

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	WT Docket No. 16-385
)	
SKYBRIDGE SPECTRUM FOUNDATION)	Call Signs WQHU548, et al.
)	
TELESAURUS HOLDINGS GB LLC)	Call Sign WQGN602
)	
Applications for Waiver and Limited)	
Extension of Time)	

PETITION FOR RECONSIDERATION

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December 20, 2017

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PETITION FOR RECONSIDERATION

Susan L. Uecker, the court-appointed receiver (the “Receiver”) for Skybridge Spectrum Foundation (“Skybridge”) and Telesaurus Holdings GB LLC (“Telesaurus”) and other entities formerly controlled by Warren Havens (“Havens”) that hold FCC wireless spectrum licenses, pursuant to Section 1.106(b) of the Commission’s rules,¹ hereby petitions for reconsideration of the Order on Applications for Waiver and Limited Extension of Time (the “Order”) adopted and released on November 20, 2017 by the Commission.²

Specifically, the Receiver petitions the Commission to reconsider the Order’s denial of Skybridge’s and Telesaurus’s requests to extend the first construction deadline for the 129 Location and Monitoring service (“LMS”) licenses set forth in Exhibit A. The LMS licenses with an initial construction deadline of September 4, 2016 are licensed to Skybridge and Telesaurus, entities previously controlled by Havens and under the authority of the Receiver

¹ 47 C.F.R. § 1.106(b).

² *In re Helen Wong-Armijo, FCR, Inc., Skybridge Spectrum Foundation, & Telesaurus Holdings GB, LLC*, Report & Order, FCC 17-1124, WT Docket No. 16-385 (rel. Nov. 20, 2017) (the “Order”).

since November 16, 2015. While the Receiver has been working diligently to fulfill her duties, the Commission's Order states that the "Receiver faced no impediments under the Commission's rules...that would have prevented her from timely constructing or assigning the licenses to a party to construct prior to the construction deadline."³ The Commission also distinguishes the *Holland* decision⁴ from the Receiver's situation, arguing that the difficulties facing the receiver in that case were legal impediments but the difficulties facing the Receiver in this case presented only practical infeasibility.⁵ The Commission denied the Receiver's September 2, 2016 Request for Extension of Time to Construct (the "Request") based on its understanding of the obstacles faced by the Receiver in attempting to meet the September 4, 2016 construction deadline.

The Receiver requests reconsideration of the Commission's denial of the Request for three reasons. First, the Receiver faced insurmountable legal and practical obstacles that the Receiver believes are not fully reflected in the Order. Obstacles and delays that were outside of the Receiver's control meant that she had at most only weeks to fulfill the construction requirements or to market the licenses to someone who could.

Second, the Commission's incomplete understanding of the limitations faced by the Receiver resulted in it inappropriately distinguishing the Receiver's position here from that of the receiver in *Holland*, where the Commission recognized both legal and practical difficulties that are similar to those experienced by the Receiver in her first 10 months managing the receivership.

³ Order at ¶ 32.

⁴ *In re William M. Holland, Conditional, Limited Request for Waivers*, 31 FCC Rcd 3920 (2016) ("*Holland*").

⁵ Order at ¶ 33, n.150.

Finally, the Commission only briefly mentions the assignment application between Telesaurus and Progeny LMS LLC (“Progeny”), but says nothing about why this transaction does not serve the public interest and should not be allowed to occur given Progeny’s ability to put the license in question to good use by the September 4, 2018 deadline for substantial service. For these reasons, the Receiver respectfully asks the Commission to grant the Request.

I. THE RECEIVER FACED A LEGALLY AMBIGUOUS AND IMPRACTICAL SITUATION THAT PRECLUDED MARKETING THE LICENSES ON A CONDENSED TIMELINE.

The Alameda County Superior Court (“Superior Court”) appointed the Receiver with authority over licensees Skybridge and Telesaurus on November 16, 2015.⁶ The Receiver faced an initial construction deadline of September 4, 2016 on 128 Skybridge LMS licenses and one Telesaurus LMS license – and numerous hurdles to clear in order to meet that deadline.

The Receiver’s appointment alone did not empower her to market and sell the licenses. For that, the Receiver had to request court approval. In addition to the Superior Court’s appointment of authority over the Havens’ entities and their respective licenses, the Receiver needed the Commission to approve transfer of control applications before she had actual control over the licenses. She applied for transfer of the licenses on December 17, 2015, a month after her appointment. The Commission granted these transfer applications in early February 2016.⁷ That was the earliest point in time that the Receiver had actual control of the LMS licenses, but actual control over receivership property does not also legally permit a receiver to dispense with that property at will. After the Commission approved transfer of control, the Receiver sought

⁶ *Order Appointing Receiver After Hearing*, Case No. 2002-070640 (Nov. 16, 2015).

⁷ *See* Application for Transfer of Controls, ULS File Nos. 0007061847 (filed Dec. 17, 2015; amended Jan. 12, 2016; granted Feb. 12, 2016) and 0007060898 (filed Dec. 17, 2015; granted Feb. 6, 2016).

authority from the Superior Court to market licenses with imminent deadlines like the LMS licenses.⁸ She sought this authority expeditiously and obtained an order from the Superior Court granting her marketing authority on February 26, 2016.⁹

Two weeks later, on March 11, 2016, Havens filed a voluntary bankruptcy petition for Skybridge under Chapter 11 with the U.S. Bankruptcy Court for the District of Delaware on behalf of Skybridge (the “Bankruptcy Petition”).¹⁰ The Skybridge bankruptcy precluded the Receiver from acting on any Skybridge-related transaction because of the bankruptcy stay.¹¹

Ultimately, the Receiver successfully retained control of the Skybridge licenses, but not without almost four months of delay. The bankruptcy case was dismissed on May 6, 2016.¹² Havens sought reconsideration of the bankruptcy court’s dismissal of the Skybridge bankruptcy. The bankruptcy court considered that motion without the ordinary presumptions against reconsideration because it had ruled on grounds that had not been fully briefed at the time of the original dismissal.¹³ Thus, the pendency of the reconsideration motion created uncertainty as to the Receiver’s ability to sell the subject licenses for another two months. It was not until July 11,

⁸ *Notice of Ex Parte Request And Request of Receiver for Instructions Regarding Certain Spectrum Licenses With Renewal, Construction or Substantial Service Deadlines in 2016*, Case No. 2002-070640 (heard Feb. 18, 2016) (Exhibit B).

⁹ *Order Instructing Receiver Regarding Certain Spectrum Licenses With Renewal, Construction Or Substantial Service Deadlines In 2016*, Case No. 2002-070460 (Filed Feb. 26, 2016) (Exhibit C).

¹⁰ *See Skybridge Spectrum Foundation, Debtor*, Case 16-10626-CSS, Doc. 1.

