

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In re)	
)	
GLR Southern California, LLC)	
)	
Application for Transfer of Control from)	File No. 325-NEW-20180614-00001
GLR Services, Inc. to)	
H&H Group USA, LLC)	
)	
For Delivery of Programming to)	
Mexican Station XEWW-AM,)	
Rosarita, Baja California Norte, Mexico)	

To: Secretary
Attn.: Chief, International Bureau

SUPPLEMENT TO PETITION TO DENY

**CHINESE SOUND OF ORIENTAL AND
WEST HERITAGE**

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September 4, 2018

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I. Summary

Chinese Sound of Oriental and West Heritage (“CSO”), hereby supplements¹ its Petition to Deny filed August 8, 2018 to provide additional information, a great deal of which was not available at the time that CSO filed. The information provided includes recent U.S. Government policy statements and directives that indicate the U.S. Government is very concerned about the impact of People’s Republic of China (“PRC or China”) propaganda being broadcast in the U.S. In addition, the Supplement contains additional information about H&H Group USA and its ties to Phoenix TV, which is in turn directly connected with the PRC. The evidence demonstrates that the H&H Application is yet another attempt driven by Phoenix TV, reflecting the dictates of the PRC, in an effort to influence Chinese Americans in Southern California with propaganda programming including programming to impact upcoming U.S. elections.

CSO submits that the H&H Application must be considered both within the traditional rules and procedures applicable to Section 325(c) permits, and additionally, within the context of the new White House National Security Strategy,² the jurisdiction of the Committee on Foreign Investment in the United States (“CFIUS”),³ the Foreign Agents Registration Act and other federal statutory provisions and policies involving China-linked entities. All of these sets of considerations are within the ambit of the public interest, convenience and necessity, which must be met before the Application can be granted.

¹ Pursuant to Section 1.3 of the Commission’s Rules, CSO requests leave to file this Supplement. As shall be demonstrated herein, much of the information presented was not available prior to the date for filing the Petition to Deny.

² See White House National Security Strategy, released, December 18, 2017, *infra*.

³ CFIUS is an interagency committee authorized to review certain transactions involving foreign investment in the United States (“covered transactions”), in order to determine the effect of such transactions on the national security of the United States. CFIUS operates pursuant to section 721 of the Defense Production Act of 1950, as amended (section 721), 50 U.S.C. 4565, and as implemented by Executive Order 11858, as amended, and regulations at 31 C.F.R. Part 800.

The evidence shows that H&H employs ex-Phoenix TV on-air hosts to assist in Beijing's efforts to provide propaganda programming to Chinese Americans. H&H has no local facilities or studios of its own, instead, it is co-located with Phoenix TV, which recruits, controls and employs news staffing and broadcasts over XEWW-AM on behalf of Phoenix TV. As agents for the PRC, H&H and Phoenix TV are required to register with the Department of Justice ("DOJ") as foreign lobbyists but have not done so. H&H is also required to secure approval from CFIUS for this transaction but has not done so.

In this Supplement, CSO will demonstrate that the Commission should deny the Application because:

- (1) H&H has failed to disclose its direct relationship with Phoenix TV and indirect relationship with the PRC,
- (2) the evidence demonstrates that Phoenix TV will have substantial control over the programming produced and aired by H&H, and Phoenix TV is directly connected with the PRC,
- (3) recent legislation passed by Congress and policies adopted by the White House, CFIUS, the U.S. Trade Representative, and U.S.-China Economic Security and Review Commission ("USCESRC") obligate the Commission to investigate this attempt by the PRC to use the Application to influence U.S. elections,
- (4) the Commission should postpone any action on the Application until it is determined whether H&H and Phoenix TV must register under the Foreign Agents Registration Act,
- (5) the Commission should refer the Application to the CFIUS for review,
- (6) the proposed programming is objectionable within the meaning of Section 235(c),

- (7) grant of the Application would result in harmful interference to KCEE(AM) and the 690 kHz construction permit in Flagstaff, Arizona, and
- (8) the application fails to provide important information about the source and amount of financing being provided.

Alternatively, as CSO shall demonstrate, material and substantial questions of fact are presented mandating the need for an evidentiary hearing pursuant to Section 309(d)(2) of the Commission's Rules, to resolve the questions presented.

II. Preliminary Statement

On August 8, 2018, CSO, licensee of low power FM radio station KQEV-LP, Walnut, California, filed a Petition to Deny ("Petition") the Application for Permit to Deliver Programs to Foreign Broadcast Stations ("Application") filed by GLR Southern California, LLC ("Licensee"), Licensee's parent company, GLR Services, Inc. ("Transferor") and H&H Group USA, LLC ("H&H" or "Transferee" and collectively with Licensee and Transferor, "Applicants").

In its Petition, CSO opposed grant of the Application because a grant: (1) would cause economic harm to KQEV-LP, a LPFM radio station that has been licensed for less than three years, and (2) would enable the PRC to provide its own propaganda programming to air on the station to American citizens and residents. In support of the Petition, CSO maintained that the Application was not in the public interest as required by 47 U.S.C 307 and 309. CSO now augments the Petition and supplements it with developments occurring subsequent to the filing of the Petition.

III. Background Statement

The United States recently announced a major and dramatic shift in policy and priorities toward China and its overseas investments and impacts upon the American economy.

Specifically, on August 13, 2018, the President signed the National Defense Authorization Act,⁴ which authorizes the President to investigate, suspend or prohibit any transaction resulting in control of a U.S. business by a foreign person where the President determines such transaction threatens to impair U.S. national security. As shall be described in detail below, this action reflects the growing U.S. Government concern, going back several years, about the potential impact of PRC efforts to gain excessive influence within the U.S.

The concern over PRC influence began a few years after China joined the World Trade Organization (“WTO”). When China joined the WTO in 2001, it became obligated to revise hundreds of its laws, regulations, policies, procedures and practices to bring China into conformity with its WTO standards. American officials expected that China would dismantle state policies and practices that were incompatible with a trading system based on open, market-oriented policies, non-discrimination and fairness. See “United States Trade Representative, 2017 Report to Congress on China’s WTO Compliance, January 2018, at 2-3.”⁵

Rather than improve, China’s compliance has deteriorated substantially. The U.S. and other trading partners continue to encounter major challenges with China’s international practices. *Id.* The U.S. National Security Agency has designated China a “strategic competitor” engaged in “economic aggression.” See White House National Security Strategy, released December 18, 2017 (“Security Strategy”).⁶ U.S. agency actions in dealings with China are to be

⁴ See 2019 NDAA, *infra*.

⁵ Available online at <https://ustr.gov/sites/default/files/files/Press/Reports/China%202017%20WTO%20Report.pdf>, See also <https://www.whitehouse.gov/wp-content/uploads/2018/06/FINAL-China-Technology-Report-6.18.18-PDF.pdf>

⁶ <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905-2.pdf> (“Security Strategy”) at p. 2. See also “How China’s Economic Aggression

guided by the policies detailed in the report. The Security Strategy addresses key challenges and trends that affect the U.S. standing in the world, including revisionist powers such as China that use technology, propaganda and coercion to shape people and interests antithetical to American interests and values. See Security Strategy Summary, Fact Sheets.⁷

The Security Strategy acknowledges China's challenges to American industries and economy, and it warns U.S. government agencies as to China's efforts to make the U.S. economy less free and less fair.⁸ Critically, with respect to the instant Application, the Security Strategy acknowledges China's efforts to counter the free flow of information, repress communities and expand Chinese influence.⁹ To underscore the risks, the White House National Security Adviser has warned that there is sufficient concern that Russia and China could be attempting to interfere with the upcoming 2018 congressional elections.¹⁰ CSO submits that such interference would be enabled by programming provided by H&H on XEWW-AM that would be broadcast throughout all of Southern California's twenty-six congressional districts.¹¹

In addition to the White House security office, on August 24, 2018, the U.S.-China Economic Security and Review Commission¹² ("USCESRC") provided confirmation of China's

Threatens the Technologies and Intellectual Property of the United States and the World," White House Office of Trade and Manufacturing Policy, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/FINAL-China-Technology-Report-6.18.18-PDF.pdf>

⁷ Available online at <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-announces-national-security-strategy-advance-americas-interests/>

⁸ Security Strategy at 2.

⁹ *Id.*

¹⁰ See <https://www.wsj.com/articles/u-s-intelligence-officials-warn-of-pervasive-russian-efforts-to-disrupt-2018-elections-1533235652> and <http://www.dailymail.co.uk/news/article-6076071/Now-China-Iran-North-Korea-join-Russia-meddling-2018-elections.html>

¹¹ California has the country's largest population and 53 congressional districts, a greater number than any other state.

