

ORIGINAL

030000 - Per

RECEIVED-FPSC

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

COMMISSION  
CLERK

CASE NO. 00-34799-H1-7

IN RE:

TWISTER COMMUNICATIONS  
NETWORK, INC.,

DEBTOR

§  
§  
§  
§  
§  
§

(Chapter 7)

**UNOPPOSED**

**ORDER AUTHORIZING COMPROMISE BETWEEN  
TRUSTEE AND MCI WORLDCOM NETWORK SERVICES, INC.**

The Court, after considering the expedited motion filed by Joseph M. Hill (the "Trustee"), seeking approval under Rule 9019, of a proposed settlement of the bankruptcy estate's claims against and MCI WorldCom Network Services, Inc. ("WorldCom"), is of the opinion that the motion is well founded, and should be granted; it is accordingly

ORDERED that the Trustee is authorized, under Rule 9019 to settle, discharge, compromise and release all claims between WorldCom and the estate of the Debtor pursuant to the terms of the Full and Final Release and Settlement Agreement attached hereto and incorporated herein as Exhibit "A", the salient terms of which are:

(1) The Trustee shall be allowed a general unsecured claim against the MCI WorldCom Network Services, Inc. estate, such claim is currently classified as a Class 6 Claim, in the amount of \$19,000,000.00.

(2) The Trustee shall not object to the confirmation of WorldCom's Plan of Reorganization.

(3) The Trustee shall cooperate with WorldCom in connection with any and all claims asserted by Kamal Alavi for himself and on behalf of Kamal Alavi 1999 Grantor Retained Annuity Trust; Irandokht Alavi 1999 Grantor Retained Annuity Trust; Kamal Alavi Family Trust, and

AUS \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
SCL \_\_\_\_\_  
DPC \_\_\_\_\_  
VMS \_\_\_\_\_  
SEC \_\_\_\_\_  
OTH \_\_\_\_\_

NONNYE

326

DOCUMENT NUMBER-DATE

08529 SEP 10 8

FPSC-COMMISSION CLERK

Irاندokht Alavi Family Trust against WorldCom to the extent such claims are duplicative and/or derivative of Twister's claims.

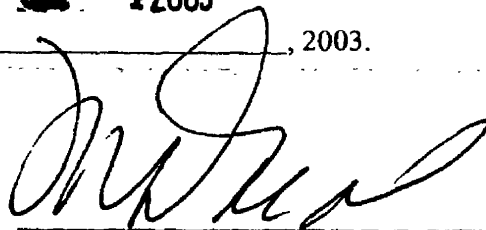
(4) WorldCom shall waive its secured claim in the Twister Estate, release its security interest on all assets of the Twister Estate, and shall not receive any distribution on account of its claim from the Twister Estate.

(5) WorldCom shall acquire, and then waive the claim filed by 21st Century Communications, Inc. d/b/a U.S. Communications, and shall not receive any distribution on account of such claim from the Twister Estate.

(6) The Trustee shall waive any claims the Twister Estate has or may have against 21st Century Communications, Inc. d/b/a U.S. Communications.

(7) The parties agree to continue in effect the stay of the action styled *MCI WorldCom Network Services, Inc. v. Twister Communications Network, Inc.*, Cause No. 00-05-03124-CV in the 221<sup>st</sup> Judicial District Court of Montgomery County, Texas (the "State Court Action") pending the Trustee's receipt of the initial cash distribution under WorldCom's Plan of Reorganization. Upon receipt of the Initial Distribution, the Trustee shall dismiss with prejudice the State Court Action.

SIGNED this \_\_\_\_\_ day of **SEP - 4 2003**, 2003.



UNITED STATES BANKRUPTCY JUDGE

**UNOPPOSED**

Exhibit "A"

**SETTLEMENT AGREEMENT**

This Settlement Agreement (the "Agreement") is made this \_\_\_ day of August, 2003, by and between MCI WorldCom Network Services, Inc., a Delaware corporation ("MCI"), and Joseph M. Hill, the Chapter 7 Trustee of the Bankruptcy Estate of Twister Communications Network, Inc. (the "Trustee"). The signatories to this Agreement will hereafter be referred to jointly as the "Parties".