¹¹ The bankruptcy stay also appeared to preclude any transaction for the Telesaurus LMS license, because that license was subject to a then-pending application to disaggregate a portion for transfer to Skybridge.

¹² *See Skybridge Spectrum Foundation, Debtor*, Case 16-10626-CSS, Doc. 122, Hearing Transcript for May 6, 2016 at 21:20-24 (“Mr. Havens was not capable of executing the petitions, which he did.”).

¹³ *See Skybridge Spectrum Foundation, Debtor*, Case 16-10626-CSS, Hearing Transcript for July 11, 2016 at 44, 45.

2016 that the bankruptcy court finally denied Havens' motion for reconsideration of the order dismissing the Skybridge bankruptcy.¹⁴

Havens continued to create legal obstacles for the Receiver in the less than two months between July 11, 2016 and the September 4, 2016 construction deadline. Havens moved to terminate the receivership on August 19, 2016.¹⁵ The Superior Court ultimately denied this attempt at termination in mid-September 2016, but that again created uncertainty for the receivership. On August 23, 2016, Havens filed an involuntary bankruptcy petition in the U.S. Bankruptcy Court, Northern District of California, against a debtor he called the "Leong Partnership" (the "Involuntary Petition").¹⁶ Havens then asserted that the Involuntary Petition, by operation of law, stayed any sales by the Receiver. While Havens' argument was legally wrong and the Superior Court ruled that the Involuntary Petition did not affect the Receiver, these challenges to the Receiver's authority made completing a sale to a credible buyer who could demonstrate the ability to construct these licenses impossible.

When the Receiver took over management of Skybridge and Telesaurus, there was no business plan in place to begin a buildout or market the licenses in the near term. Thus, even if the Receiver had not faced the judicial and regulatory obstacles to her authority that delayed her ability to work on a solution from November 2015 to July 2016, there was no plan for her to pursue. The Receiver only had authorization from the Superior Court and the Commission to market licenses, without the uncertainty of the bankruptcy stay, for two weeks in

¹⁴ See *Skybridge Spectrum Foundation, Debtor*, Case 16-10626-CSS, Doc. 133, Order (July 11, 2016) (Exhibit D).

¹⁵ *Motion to Terminate Receivership*, Case No. 2002-070640 (filed Aug. 19, 2016).

¹⁶ See *In re Leong Partnership*, Case No. 16-42363, Bkrc'y. N.D. Cal. Docket No. 1 (filed Aug. 23, 2016).

February/March 2016 and for another seven weeks before the September 4, 2016 construction deadline.

The Commission was incorrect in stating in its Order that “the Receiver remained at all times authorized to market and propose for sale any licenses held by the receivership entities prior to seeking court approval for the finality of those transactions.”¹⁷ That was only true from February 26 until March 11, 2016, technically true but practically unfeasible from the bankruptcy court’s dismissal on May 5, 2016 until July 11, 2016, and true again from July 11, 2016 to September 4, 2016, during which time Havens made two more attempts at legally challenging the Receiver’s authority.

The Receiver may have been able to market and sell these licenses in ten months, with no distractions due to frivolous litigation, but she could not do it in two months. Moreover, during all of 2016 the Receiver was also working diligently to conclude a number of AMTS transactions supporting public safety through positive train control (“PTC”) and other critical infrastructure industry (“CII”) applications, in line with the Commission’s publicly-stated goals.¹⁸

The ways in which Havens has continued to frustrate the Receiver’s efforts have been numerous and onerous. The Receiver’s main objective in this process is to preserve the value of the licenses until the dispute between Havens and Leong can be concluded by arbitration. The Receiver was limited in her ability to meet the Commission’s deadlines through no fault of her

¹⁷ Order at ¶ 32.

¹⁸ See *In re Maritime Communications/Land Mobile, LLC, Debtor-in-Possession, Application to Assign Licenses to Choctaw Holdings, LLC*, 29 FCC Rcd 10871, 10883 ¶ 29 (2014) (“It is a priority of the Commission to facilitate this important safety measure, and we have endeavored to develop policies to facilitate the rail industry’s acquisition and use of spectrum for PTC in the public interest.”); *In re Maritel, Inc. & Mobex Network Servs., LLC*, 22 FCC Rcd 8971, 8972 ¶ 1 (2007) (revising the AMTS rules to increase flexibility for uses on land, in order to “provide an additional means to meet growing demand for spectrum by PLMR licensees and end users, including public safety and critical infrastructure industry (CII) entities.”).

own, and she should be afforded the opportunity to find credible buyers for the Skybridge and Telesaurus LMS licenses.

II. THE FACTS OF *HOLLAND* ARE MORE SIMILAR TO THE RECEIVER'S THAN THE COMMISSION'S ORDER RECOGNIZES.

The Commission's conclusion that the Receiver's reliance on *Holland* "is misplaced" reflects a failure to consider all of the similarities between the limitations facing the Receiver and those described in *Holland*. The Commission implies that the receiver in *Holland* lacked the legal ability to pursue construction or assignment of the LMS licenses, while the Receiver always had legal authority to do so and simply faced practical infeasibility.¹⁹

Notwithstanding the actual legal limitations that faced the Receiver, as described in Part I, the Commission's interpretation of *Holland* fails to distinguish between the rationales it used to both grant renewal applications and waive construction deadlines in *Holland*. Allowing a receiver to renew a license because it had expired during a time period in which the receiver could not access the application online is different from allowing the waiver of a construction deadline for an active license so that the receiver can make a sale. The challenges faced by the receiver in *Holland*, specifically those relating to its failure to meet the construction deadline, are similar to the Receiver's limitations regarding initial construction deadlines.

In *Holland*, the receiver was granted the legal authority to sell and assign licenses at the commencement of the receivership on January 29, 2014.²⁰ He was denied the legal ability and information only to assign or renew applications because the former controlling entity purposefully withheld this power and information until May 7, 2014.²¹ This was not the explicit

¹⁹ *Order* at ¶ 33 & n.150.

²⁰ *Holland* at ¶ 4.

²¹ *Id.* at ¶ 5.

reason the Commission stated for why the waiver of construction and operational requirements for 38 active licenses was granted.²² This reason only applied to six licenses that had expired in early 2014, not to the other 38 licenses.²³

The Commission's reasoning in *Holland* for allowing renewal with respect to the six licenses that had expired in early 2014 dealt specifically with the receiver's inability to file renewal applications for approximately three months. This inability to file renewal applications was distinct from the responsibility the receiver still had to meet construction deadlines for the 38 other licenses. The Commission granted temporary waivers of the construction deadline for those licenses, which did not expire during the period between January and May 2014. They remained "active licenses currently held by Holland."²⁴ The receiver in *Holland* appears to have had more legal authority and opportunity to begin marketing and initiating commercial transactions for his 38 licenses than the Receiver had in this case. There was no legal impossibility on the part of the receiver in *Holland* to accomplish this goal, and yet the Commission still granted the waiver for the construction deadline even knowing that the receiver's only objective was to sell the licenses and not attempt any buildout of licenses under his control.²⁵

The Receiver's legal and practical limitations restricting her from marketing, much less selling, the LMS licenses have been more burdensome than even those faced by the receiver in *Holland*. In *Holland*, however, the Commission recognized that the receiver faced serious

²² *Id.* at ¶ 18.