¹² The Commission was created by Congress to monitor, investigate, and submit to Congress an annual report on the national security implications of the bilateral trade and economic

intent to manipulate overseas Chinese to adhere to China's will. In a report, the staff of the Commission concludes:

China uses what it calls "United Front" work to co-opt and neutralize sources of potential opposition to the policies and authority of its ruling Chinese Communist Party (CCP). The CCP's United Front Work Department (UFWD)—the agency responsible for coordinating these kinds of influence operations—mostly focuses on the management of potential opposition groups inside China, but it also has an important foreign influence mission. To carry out its influence activities abroad, the UFWD directs "overseas Chinese work," which seeks to co-opt ethnic Chinese individuals and communities living outside China, while a number of other key affiliated organizations guided by China's broader United Front strategy conduct influence operations targeting foreign actors and states. Some of these entities have clear connections to the CCP's United Front strategy, while others' linkage is less explicit....¹³

Overseas media is a specific target of the United Front. The USCESRC documents this resolve, detailing the United Front efforts in Australia, as follows:

Controlling the Media: Dr. Chau Chak Wing, a China-born Australian citizen, business magnate, and member of the CPPCC, has also been prominent in United Front operations in Australia, both via donations and by seeking to exert control over Australia's formerly vibrant Chinese-language media landscape. According to an editor at a pro-Beijing publication in Australia cited by the Sydney Morning Herald, 'Nearly 95 percent of the Australian Chinese newspapers have been brought in by the Chinese government to some degree.' Australian National University Professor Bates Gill and independent researcher Linda Jakobson cited the Australian New Express Daily as a particularly striking example of Chinese government influence, which Mr. Chau praised for 'never hav[ing] any negative reporting [about China].' According to John Garnaut, Dr. Chau 'made himself known as the point man for organizing the Chinese diaspora in Australia' using his 'Beijing-friendly Chinese media empire.'¹⁴ [citations omitted.]

relationship between the United States and China, and to provide recommendations, where appropriate, to Congress for legislative and administrative action. See 22 U.S.C. § 7002.

¹³ See, China's Overseas United Front Work Background and Implications for the United States, Executive Summary, released August 24, 2018. Available online at https://www.uscc.gov/sites/default/files/Research/China%27s%20Overseas%20United%20Front%20Work%20-%20Background%20and%20Implications%20for%20US_final.pdf

¹⁴ *Id.* at 17.

The efforts of the PRC to control information are rooted in its earliest days. Following World War II, the PRC imposed strict political controls over the everyday lives of its people and the lives of millions of overseas ethnic Chinese people, even as it focused on a market-oriented economy. See “CIA World Factbook: China” (2018).¹⁵ China also seeks to exert its impact on global affairs, including American policies. *Id.* Media in China is strictly controlled by the PRC. The US Central Intelligence Agency has determined that *all broadcast* media in China are owned by, or affiliated with, the PRC’s ruling Communist Chinese Party or a government agency and that the Central Propaganda Department issues directives to all domestic media outlets to guide the broadcast of programming content. CIA World Factbook: China: Communications; Broadcast Media (2018).¹⁶

The PRC control of media is not limited to mainland China; it includes Hong Kong as well. Since the British relinquished control in 1997, Hong Kong has become a subordinate part of the PRC, i.e., a province-like Special Administrative District pursuant to the Sino-British Joint Declaration.¹⁷ Therein, the PRC stated that it would exercise sovereignty over Hong Kong, and the United Kingdom declared that it would surrender sovereignty over Hong Kong to the PRC. In the document, the PRC also declared its basic policy regarding Hong Kong, which is that it operates under the concept of a "One Country, Two Systems" principle.¹⁸

The Joint Declaration also provided that the two systems’ basic policies should be stipulated in the Hong Kong Basic Law. Article 27 of the Basic Law provides that Hong Kong

¹⁵ Available online at <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>

¹⁶ See <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>

¹⁷ The Declaration became effective with the exchange of instruments of ratification on May 27, 1985 and was registered by the PRC and United Kingdom governments at the United Nations on June 12, 1985. A copy is available at <https://www.cmab.gov.hk/en/issues/jd2.htm>

¹⁸ *Id.*

would continue its prior press freedoms.¹⁹ However, as detailed below, freedom of the press in Hong Kong is substantially constrained by the PRC.

Hong Kong media is robust in criticism of the *territory's government* but not so as to the PRC government. As Freedom House²⁰ has reported:

Beijing's enormous economic power and influence over Hong Kong businesses, politicians, and media owners allow it to exert considerable indirect pressure on the territory's media, leading to growing self-censorship in recent years.²¹

Freedom House went on to report:

During 2014, the environment for media freedom declined further as physical attacks against journalists increased, massive cyberattacks crippled widely read news sites at politically significant moments, and businesses withdrew advertising from outlets that were critical of Beijing and supportive of prodemocracy protesters. The year featured an especially brutal assault on a former chief editor of the daily newspaper Ming Pao, as well as a wave of attacks on journalists covering prodemocracy protests and counterdemonstrations.²²

Freedom House goes on to explain that Hong Kong media entities are subservient and submissive to the censorship and policies of the PRC. As a result, media self-censorship poses a serious threat to free expression in the territory:

The problem stems in part from the close relationship between local media owners and the central government in Beijing. Several owners sit on the Chinese People's Political Consultative Conference, an advisory body that has little real influence over government policy but is used by the Chinese Communist Party (CCP) to co-opt powerful members of society.²³

In an update of that report in 2017, Freedom House concluded:

¹⁹ Available at http://www.basiclaw.gov.hk/en/basiclawtext/chapter_3.html

²⁰ Freedom House is an independent monitoring organization dedicated to the expansion of freedom and democracy around the world. See <https://freedomhouse.org/about-us>

²¹ Freedom House, "Hong Kong: Five Year Decline in Press Freedom" (2015). Available online at <https://freedomhouse.org/report/freedom-press/2015/hong-kong>

²² *Id.*

²³ *Id.*

Conditions for press freedom in Hong Kong have deteriorated over the last several years. Residents of the semiautonomous territory—formally a special administrative region of China—continue to enjoy much greater political rights and civil liberties than their counterparts on the mainland, including access to diverse news media and freedom from internet censorship. However, Hong Kong journalists have faced a growing risk of violence in the course of their work, and media independence is increasingly undermined by local authorities, pressure from Beijing, and the role of wealthy owners with political and business interests in mainland China.²⁴

Further, Hong Kong dissident leader Andy Chan Ho-tin maintains, “The Hong Kong government is by no means independent or autonomous in exercising its member rights but has only given an extra arm for China to exert its influence and abuse its ‘developing country’ status under the WTO system.”²⁵ Publications known for their criticism of the Chinese central government have reported difficulties in attracting advertisers in recent years because of fears among private business owners that the association would damage their economic interests on the mainland. Apple Daily also suffered financially from efforts by Occupy Central counter protesters to disrupt distribution of the paper and destroy copies *en masse*. In July, the prodemocracy news website House News shut down, with the owner citing political pressure and a lack of advertisers. *Id.* Hong Kong has three licensed broadcasters of terrestrial radio, one of which is government funded and operates twelve radio stations - all digital radio services were terminated in September 2017 ostensibly due to lack of demand for services. See CIA: Center for Study of Intelligence, “The Chinese Media: More Autonomous and Diverse--Within Limits.”²⁶

As shall be demonstrated below, given the foregoing, and the ownership and programming of XEWW-AM by H&H with production provided by Phoenix TV, a grant of the

²⁴ <https://freedomhouse.org/report/freedom-press/2017/hong-kong>

²⁵ Open Letter to President Donald Trump, Foreign Correspondents Club, August 18, 2018, available at <https://www.hongkongfp.com/2018/08/19/commerce-dept-slams-pro-independence-partys-call-trump-axe-us-special-treatment-hong-kong/>

²⁶ Available at <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/the-chinese-media-more-autonomous-and-diverse-within-limits/1.htm>

Application would not be in the public interest. As detailed in the Petition and this Supplement, the dots connecting PRC-Phoenix TV-Vivian Huo-Jackie Pang-H&H are all linked and locked and proposing to operate in California. As such, the Application should be denied. Alternatively, the Application should be set for an evidentiary hearing to resolve questions of significant and material facts as to whether a grant would be in the public interest.

IV. Standard of Review

CSO submits that the standard of review to be applied in this case should consider three areas: (1) national security as evidenced by the statements in the Security Strategy; (2) objectionable programming and harmful interference as required by Section 325(c) of the Act; and (3) the public interest, convenience and necessity as required by Sections 325(d) and 309(a) of the Communications Act.

A. The Security Strategy

As detailed above, the Security Strategy is a new Presidential Proclamation that affects all agencies of the Government. Unlike Executive Orders which are binding upon the Executive Branch, a Presidential Proclamation is not binding upon independent regulatory agencies such as the Commission.²⁷ Such proclamations are hortatory, but the difference is more form than substance.²⁸ Because the Security Strategy details a significant threat from China to interests and values of the United States, CSO submits that the Commission should apply the Security Strategy herein. Further, as set forth above, the conclusions underlying the Security Strategy have been confirmed and augmented by USCESRC.

²⁷ See “Presidential Power: Use and Enforcement of Executive Orders,” 39 Notre Dame Law Review 43, 44 (1963), citing as an example *Marbury v. Madison*, 1 Cranch 137 (1803).

²⁸ *Id.*

B. *Gencom* Test

In *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987), the court affirmed the Commission's standard of review to determine if objectionable programming or harmful interference were present as factors to determine a grant or denial of a Section 325(c) permit.²⁹

C. The Public Interest Test

Additionally, cases applying Section 325(c) require that even if the *Gencom* Test is satisfied, the Commission must determine that a grant of a permit is otherwise within the public interest, convenience and necessity. Put differently, the Commissions must determine if there are other factors demonstrating that a grant of a permit would not be in the public interest thereby requiring a denial of the Permit. See *Channel 51 of San Diego Inc. and Fox Television Stations Inc. v FCC*, 79 F.3d 1187, 1191-92 (D.C. Cir. 1996); *Wrather-Alvarez Broadcasting Inc. v FCC*, 248 F.2d 646, 651(1957); 47 U.S.C. 307, 309.

V. **Argument**

A. *H&H is a Stalking Horse for Phoenix TV, which is a Stalking Horse for the PRC*

In its Petition to Deny, CSO pointed out that H&H only provided information indicating that the programming language, U.S. studio location and transmission modality for the programming would change. CSO has now been able to determine a great deal about the proposed H&H operation. The critical point learned about the proposed operation is that it will merely be a front for Phoenix TV, and the public record already reveals that Phoenix TV is a front for the PRC.

