

ORIGINAL

1 RICHARD M. PACHULSKI, ESQ. (SBN 90073)
KENNETH H. BROWN, ESQ. (SBN 100396)
2 JOHN D. FIERO, ESQ. (SBN 136557)
PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.
3 Three Embarcadero Center
Suite 1020
4 San Francisco, CA 94111
Telephone: (415) 263-7000
5 Facsimile: (415) 263-7010
Email: kdbrown@pszyj.com

020000

6
7 Attorneys for E. Lynn Schoenmann, Chapter 7
Trustee

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 NORTHPOINT COMMUNICATIONS
GROUP, INC., NORTHPOINT
12 COMMUNICATIONS, INC.,
NORTHPOINT COMMUNICATIONS OF
13 VIRGINIA, INC., and NORTHPOINT
INTERNATIONAL, INC.,

Case No. 01-30127-C7

(Jointly Administered with: 01-30125-C7; 01-30126-
C7; and 01-30128-C7)

Chapter 7

14 Debtors.

15 NOTICE OF TRUSTEE'S MOTION FOR
ORDER LIMITING SCOPE OF NOTICE

16 Date: September 3, 2002
17 Time: 9:30 a.m.
Place: 235 Pine St., 23rd Floor
San Francisco, CA 94104
18 Judge: Hon. Thomas E. Carlson

19
20 PLEASE TAKE NOTICE that on September 3, 2002, at 9:30 a.m., or as soon thereafter
as the matter may be heard, in the Courtroom of the Honorable Thomas Carlson, United States
21 Bankruptcy Court, 235 Pine Street, 23rd Floor, San Francisco, California, E. Lynn Schoenmann,
the duly appointed and acting Chapter 7 trustee ("Trustee") in the above captioned Chapter 7
22 cases, will and hereby does move the court for entry of an order pursuant to § 105(a) of title 11 of
the United States Code (the "Bankruptcy Code"), Federal Rules of Bankruptcy Procedure (the
23 "Bankruptcy Rules") 2002 and 9007, and Bankruptcy Local Rules of the United States District
Court for the Northern District of California (the "B.L.R.") 2002-1 establishing notice and service
24 requirements for the above-captioned chapter 7 cases.

25 Pursuant to the motion ("Motion") the Trustee seeks, *inter alia*, the entry of an order
limiting the scope of notice with respect to various types of proceeding as set forth in detail in the
26 Motion to the following parties:

27 (1) the following parties (collectively, the "Core Group"):

(a) The Debtors and their counsel (Latham & Watkins);

DOCUMENT NUMBER-DATE
08694 AUG 19 08

NOTICE OF TRUSTEE'S MOTION FOR
ORDER LIMITING SCOPE OF NOTICE
Case No.: 01-30127-C7

28 77350-001\DOCS_SF:21796.1

FPSC-COMMISSION CLERK

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.
ATTORNEYS AT LAW
SAN FRANCISCO, CALIFORNIA

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC _____
OTH _____

Hony
Nonny

One

8/20/02

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (b) The Trustee and her counsel (Pachulski, Stang, Ziehl, Young & Jones);
 - (c) the United States Trustee;
 - (d) Counsel for Canadian Imperial Bank of Commerce, as administrative agent for the lenders of the Pre-Petition Facility (the "Prepetition Agent");
 - (e) Counsel to The Bank of New York, as trustee under the indenture governing the Senior Notes (the "Trustee");
- (2) The twenty (20) largest creditors of the Debtors on a consolidated basis;
 - (3) Counsel for Monarch Global Capital, the Verizon Litigation lender;
 - (4) Any parties that are directly affected by the particular Limited Notice Proceeding (the "Affected Parties"); and
 - (5) Parties who have filed with the Court, and provided counsel for the Debtors with, a written demand to be served with all notices of Limited Notice Proceedings or hereafter file with the court and provide counsel for the Trustee with a written demand to be served with all notices of Limited Notice Proceedings.

