



1200 18TH STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20036-2516
UNITED STATES OF AMERICA

TEL +1 202 730 1337
FAX +1 202 730 1301
WWW.HARRISWILTSHIRE.COM

20 April 2009

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Joint Cable Landing License Application of Hannon Armstrong KCS Funding, LLC, and Truestone, LLC, for the HANTRU1 Undersea Cable System, FCC File No. SCL-LIC- 20090302-00005

Dear Ms. Dortch:

By their counsel, Hannon Armstrong KCS Funding, LLC (“Hannon Armstrong”), and Truestone, LLC (together, “Applicants”), hereby respond to a question posed by the International Bureau staff in a March 10, 2009, e-mail with respect to the Hannon Armstrong’s ownership structure as described in the Applicants’ cable landing license application for the HANTRU1 System.¹ Specifically, the International Bureau staff requested clarification regarding the ownership of MPCP I GP, LLC (“General Partner”)—whether it had any 10-percent or greater owners, controlling interest holders, or a managing member.

1. Voting Interests in Hannon Armstrong Held Through General Partner

As described below and in Exhibit 1, four parties hold 10-percent or greater voting interests in General Partner. These include the Manager of General Partner (MissionPoint Capital Partners LLC (“MissionPoint”)) and the three members of MissionPoint’s Executive Committee.

¹ See Joint Application of Hannon Armstrong KCS Funding, LLC, and Truestone, LLC, for Cable Landing License, FCC File No. SCL-LIC- 20090302-00005 (filed Feb. 25, 2009) (“Application”).

Ms. Marlene H. Dortch
Federal Communications Commission
20 April 2009
Page 2 of 5

MissionPoint is limited-liability company organized under the laws of the State of Delaware and engages in the business of an investment holding company. MissionPoint's address is:

20 Marshall Street, Suite 300
Norwalk, Connecticut 06854

MissionPoint itself has no manager or managing member. Instead, under the terms of its Articles of Organization, MissionPoint is governed by an Executive Committee consisting of MissionPoint's three founding members: Mark Schwartz, Mark Cirilli, and Jesse Fink. On a fully-diluted basis—and assuming that 100 percent of MissionPoint's voting interest in General Partner is attributable equally to MissionPoint's Executive Committee members—Messrs. Schwartz, Cirilli, and Fink therefore each hold a 33.3333 percent indirect voting interest in General Partner, MissionPoint HA Parallel Fund, L.P., Hannon Armstrong Capital, LLC, and Hannon Armstrong.

Mr. Schwartz is a Co-Founder and Co-Chairman of MissionPoint. He is a U.S. citizen. His address is the same as that of MissionPoint, as noted above.

Mr. Cirilli is a Co-Founder and a Managing Director of MissionPoint. He is a U.S. citizen. His address is the same as that of MissionPoint, as noted above.

Mr. Fink is a Co-Founder and Managing Director of MissionPoint. He is a U.S. citizen. His address is the same as that of MissionPoint, as noted above.

2. Economic/Equity Interests in Hannon Armstrong Held Through General Partner

As described below and in Exhibit 2, no party holds a 10-percent-or-greater economic/equity interest in General Partner. To understand the economic/equity interests in General Partner, it is necessary to understand the contingent interest held by General Partner in MissionPoint HA Parallel Fund, L.P. ("Parallel Fund L.P."), as this interest determines whether the direct and interest economic-interest holders in General Partner will receive any return at all. As noted in the Application, General Partner holds a "Carried Interest" in Parallel Fund L.P.² This Carried Interest is a contingent interest in the economic upside (but not any economic downside) of Parallel Fund L.P. It entitles General Partner to participate in share in certain profits of Parallel Fund L.P. according to the following terms:

² Application at 14.