²⁹ See also *Serafyn v. FCC*, 149 F.3d 1213, 1216 (D.C. Cir. 1998), discussing the Commission's obligation to consider all evidence.

That Phoenix TV is a stalking horse for the PRC has been demonstrated for many years. It was chartered in the Cayman Islands in 1996 with its headquarters in Hong Kong. Its parent, Phoenix Media Investment Holdings Limited, formerly Phoenix Satellite Television Holdings Ltd, is listed on the Hong Kong Stock Exchange.³⁰ It has a global presence. It was founded by a former Chinese Liberation Army Colonel.³¹ It now includes five multiple channels and publications and broadcasts its programs on five continents.³² The Chief Executive Director is Liu Changle. He is a visiting professor of the Beijing Broadcasting Institute. Mr. Liu served as Reporter, Editor, News Commentator and Senior Management at China Central People's Radio Station,³³ former journalist at the China National Radio, and retired colonel in the People's Liberation Army. See, "China's Outward propaganda Strategy Undermines Independence of Overseas Chinese Media Outlets," Center for International Media Assistance, April 2018.³⁴ Mr. Liu has now become one of the richest men in China and arguably the most powerful media owner in China.³⁵

The alignment of Phoenix TV and the PRC is evident: the company's website boasts that Liu Changle is a Standing Committee Member of the PRC's Twelfth National Committee of the Chinese People's Political Consultative Conference.³⁶ Beijing uses this advisory "consultation"

³⁰ See Irasia.com, a corporate reporting site, at <http://www.irasia.com/listco/hk/phoenixtv/profile.htm>

³¹ See Phoenix Satellite TV website at <http://phtv.ifeng.com/english/bod.shtml>

³² *Id.*

³³ See Bloomberg Report at <https://www.bloomberg.com/research/stocks/people/person.asp?personId=8672093&privcapId=1540415>

³⁴ <https://www.cima.ned.org/blog/chinas-outward-propaganda-strategy-undermines-independence-overseas-chinese-media-outlets/>

³⁵ See Washington Post, "Making Waves, Carefully, on the Air in China, September 19, 2005 at http://www.washingtonpost.com/wp-dyn/content/article/2005/09/18/AR2005091801597_2.html?noredirect=on

³⁶ <http://phtv.ifeng.com/english/bod.shtml>

group to enable appointees to curry favor in the market, i.e., incentives to comply with Beijing's dictates while enjoying substantial economic benefits and while the appointees shower PRC officials with expensive gifts.³⁷

Prior to and after the filing of the Application, Phoenix TV has been operating a broadcast studio facility at 3810 Durbin Street, Irwindale, California. See Supplemental Declaration of Xiaowei Xia, attached hereto as Exhibit 1. Additionally, the Application shows the studio address of H&H also to be 3810 Durbin Street, Irwindale, California, the same as Phoenix TV. CSO submits that the co-location address is not coincidental. Instead, it supports the conclusion that H&H will produce programs from the Phoenix TV location. Further, as attested in Mr. Xia's Supplemental Declaration, on September 1, 2018, an online employment recruitment announcement appeared on WeChat, the China-based internet social media app. The announcement was recruiting employees for Phoenix TV. It provided that it was seeking "...program producers, narrators, hosts, and ad sales managers for "AM 690, Phoenix U Radio." This recruitment announcement reflects that Phoenix TV publicly identifies itself as the operator of XEWW-AM and is responsible for news programming and sales management. The Commission previously has determined that control of staffing, programming and finances are core elements of control of the licensed entity and the station.³⁸ As such, the Phoenix TV recruitment announcement is a compelling factor demonstrating that Phoenix TV has *de facto* control over H&H. Notably, there is no mention in the recruitment announcement of any involvement by H&H. Xia Supplemental Declaration. Thus, a significant and material question is presented as to whether Phoenix TV controls H&H.

³⁷ See http://www.gov.cn/english/2005-09/02/content_28614.htm; www.nytimes.com/2009/03/14/world/asia/14gifts.html

³⁸ See, e.g., *Aspen FM, Inc.*, 6 FCC Rcd 1602 (1991).

There are other factors indicating the control by Phoenix TV. Jackie Pang is a direct link between H&H and Phoenix TV. She serves as Senior Advisor for H&H and as an on-air financial news reporter for Phoenix TV.³⁹ The H&H relationship was confirmed by H&H which, prior to the filing of CSO's Petition, identified her on the H&H website.⁴⁰ The Phoenix TV relationship is further confirmed by her on-air appearances, as reflected in the screenshot of her during a news broadcast on August 13, 2018, as demonstrated in the Supplemental Declaration of Xiaowei Xia, attached hereto as Exhibit 1. Vivian Huo is the 97% shareholder of H&H. According to the H&H website, she spent five years as the New York correspondent for one of China's largest publications.⁴¹ As was demonstrated above, virtually all of China's largest publications are controlled directly or indirectly by the Chinese Communist Party.

In the Petition, CSO posed the question of why H&H, a New York investment firm, would wish to be the controlling shareholder of a program delivery company and Mexican radio station. Petition, at 7-8. The answer is now clear: As a former PRC reporter, Vivian Huo would not only profit from the relationship but would also be loyal; and, if that was not enough, Jackie Pang, a Phoenix TV employee embedded in the H&H offices, would be there to guide and monitor H&H.

The Application does not detail any connection to Phoenix TV and denies any foreign entity connection. The Form 308 Application submitted by H&H answered "no" to Question 7.d., of the Form 308, which asked if the Applicant is "directly or indirectly controlled by any

³⁹ See <https://freebeacon.com/national-security/mexican-radio-beam-chinese-propaganda/>

⁴⁰ See http://www.hhcapitalpartners.com/en_jianjie2.asp. A recent visit to the website shows that Pang has been deleted from the website, but, at the time that CSO filed its Petition, Pang was listed on the website. See Exhibit 4, attached. The deletion is clear evidence that H&H is trying to hide its relationship to Phoenix TV.

⁴¹ *Id.*

other corporation.” In addition, H&H answered “no” to the questions regarding whether one-fifth of its stock would be voted by “aliens or their representatives or by a foreign government or representatives thereof.” The facts that have been uncovered, however, reveal the Ms. Hou has had in the past, and may still have, a relationship with the government of the PRC. In addition, the facts show *de facto* control of H&H is by Phoenix TV, which is clearly a representative of a foreign government. The Application’s failure to disclose these relationships constitutes a misrepresentation. Accordingly, this ownership and control issue presents a significant and material question of fact, and the Commission must designate the Application for an evidentiary hearing to determine actual control. See *Applications of Tribune Media Company and Sinclair Broadcasting Co.*, Hearing Designation Order, DA 18-100, MB Docket 17-179, released July 19, 2018, par. 29.

B. Phoenix TV twice before and yet again attempts to maneuver to influence Chinese Americans in Southern California by delivering PRC propaganda programming

Five years ago, a California entity, RBC Communications Inc., ultimately shown to be acting on behalf of Phoenix TV and the PRC attempted to gain control of radio station KDAY AM, Redondo Beach, CA. As detailed in CSO’s Petition, at p. 10, a Petition to Deny the assignment of the station license showed that the purported assignee appeared to be controlled by Phoenix Satellite Television, Inc., the parent of Phoenix TV. The petition showed that several members of the board of directors of Phoenix Satellite Television had very close ties to the Chinese Government. Eventually, the applicant withdrew the application. Thus, the Commission never ruled on the merits of the application.

Three years ago, the PRC tried again to seek control of an American radio station via a California entity, G&E Studios Inc., owned by James Su, a naturalized U.S. citizen born in Shanghai. Reuters reported that Su’s company, G&E Studio Inc., was 60% owned by a

subsidiary of Chinese state-run radio broadcaster, China Radio International (“CRI”). Via related entities, Su controlled all the air-time on at least a dozen other U.S. stations. Those stations carried G&E content, which was produced largely by his West Covina, California studios or by state-run CRI in Beijing. See “Covert Radio Broadcasts Tied to China Prompt US government Investigation.”⁴² Now, the PRC is once again attempting to take control of a radio station that broadcasts to Chinese Americans. Given the U.S. Government analyses discussed above regarding China’s motives, it is clear that one of the goals here is to impact the opinions of Chinese American voters in Southern California to influence U.S. elections.

C. *H&H is a vehicle intended to promote China's aggressive propaganda*

The Chinese government is implementing a comprehensive, long-term industrial strategy to ensure its global dominance. Security Strategy; USCESRC, *supra*. In some respects, China has been transparent about its aggressive acts, policies, and practices. These policies are revealed in Chinese government documents and through behaviors of Chinese state actors, and from reports produced by business organizations, think tanks, and government agencies. The U.S. has confirmed this aggression. Other countries across the globe from Australia to Europe are reacting to China’s all-out aggression and beginning to block transactions that threaten national security. See “Doors Slam Shut for China Deals Around the World,” Bloomberg Business, August 19, 2018.⁴³

China’s economic aggression and efforts to influence the upcoming 2018 congressional elections are material factors relating to the Application. The Commission must consider these

⁴² Available online at <https://www.theguardian.com/us-news/2015/nov/02/california-china-radio-broadcasts-investigation>

⁴³ <https://www.bloomberg.com/view/articles/2018-08-20/doors-slam-shut-for-china-deals-around-the-world>

factors in deciding whether to grant the Permit. The burden is upon H&H to detail that it is that it is not an agent for these policies and that China's policies will not affect H&H's programming with respect to the 2018 elections. If H&H fails to do so, then substantial and material questions of fact are present, and the Commission would be unable to grant the permit application on the record before it, requiring the Commission to designate the permit application for an evidentiary hearing. See *Tribune Media supra*.