²³ *Id.* at ¶ 17.

²⁴ *Id.* at ¶ 18.

²⁵ *Id.* at ¶ 7.

practical obstacles to completing these sorts of transactions prior to the construction deadlines in a responsible manner, and it granted relief accordingly. As mentioned in Part I, not only did the Receiver not obtain marketing authority from the Superior Court until February 26, 2016, she also faced numerous practical limitations in trying to find a credible buyer. The same equitable approach taken by the Commission in *Holland* should be taken here to allow the Receiver to responsibly market these licenses.

The Receiver has proven herself able to administer the Receivership and its assets in a responsible manner that advances the public interest. Unfortunately, securing credible buyers for LMS licenses who can follow through on construction efforts is a difficult and time-consuming task that cannot realistically be accomplished quickly in a responsible manner. As described in Part I, Havens did not make this task easy, nor could the Receiver actually make new sales of the licenses until two months before the construction deadlines. Nevertheless, the Receiver has created value in at least one of its LMS licenses by finding a credible buyer, as discussed in Part III. The Receiver simply seeks the same opportunity afforded the receiver in *Holland* to pursue marketing the LMS licenses without the cloud of legal uncertainty that existed for most of 2016.

III. THE ASSIGNMENT APPLICATION FROM TELESaurus TO PROGENY SERVES THE PUBLIC INTEREST.

Alongside its requests to extend the construction deadline and renew the LMS license with call sign WQGN602, Telesaurus requested to assign that license to Progeny. This assignment application was only briefly addressed in the Commission's Order.²⁶ The Receiver respectfully submits that grant of this assignment application would be in the public interest, and the Commission should reinstate the WQGN602 license for the express purpose of granting the

²⁶ See Order at ¶ 21.

assignment and permitting Progeny to employ the underlying spectrum to operate its wireless location network in Sacramento.

The Commission may waive its rules “if special circumstances warrant a deviation from the general rule” and such deviation will “better serve[] the public interest” than strict application of the rule.²⁷ In this instance, the special circumstances of the receivership, described above, made it impossible for the Receiver to negotiate the sale to Progeny, obtain Court approval, and obtain Commission approval prior to the construction deadline. The Receiver nevertheless exerted her best efforts and arranged the sale as promptly as practicable. The purchase agreement between Telesaurus and Progeny was signed on the March 9, 2017 expiration date for the license, and the assignment application was filed just a week later.²⁸ Allowing the parties to extend the first construction deadline in order to permit renewal and assignment of the WQGN602 license would have significant public safety benefits that warrant a brief deviation from the construction deadline. Allowing the transfer to Progeny would yield use of spectrum in the public interest much more quickly than the termination of this license.

The Commission has previously reinstated terminated licenses where the public interest would be best served by doing so.²⁹ Among other reasons, the Commission has reinstated licenses where termination of the license would have a “potentially adverse effect on public safety” because of a disruption to emergency communications;³⁰ where reinstatement was

²⁷*Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²⁸ The purchase agreement was entered into March 9, 2017, and the assignment application, File No. 0007701965, was filed March 16, 2017.

²⁹ See, e.g., *In re New Jersey Transit*, 27 FCC Rcd 3295, 3296 ¶ 8 (2012) (“*In re New Jersey Transit*”); *In re Daniel R. Goodman, Receiver, and Dr. Robert Chan*, 13 FCC Rcd 21944, 21971 ¶ 50 (1998) (“*In re Goodman*”); *In re Application of Danny’s Two Way Communications, Inc. d/b/a Dan Comm Paging*, 9 FCC Rcd 3192, 3194 ¶ 13 (1994) (“*In re Dan Comm Paging*”).

³⁰ *In re New Jersey Transit* at ¶ 8.

necessary to place the licenses on the same footing as similar licenses that were granted an extension of the construction period;³¹ and where the licensee delayed in providing service not because it was hoarding spectrum, but merely because it was arranging and ordering its existing licenses to make the best possible use of its spectrum to provide service to end users.³²

Similarly to each of these examples, reinstatement of the WQGN602 license and grant of the assignment to Progeny would facilitate emergency communications, place the WQGN602 license on a similar footing to Progeny's other LMS licenses, and enable Progeny to arrange its operations to offer high-quality, nationwide wireless location services. Accordingly, the public interest would be better served by granting the waiver and assigning the license than by strict adherence to the Commission's rules.³³

Reinstating the license and immediately granting the assignment application would serve the public interest because it would facilitate a service that helps first responders locate the source of wireless 911 calls, better pinpointing the site of an emergency. Specifically, it would enable Progeny to make its highly accurate indoor location service available in Sacramento. Progeny's service assists wireless carriers and public safety entities in satisfying the wireless location accuracy requirements adopted by the Commission in its *Indoor Location Accuracy Order*.³⁴ The Commission has recognized that Progeny's network "holds the potential of

³¹ *In re Goodman* at ¶ 50.

³² *In re Dan Comm Paging* at ¶¶ 10-13.

³³ *Northeast Cellular*, 897 F.2d at 1166.

³⁴ *In re Wireless E911 Location Accuracy Requirements*, 30 FCC Rcd 1259 (2015) ("*Indoor Location Accuracy Order*").

offering significant public safety benefits through improved E911 indoor location accuracy.”³⁵ It is likely to help wireless carriers meet location accuracy deadlines set by the Commission, including the requirement that they provide either an address that can be dispatched or an x/y-axis location accurate to within 50 meters for 80 percent of all wireless 911 calls by 2021 and the requirement that they provide compliant vertical location information in the top 50 cellular market areas in the U.S. by 2023.³⁶

In order to offer service in Sacramento, Progeny needs access to LMS spectrum in that area and a short time to construct and begin using the spectrum. In other words, the WQGN602 license should be placed on an equal footing with the LMS licenses extended in the *Progeny Order*.³⁷ Finally, the suggested waiver is not necessitated by bad faith or spectrum warehousing on the part of the Receiver. The Receiver used her best efforts to organize the Receivership’s portfolio of licenses, locate a suitable LMS buyer, arrange a sale, and obtain the required Court and Commission consents, all in order to ensure that quality wireless location services are provided to end users.

