outstanding, $0.01 par value, liquidation value $1,000 per share. Authorized 280,000 shares: 90,549 shares issued and outstanding at March 31, 2019 and December 31, 2018 and $87,200 and $84,766 of dividends payable as of March 31, 2019 and December 31, 2018, respectively. (note 11)	177,749	175,315
Total current liabilities	451,524	447,869
Other liabilities, less current portion	2,632	3,598
Operating lease liabilities - net of current portion	13,089	—
Deferred tax liabilities	71,164	72,224
Total liabilities	538,409	523,691
Commitments and contingencies (note 8)		
Stockholders' deficit:		
Series C convertible preferred stock, $0.01 par value and liquidation value. Authorized 600,000 shares; 380,000 shares issued and outstanding at March 31, 2019 and December 31, 2018	4	4
Class A common stock, $0.0001 par value. Authorized 100,000,000 shares; 4,241,991 shares issued and outstanding at March 31, 2019 and December 31, 2018	—	—
Class B common stock, $0.0001 par value. Authorized 50,000,000 shares; 2,340,353 shares issued and outstanding at March 31, 2019 and December 31, 2018	—	—
Additional paid- in capital	526,191	526,191
Accumulated deficit	(609,506)	(605,574)
Total stockholders' deficit	(83,311)	(79,379)
Total liabilities and stockholders' deficit	$ 455,098	$ 444,312

Series B Preferred Stock per Balance Sheet	$177,749
Less: Dividends Payable	(87,200)
Series B Preferred Stock Paid-in Capital	$90,549

Series C Convertible Preferred Par Value	$4
Class A Common Par Value	–
Class B Common Par Value	–
Additional Paid-in Capital	526,191
Common Stock Paid-in Capital	$526,195

Appendix B

Share Count Support

B.1. Annotated Exhibit C to SBS's Supplement to PDR filed April 27, 2018

EXHIBIT C

Aggregate Estimated Potential Foreign Investor Interests in SBS

Investor	Country of Organization or Citizenship	Class of Stock & Shares Owned	Aggregate % Foreign Voting	Aggregate % Foreign Equity[1]
Cedarview Opportunities Master Fund, L.P.	Cayman Islands	4,080 shares (4.5%) of Series B Preferred	0.0%	4.0%
Cetus Capital III, L.P.[2]	U.S. (Delaware)	3,071 shares (3.4%) of Series B Preferred	0.0%	1.3%
Littlejohn Opportunities Master Fund L.P.	Cayman Islands	1,079 shares (1.2%) of Series B Preferred	0.0%	1.1%[2]
Corrib Master Fund, Ltd.[3]	Cayman Islands	3,000 shares (3.3%) of Series B Preferred	0.0%	2.9%
PCH Manager Fund-SPC206[3]	Cayman Islands	3,496 shares (3.9%) of Series B Preferred	0.0%	3.4%
Stonehill Master Fund Ltd.*	Cayman Islands	11,532 shares (12.7%) of Series B Preferred	0.0%	11.2%
Ravensource Fund	Canada	2,026 shares (2.2%) of Series B Preferred	0.0%	1.9%
Stornoway Recovery Fund L.P.*	Canada	5,000 shares (5.5%) of Series B Preferred	0.0%	4.9%
West Face Long Term Opportunities Global Master L.P.*	Cayman Islands	28,104 shares (31.0%) of Series B Preferred	0.0%	27.4%
Wolverine Flagship Fund Trading Limited	Cayman Islands	5,000 shares (5.5%) of Series B Preferred	0.0%	4.9%
Bluestone Financial LTD[4]	British Virgin Islands	604,776 shares (14.5%) of Class A Common	2.2%	1.0%
TOTAL	---	---	**2.2%**	**64.0%**

Other Foreign Series B Preferred Shareholders

	Shares
Cedarview Opportunities Master Fund LP	4,080
Cetus Capital III LP	3,071
Littlejohn Opportunities Master Fund LP	1,079
Corrib Master Fund Ltd	3,000
PCH Manager - SPC206	3,496
Stonehill Master Fund Ltd	11,532
Wolverine Flagship Fund Trading Limited	5,000
Subtotal - Other Foreign Series B	**31,258**

END NOTES

[1] This chart contains estimates of SBS's equity ownership based on (i) the trading price of the Class A Common stock as of September 28, 2017 ($0.85/share), which implies a total value of $6.2 million for the Common stock and the Series C Preferred stock as of that date, and (ii) the estimated fair market value of the Series B Preferred stock as of September 30, 2017 as set forth in Note 6 to SBS's SEC Form 10-Q at 16 (filed November 14, 2017) ($46.6 million), yielding a Series B Preferred shareholder aggregate equity stake in SBS of 88.26% (6.2 + 46.6 = 52.8; 46.6/52.8 = .8826). Based on these numbers, the percentage of SBS's equity owned by each Series B Preferred shareholder is calculated based on multiplying the percentage of the Series B Preferred shares held each entity by .8826. In the interest of full disclosure, SBS notes that as of September 30, 2017, the Series B Preferred stock had a liquidation preference of $163,148,000, which consists of a liquidation value of $1000 per share plus accrued unpaid dividends.