D. The Foreign Agents Registration Act requires Phoenix TV and H&H to register with DOJ as foreign agents of the PRC

The above facts demonstrate that Phoenix TV and H&H are acting as agents of the PRC. Therefore, both are required to register with DOJ as lobbyists for the PRC under the Foreign Agent Registration Act, 22 U.S.C. §§ 611-621. There is nothing in the record to reflect that either H&H or Phoenix TV has complied with the registration requirements.

The facts demonstrate that H&H and Phoenix TV are in the same position as RT television network. Recently the DOJ investigated RT, formerly Russia Today. Just as does Phoenix TV, RT – a Russian entity utilizing an American entity – produced in the U.S. and delivered via American telecommunications infrastructure live news and programs back to Russia, which then transmitted the programs back to the U.S. using U.S. telecommunications infrastructure for ultimate broadcast on American television stations. The DOJ made clear that a foreign broadcaster distributing news and other programming in the U.S., which promotes the interests and objectives of a foreign country, is required to register. Thereafter, on December 13, 2017, T&R Productions LLC, a Washington, D.C. based news production company producing and distributing programming for delivery to Russia for redelivery to the U.S. on behalf of RT, filed its registration. See “Production Company Registers Under the Foreign Agent Registration Act as Agent for the Russian Government Entity Responsible for Broadcasting RT.” See Justice

News, Office of Public Affairs, Department of Justice, released November 13, 2017.⁴⁴ The RT case is identical to the application before the Commission. A significant and material question of fact is presented as to whether H&H and Phoenix TV should be registered under the Foreign Agent Registration Act., and the Commission should not act upon the Application unless and until Phoenix TV and H&H register or demonstrate that they are not required to register. Absent this, CSO submits that the Commission cannot conclude that the Application would satisfy either the public interest test or the Security Strategy standards.

E. Recent changes to 50 U.S.C. 4565 require H&H to seek approval of this investment and transaction from CFIUS

CFIUS was created in 1988 by the Exon-Florio Amendment to the Defense Production Act of 1950. The statute was amended by the Foreign Investment and National Security Act of 2007.⁴⁵ Together these provisions authorize the President through CFIUS to review “any merger, acquisition or takeover ... by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.” CFIUS’s role is to evaluate whether and to what extent any such transaction could impact U.S. national security. See 50 U.S.C. 4565. If a transaction could pose a risk to US national security, the President may suspend, prohibit the transaction or impose conditions on it. *Id.*

The applicability of the jurisdiction of CFIUS as to the transaction herein recently has been made clear. A few weeks ago, Congress passed the Foreign Investment Risk Review Modernization Act of 2018 (“FIRRMA”) as Title XVII in the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (“2019 NDAA”).⁴⁶ On August 13, 2018, the President

⁴⁴ Available online at <https://www.justice.gov/opa/pr/production-company-registers-under-foreign-agent-registration-act-agent-russian-government>

⁴⁵ Public Law 110-49, July 26, 2007.

⁴⁶ See <https://home.treasury.gov/news/press-releases/sm457>

signed the 2019 NDAA into law. FIRRMA amends significantly Section 721 of the Defense Production Act of 1950 (“Section 721”) which authorizes the President to investigate, suspend or prohibit any transaction resulting in control of a U.S. business by a foreign person where the President determines such transaction threatens to impair U.S. national security. See 50 U.S.C. § 4565.

Section 1719(b) of FIRRMA also adds a new biannual CFIUS reporting requirement that is specifically directed at investments from China. The new reporting requirement relates to all “foreign direct investment transactions made by entities of the People’s Republic of China,” regardless of whether those Chinese parties are purely private or *are affiliated in any way to a state-owned enterprise or the Chinese government*. The requirement specifically asks for CFIUS to provide Congress with data by industrial sector, list of companies invested in by the Chinese government, information on affiliates in the United States, and an analysis of any relationship between investments and China’s “Made in China 2025” national industrial policy.⁴⁷ The reporting requirement on Chinese investment reflects the growing concern, discussed above, about the role and effect that Chinese investments are having in virtually all sectors of the American economy, especially in advanced technologies such as telecommunications.

Given the foregoing, the Commission should not grant a permit to H&H unless and until H&H first provides CFIUS with all the requisite data as to its acquisition of XEWW-AM and follows the procedures detailed by CFIUS. Absent a determination by CFIUS, the Commission is unable to conclude that grant of the permit would be in the public interest.

⁴⁷ See FIRRMA, Section 1719(b).

F. *H&H proposes to transmit to XEWW-AM and broadcast into California PRC-controlled and dictated propaganda programming that is objectionable by American standards*

The Commission has concluded that applications for Section 325(c) permits may not be granted where *objectionable* programming is intended. *Fox Television Stations, Inc.*, 11 FCC Rcd 14870 (1996). While there appear to be no precedents ruling that proposed programming was objectionable with respect to a Section 325(c) application, in other broadcast contexts the Commission has concluded that objectionable programming is that which is obscene, or indecent or profane. *Federal Communications Commission v. Pacifica Foundation*, 438 U.S. 726 (1978); 18 U. S. C. §1464. Acknowledging that defining these terms poses substantial challenges and echoing Justice Potter Stewart’s opinion in *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) that “I will know it when I see it,” the Commission has concluded that it can recognize such programming upon inspection when complaints are presented. “FCC: Obscene, Indecent and Profane Broadcasts.”⁴⁸

In Section 325(c) contexts, the Commission previously refused to consider complaints concerning the character of programming from a Mexican-Southern California border station as to impacts upon American listeners. The Commission concluded that it lacked authority to control any of the content of the programs which Station XETA broadcast.

On review, the Court of Appeals set aside the Commission’s refusal and directed the Commission on remand to address the content issues presented. *Wrather-Alvarez Broadcasting, Inc. v. FCC*, 248 F.2d 646, 651 (D.C. Cir. 1957). Therein, the court acknowledged that the Commission lacked authority to control the content of the programs which XETV broadcast. However, the more specific question the court held presented was whether the Commission may

⁴⁸ Online at <https://www.fcc.gov/consumers/guides/obscene-indecent-and-profane-broadcasts>

consider the character of that programming in deciding whether the public interest would be served by authorizing an American entity to supply its programs to the Mexican station. On that question, the court held:

While the Commission has no power to prevent XETV from broadcasting to San Diego locally originated programs which are objectionable by American standards, it has power to refrain from issuing a permit which would give those programs a larger American audience. *Id.*, at 651.

Subsequently, in *Fox Television Stations, Inc.*, 11 FCC Rcd 14870 (1996) (“*Fox*”), the Commission, upon receiving direction from the Court of Appeals,⁴⁹ determined that:

Upon further review of the record in this case, and in light of the Court's Channel 51 decision, we conclude, as we did in ABC 1972, that our Section 325 analysis must include an analysis of the public interest convenience and necessity consistent with Section 309. For purposes here, that includes, as the Court described in Channel 51 at 1189: ‘the same criteria for meeting the programming standards component of the ‘public interest, convenience, and necessity’ requirement to both a domestic license proceeding under Sec. 309 and a cross-border broadcast license proceeding under Sec. 325.’⁵⁰

The Commission then examined the programming to be broadcast over XETV, the Mexican station, and concluded that the programming provided no “substantial risk of public harm.”⁵¹

Thus, the Commission has the authority and obligation to examine the programming to be broadcast on XEWW-AM and must apply “the same criteria for meeting the programming standards component of the public interest, convenience and necessity requirement that it applies to domestic licensees under Section 309 of the Act and must determine that such programming will provide no “substantial risk of public harm.”⁵²

⁴⁹ *Channel 51 of San Diego, Inc. v. FCC*, 79 F.3d 1187 (D.C. Cir. 1996),

⁵⁰ 11 FCC Rcd 14870 at 14877.

⁵¹ *Id.*

⁵² *Id.*

When so judged, CSO submits that the propaganda programming designed to advance the interests of the PRC and undermine U.S. elections patently is objectionable to Americans – just as objectionable as that which is obscene, indecent and profane. As such, the programming proposed to be broadcast poses a “substantial risk of public harm,” and does not meet the requirements of Section 309 that would be applied to a domestic station. The Application should therefore be denied. At a minimum, the Commission should issue a hearing designation order to determine the character of the XEWW-AM programming. *Tribune Media, supra.*

G. Grant of the Permit would cause harmful interference to KCEE(AM), Tucson, Arizona and the facilities of a new station at Flagstaff, Arizona

There is an existing radio broadcasting facility on AM frequency 690 kHz, KCEE(AM) at Tucson, Arizona, which is co-channel with XEWW-AM. See Facility ID No. 24590. XEWW-AM operates with a massive 50,000 watts of power during nighttime hours, while KCEE(AM) operates with a minimalist three watts of nighttime power. Even with a directional antenna, the interference arc of XEWW-AM causes interference to KCEE(AM). Attached hereto as Exhibit 2 is the KCEE(AM) engineering report that was filed with the Commission in 2001 when the station first applied to add nighttime operations. As detailed therein, the consulting engineer is requesting just three watts of power. Although not specifically articulated, of necessity, he was trying to avoid harmful interference to XEWW-AM, (then XETRA1). Also, of necessity, KCEE(AM) also was accepting harmful interference from XEWW-AM as the Commission Rules grant only a secondary status to Class D nighttime stations operating with under 250 watts of power, and require those stations to protect Mexican stations, such as XEWW-AM. See 47 C.F.R. 73.21(a)(3), 73.23, and 73.99. Also, the applicable agreement with Mexico requires Class

D stations to accept interference from Mexico’s powerful AM stations. See “AM Agreement between the United States and Mexico 1986 (“US-Mexico Agreement”).”⁵³

In addition to the US-Mexico Agreement, the Commission is also bound by the North America Free Trade Agreement (“NAFTA”).⁵⁴ One of NAFTA’s primary objectives is to “promote conditions of *fair competition* in the free trade area.”⁵⁵ XEWW-AM will compete directly with at least two other Chinese language broadcast stations in Southern California: KQEV-LP with 45 watts of power and KAZN (AM) 1300 kHz with 22,000 watts of daytime power and 4,000 watts of nighttime power. CSO submits that XEWW-AM has an outsized competitive advantage comprising direct unfair competition over KQEV- LP and KAZN (AM) and unfair indirect competition over KCEE (AM). The coverage maps of the four stations are shown on Exhibit 3. These pictures speak loudly to the unfair competition. Therefore, the NAFTA provisions should be applied in consideration of the Application to determine whether grant of the Application would subject KQEV-LP, KAZN (AM) and KCEE (AM) to unfair competition. The Commission must designate the Application for an evidentiary hearing to decide this issue.