HARRIS, WILTSHIRE & GRANNIS LLP

Ms. Marlene H. Dortch
Federal Communications Commission
20 April 2009
Page 3 of 5

- General Partner will receive 20 percent of the return generated by Parallel Fund L.P. if and only if that return exceeds the sum of the preferred return and return of capital (the “Extraordinary Return”).
- If Parallel Fund L.P. generates a return below the preferred return, General Partner will receive nothing. The return will instead be shared by MissionPoint HA Parallel Fund, LLC (89 percent) and MissionPoint HA Parallel Funding Corp. (11 percent).
- The Carried Interest does not obligate General Partner to cover any liabilities of, or loss by, Parallel Fund L.P.
- If Parallel Fund L.P. generates a loss, the loss will be covered entirely by MissionPoint HA Parallel Fund, LLC (89 percent) and MissionPoint HA Parallel Funding Corp. (11 percent).
- In the event of dissolution of Parallel Fund L.P., the assets will be shared by MissionPoint HA Parallel Fund, LLC (89 percent) and MissionPoint HA Parallel Funding Corp. (11 percent), and General Partner will receive any Extraordinary Return.

Unless and until Parallel Fund L.P. generates an Extraordinary Return, General Partner and those parties holding economic interests in General Partner will have zero economic interest in Parallel Fund, L.P., Hannon Armstrong Capital, or Hannon Armstrong. Exhibit 2 shows the entire set of economic interest holders in Hannon Armstrong, distinguishing those holding contingent interests.

Although the Commission has not previously defined the circumstances in which a conditional interest constitutes a cognizable equity interest or equivalent thereof in a cable landing license applicant, the Commission has recognized various non-cognizable contingent interests in numerous other contexts, including the CMRS spectrum cap rules,³ the LEC/LMDS cross-ownership rules,⁴ the application of Section 310’s foreign ownership restrictions,⁵ the broadcast attribution rules,⁶ and cable attribution rules.⁷ The Commission has stated that the indicia of ownership include “the right to share in the profits and losses, and receive assets or

³ 47 C.F.R. § 20.6(d)(5).

⁴ 47 C.F.R. § 101.1003(e)(5).

⁵ See *BBC License Subsidiary et al., Memorandum Opinion and Order*, 10 FCC Rcd. 10,968, 10,972 ¶ 20 n.12 (1995).

⁶ 47 C.F.R. § 73.3555, Note 2(b) & (f).

⁷ 47 C.F.R. § 76.501, Note 2(e)).

Ms. Marlene H. Dortch
Federal Communications Commission
20 April 2009
Page 4 of 5

liabilities on liquidation, of the enterprise *pro rata* in relationship to the . . . licensee's ownership percentage."⁸

Consistent with these rules and precedents, the Applicants believe that the Commission should treat the economic interests held by General Partner and persons holding economic interests in General Partner as contingent interests that do not constitute equity interests or equivalents thereof for purposes of Section 1.767(a)(7) of the Commission's rules.

- *First*, the Carried Interest is subject to a genuine contingency—whether or not the returns of Parallel Fund L.P. will constitute an Extraordinary Return so as to provide them with any economic interest.
- *Second*, the Carried Interest does not, under any circumstances, include responsibility for any liabilities or loss, one of the hallmarks of an equity interest.
- *Third*, there is no interest in the Parallel Fund L.P. assets; upon any dissolution, the assets will be shared by MissionPoint HA Parallel Fund, LLC (89 percent) and MissionPoint HA Parallel Funding Corp. (11 percent) and only the Extraordinary Return, if any, will be distributed to the General Partner. Consequently, the Applicants do not believe that Parallel Fund L.P. has any ten-percent-or-greater economic/equity interest holders.

⁸ See, e.g., *TeleCorp PCS, Inc., et al., Memorandum Opinion and Order*, 16 FCC Rcd. 3716, 3730 ¶ 31 (WTB 2000) (citing *Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Fifth Report and Order*, 9 FCC Rcd. 5532, 5605 ¶ 166 (1994)).

HARRIS, WILTSHIRE & GRANNIS LLP

Ms. Marlene H. Dortch
Federal Communications Commission
20 April 2009
Page 5 of 5

* * * * *

Should you have any questions regarding this letter or require additional information, please contact me by telephone at +1 202 730 1337 or by email at kbressie@harriswiltshire.com.