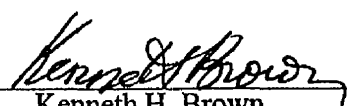
The statutory basis for the relief requested herein are § 105 of the Bankruptcy Code and Bankruptcy Rules 2002 and 9007. The Motion is made on the grounds set forth in detail the Motion, and the Memorandum of Points and Authorities in Support of the Motion. Copies of these documents may be obtained by making a written request to Adriana V. Zargoza, Pachulski, Stang, Ziehl, Young & Jones, Three Embarcadero Center, Suite 1020, San Francisco, California, 94111-5994. The papers are also on file with the Clerk of the Bankruptcy Court located at 235 Pine Street, 19th Floor, San Francisco CA.

The Motion is based upon this Notice, the Motion, and the Memorandum of Points and Authorities filed concurrently, all pleadings and papers on file in these chapter 7 cases, and the preceding chapter 11 cases, the oral argument of counsel, and any evidence submitted to the Court prior to or during the hearing on this Motion.

Any opposition to the relief requested in the Motion must be filed and served upon the undersigned no less than five days before the date of the hearing on the Motion pursuant to L.B.R. 9014-1(c)(2).

DATED: August 13, 2002

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

By: 
Kenneth H. Brown
Attorneys for E. Lynn Schoenmann,
Chapter 7 Trustee

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.
ATTORNEYS AT LAW
SAN FRANCISCO, CALIFORNIA

1 RICHARD M. PACHULSKI, ESQ. (SBN 90073)
KENNETH H. BROWN, ESQ. (SBN 100396)
2 JOHN D. FIERO, ESQ. (SBN 136557)
PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.
3 Three Embarcadero Center
Suite 1020
4 San Francisco, CA 94111
Telephone: (415) 263-7000
5 Facsimile: (415) 263-7010

6 Attorneys for E. Lynn Schoenmann, Chapter 7 Trustee

7
8
9
10
11
12
13
14
15
16
17
18
19

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In Re:
NORTHPOINT COMMUNICATIONS
GROUP, INC., NORTHPOINT
COMMUNICATIONS, INC.,
NORTHPOINT COMMUNICATIONS OF
VIRGINIA, INC., and NORTHPOINT
INTERNATIONAL, INC.,
Debtors.

Case No. 01-30127-C7
(Jointly Administered with: 01-30125-C7,
01-30126-C7, and 01-30128-C7)
Chapter 7
**NOTICE OF MOTION PURSUANT TO
F.R.B.P. 9019 FOR ORDER APPROVING
COMPROMISE OF CONTROVERSY WITH
VERIZON COMMUNICATIONS INC.**
Date: September 3, 2002
Time: 9:30 a.m.
Place: 235 Pine St., 23rd Floor
San Francisco, CA 94104
Judge: Thomas E. Carlson

20
21
22
23
24
25
26
27
28

**TO ALL CREDITORS, EQUITY HOLDERS, PARTIES IN INTEREST, THEIR
ATTORNEYS OF RECORD AND THE UNITED STATES TRUSTEE:**

PLEASE TAKE NOTICE that on September 3, 2002 at 9:30 a.m., or as soon thereafter
as the matter may be heard, in the Courtroom of the Honorable Thomas E. Carlson, United States
Bankruptcy Court, 235 Pine Street, 23rd Floor, San Francisco, California, E. Lynn Schoenmann,
the duly appointed and acting chapter 7 trustee (the "Trustee") for the bankruptcy estates of
NorthPoint Communications Group, Inc., NorthPoint Communications, Inc., NorthPoint
Communications of Virginia, Inc., and NorthPoint International, Inc. (collectively, the
"Debtors"), will and hereby does move ("Motion") the court for an order, pursuant to Rule 9019
of the Federal Rules of Bankruptcy Procedure, approving a compromise of controversy set forth
in the transcript of a stipulation read into the record before the San Francisco Superior Court and
reflected in a written settlement agreement between the parties (the "Settlement Agreement")
with Verizon Communications, Inc. ("Verizon"). The basis for this Motion is set forth in greater

1 detail in the Trustee's Motion Pursuant To F.R.B.P. 9019 For Order Approving Compromise Of
2 Controversy With Verizon Communications, Inc. ("Motion") and the Declarations of E. Lynn
3 Schoenmann in Support of the Compromise Motion ("Schoenmann Declaration") and Daniel
4 Weinstein.