Further, the Commission’s database shows that there is a proposal pending for a new radio broadcasting facility to operate on AM frequency 690 at Flagstaff, Arizona. See BNP-20040126AJW. The facility was proposed nearly fifteen years ago but remains active, suggesting continuing and difficult efforts to resolve its status. The new facility has proposed 0.5 kw daytime power and 0.26 kw nighttime power. The XEWW-AM 77,000/50,000 watts will

⁵³ See <https://transition.fcc.gov/ib/sand/agree/files/can-bc/can-am.pdf>

⁵⁴ See <https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/North-American-Free-Trade-Agreement>, and <https://ustr.gov/trade-agreements/free-trade-agreements/north-american-free-trade-agreement-nafta>

⁵⁵ NAFTA, Article 102(1)(b).

decimate the Flagstaff facility. CSO submits that H&H bears the burden to demonstrate that XEWW-AM will not cause harmful interference to the Flagstaff facility.

H. The Application fails to provide all the information needed to secure approval

In interpreting the decision of the Court of Appeals in *Wrather-Alvarez, supra*, the Commission has held under the public interest standard, a Section 325(c) application must be weighed by the same standards as are other applications for broadcast facilities. The Commission concluded: "...our Section 325 analysis must include an analysis of the public interest convenience and necessity consistent with Section 309." *Fox*, at 14877. Applying this holding, the H&H application fails, and substantially so.⁵⁶

Although the Commission has traditionally required applicants to submit only the information required in FCC Form 308, Vivian Hou's prior employment in PRC media, the clear evidence of involvement by Jackie Pang and Phoenix TV and the PRC, and the failure of H&H to disclose these relationships, as required by Form 308, makes this a situation that cries out for more disclosure. Specifically, H&H should be required to disclose the amount and source of the financing being provided to consummate this transaction.

Requesting such information is consistent with prior Commission practices. When the Commission granted licenses through the use of comparative hearings, it routinely required applicants to disclose the sources and amounts of financing being relied upon.⁵⁷ In the comparative hearing context, the Commission was concerned about applicants being in a position to actually construct and operate a station if granted a construction permit. Here, the Commission must be concerned about hidden PRC influence, a matter at least as important as the

⁵⁶ While H&H may have completed the standard form, that is not dispositive given the issues presented.

⁵⁷ See, e.g., *Aspen FM, Inc.*, 6 FCC Rcd 1602 (1991).

financial ability of an applicant. Indeed, if financing is being provided to produce programming and propaganda by a foreign government intending to influence U.S. elections, it is a much more serious matter than the ability of an applicant to construct. In this instance, serious questions about control of H&H have been raised. And the information on PRC tactics discussed above, identifies the provision of financial support as a standard PRC tactic. Therefore, requiring H&H to demonstrate the source and quantity of its funding is most appropriate.

VI. Relief Requested

A. Application Denial or Designation for Hearing

In view of the foregoing, CSO requests that the Commission deny the Application because:

- (1) H&H has failed to disclose its direct relationship with Phoenix TV and indirect relationship with the PRC,
- (2) the evidence demonstrates that Phoenix TV will have substantial control over the programming produced and aired by H&H, and Phoenix TV is directly connected with the PRC,
- (3) recent legislation passed by Congress and policies adopted by the White House, CFIUS, the U.S. Trade Representative, and USCESRC obligate the Commission to investigate this attempt by the PRC to use the Application to influence U.S. elections,
- (4) the Commission should postpone any action on the Application until H&H and Phoenix TV register under the Foreign Agents Registration Act,
- (5) the Commission should refer the Application to the CFIUS for review,
- (6) the proposed programming is objectionable within the meaning of Section 235(c)

- (7) grant of the Application would result in harmful interference to KCEE(AM) and the 690 kHz construction permit in Flagstaff, Arizona
- (8) the application fails to provide important information about the source and amount of financing being provided

Alternatively, as demonstrated in the Petition and this Supplement, material and substantial questions of fact are presented mandating the need for an evidentiary hearing pursuant to Section 309(e) of the Act and Section 1.254 of the Commission's Rules, 47 CFR §1.254, to resolve the questions presented.

B. Rescission of Special Temporary Authority

On July 20, 2018, the Commission granted Special Temporary Authority to H&H to commence program delivery to XEWW-AM without the benefit of being made aware of the issues the Commission should investigate pursuant to the Security Strategy, 2019 NDAA, and the report of USCESRC. The grant of an STA presupposes a minor ministerial action. However, as demonstrated above, such is not the case. Indeed, grave issues are present. As demonstrated above, the H&H application is the third attempt of the PRC via Phoenix TV to broadcast objectionable programming to Chinese Americans in Southern California. Critically, the Security Strategy makes clear that the PRC strategy is to broadcast objectionable programming into the U.S. intended to influence the upcoming November congressional elections. To avoid irreparable harm to voters and the electoral process, the Commission should rescind the STA immediately.⁵⁸

⁵⁸ The grant and rescission of an STA is within the sound discretion of the Commission. See 47 C.F.R. 1.3.

VII. Conclusion

During the 2016 Presidential election, the country failed to interpret timely events reflecting that foreign countries were enabling efforts to influence American elections for their benefit, impairing a fundamental tenet of an open, free and informed citizen-driven election in support of a democratic society. We have learned also that there are negative economic impacts on our economy from foreign manipulation of the hearts and minds of voters. Learning those lessons has been costly in terms of trust in government. The Administration is increasing its vigilance to thwart foreign manipulation its upcoming congressional elections. Indeed, just days ago, Microsoft Corporation announced that it seized fake websites that were created in recent weeks by hackers linked to the Government of Russia that were imitating the site of the United States Senate.⁵⁹ The objective may well be efforts at influencing the upcoming elections. The information provided herein demonstrates that the US. Government believes that China also may be attempting these soft efforts. Congress has updated the laws governing foreign agent registration and foreign direct and indirect investments in the U.S. to guard against these efforts. Soft efforts by China to impact telecommunications infrastructure and shape opinions specifically have been identified as likely threats.

The Commission must not ignore the efforts of China to broadcast objectionable propaganda programming that could impact tens of thousands of Chinese Americans throughout Southern California via the surreptitious use of a border blaster radio station and the manipulation of treaties entered into decades ago with our southern neighbor, which shares our basic democratic and open market values. China is determined to dominate the U.S. economy

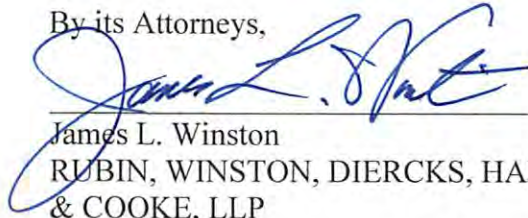
⁵⁹ See <https://www.cbsnews.com/news/microsoft-corporation-we-found-more-russian-hacking-tries-ahead-of-united-states-midterm-elections/>

and to undermine U.S. elections and values. CSO urges the Commission to investigate fully and deny the Application.

Respectfully submitted,

**CHINESE SOUND OF ORIENTAL AND
WEST HERITAGE**

By its Attorneys,

A handwritten signature in blue ink, appearing to read "James L. Winston", is written over a horizontal line.

James L. Winston
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September 4, 2018

EXHIBIT 1
SUPPLEMENTAL DECLARATION
OF
XIAOWEI XIA



Chinese Sound of Oriental & West Heritage

1272 Center Court Dr, STE 202
Covina, CA 91724

Tel: 626-966-4455
www.FM1047.net

Xiaowei Xia, President

Supplemental Declaration of Xiaowei Xia

I, Xiaowei Xia, declare as follows:

1. I am the President and General Manager of KQEV-LP, a low power FM station at Walnut, California. The station's offices and studios are located within the signal contour of XEWW AM690 and are within 8 miles of the studios of Phoenix TV at 3810 Durbin Street, Irwindale, California.

2. I am familiar with the premises at 3810 Durbin Street and have visited the facilities on multiple occasions including once this past month and twice within the past 1 year. These premises house television and radio broadcasting studios of Phoenix TV as reflected in the identification affixed to the building as shown on the attached photograph which I took on August 9th, 2018.

3. On August 14, 2018, I saw an employee recruitment announcement on WeChat, the popular Chinese language social-media mobile app. The announcement did not contain any mention of H&H Group USA. The full recruitment announcement provided in English and Chinese are as follows:

Phoenix U radio AM 690 seeks:

- program producers
- narrators, hosts
- Ad sales managers

Please contact hr@phoenixtv-us.com if you show interests.