The Receiver therefore submits that the Commission should grant a waiver of the first construction deadline for the WQGN602 license, permitting reinstatement of the license for purposes of its assignment to Progeny. Such a waiver would serve the public interest by helping the Commission ensure that “all Americans using mobile phones – whether calling from urban or

³⁵ *In re Request of Progeny LMS, LLC for Waiver and Limited Extension of Time*, Order, 32 FCC Rcd 122, 136 ¶ 28 (2017) (“*Progeny Order*”).

³⁶ *Indoor Location Accuracy Order* at ¶ 6.

³⁷ *Progeny Order* at ¶ 27.

rural areas, from indoors or outdoors – have technology that is capable of providing accurate location information in times of an emergency.”³⁸

IV. CONCLUSION

For the foregoing reasons, the Commission should reconsider the Receiver’s Request. Initially, the Receiver was limited by a lack of legal authority to sell licenses, as well as by Havens’ interference and litigiousness that created practical and legal uncertainty surrounding the LMS licenses. This uncertainty has since been resolved and it is apparent by the Receiver’s diligent work and numerous license sales over the last year that the way forward will be more efficacious. Furthermore, the Receiver has created value in least one of the licenses by finding a credible buyer in Progeny, which, as demonstrated by other LMS license holders’ failure to meet construction deadlines, is not an easy feat. Briefly extending the construction deadline for these licenses one more time is both equitable and in the public interest.

³⁸ *Indoor Location Accuracy Order* at ¶ 10.

Respectfully submitted,

SKYBRIDGE SPECTRUM FOUNDATION

TELESAURUS HOLDINGS

/s/ Susan Uecker

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December 20, 2017

CERTIFICATE OF SERVICE

I, Ashley Yeager, hereby certify that on this 20th day of December 2017, a copy of the foregoing Petition for Reconsideration is being sent via first class, U.S. Mail, postage paid, to the following:

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/s/ Ashley Yeager

EXHIBIT A

Exhibit A: LMS Licenses

Licensee	Call Sign
Skybridge Spectrum Foundation	WQHU548
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Licensee	Call Sign
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Skybridge Spectrum Foundation	WQHU631
Skybridge Spectrum Foundation	WQHU632
Skybridge Spectrum Foundation	WQHU633

Licensee	Call Sign
Skybridge Spectrum Foundation	WQHU634
Skybridge Spectrum Foundation	WQHU635
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Skybridge Spectrum Foundation	WQHU673
Skybridge Spectrum Foundation	WQHU674
Skybridge Spectrum Foundation	WQHU675
Telesaurus Holdings	WQGN602

EXHIBIT B

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
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ENDORSED
FILED
ALAMEDA COUNTY

FEB 16 2016

CLERK OF THE SUPERIOR COURT
By Ciceli Johnson Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA
11 UNLIMITED JURISDICTION

12 ARNOLD LEONG,

13 Plaintiff,

14 v.

15 WARREN HAVENS, an individual,
ENVIRONMENTEL LLC,
16 ENVIRONMENTEL-2 LLC, INTELLIGENT
TRANSPORTATION & MONITORING
17 WIRELESS LLC, V2G LLC, ATLIS
WIRELESS LLC, SKYBRIDGE SPECTRUM
18 FOUNDATION, VERDE SYSTEMS LLC,
TELESAURUS HOLDINGS GB, LLC, and
19 DOES 1 through 30, inclusive,

20 Defendants.

Case No. 2002-070640

**NOTICE OF *EX PARTE* REQUEST AND
REQUEST OF RECEIVER FOR
INSTRUCTIONS REGARDING CERTAIN
SPECTRUM LICENSES WITH
RENEWAL, CONSTRUCTION OR
SUBSTANTIAL SERVICE DEADLINES
IN 2016;**

**MEMORANDUM OF POINTS AND
AUTHORITIES;**

**NOTICE OF APPLICATION AND
APPLICATION FOR BRIAN D. WEIMER
TO APPEAR AS COUNSEL *PRO HAC*
VICE;**

DECLARATION OF BRIAN D. WEIMER;

**DECLARATION OF DAVID A.
DEGROOT**

**[Proposed Order filed concurrently
herewith]**

Date: February 18, 2016
Time: 4:00 p.m.
Dept.: 24

**RESERVATION NOS. R-1710423 &
R-1710425**

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1 The Estate also holds interests in 43 Automated Maritime Telecommunications System licenses
2 (the "AMTS licenses"), 22 of which had an expiration date of April 26, 2015 and now have
3 renewal applications pending before the FCC, and 12 of which have an expiration date of
4 December 29, 2016. The Estate is in the process of completing negotiations started before the
5 receivership on a few sale transactions involving some of the AMTS licenses. The AMTS licenses
6 are not the subject of the current request for instructions.

7 As explained below, the MAS, LMS and Paging licenses (collectively, the
8 "Licenses") could be lost to the Receivership Estate entirely if the Federal Communications
9 Commission ("FCC") does not grant extensions, waivers, or renewals. The Receiver seeks
10 authorization to market and, subject to the approval of this Court and the FCC, sell the Licenses in
11 order to retain as much of their value for the Receivership Estate as possible.

12 The Receiver has separately applied for approval to hire a broker, Select Spectrum
13 LLC, to assist in the marketing and sale of the Licenses. The Receiver has engaged in and will
14 continue to engage in efforts with the FCC to obtain renewals, waivers, and/or extensions to retain
15 the value of the Licenses to the extent possible. Obtaining such outcomes with the FCC is
16 uncertain. Historically, the FCC has been hesitant to grant extension, waiver, and/or renewal
17 applications where it is not clear that a licensee has satisfied or can satisfy the construction and/or
18 substantial service obligations that are part of holding a license. The Receiver believes that the
19 Receivership Estate will benefit if she has the discretion to market and, subject to Court and FCC
20 approval, sell the Licenses in addition to her efforts to preserve the Licenses through renewal,
21 waiver, and/or extension applications. In that way, she can choose to maximize the value of the
22 Licenses by retaining them or selling them and will also be able to minimize the Estate's risk of
23 having some of the Licenses terminate with no benefit to the Estate.