5 You may review copies of the Motion and the Settlement Agreement (which is attached as
6 Exhibit 1 to the Schoenmann Declaration) by sending a written request for these documents to
7 Adriana V. Zargoza, Pachulski, Stang, Ziehl, Young & Jones, Three Embarcadero Center, Suite
8 1020, San Francisco, California, 94111-5994. The papers are also on file with the Clerk of the
9 Bankruptcy Court located at 235 Pine Street, 19th Floor, San Francisco CA. The facts upon which
10 the Settlement Agreement is based and the essential terms of the settlement are summarized
11 below.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I.
FACTS

NorthPoint Group, Inc. and NorthPoint Communications, Inc. (collectively
"NorthPoint") entered into a Merger Agreement and related funding agreement with Verizon in
August 2000 ("Merger Agreement"). Pursuant to the Merger Agreement, Verizon was to
contribute \$800,000,000 of cash (including \$350,000,000 of interim financing and more than
\$500,000,000 of assets to a new combined entity. In exchange, Verizon would receive a 55%
interest in the new entity's business. NorthPoint experienced losses after the Merger Agreement
was executed, which it alleges were within those contemplated by the parties. Prior to the closing
of the merger, Verizon purported to cancel the merger on the alleged grounds that a "Material
Adverse Effect" on NorthPoint's business, operations or financial condition had occurred since
the Merger Agreement was executed. In response to the termination of the Merger Agreement by
Verizon and the initiation of litigation by Verizon in Delaware, NorthPoint initiated litigation
against Verizon in San Francisco Superior Court on December 8, 2000. The Trustee
subsequently filed a second amended complaint asserting claims, for among other things breach
of contract, fraud and negligent misrepresentation, styled E. Lynn Schoenmann, Trustee for
NorthPoint Communications Group, Inc. and NorthPoint Communications, Inc. v, Verizon
Communications, Inc. et al, assigned case No. 317249 ("Verizon Litigation"). In the Verizon
Litigation, the Trustee alleges that the termination of the merger was improper since no Material
Adverse Effect had in fact occurred and that the Merger Agreement only allowed Verizon to
terminate the merger in extremely limited circumstances, none of which were applicable. Verizon
disputes this.

Prior to the scheduled trial date of July 29, 2002, the parties engaged in extensive
discovery and motion practice between December 8, 2000 (when the litigation was commenced in
San Francisco) and July 23, 2002, when the case was settled, subject to entry of an order by this
Court approving the settlement. In this regard, Verizon produced approximately 25 boxes of
documents in response to four sets of requests for production of documents. The Trustee and the
Debtors produced over 100 boxes of documents in response to five sets of requests for
production. In total, the parties have exchanged over a quarter of a million pages of documents
and taken over 60 depositions of percipient witnesses. Eleven expert depositions were also taken.
Following discovery, the parties engaged in a two day mediation before retired Judge Daniel
Weinstein of San Francisco's Judicial Arbitration and Mediation Services (JAMS) with follow-
up conversations thereafter. The mediation resulted in settlement that Judge Weinstein (Retired)

1 has advised is a very good settlement for the NorthPoint estates in light of the litigation risks and
2 uncertainties.