**PREAMBLE**

WHEREAS, Twister Communications Network, Inc. ("Twister") was a provider of pre-paid telephone calling cards for which MCI provided switching and line services by contract dated May 21, 1997;

WHEREAS, on May 19, 2000, MCI initiated an action against Twister, styled MCI WorldCom Network Services, Inc. v. Twister Communications Network, Inc., Cause No. 00-05-03124-CV in the 221<sup>st</sup> Judicial District Court of Montgomery County, Texas (the "State Court Action"), seeking recovery in excess of \$30,000,000 in unpaid invoices;

WHEREAS, on May 23, 2000, MCI and other petitioning creditors initiated an involuntary bankruptcy proceeding against Twister (the "Twister Estate") in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Texas Bankruptcy Court");

WHEREAS, the Trustee was appointed as Chapter 7 Trustee of the Twister Estate;

WHEREAS, in the State Court Action, the Trustee, on behalf of Twister, asserted counterclaims against MCI;

WHEREAS, MCI denies the allegations in the counterclaims;

WHEREAS, MCI timely filed a proof of claim against the Twister Estate, asserting a claim in the amount of \$27,917,659.89, secured by all assets of the Twister Estate (the "MCI Secured Claim");

WHEREAS, 21<sup>st</sup> Century Communications, Inc. d/b/a US Communications ("USC") timely filed a proof of claim against the Twister Estate, asserting a claim in the amount of \$8,428,000 (the "USC Claim");

WHEREAS, on July 21, 2002 and November 8, 2002, WorldCom, Inc. ("WorldCom") and substantially all of its direct and indirect domestic affiliates, including MCIC, filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the "New York Bankruptcy Court").

WorldCom continues to operate its business and manage its properties as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Trustee timely filed a proof of claim against the WorldCom estates, asserting a claim in the amount of \$1,685,133,000, plus punitive damages in the amount of four times actual damages, plus attorney's fees, costs and expenses (the "Twister Claim");

WHEREAS, WorldCom filed Debtors' Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "Plan of Reorganization"), pursuant to which the Twister Claim, if allowed, would be considered a Class 6 Claim;

WHEREAS, USC has agreed to assign the USC Claim to MCI or its affiliate; and

WHEREAS, the Parties hereto desire to enter into this Agreement to avoid the expense and uncertainty of the litigation of the State Court Action, and the resolution of the MCI Secured Claim and the Twister Claim;

NOW, THEREFORE, in consideration of the above recitals and mutual promises and agreements set forth below, the sufficiency of which is expressly acknowledged, it is agreed as follows:

**1.0 Settlement**

1.1 The Twister Claim shall be allowed a general unsecured claim against the MCI WorldCom Network Services, Inc. estate, such claim is currently classified as a Class 6 Claim, in the amount of \$19,000,000 (the "Twister Allowed Claim").

1.2 The Trustee shall not object to the confirmation of the Plan of Reorganization.

1.3 The Trustee shall cooperate with MCI in connection with any and all claims asserted by Kamal Alavi for himself and on behalf of Kamal Alavi 1999 Grantor Retained Annuity Trust; Irandokht Alavi 1999 Grantor Retained Annuity Trust; Kamal Alavi Family Trust, and Irandokht Alavi Family Trust against MCI to the extent such claims are duplicative and/or derivative of Twister's claims.

1.4 MCI shall waive the MCI Secured Claim in the Twister Estate, release its security interest on all assets of the Twister Estate, and shall not receive any distribution on account of the MCI Secured Claim from the Twister Estate.

1.5 MCI shall waive the USC Claim and shall not receive any distribution on account of the USC Claim from the Twister Estate.