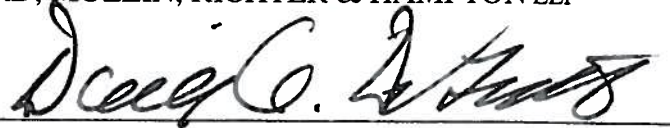
24 The imminent nature of the expiration of the MAS licenses in late March and the
25 necessity of allowing a broker time to market the Licenses are the particular circumstances
26 justifying an *ex parte* hearing. The Parties were given informal notice of the Receiver's intention
27 to bring an *ex parte* request for instructions on February 9, 2016. DeGroot Decl., Ex. 1. The
28

1 Receiver's moving papers were provided to the Parties by email on February 16, 2016 before 4
2 p.m. PST.

3
4 Dated: February 16, 2016

5 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

6
7 By



DAVID A. DeGROOT
Attorneys for Receiver
SUSAN L. UECKER

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to this Court's order of November 16, 2015 appointing Susan L. Uecker
4 as Receiver of the Receivership Entities and its November 25, 2015 and January 26, 2016 orders
5 modifying the November 16, 2015 order (collectively, the "Receivership Order"), the Receiver has
6 taken possession and control of the Receivership Entities. On February 6, 2016, the FCC granted
7 its consent to applications to transfer control of the FCC spectrum licenses to the Receiver. The
8 Receiver has evaluated the FCC spectrum licenses held by the Receivership Entities. Some of
9 them, the Licenses that are the subject of this Request, have renewal, construction and/or
10 substantial service deadlines during 2016.

11 The Receiver is acting to preserve the Licenses by seeking from the FCC license
12 renewals, waivers, and/or extensions or by making required showings of construction or
13 substantial service as necessary and appropriate. However, the FCC has discretion to grant or deny
14 such applications. In the past, the agency has demonstrated an unwillingness to grant such
15 applications when a license holder has not made the required progress toward construction or
16 substantial service. Because of the uncertainty surrounding renewals, waivers, and/or extensions,
17 the Receiver believes that the Licenses are at some risk of termination by the FCC.

18 One way to preserve the value of the Licenses for the estate is to sell them. While
19 license transfers are also subject to approval by the FCC, it is possible that the FCC would grant
20 transfers to buyers that it may view as likely to use the licenses to provide service. Conversely, if
21 the FCC concludes that the Receivership Entities are unable to provide service under the Licenses,
22 it may not grant extensions or other relief to allow the Estate to retain the Licenses. Thus, the
23 Receiver requests instructions from the Court to allow her to market and sell the Licenses.

24 **II. NOTICE OF AND JUSTIFICATION FOR EX PARTE APPLICATION**

25 The Receiver is requesting instructions regarding the sale of the Licenses on an *ex*
26 *parte* basis for three reasons. First, the MAS licenses have an expiration date of March 29, 2016.
27 Weimer Decl., ¶ 7. Second, about half of the LMS licenses and about half of the Paging licenses
28 have important construction deadlines in 2016 and the remainder of the Paging licenses expired in

2015 and have renewals pending. *Id.*, ¶¶ 8, 9. Third, the market for the Licenses is relatively illiquid and sales of such licenses typically involve months of marketing efforts. Declaration of Robert Finch (“Finch Decl.”), ¶ 6 (attached to accompanying Application to Employ Select Spectrum as Broker). Authorizing the Receiver to market and sell the Licenses will allow her to maximize the value of these Licenses for the Estate, but those efforts need to begin as soon as possible.

The Receiver, through counsel, provided informal notice to the parties of her intention to bring this Request and the application to employ Robert Finch of Select Spectrum as broker on February 9, 2016. DeGroot Decl., Ex. 1. She provided her moving papers to the parties on February 16, 2016 by 4 p.m. PST. *Id.*, ¶ 2.

III. BACKGROUND FACTS

A. FCC Procedural Background.

The Licenses in question are not rights held indefinitely with no obligations; they are time-limited and come with various regulatory requirements. In general, wireless spectrum licenses from the FCC are granted for set time periods that are subject to renewal. Wireless FCC licenses also typically have construction obligations that are designed to show that the licenses are being or will be used. Some FCC licenses also have substantial service obligations where a licensee must show that it is using the license to offer service. Weimer Decl., ¶ 4.

The timing of regulatory obligations varies depending on the particular license and licenses for different spectrum bands have different obligations. Some licenses, for example, have a construction deadline that coincides with the end of the license term. Some licenses have a construction obligation in the middle of the license term as well as at the end. Licensees can also ask for extensions to meet the various obligations and the FCC has discretion whether to grant or deny such requests. Weimer Decl., ¶ 5.

The FCC views spectrum licenses as a privilege that is granted to allow the public to benefit from the use of spectrum assets. Various FCC regulatory requirements are designed to ensure that spectrum is used rather than warehoused. If the FCC finds that the regulatory

1 requirements of a given license are not met, the FCC has the power to terminate a license or,
2 alternatively, may decide not to renew a license at the end of its initial term. Weimer Decl., ¶ 6.

3 **B. The Licenses That Are The Subject of This Request for Instructions.**

4 The Receivership Entities hold three types of licenses that are the subject of this
5 Request:

6 1) MAS licenses – the term of these 704 licenses held by the Receivership Entities
7 ends on March 29, 2016. The Receiver will file a renewal request and, as appropriate, extension
8 requests for construction and/or substantial service obligations for these licenses in due course.
9 The Receiver will also consider filing certain waiver requests. Because the end of the term for
10 these licenses is imminent, the Receiver’s request for authorization to sell these licenses is the
11 most critical issue before the Court. Weimer Decl., ¶ 7.

12 2) LMS licenses – the Receivership Entities hold 257 LMS licenses. Just over half,
13 or 129 licenses, require the licensee to file construction notices by September 4, 2016. The
14 Request only addresses those LMS licenses with construction deadlines this year. Non-compliance
15 with construction obligations could put those licenses at risk of non-renewal by the FCC. Of the
16 129 licenses with construction obligations due in September 2016, the terms of 34 end in March
17 2017. Weimer Decl., ¶ 8.

18 3) Paging licenses – the Receivership Entities hold 4,131 Paging licenses. Over
19 half of these licenses are the subject of extension applications filed by the Receivership Entities in
20 early November 2015 before the Receiver’s appointment, seeking an extension of the applicable
21 construction deadline. These extension applications have been the subject of an FCC Public
22 Notice, which sought public comment regarding the request to extend the applicable construction
23 deadline. At least one third party objected to any potential extension of the construction deadline
24 for these paging licenses. These extension request applications remain pending. If such extension
25 is not granted, these licenses may be terminated. Another 1,999 paging licenses are current but
26 have an interim construction notice due by November 1, 2016 and the license terms begin expiring
27 in 2020. Weimer Decl., ¶ 9.

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1 Additionally, the Receivership Entities hold 43 AMTS licenses that are not the
2 subject of this Request. Of the 43 AMTS licenses, 22 have expired and are the subject of renewal
3 applications filed by the Receivership Entities in 2015, before the Receiver's appointment. These
4 renewal applications remain pending. Another 12 AMTS licenses are current but have an
5 expiration date of December 29, 2016. Weimer Decl., ¶ 10.

6 **C. The Market for the Expiring Licenses**

7 If buyers are identified and deals are made, such deals will still require approval of
8 this Court and the FCC. The time required to obtain such approvals is uncertain, but all the while
9 regulatory deadlines will come closer and may eventually pass. Weimer Decl., ¶ 11.