3 **II.**
ESSENTIAL TERMS OF THE COMPRISE

4 The essential terms of the Settlement between the Trustee and Verizon are as follows:

5 1. The Settlement is contingent upon an entry of an order by the Bankruptcy Court
6 approving the terms of the settlement and the parties shall cooperate in attempting to obtain such
7 an order. The order shall provide until the order approving the Settlement Agreement becomes a
8 final order, not subject to appeals, the Bankruptcy Court shall not enter an order either: (i)
9 dismissing the above captioned bankruptcy cases ("Bankruptcy Case"); (ii) closing the
10 Bankruptcy Case; or (iii) providing for a final decree closing any case under chapter 11 of the
11 Bankruptcy Code to which the Bankruptcy Case may subsequently be converted.

12 2. Verizon shall pay the sum of \$175,000,000 ("Settlement Amount") to the Trustee
13 by wire transfer within 10 days of the entry of an order by the Bankruptcy Court approving the
14 terms of the settlement;

15 3. To the extent not already reimbursed, the Trustee and Verizon shall each
16 reimburse the other parties' experts in accordance with applicable provisions of the California
17 Code of Civil Procedure;

18 4. Verizon and its affiliates shall release the Trustee and the Debtors and all of their
19 former and present officers, directors, agents, employees and affiliates from any and all claims,
20 demands, causes of action, losses, liabilities, expenses, and attorneys' fees, known and unknown,
21 past and present and shall waive the provisions of California Civil Code Section 1542;

22 5. The Trustee, on behalf of NorthPoint and its affiliates, shall release Verizon and all
23 of its former and present officers, directors, agents, employees and affiliates from any and all
24 claims, demands, causes of action, losses, liabilities, expenses, and attorneys' fees, known and
25 unknown, past and present and shall waive the provisions of California Civil Code Section 1542;

26 6. Verizon and its affiliates shall withdraw any and all claims filed in the Debtors
27 bankruptcy cases; and

28 7. Upon the Trustee's receipt of the Settlement Amount, the Verizon Litigation shall
be dismissed with prejudice and each side shall bear its own attorneys' fees and costs, except as
set forth in paragraph 3 above.

III.
THE SETTLEMENT IS IN THE BEST INTERESTS OF THE ESTATES.

The Debtor believes that the Settlement Agreement is in the best interest of the NorthPoint
estates. The settlement will result in the prompt payment of \$175,000,000 to the Trustee. The
settlement also relieves the estates of claims asserted by Verizon to exceed \$31,085,856.60. The
results of litigation concerning the termination of the Merger Agreement are uncertain.
Furthermore, the settlement avoids the inherent cost and delay associated with protracted
litigation and the inevitable appeals that would follow in the absence of a settlement.
Accordingly, the Trustee believes that the settlement of the Verizon Litigation on the terms set
forth in the Settlement Agreement is in the best interests of the NorthPoint estates.

The Motion is based upon this Notice, the Motion, the Memorandum of Points and
Authorities and Declarations filed concurrently, all pleadings and papers on file in these Chapter
7 cases, and the preceding Chapter 11 cases, the oral argument of counsel, and any evidence

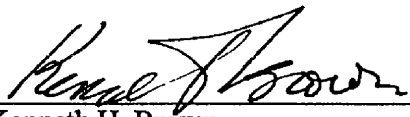
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

submitted to the Court prior to or during the hearing on this Motion.

Any opposition to the relief requested in the Motion must be filed and served upon the undersigned and no less than five days before the date of the hearing on the Motion pursuant to L.B.R. 9014-1(c)(2).

Dated: August 13, 2002

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.

By 
Kenneth H. Brown
Attorneys for for E. Lynn Schoenmann,
Chapter 7 Trustee

PACHULSKI, STANG, ZIEHL, YOUNG & JONES P.C.
ATTORNEYS AT LAW
SAN FRANCISCO, CALIFORNIA

02 AUG 19 AM 9:50

DISTRIBUTION CENTER

MOTION PURSUANT TO 9019
TO COMPROMISE CONTROVERSY