Respectfully submitted,



Kent D. Bressie
*Counsel for Hannon Armstrong KCS Funding, LLC,
and Truestone, LLC*

Attachments

cc: Jim Ball (IB)
Imani Ellis-Cheek (IB)
David Krech (IB)
George Li (IB)

**Exhibit 1:
Voting Interests in Hannon Armstrong KCS Funding, LLC**

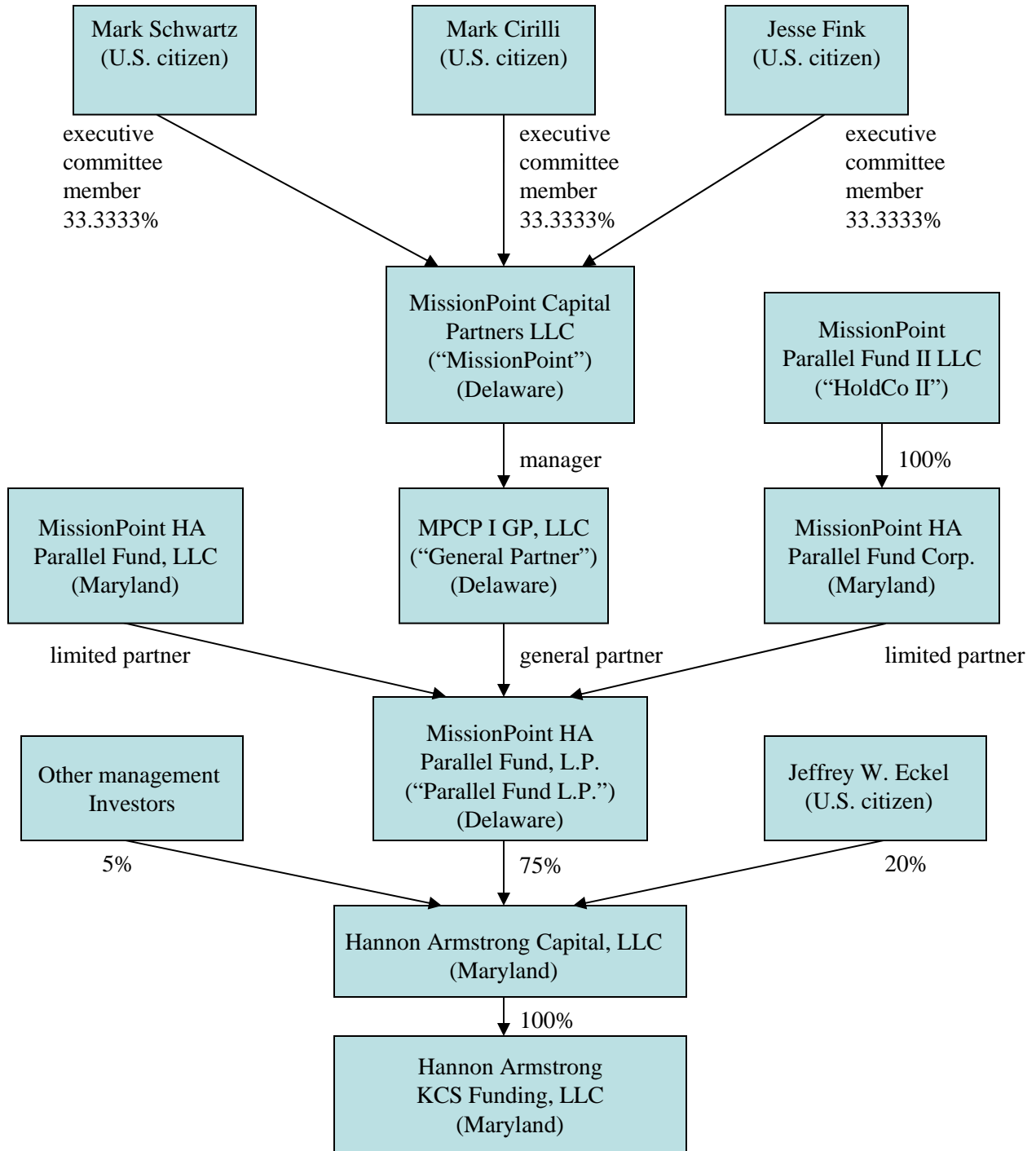


Exhibit 2:

Economic Interests in Hannon Armstrong KCS Funding, LLC