10 Efforts to sell spectrum licenses like these normally take a period of months. It
11 takes time and effort to identify potential buyers and to negotiate sale or lease arrangements with
12 them. Since the market for these particular assets is relatively thin, it may take time to find buyers.
13 The more time that is available, the better the prospects for good prices for the assets. Finch Decl.,
14 ¶ 6. The FCC also needs to approve all license transfers, which can add anywhere from weeks to
15 months to complete a transfer. Licenses that have expired but are subject to pending renewal
16 requests can be marketed and sold under certain circumstances. Weimer Decl., ¶ 11.

17 Thus, the more time the Receiver has to market, sell and gain needed approvals for
18 spectrum transactions, the likelier it is that she can obtain favorable prices.

19 **IV. ARGUMENT**

20 **A. The Receiver Does Not Want to See Valuable Licenses Disappear**

21 The Receiver requests instructions from the Court so that she can avoid as much as
22 possible the potential loss of valuable spectrum licenses. The Receiver has acted and will act as
23 appropriate to seek renewals of Licenses, request waivers, request extension of deadlines to make
24 construction showings and/or substantial service showings, and bring the Licenses into substantial
25 service. The Receiver's ability to obtain renewals, waivers, and extensions, or to make adequate
26 showings of construction or substantial service, are subject to the discretion of the FCC. If the
27 Receiver cannot obtain renewals, waivers, or extensions as needed, some of these spectrum assets
28 may be completely lost to the Estate.

1 The Receiver seeks authority to market and sell the Licenses reluctantly. Ideally,
2 she could simply hold the Licenses pending the outcome of the arbitration dispute between the
3 Parties. She has limited this Request to that subset of licenses that face or are past important
4 regulatory deadlines and may take time to market carefully. The more imminent the deadline and
5 expiration date for a particular license, the more uncertainty for a buyer and the more risk for the
6 Estate. The Receiver believes that allowing her to have discretion to market and sell the Licenses
7 will lead to the best possible outcome for the Estate.

8 **B. The Court Has Discretion to Instruct the Receiver to Sell the Licenses.**

9 In a civil action, a receiver is an agent and officer of the court, and property in the
10 receiver's hands is under the control and continuous supervision of the court. *Lesser & Son v.*
11 *Seymour*, 35 Cal.2d 494, 499 (1950); *Gold v. Gold*, 114 Cal.App.4th 791, 806 (2003); Code Civ.
12 Proc. § 568. "[T]he importance of the trial court's role in supervising a receiver cannot be
13 understated. 'The receiver is but the hand of the court, to aid it in preserving and managing the
14 property involved in the suit for the benefit of those to whom it may ultimately be determined to
15 belong.' [Citations.]" *Marsch v. Williams*, 23 Cal.App.4th 238, 248 (1994). A court appointing a
16 receiver has broad power to prescribe the manner in which property is to be sold. *Lesser & Son*, 35
17 Cal.2d at 499. The "main function" of the court is to manage or dispose of the property "in the best
18 manner possible and for the best interest of the parties concerned. To perform that duty effectively
19 necessarily requires some flexibility and continuity of jurisdiction in giving instructions to the
20 receiver as to the manner in which the property should be sold to meet exigencies as they may
21 arise. *Lesser & Son*, 35 Cal.2d at 499.

22 The Receiver believes that she may not be able to preserve the Licenses simply by
23 holding them. If regulatory requirements and deadlines are not met, or if the FCC decides to deny
24 applications for renewals, waivers or extensions, some of the Licenses could simply disappear.
25 The Receiver believes that the best way to achieve value for the Estate is allow her to employ a
26 broker who can locate potential purchasers of the Licenses and maximize the purchase price of the
27 Licenses – thereby maximizing the value of the Licenses to the Estate. That would also give her
28 the ability to react to circumstances as they arise.

1 If the Court grants this Request, it would not deprive the parties of having their say
2 before this Court regarding any proposed sale transaction or the Court of its ability to grant or
3 deny approval of any proposed sale. It would give the Receiver a much better chance of returning
4 value to the parties at the end of the Receivership.

5 **C. If the Court Is Inclined To Issue A Narrow Ruling On An *Ex Parte* Basis, The**
6 **Receiver Suggests That It Is Most Critical To Provide Instructions As To Licenses At**
7 **Risk of Imminent Expiration.**

8 The Receiver believes that it is in the best interests of the Estate that she have the
9 power to market and sell the Licenses. As explained above, the Licenses have a variety of
10 impending regulatory deadlines. If the Court is inclined to consider the issues raised after a fuller
11 briefing, the Receiver suggests that the Court prioritize two items for immediate relief.

12 First, the Receiver suggests that the Court grant the accompanying application to
13 employ Select Spectrum as broker immediately. This would allow the broker to begin the process
14 of marketing the Licenses. Second, the Receiver suggests that the Court grant the motion as to the
15 MAS licenses immediately, due to their imminent expiration. The motion as to the LMS and
16 Paging licenses, which have deadlines that are not quite as imminent, could be heard in March
17 after further briefing if necessary.

18 **V. CONCLUSION**

19 For the foregoing reasons, the Receiver respectfully requests that the Court approve
20 her employment of Select Spectrum as broker and instruct her that she is permitted to use her
21 discretion to market and sell the Licenses, subject to Court approval.

22 Dated: February 16, 2016

23 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

24 By



25 DAVID A. DeGROOT
26 Attorneys for Receiver
27 SUSAN L. UECKER
28

1 **NOTICE OF APPLICATION AND APPLICATION OF BRIAN D. WEIMER**
2 **TO APPEAR AS COUNSEL *PRO HAC VICE***

3 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

4 **PLEASE TAKE NOTICE THAT** that on February 18, 2016, at 4 pm, or as soon
5 thereafter as counsel can be heard in Department 24 of the Alameda County Superior Court,
6 located at 1221 Oak Street, Oakland, CA 94612, Susan L. Uecker, Court-appointed receiver
7 (“Receiver”) in the above-referenced action, will and hereby does move this Court for an order
8 granting this Application of Brian D. Weimer, an attorney with Sheppard, Mullin, Richter &
9 Hampton LLP in Washington, D.C., to allow him to appear *pro hac vice* in the representation of
10 the Receiver in the above-entitled matter.

11 This Application is made pursuant to California Rule of Court 9.40 and is based on
12 this Notice of Application and Application, the Declaration of David A. DeGroot, all pleadings,
13 records and files herein, and such other and further information that may be provided at the
14 hearing for this Application.

15 California Rule of Court 9.40 provides that a person who is not a member of the
16 State Bar of California, but is a member in good standing of the Bar of any United States Court or
17 the highest court in any state, and who has been retained to appear in a particular case pending in a
18 court of this state, may, in the discretion of the court and upon written application, appear as
19 counsel *pro hac vice*, provided an active member of the State Bar of California is associated as
20 counsel of record.