4. On August 13, 2018, I was watching Phoenix TV programs on YouTube and saw a report by Jackie Pang as to using Alipay retailer platform in China. A screenshot of her reporting is attached hereto.

I declare under penalty of perjury under the laws of the United States that the foregoing is true.

A handwritten signature in black ink that reads "Xiaowei Xia".

Xiaowei Xia, Ph.D.

Dated: September 1st, 2018



A photograph I took on August 9, 2018 of Phoenix TV at 3810 Durbin Street, Irwindale, CA.



A Screenshot of Phoenix TV Video Clip on YouTube by Jackie Pang as to Using Alipay Retailer Platform in China. Jackie Pang Was the Host of Phoenix TV's Financial News Program.

EXHIBIT 2

**KCEE(AM) (formerly KVOI)
ENGINEERING EXHIBIT**

1. Purpose of Application

This engineering statement supports an application by class D medium wave ("AM") broadcast station KVOI, at Tucson, AZ to add nighttime operation with a power of 3.2 watts.

KVOI currently operates with 250 watts during daytime hours, and holds PSRA and PSSA authority to operate during certain limited times with powers ranging from 4 watts to 23 watts. The controlling limitation on nighttime radiation is the class A operation of XETRA1 at Tijuana, BCN. There is no critical hours limitation toward Mexican class A stations. KVOI operates with its authorized daytime power of 250 during critical hours with respect to Class A CBF, Montreal, Quebec.

2. Allocation Considerations

As this application does not propose any changes to the licensed daytime operation of KVOI, no daytime allocation exhibits are provided.

The attached skywave study, Exhibit 15, confirms that XETRA1 provides the most restrictive limit the the nighttime operation of KVOI. Exhibit 15 includes all stations within 10,000 km that limit KVOI to a RMS of less than 2000 mV/m/km.

The accepted notified nighttime operation of XETRA1 is with a 5 element directional antenna which is notified as a theoretical pattern.

A calculation has been made of the nighttime protected 0.5 mV/m 50% skywave contour of XETRA1 within the territory of Mexico and on land. Because of the high gain and very deep minima in the XETRA1 antenna pattern, the 0.5 mV/m 50% contour is generated in two different unconnected regions, one of which is entirely in the U.S. and need not be protected. The area of skywave service generated in Mexico does not begin at azimuths less than 110.2 degrees true. The 0.5 mV/m groundwave contour of XETRA1 also is essentially two different areas, one for each major lobe of the pattern. The northerly lobe is not in Mexico, and is therefore not

protected. As shown in the attached map exhibit, the closest point of either of these contours to Tucson is coincidentally at an azimuth of 110.2 degrees, where the inner and outer 0.5 mV/m 50% skywave contours coverage.

The limitations from KVOI to points on the skywave and groundwave 0.5 mV/m contours are shown in the following table:

City: Tucson

,AZ

Call: KVOI

Pre-1992 Allocation Rules (Region II Annex II Fig. 4)

Transmitter site coordinates: N 32 15 11 W 110 57 44

Frequency: 690 kHz

Point	Distance (km)	Bearing (degs)	Theta		RSS Limit (mV/m)	Reqd. Prot. (mV/m)	Skywv. Mult. (uV/m)	Allowed Radiation (mV/m @ 1 km)
			Min. (degs)	Max. (degs)				
XETRA Site	570.3	272.1	17.3	17.3	.00	.50	114.99	21.7
112.5 in	319.4	250.1	30.2	30.2	25.12	.50	166.05	15.1
112.5 out	387.2	151.8	25.4	25.4	25.12	.50	146.51	17.1
115 inr	366.0	254.9	26.8	26.8	25.13	.50	151.82	16.5
120 inr	418.4	258.4	23.7	23.7	25.13	.50	139.37	17.9
110.2	207.8	207.9	42.2	42.2	25.24	.50	225.10	11.1
110.21 in	209.9	212.6	41.9	41.9	25.24	.50	223.45	11.2
110.21 out	207.2	203.2	42.3	42.3	25.24	.50	225.54	11.1
115 Out	523.9	146.7	18.9	18.9	25.12	.50	121.22	20.6
120	733.6	146.7	13.0	13.0	25.12	.50	94.65	26.4
125	894.8	150.1	10.1	10.1	25.12	.50	75.69	33.0
130	1021.2	154.5	8.3	8.3	25.12	.50	61.96	40.3
135	1126.8	159.3	7.1	7.1	25.12	.50	52.21	47.9
140	1217.8	164.3	6.2	6.2	25.12	.50	44.58	56.1
145	1297.7	169.3	5.5	5.5	25.12	.50	38.67	64.7
150	1368.6	174.2	4.9	4.9	25.12	.50	33.87	73.8
155	1430.9	179.2	4.4	4.4	25.12	.50	30.08	83.1
160	1487.9	184.1	4.0	4.0	25.12	.50	26.98	92.7
165	1539.7	188.9	3.6	3.6	25.12	.50	24.44	102.3
170	1586.5	193.6	3.3	3.3	25.12	.50	22.16	112.8
175	1627.4	198.3	3.0	3.0	25.12	.50	20.32	123.0
180	1661.6	202.9	2.8	2.8	25.12	.50	18.94	132.0

<u>XETRA Groundwave Points</u>								
XETRA 70	570.3	272.1	17.3	17.3	.00	.50	114.99	21.7
XETRA 75	526.7	273.8	18.8	18.8	.48	.50	120.82	20.7
XETRA 80	549.3	272.7	18.0	18.0	.16	.50	117.59	21.3
XETRA 85	520.5	273.0	19.0	19.0	.57	.50	121.71	20.5
XETRA 90	507.7	272.6	19.5	19.5	1.35	.50	123.59	20.2
XETRA 95	525.9	271.6	18.8	18.8	1.34	.50	120.93	20.7
XETRA 100	479.2	270.0	20.7	20.7	4.73	.50	128.01	19.5
XETRA 105	426.8	266.5	23.2	23.2	1.62	.50	137.57	18.2
XETRA 110	420.6	261.6	23.5	23.5	13.26	.50	138.90	18.0
XETRA 115	420.2	255.1	23.6	23.6	39.35	.50	138.99	18.0
XETRA 120	429.3	252.3	23.1	23.1	53.38	.50	137.05	18.2
XETRA 125	442.9	250.1	22.4	22.4	66.43	.50	134.19	18.6
XETRA 130	460.0	248.4	21.6	21.6	77.87	.50	131.10	19.1
XETRA 135	479.3	247.2	20.7	20.7	87.36	.50	127.99	19.5
XETRA 140	500.1	246.5	19.8	19.8	94.75	.50	124.72	20.0

The skywave and groundwave 0.5 mV/m locations were generated using the notified theoretical pattern of XETRA1. The groundwave contour distances were calculated using the ground conductivity map data obtained from Appendix 7 of the "Agreement between the Government of the United States of America and the United Mexican States and Relating to the AM Broadcasting Service in the Medium Frequency Band.

The limiting value, as noted above, is the closest point on the skywave contour, the point where the inner and outer 0.5 mV/m point loci converge, 110.2 degrees true from the XETRA1 transmitter site.

The limiting radiation value is 11.1 mV/m at a theta of 42.2 degrees. For the 71.5 degree tall KVOI tower $f_{(\theta)}$ is 0.69494. The horizontal plane limit is therefore:

$$((11.1/0.69494)/282)^{0.5} = 0.0032 \text{ kW}$$

The physical relationship of KVOI to XETRA1 and its respective 0.5 mV/m contours is shown in Exhibit 15.

Exhibit 15
 Skywave Limit Calculations for Proposed Operation
 Limits above 200 Excluded

City: TUCSON

,AZ

Call: KVOI

1992 Allocation Rules

Transmitter site coordinates: N 32 15 11 W 110 57 44

Frequency: 690 khz

Point	Distance (km)	Bearing (degs)	Theta Min. (degs)	Theta Max. (degs)	RSS Limit (mV/m)	Reqd. Prot. (mV/m)	Skywv. Mult. (uV/m)	Allowed Radiation (mV/m @ 1 km)
KNBR *	1183.0	302.9	4.3	8.7	4.31	10.54	35.51	1484.3
CBF	3522.7	54.5	.0	.0	1.53	.38	2.48	771.7
XETRA	575.6	273.5	17.1	17.1	3.07	.76	114.34	33.4
XETRA1	570.3	272.1	17.3	17.3	3.06	.77	114.99	33.3
XERG	1272.8	122.5	5.7	5.7	16.89	8.45	40.45	1044.0
XEST	1098.7	154.8	7.4	7.4	42.11	21.05	54.99	1914.2
XEST1	1098.7	154.8	7.4	7.4	42.11	21.05	54.99	1914.2
XEMA	1290.4	139.7	5.5	5.5	21.95	10.97	39.18	1400.3
XEMA1	1289.9	139.7	5.5	5.5	21.96	10.98	39.22	1400.1
WJOX	2244.3	80.1	.0	1.0	12.51	3.13	11.37	1376.1
KQMQ	4773.0	267.3	.0	.0	1.52	.38	3.84	494.2
KGGF	1514.0	64.7	2.0	5.6	7.70	1.93	22.73	423.6
WTIX	2012.2	91.7	.0	2.2	11.05	2.76	14.64	944.1
KRCO	1596.9	330.1	1.6	4.9	20.10	5.03	19.79	1269.5
KTSM	435.1	92.9	17.3	27.8	11.40	2.85	143.77	99.1
KPET	847.8	84.2	7.7	13.8	21.87	5.47	59.75	457.4
YUMA *	348.8	278.3	21.6	33.6	20.01	50.02	182.71	1368.8
BOSQUE *	485.5	54.0	15.4	25.1	17.84	44.61	126.39	1764.6
SILVER *	257.6	76.5	28.6	42.3	21.06	52.60	242.73	1083.4
KWLW *	964.4	355.1	6.3	11.7	7.11	17.77	47.54	1869.6

* - indicates an adjacent channel station.