[2] This updated chart provides specific foreign equity percentages for both Littlejohn Opportunities Master Fund L.P. (100% non-U.S.) and Cetus Capital III, L.P., a U.S. fund, of which 43% of the shares are held by non-U.S. limited partners (*i.e.*, 57% is held by limited partners that are U.S. citizens or entities organized under the laws of the United States). In the original version of this chart, submitted with the December 4, 2017 Petition for Declaratory Ruling, all of the equity held by Cetus-affiliated entities was assumed to be held by the Littlejohn Opportunities Master Fund L.P., identified as a Cayman Islands entity, because the Complaint provided no breakdown of individual fund holdings.

[3] In the original version of this chart, it was noted that fund manager Corrib Capital Management, L.P. held 6,496 shares (7.2%) of the Series B Preferred, an estimated 6.4% of SBS's equity, and that while Corrib is a U.S. company, it manages funds of which the country (or countries) of organization was not known at that time to SBS. The updated version reflects the addition to this chart of Corrib Master Fund, Ltd. and PCH Manager Fund-SPC206, both Corrib-managed funds that are Cayman Islands entities.

[4] The holdings of Bluestone Financial LTD have been updated from the original exhibit to reflect the purchase of additional SBS Class A Common shares, as reported to the SEC in a Schedule 13D filing submitted March 1, 2018.

B.2. Excerpt of Bluestone Financials Ltd's Initial 13D, filed January 20, 2016

CUSIP NO. 846425882 SCHEDULE 13D

1	NAME OF REPORTING PERSON S.S. or I.R.S. IDENTIFICATION NO. OF ABOVE PERSON BLUESTONE FINANCIAL LTD .	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) (b)
3	SEC USE ONLY	
4	SOURCE OF FUNDS WC	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(E)	
6	CITIZENSHIP OR PLACE OF ORGANIZATION BRITISH VIRGIN ISLANDS (BVI)	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER 340,618 Shares	
	8 SHARED VOTING POWER 0	
	9 SOLE DISPOSITIVE POWER 340,618 Shares	
	10 SHARED DISPOSITIVE POWER 0	
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 340,618 Shares	

B.2. Excerpt of Bluestone Financials Ltd's First Subsequent 13D, filed March 1, 2018

CUSIP NO. 846425833 SCHEDULE 13D

1		NAME OF REPORTING PERSON S.S. or I.R.S. IDENTIFICATION NO. OF ABOVE PERSON BLUESTONE FINANCIAL LTD .	
2		CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) (b)
3		SEC USE ONLY	
4		SOURCE OF FUNDS WC	
5		CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(D) OR 2(E)	
6		CITIZENSHIP OR PLACE OF ORGANIZATION BRITISH VIRGIN ISLANDS (BVI)	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 604,776 Shares	
	8	SHARED VOTING POWER 0	
	9	SOLE DISPOSITIVE POWER 604,776 Shares	
	10	SHARED DISPOSITIVE POWER 0	
11		AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 604,776 Shares	

B.3. Excerpt of Bluestone Financials Ltd's Second Subsequent 13D, filed October 29, 2018

CUSIP NO. 846425833 SCHEDULE 13D

1 NAME OF REPORTING PERSON
S.S. or I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

BLUESTONE FINANCIAL LTD .

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP a) b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(E)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

BRITISH VIRGIN ISLANDS (BVI)

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7 SOLE VOTING POWER 765,000 Shares
	8 SHARED VOTING POWER 0
	9 SOLE DISPOSITIVE POWER 765,000 Shares
	10 SHARED DISPOSITIVE POWER 0

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

765,000 Shares

B.4. Excerpt of Bardin Hill's Initial 13D, filed February 14, 2019

CUSIP NO. 846425833

1. Names of Reporting Persons

HCN LP

2. Check the Appropriate Box If a Member of a Group (See Instructions)

a. [ ]
b. [ ]

3. SEC Use Only

4. Citizenship or Place of Organization

Cayman Islands

Number of Shares Beneficially Owned By Each Reporting Person With	**5.** Sole Voting Power 292,540
	6. Shared Voting Power 0
	7. Sole Dispositive Power 292,540
	8. Shared Dispositive Power 0

9. Aggregate Amount Beneficially Owned by Each Reporting Person

292,540