1.6 The Trustee shall waive any claims the Twister Estate has or may have against USC.

1.7 The Parties agree to continue in effect the stay of the State Court Action pending the Trustee's receipt of the initial cash distribution under the Plan of Reorganization (the "Initial Distribution"). Upon receipt of the Initial Distribution, the Trustee shall dismiss with prejudice the State Court Action.

## 2.0 Conditions Precedent to Settlement

2.1 The Trustee shall file a motion in the Texas Bankruptcy Court seeking approval of this Agreement pursuant to Bankruptcy Rule 9019. This Agreement will be deemed effective after the entry of an order of the Texas Bankruptcy Court authorizing and approving this Agreement.

2.2 In accordance with the terms of the Order Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rule 9019(b) Authorizing the Establishment of Procedures to Settle Certain Prepetition and Postpetition Claims (the "Settlement Procedures Order"), MCI will promptly file a motion with the Bankruptcy Court requesting approval of this Agreement, and this Agreement will be deemed effective after the entry of an order of the New York Bankruptcy Court authorizing and approving this Agreement.

2.3 The distribution to holders of unsecured claims of MCI WorldCom Network Services, Inc. shall have a projected recovery as of confirmation of the Plan of Reorganization of at least thirty cents on the dollar (\$.30/\$1) on account of the Twister Allowed Claim, or if the Plan of Reorganization is not confirmed by November 1, 2003, or such later date as agreed by the parties (the "Extension Date"), the Trustee shall have the option to rescind this Agreement. The Trustee shall exercise his right of rescission within five (5) days from the earlier of (i) the date of entry of an order approving confirmation of the Plan of Reorganization that provides a projected recovery of less than thirty cents on the dollar to Class 6 Claims, and (ii) November 1, 2003, or the Extension Date, if applicable. The failure to exercise timely the right of rescission shall constitute the Trustee's waiver of this condition precedent to the settlement.

## 3.0 Release

3.1 Upon satisfaction of all conditions precedent set forth in Section 2 above, the Trustee, for himself and the Twister Estate, and their respective successors, assigns, heirs, agents, and attorneys, hereby release and forever discharge WorldCom and Bryan Engle and Asset Recovery Services, Inc. and their respective officers, employees, shareholders, agents, representatives, attorneys, successors and assigns from and against all actions, causes of action, claims, suits, debts, damages, judgments, liabilities, and demands whatsoever, whether matured or unmatured, whether at law or in equity, whether before a local, state or federal court or state or federal administrative agency or commission, and whether now known or unknown, liquidated or unliquidated, that the Trustee and the Twister Estate now have or may have had, or thereafter claim to have, on behalf of itself, or any other person or entity, at any time prior to and including the date of this Agreement, relating to or arising out of the State Court Action, including all claims that were or could have been asserted therein, the Twister Claim and the MCI Secured Claim.

3.2 Upon satisfaction of all conditions precedent set forth in Section 2 above, WorldCom, its affiliates, and their successors, assigns, heirs agents, and attorneys hereby release and forever discharge the Trustee and the Twister Estate, and their respective officers, agents, representatives, attorneys, successors and assigns from and against all actions, causes of action, claims, suits, debts, damages, judgments, liabilities, and demands whatsoever, whether matured or unmatured, whether at law or in equity, whether before a local, state or federal court or state or federal administrative agency or commission, and whether now known or unknown, liquidated or unliquidated, that WorldCom now has or may have had, or thereafter claim to have, on behalf of itself, or any other person or entity, at any time prior to and including the date of this Agreement, relating to or arising out of the State Court Action, including all claims that were or could have been asserted therein, the Twister Claim and the MCI Secured Claim.

#### 4.0 Miscellaneous Terms and Conditions

4.1 The Parties recognize that this Agreement is subject to approval as set forth in Section 2 above. If either the New York Bankruptcy Court or the Texas Bankruptcy Court disapproves of this Agreement, this Agreement shall be deemed null and void, and the Parties shall retain all rights, defenses, obligations and liabilities existing as of the date immediately prior to the execution of this Agreement.