SIGNAL (tm):c:\xet\xetra.map

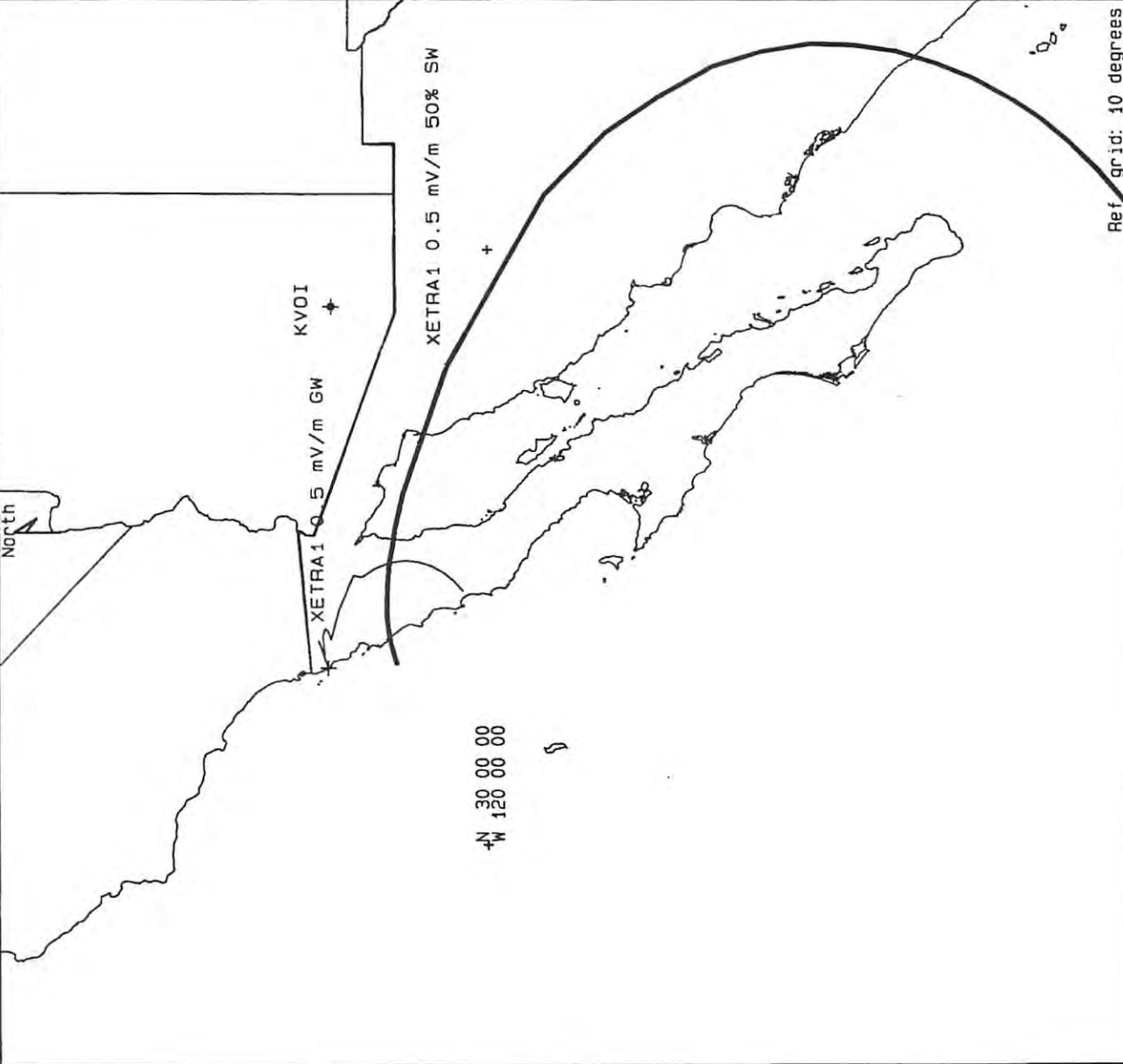


EXHIBIT 3

**KQEV-LP, KCEE(AM), KAZN(AM) AND XEWW-AM
CONTOUR MAPS**



radio-locator

find US radio stations by location

find by callsign

city/zip Walnut

state CA

go

KQEV

go

Site Navigation:

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- [city search](#)
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- [canadian search](#)
- [international search](#)
- [advanced search](#)
- [vacant frequencies](#)

Predicted Coverage Area for [KQEV 104.7 LPFM](#), Walnut, CA



<https://radio-locator.com/cgi-bin/pat?call=KQEV&service=FL>



radio-locator

find US radio stations by location

city/zip Tucson state AZ go KCEE go

find by callsign

3 Easy Steps:

- 1) Click 'Listen Now'
- 2) Download on our website!
- 3) Get Free Live Radio

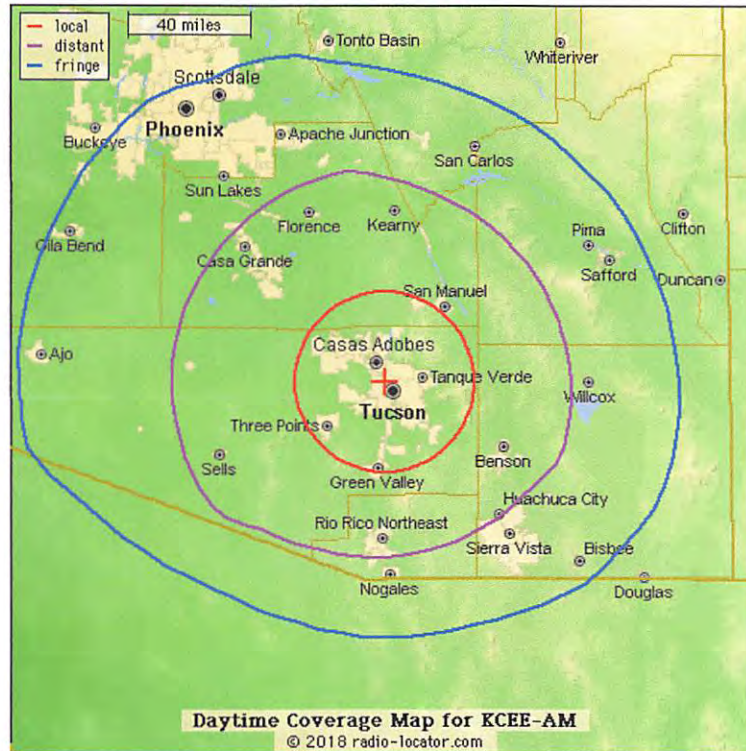
Free Live Radio

LISTEN NOW

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Predicted Coverage Area for [KCEE 690 AM](#), Tucson, AZ



<https://radio-locator.com/cgi-bin/pat?call=KCEE&service=AM&h=D>



radio-locator

find US radio stations by location

find by callsign

city/zip Pasadena

state CA

go KAZN

go

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Predicted Coverage Area for [KAZN 1300 AM](#), Pasadena, CA



<https://radio-locator.com/cgi-bin/pat?call=KAZN&service=AM&h=D>



radio-locator

find US radio stations by location

find by call sign

city/zip Tijuana

state BN

go

XEWW

go

**MONETIZE YOUR
ONLINE STREAM**

**...and earn more
revenue
for your station!**



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Predicted Coverage Area for [XEWW 690 AM](#), Tijuana, BN



<https://radio-locator.com/cgi-bin/pat?call=XEWW&service=AM&s=F&h=D>

EXHIBIT 4

H&H WEBSITE SCREEN SHOTS

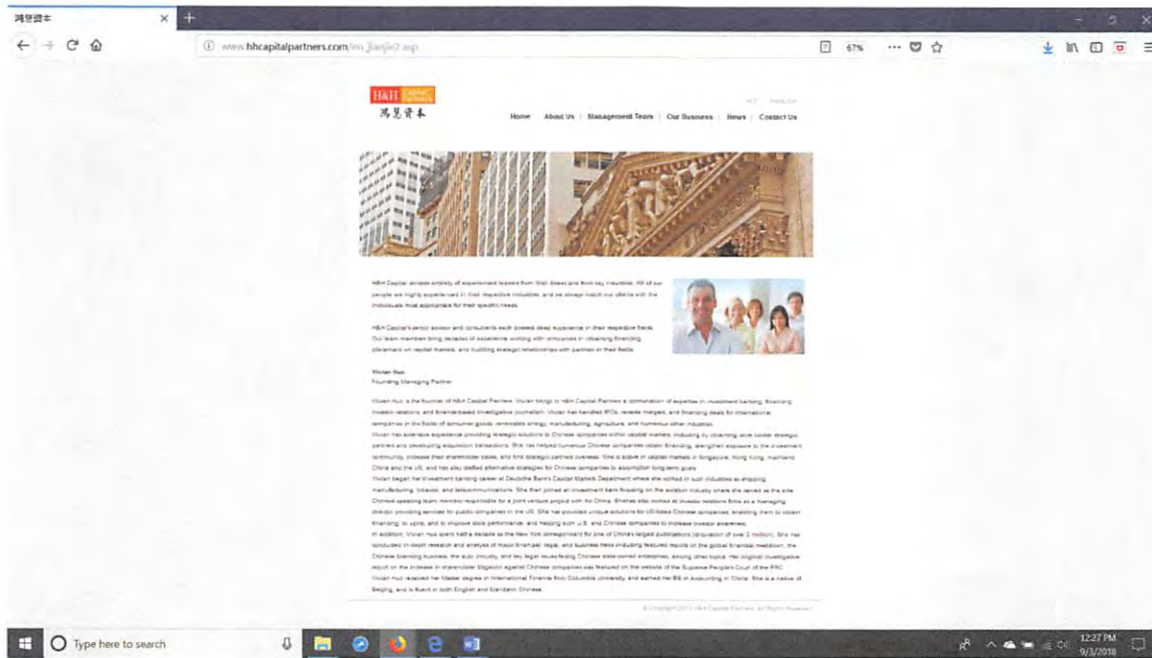
AUGUST 8, 2018 (INCLUDING JACKIE PANG)