21 Plaintiffs respectfully request that the Court grant the application of Brian D.
22 Weimer to appear *pro hac vice* in this action. Mr. Weimer is a resident of the State of Virginia, a
23 member in good standing of the bar of the District of Columbia, and an attorney in Sheppard,
24 Mullin, Richter & Hampton LLP’s (“Sheppard Mullin”) Washington, D.C. office. Mr. Weimer has
25 not previously sought admission *pro hac vice* in a court in California. Weimer Decl., ¶ 2. The
26 Receiver anticipates that Mr. Weimer's appearance may be required on their behalf throughout the
27 course of this action. Mr. Weimer is associated with David A. DeGroot of Sheppard Mullin’s San
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1 Francisco office, who is an active member of the State Bar of California in good standing, and
2 who is an attorney of record in this action.

3 Notice and copies of this application were provided to all parties in this action and
4 to the San Francisco Office of the State Bar of California with the appropriate fees, as provided in
5 Code of Civil Procedure 1005 and California Rule of Court 9.40. DeGroot Decl., ¶ 3 and Ex. 2.
6 This Application and the accompanying declarations demonstrate that all of the requirements of
7 Rule 9.40 have been met. Accordingly, Plaintiffs request that the applicant be permitted to appear
8 as counsel *pro hac vice* in this action, in association with Sheppard Mullin, attorneys of record for
9 Plaintiffs.

10 Dated: February 16, 2016

11 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

12
13 By



14 DAVID A. DeGROOT
15 Attorneys for Receiver
16 SUSAN L. UECKER
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1 show that the licenses are being or will be used. Some FCC licenses also have substantial service
2 obligations where a licensee must show that it is using the license to offer service.

3 5. The timing of regulatory obligations varies depending on the particular
4 license and licenses for different spectrum bands have different obligations. Some licenses, for
5 example, have a construction deadline that coincides with the end of the license term. Some
6 licenses have a construction obligation in the middle of the license term as well as at the end.
7 Licensees can also ask for extensions to meet the various obligations and the FCC has discretion
8 whether to grant or deny such requests.

9 6. The FCC views spectrum licenses as a privilege that is granted to allow the
10 public to benefit from the use of spectrum assets. Various FCC regulatory requirements are
11 designed to ensure that spectrum is used rather than warehoused. If the FCC finds that the
12 regulatory requirements of a given license are not met, the FCC has the power to terminate a
13 license or alternatively, may decide not to renew a license at the end of its initial term.

14 7. The Receivership Entities hold three types of licenses that are the subject of
15 this Request. First, they hold MAS licenses. The term of these 704 licenses held by the
16 Receivership Entities ends on March 29, 2016. The Receiver will file a renewal request and, as
17 appropriate, extension requests for construction and/or substantial service obligations for these
18 licenses in due course. The Receiver will also consider filing certain waiver requests. Because the
19 end of the term for these licenses is imminent, I believe the Receiver's request for authorization to
20 sell these licenses is the most critical issue before the Court.

21 8. Second, the Receivership Entities also hold LMS licenses. They have 257
22 LMS licenses. Just over half, or 129 licenses, require the licensee to file construction notices by
23 September 4, 2016. Non-compliance with construction obligations could put those licenses at risk
24 of non-renewal by the FCC. Of the 129 licenses with construction obligations due in September
25 2016, the terms of 34 end in March 2017.

26 9. Third, the Receivership Entities hold 4,131 Paging licenses. Over half of
27 these licenses are the subject of extension applications filed by the Receivership Entities in early
28 November 2015 before the Receiver's appointment, seeking an extension of the applicable

1 construction deadline. These extension applications have been the subject of an FCC Public
2 Notice, which sought public comment regarding the request to extend the applicable construction
3 deadline. At least one third party objected to any potential extension of the construction deadline
4 for these paging licenses. These extension request applications remain pending. If such extension
5 is not granted, these licenses may be terminated. Another 1,999 paging licenses are current but
6 have an interim construction notice due by November 1, 2016 and the license terms begin expiring
7 in 2018.

8 10. Additionally, the Receivership Entities hold 43 AMTS licenses that are not
9 the subject of this Request. Of the 43 AMTS licenses, 22 have expired and are the subject of
10 renewal applications filed by the Receivership Entities in 2015, before the Receiver's
11 appointment. These renewal applications remain pending. Another 12 AMTS licenses are current
12 but have an expiration date of December 29, 2016.

13 11. If buyers are identified and deals are made, such deals will still require
14 approval of this Court and the FCC. The time required to obtain such approvals is uncertain, but
15 all the while regulatory deadlines will come closer and may eventually pass. The FCC also needs
16 to approve all license transfers, which can add anywhere from weeks to months to complete a
17 transfer. Licenses that have expired but are subject to pending renewal requests can be marketed
18 and sold under certain circumstances.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct. Executed on February 16, 2015, at Washington, D.C.

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23 Brian D. Weimer
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EXHIBIT 1

David DeGroot

From: David DeGroot
Sent: Tuesday, February 09, 2016 4:37 PM
To: Andrew Downs; C. Todd Norris; James Robinson; Paul Kirsch; Richard Osman
Cc: Susan L. Uecker (suecker@ueckerassoc.com); Geraldine Freeman
Subject: Leong v. Havens - planned ex parte hearing on Feb. 18
Attachments: CV of Robert Finch.pdf

Dear Counsel,

The receiver wishes to alert the parties to her intention to file an ex parte request (1) for authorization to sell certain wireless licenses issued by the FCC to various receivership entities and (2) to employ a broker, Robert Finch of Select Spectrum, to assist in such a sale. Alternatively, the receiver would seek permission to list the licenses described below for sale without assistance of a broker. The receiver has reserved February 18 at 4 pm for an ex parte hearing with the Court. This authorization would be in addition to her continuation of efforts to sell a few licenses that the Receivership Entities were in negotiations to sell prior to the start of the receivership, such as with GE Transportation and PTC-220.

The wireless licenses that are the subject of the ex parte motion begin expiring as early as March 2016. They are MAS licenses expiring next month, LMS licenses expiring in September 2016, and paging licenses expiring in November 2016. While the FCC rules provide for renewal of wireless licenses, there can be no assurance that the licenses will be renewed by the FCC in the ordinary course. The receiver believes that she may not be able to retain these licenses for the estate and wishes to engage a broker to see if there is a market for them and, if so, explore sales or leases of said licenses subject to the approval of the Court and the FCC. She further believes that this may be the only way she can preserve any value for the estate from many of these licenses. The imminence of the March deadline requires the submission of the receiver's request ex parte.