4.2 This Agreement may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement. This Agreement may be delivered by facsimile transmission of an executed counterpart signature page hereof. Any party delivering this Agreement by facsimile transmission shall deliver to the other party, as soon as practicable after transmitting via facsimile, an original executed counterpart signature page of this Agreement.

4.3 The Parties represent that they have not filed any complaints against the other party, their predecessors, successors, parents, subsidiaries, affiliates, assignees, agents, directors, officers, and employees with any federal, state or local court or state of federal administrative agency or commission, except for the pending State Court Action and the actions pending in the New York Bankruptcy Court. Each Party represents and warrants that it has not pledged, hypothecated, or transferred any interest in the State Court Action, the Twister Claim or the MCI Secured Claim to any third party.

4.4 This Agreement may be modified only by a document signed by the Parties. No waiver of this Agreement or of any of the promises, obligations, terms, or conditions hereof shall be valid unless it is written and signed by the party against whom the waiver is to be enforced. No prior drafts of this Agreement, or any negotiations regarding the terms contained in these drafts, shall be admissible in any court to vary or interpret the terms of this Agreement, the Parties hereto agreeing that this Agreement constitutes the final expression of the Parties' agreement and supersedes all prior written and oral understandings regarding the terms of this Agreement. The Parties hereto have had the opportunity to be represented by counsel in their negotiations of the terms of this Agreement, and therefore no provision of this Agreement shall be construed against any party hereto on the theory that such Party drafted such provision.

4.5 This Agreement shall be binding upon the Parties, their predecessors, successors, parents, subsidiaries, affiliates, assigns, agents, directors, officers, employees, and attorneys. Each of the Parties represents and warrants that he or she is authorized to execute this Agreement and to bind the Parties hereto.

4.6 If any part or any provision of this Agreement shall be finally determined to be invalid or unenforceable under applicable law by a court of competent jurisdiction, that part or provision shall be ineffective to the context of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of the Agreement.

4.7 Except as expressly provided herein, this Agreement shall be governed by and construed in accordance with the domestic laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of Texas.

4.8 The section and subsection headings and titles contained in this Agreement are included for convenience only, shall be without substantive meaning or content of any kind whatsoever, and are not a part of the agreement between the Parties. Any reference in this Agreement to any "Section" refers, unless the context otherwise indicates, to a section of this Agreement.

4.9 Any notices required under this Agreement shall be served upon the Parties via facsimile and/or overnight priority mail as follows:

Notices to the Trustee:

Joseph M. Hill, Esquire  
Cage Hill & Niehaus, LLP  
5851 San Felipe, Suite 950  
Houston, TX 77057  
Fax: (713) 974-0344

With a copy to:

Timothy L. Wentworth, Esquire  
Cage Hill & Niehaus, LLP  
5851 San Felipe, Suite 950  
Houston, TX 77057  
Fax: (713) 974-0344

Notices to MCI:

WorldCom, Inc.  
1133 19th Street, N.W.

Washington, D.C. 20036  
Attn: Brian H. Benjet, Esq.  
Fax: (202) 736-6346

With a copy to:

Piper Rudnick LLP  
6225 Smith Avenue  
Baltimore, MD 21209  
Attn: Eric B. Miller, Esq.  
Fax: (410) 580-3216

~BALT2:755320.v3 |8/22/03



IN WITNESS WHEREOF, we have hereunto set our hands and seals as of the date above written.

**MCI WORLDCOM NETWORK SERVICES,  
INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**JOSEPH M. HILL, TRUSTEE OF THE  
BANKRUPTCY ESTATE OF TWISTER  
COMMUNICATIONS NETWORK, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SAT-34820 0541-4 PDF 00 34799  
Southern District of Texas  
4  
United States Bankruptcy Court  
PO Box 61288  
Houston, TX 77208

031356 763 1 SP 0.370 32399 2 1 4200-1-31586

Florida Public Service Commission  
Division of Records and Reporting  
2450 Shumard Oak Blvd.  
Tallahassee FL 32399

2008 SEP 10 AM 8:43  
DISTRIBUTION CENTER