AND

SEPTEMBER 3, 2018 (HAVING DELETED JACKIE PANG)

On Sept 3, 2018: (removed ALL the rest of the manager team, left only Vivian Huo)

http://www.hhcapitalpartners.com/en_jianjie2.asp




On Aug 9, 2018: (All the managing team listed):

http://www.hhcapitalpartners.com/en_jianjie2.asp

www.hhcapitalpartners.com/en_jianjio2.asp


H&H Capital Partners
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H&H Capital consists entirely of experienced leaders from Wall Street and from key industries. All of our people are highly experienced in their respective industries, and we always match our clients with the individuals most appropriate for their specific needs.

H&H Capital's senior advisor and consultants each possess deep experience in their respective fields. Our team members bring decades of experience working with companies in obtaining financing, placement on capital markets, and building strategic relationships with partners in their fields.



Vivian Huo
 Founding Managing Partner

Vivian Huo is the founder of H&H Capital Partners. Vivian brings to H&H Capital Partners a combination of expertise in investment banking, financing, investor relations, and finance-based investigative journalism. Vivian has handled IPOs, reverse mergers, and financing deals for international companies in the fields of consumer goods, renewable energy, manufacturing, agriculture, and numerous other industries. Vivian has extensive experience providing strategic solutions to Chinese companies within capital markets, including by obtaining cross border strategic partners and developing acquisition transactions. She has helped numerous Chinese companies obtain financing, strengthen exposure to the investment community, increase their shareholder bases, and find strategic partners overseas. She is active in capital markets in Singapore, Hong Kong, mainland China and the US, and has also crafted alternative strategies for Chinese companies to accomplish long-term goals. Vivian began her investment banking career at Deutsche Bank's Capital Markets Department where she worked in such industries as shipping, manufacturing, tobacco, and telecommunications. She then joined an investment bank focusing on the aviation industry where she served as the sole Chinese-speaking team member responsible for a joint venture project with Air China. She has also worked at investor relations firms as a managing

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Chinese-speaking team member responsible for a joint venture project with Air China. She has also worked at investor relations firms as a managing director providing services for public companies in the US. She has provided unique solutions for US-listed Chinese companies, enabling them to obtain financing, to uplist, and to improve stock performance, and helping both U.S. and Chinese companies to increase investor awareness. In addition, Vivian Huo spent half a decade as the New York correspondent for one of China's largest publications (circulation of over 2 million). She has conducted in-depth research and analysis of major financial, legal, and business news including featured reports on the global financial meltdown, the Chinese licensing business, the auto industry, and key legal issues facing Chinese state-owned enterprises, among other topics. Her original investigative report on the increase in shareholder litigation against Chinese companies was featured on the website of the Supreme People's Court of the PRC. Vivian Huo received her Master degree in International Finance from Columbia University and earned her BS in Accounting in China. She is a native of Beijing, and is fluent in both English and Mandarin Chinese.

Barney Monte
 Senior Advisor

Barney is a senior investment professional with a strong 15+ year background in investment and merchant banking, private equity, and venture capital. He started two prior international focused banking practices from inception, as well as current merchant/private equity platform. Demonstrated Asia and US transaction ability across various asset classes including power, natural resources, healthcare, media, and agriculture. Barney co-founded Otisdo Partners in New York in 2012, a direct investment and merchant banking platform to provide off-market special situation investment opportunities for an offshore private bank with US\$5.5 billion of assets under management. Barney was head of international investment banking at Global Hunter Securities. He completed transactions with an aggregate value of more than US\$200 million in less than two years. He also was managing director at Rodman & Renshaw. Assisted in developing a China focused investment banking strategy and platform in connection with the CEO and assisted in growing it to a US\$40.0 million per annum revenue business.

Andy Ma
 Executive Director

Andy is the executive director of H&H Capital Partners. Andy has extensive experience in capital markets. He started his career with merge & acquisition division of Price Waterhouse Coopers, providing financial advisory service to various international MNC clients, include General Motor, Toyota, FMAC, etc. After that Andy worked for a US based investment firm, closed several investment transactions in PRC region, including an Asia Fortune 100 high-tech company. Andy speaks both Mandarin and English.

Valliant Cai
 Vice President – General Counsel

A Shanghai native, Valliant specializes in advising both international clients and local Chinese clients on corporate affairs, commercial risk control, intellectual property, PE/venture capital, and corporate restructuring. Clients include companies in the fields of finance, new energy, entertainment and media, software and internet, pharmaceutical and biological products, real estate, and commodities. Trained as a lawyer, Valliant graduated from Shanghai University (LLB) and Fudan University (LLM). He has been qualified as an attorney in the PRC since 2001.

Helen Huo
 Vice President

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Helen Huo
Vice President

Helen has advised numerous U.S. listed Chinese companies on entering and successfully navigating the public markets. She has also helped companies develop business opportunities in China and overseas. Helen worked as chief operating officer for two U.S. listed Chinese public companies, where she was in charge of the Chinese company's operation in the U.S.

Helen has also served as correspondent to a Chinese newspaper, the "Global Times." She worked in media industry and provided U.S. financial news to Chinese audiences after she graduated from school. She holds both her Bachelor's and Master's degrees in the U.S.

Eric Zhang
Associate

Fluent in Chinese and English, Eric Zhang's professional experience includes corporate finance and equity investment. He has served in the credit department of a Chinese bank, where he handled due diligence and final assessment of loan projects. Previously, Eric Zhang worked as a research assistant in the Center for Human and Economic Development Studies where his many projects included research on urbanization and corporate social responsibility.

Eric Zhang holds a Bachelor's degree in Economics from Peking University (recognized as the top university in China) and studied at Oxford University.

Alan Zavarro
Senior Advisor

Alan Zavarro was Chief Executive Officer of the Global Futures business at ABN AMRO. He was responsible for running the day-to-day operations of the business. Alan Zavarro sold the ABN Global Futures business to Union Bank of Switzerland in 2006 for more than 30 times its purchase price.

Prior to joining ABN AMRO, Alan Zavarro worked for Citicorp as President and CEO of Citicorp Futures Corporation. Citicorp Futures was purchased by ABN AMRO in 1997.

After majoring in English at Southern Illinois University, Alan Zavarro joined Merrill Lynch. He served as Account Executive, Branch Manager, Marketing Manager and Chief Executive of Merrill Lynch's wholesale securities business, Broadcof Capital Corporation, and Chief Executive of Merrill Lynch Futures Inc.

Alan Zavarro has served on the board of directors of the following organizations:

- Merrill Lynch Futures
- Broadcof Capital Corp
- Citicorp Futures Corp
- Citicorp Commodities Corp
- Citicorp Asset Management Inc
- Futures Industry Association (FIA)
- CM Capital Markets (a major Spanish institutional broker)

Jackie Pang
Senior Advisor

Prior to joining H&H, Jackie Pang was the NYSE-based journalist of Phoenix TV in Hong Kong since 2001. Before that, she founded Wall Street Multimedia Inc. in 1999, delivering securities information, financial information and world-class expert comments to Global Chinese. She was also editor and anchor at Chinese Television Network, Inc.

Jackie Pang graduated from Whittier College, majoring in International Finance.

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H&H Capital consists entirely of experienced leaders from Wall Street and from key industries. All of our people are highly experienced in their respective industries, and we always match our clients with the individuals most appropriate for their specific needs.

H&H Capital's senior advisor and consultants each possess deep experience in their respective fields. Our team members bring decades of experience working with companies in obtaining financing, placement on capital markets, and building strategic relationships with partners in their fields.



Vivian Huo
 Founding Managing Partner

Vivian Huo is the founder of H&H Capital Partners. Vivian brings to H&H Capital Partners a combination of expertise in investment banking, financing, investor relations, and finance-based investigative journalism. Vivian has handled IPOs, reverse mergers, and financing deals for international companies in the fields of consumer goods, renewable energy, manufacturing, agriculture, and numerous other industries.

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- Citicorp Asset Management Inc.
- Futures Industry Association (FIA)

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CERTIFICATE OF SERVICE

I, Kathy Nickens, do hereby certify that I sent via U.S. mail (except where indicated), on this 4th day of September, 2018, copies of the foregoing SUPPLEMENT TO PETITION TO DENY to the following:

David Oxenford
Wilkinson, Barker, Knauer, LLP
1800 M Street, NW
Suite 800N
Washington, DC 20036

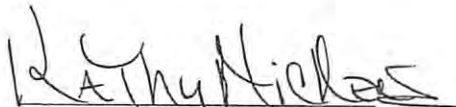
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Washington, DC 20554

*sent via email only


Kathy Nickens