The receiver welcomes your input and is notifying you of her intentions now so that your respective clients can provide that input. A copy of Mr. Finch's CV is attached. The ex parte application for authorization to sell will be limited to the subset of licenses with 2016 expiration dates described above.

While the receiver's preference is to retain as many licenses as possible, if faced with the choice of obtaining value for licenses at risk of expiration or seeing expiration come to pass with no value realized for the estate, she believes the parties' preference would be to realize as much value as possible.

The receiver is willing to work with the parties to obtain a stipulation regarding the licenses at risk of imminent expiration. If no stipulation can be reached, we anticipate providing the ex parte moving papers at least 48 hours in advance of the proposed hearing. Please advise if you have questions or concerns in the meantime.

Best regards,
David DeGroot

David DeGroot
415.774.3230 | direct
415.403.6062 | direct fax
DDeGroot@sheppardmullin.com | [Bio](#)

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109
415.434.9100 | main
www.sheppardmullin.com

EXHIBIT 2

February 16, 2016

415.774.3230 direct
ddegroot@sheppardmullin.com

File Number: ONDS-212269

VIA U.S. MAIL

The State Bar of California
Office of Admissions
Pro Hac Vice Program
180 Howard Street
San Francisco, CA 94105-1639

Re: Pro Hac Vice Application – Leong v. Havens, Alameda Sup. Ct. No. 2002-070640

Dear Sir or Madam:

Enclosed is a copy of an application for Brian D. Weimer to appear pro hac vice in the above-referenced matter now pending in California Superior Court for the County of Alameda. Also enclosed is a credit card authorization form in the amount of \$50 for the appropriate application fee. Please do not hesitate to contact me should you have any questions.

Very truly yours,



David A. DeGroot
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:224612012.1

Enclosure: credit card authorization form

EXHIBIT C



12112109

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
Including Professional Corporations
GERALDINE A. FREEMAN, Cal. Bar No. 111483
DAVID A. DEGROOT, Cal. Bar No. 168073
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Telephone: 415.434.9100
Facsimile: 415.434.3947
Email: gfreeman@sheppardmullin.com
ddegroot@sheppardmullin.com

Attorneys for Receiver
SUSAN L. UECKER

FILED
ALAMEDA COUNTY

FEB 26 2016

CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

ARNOLD LEONG,

Plaintiff,

v.

WARREN HAVENS, an individual,
ENVIRONMENTEL LLC,
ENVIRONMENTEL-2 LLC,
INTELLIGENT TRANSPORTATION &
MONITORING WIRELESS LLC, V2G
LLC, ATLAS WIRELESS LLC,
SKYBRIDGE SPECTRUM
FOUNDATION, VERDE SYSTEMS
LLC, TELESORUS HOLDINGS GB,
LLC, and DOES 1 through 30, inclusive,

Defendants.

Case No. 2002-070640

**~~PROPOSED~~ ORDER INSTRUCTING
RECEIVER REGARDING CERTAIN
SPECTRUM LICENSES WITH
RENEWAL, CONSTRUCTION OR
SUBSTANTIAL SERVICE DEADLINES
IN 2016**

Date: February 18 & 25, 2016
Time: 4 p.m.
Dept.: 24

**RESERVATION NOS. R-1710423 &
R-1710425**

1 The application filed by the Court-appointed receiver in this action, Susan L.
2 Uecker ("Receiver"), entitled *Request Of Receiver For Instructions Regarding Certain Spectrum*
3 *Licenses With Renewal, Construction Or Substantial Service Deadlines In 2016* (the "Request")
4 was heard on February 18 and 25, 2016 at 4 p.m. in Department 24 of the above-captioned Court.

5 Appearances were made as set forth on the record of the hearing. Having
6 considered the Request, the pleadings submitted in support thereof, and the representations of
7 counsel at the hearing, finding that notice of the Request was sufficient, and good cause appearing
8 therefor, the Court hereby instructs the Receiver and orders as follows:

9 THE RECEIVER IS INSTRUCTED THAT she is permitted, but not required, to
10 market and sell certain spectrum licenses that are the subject of renewal, construction and
11 substantial service deadlines in 2016. They are:

- 12 • 704 Multiple Address Systems licenses ("MAS licenses") that expire March
13 29, 2016;
- 14 • 129 Location and Monitoring Service licenses ("LMS licenses") held by
15 Skybridge Spectrum Foundation, which face a September 2016 deadline for
16 construction; and
- 17 • 2,132 paging licenses ("Paging licenses") which had a construction deadline
18 of November 3, 2015 and are currently the subject of an extension
19 application. .

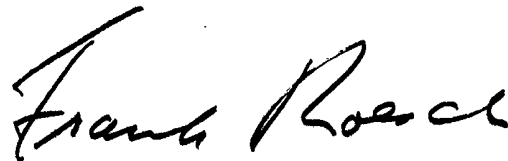
20 Collectively, the MAS, LMS and Paging licenses are referred to herein as the "Licenses." Any
21 sale of any License remains subject to approval by this Court as well as any applicable approval
22 by the Federal Communications Commission ("FCC").

23 THE RECEIVER IS FURTHER INSTRUCTED THAT she ^{shall} ~~may~~ continue to
24 engage in efforts with the FCC to obtain renewals, waivers, and/or extensions to retain the value
25 of the Licenses to the extent possible and that she has discretion to determine which of the
26 Licenses she chooses to market and to sell, trade or lease, contingent upon this Court's approval of
27 any transaction.
28

1 THE RECEIVER IS FURTHER INSTRUCTED THAT she may evaluate certain
2 VPC licenses suggested by defendant Warren Havens ("Havens") for possible sale and that she
3 has discretion to determine which of the VPC licenses she chooses to market and to sell, trade or
4 lease, contingent upon this Court's approval of any transaction.

5 IT IS SO ORDERED.

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7 DATED: 2/26/2016

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10 JUDGE OF THE SUPERIOR COURT
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EXHIBIT D

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re	:	Chapter 11
	:	
Skybridge Spectrum Foundation,	:	Case No. 16-10626(CSS)
	:	
	:	
Debtor.	:	Related to Docket No: 124
	:	

ORDER

Upon consideration of the Debtor's Motion for Reconsideration of Order Dismissing Case [Docket No.: 124] filed on May 20, 2016 (the "Motion"), the Court having reviewed the Motion and the objections thereto; the Court having heard evidence and the statements of counsel regarding the Motion at a hearing before the Court on July 11, 2016 (the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (iii) notice of the Motion and the Hearing were sufficient notice under the circumstances; and (iv) the Court has judicial power to enter a final order.

IT IS HEREBY ORDERED THAT, for the reasons set forth on the record at the Hearing, the Motion is Denied.



Christopher S. Sontchi
United States Bankruptcy Court Judge

Dated: July 11, 2016