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2 RODGER M. LANDAU (SBN 151456)  
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9 Attorneys for Debtor and  
10 Debtor in Possession

11 UNITED STATES BANKRUPTCY COURT  
12 CENTRAL DISTRICT OF CALIFORNIA  
13 LOS ANGELES DIVISION

14 In re  
15 INET INTERACTIVE NETWORK  
16 SYSTEM, INC.

17 Debtor.

CASE No. LA 01-13671-VZ

Chapter 11

**NOTICE OF MOTION AND MOTION FOR  
ORDER DISMISSING BANKRUPTCY  
CASE PURSUANT TO 11 U.S.C. §1112(b);  
DECLARATION OF BRUCE BALLENGER  
IN SUPPORT THEREOF**

[No Hearing Requested]

18 PLEASE TAKE NOTICE that INET Interactive Network System, Inc., the debtor  
19 and debtor in possession (the "Debtor") and will and does hereby move this Court for an order  
20 dismissing this bankruptcy case pursuant to 11 U.S.C. §1112(b) (the "Motion") because the estate  
21 no longer possesses any assets.

22 This Motion is based upon 11 U.S.C. §1112(b), upon the representations contained  
23 herein, the attached Memorandum of Points and Authorities, and the Declaration of Bruce  
24 Ballenger.

25 PLEASE TAKE FURTHER NOTICE THAT because this estate has no assets as a  
26 result of a Court approved settlement with a secured creditor, pursuant to the provisions of Local  
27 Bankruptcy Rule 9013-1(g)(1)(N), it is appropriate that this Motion may be determined by notice


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1 and opportunity to request hearing. Any response in opposition or a request for a hearing must be  
2 filed with the Court and served on the Debtor no later than 15 days after service of this Motion.

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Dated: March 28, 2003

**McDERMOTT, WILL & EMERY**

By   
Q. Scott Kaye  
Attorneys for Debtor and  
Debtor in Possession

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I.**

3 FACTS

4 **A. Background**

5 1. The Chapter 11 Filing

6 On February 9, 2001 (the "Petition Date"), INET Interactive Network System, Inc., debtor  
7 and Debtor in Possession (the "Debtor") filed with this Court a voluntary petition for relief under  
8 chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§101-1330 (the "Bankruptcy  
9 Code").

10 2. History

11 The Debtor was in the business of reselling overseas long distance services to  
12 domestic retail customers. Accordingly, it possessed few hard assets with its customer list being  
13 its most valuable asset. Unfortunately, Federal regulations prevent the transfer of customer lists  
14 without the consents of each individual customer on that list. Such nonconsensual transfers are  
15 commonly referred to as slamming. However, under certain circumstances, a customer list can be  
16 transferred along with other assets.

17 After the bankruptcy of its parent, the Debtor's creditors who carried long distance  
18 customer calls ceased providing service because of non-payment and demanded payment of past  
19 due amounts plus deposits before reinstating service. The Debtor was unable to make these  
20 payments because by then its customer base was too small to support the fixed costs charged by  
21 the long distance carriers. Accordingly, in an attempt to preserve the value of the estate, the  
22 Debtor intended to sell substantially all its assets to a company that had these resources. The  
23 Debtor's former principal had created a new company, Telis Communications Group, Inc. and  
24 offered to purchase INET. The Debtor only had a short period in which to consummate a sale of  
25 its assets on a going concern basis before its value dissipated. Global Crossing Bandwidth, Inc.  
26 ("Global"), a disputed secured creditor, objected to that sale and the transaction was never  
27 consummated for this as well as other reasons.

28

1 Global asserted a perfected security interest in all of the Debtor's assets. The  
2 Debtor disputed that the security interest was properly perfected. Because the dispute could not  
3 be resolved without litigation, the Debtor filed an adversary proceeding (Adv. No. 01-02729) at  
4 the end of 2001 to determine the validity and priority of Global's lien. Global filed a counter-  
5 complaint. Shortly thereafter, Global filed for its own voluntary Chapter 11 petition in the  
6 Southern District of New York in January 2002.

7 3. The Global Crossing Bandwidth, Inc. Adversary

8 Global asserted that it had a perfected security interest in virtually all the assets of  
9 the Debtor in the amount of \$1,377,005.24. That amount arose from a promissory note in the  
10 amount of \$1.2 million, of which \$112,000 remained outstanding, and from fees for long distance  
11 services Global provided to INET under contract. Global's secured claim was based upon an  
12 August 27, 1999 security agreement. On or about September 29, 1999, Global filed a UCC-1  
13 financing statement with the California Secretary of State purportedly to perfect its interest in the  
14 assets of "Interactive Network System, Inc." INET asserted that because Global filed its  
15 financing statement under a name other than the Debtor's corporate name, Global had not  
16 perfected its security interest.

17 After the parties stipulated to lift the automatic stay imposed by the Global court,  
18 the Debtor filed a motion for summary judgment. Additionally, the parties attempted mediation,  
19 but a settlement could not be reached. Meanwhile in the main bankruptcy case, the Debtor,  
20 pursuant to the Court's order, continued to file plans and disclosure statements contemplating  
21 alternate treatments of Global's claim.

22 In the Global Adversary, the Court denied the motion for summary judgment and  
23 granted summary adjudication. The Judge instructed the parties to provide expert reports and  
24 testimony at trial regarding the perfection of Global's security interest. The parties continued to  
25 unsuccessfully negotiate a compromise. Soon after, the bankruptcy case was reassigned to Judge  
26 Vincent Zurzolo. The Court then encouraged the parties to try harder to compromise.

27 At that time, it was determined that a major asset of the estate had become  
28

1 worthless. The Debtor's only non-cash asset, the OAN Receivable, had gone from being worth  
2 \$190,000 to having no value due to an adverse appellate decision. OAN is a debtor in bankruptcy  
3 as well. It is very unlikely that this appeal will be overturned and the OAN Receivable will ever  
4 realize value. The estate then had only approximately \$233,000 of cash. The Debtor's counsel's  
5 net fees and costs are approximately \$125,000 due to the multiple disclosure statements that had  
6 been prepared at the Court's direction and the resources spent on the Global Adversary. With the  
7 loss of the anticipated funds from the OAN Receivable, the Debtor determined that even if it were  
8 to prevail at trial in the Global Adversary, the estate would most likely not have sufficient funds  
9 to pay all administrative and priority fees. Likewise, there would be no dividend to general  
10 unsecured creditors.

11 Accordingly, the Debtor and Global agreed to settle the Global Adversary for an  
12 allowed secured claim with a carve-out for partial payment of certain professional fees. The  
13 Office of the United States Trustee had no objection to the settlement. On December 30, 2002,  
14 the Court entered an order authorizing the Debtor to settle the Global Adversary. Subsequently,  
15 on March 26, 2003, the Court dismissed the Global Adversary. The settlement has been  
16 consummated and the estate has no assets.

## 18 II

### 19 DISCUSSION

#### 20 A. THIS COURT SHOULD DISMISS THE CHAPTER 11 BANKRUPTCY CASE 21 IN ACCORDANCE WITH SECTION 1112(b) OF THE BANKRUPTCY CODE

22 Section 1112 of the Bankruptcy Code provides that the court may dismiss a case  
23 under this chapter for cause:

24 (b) Except as provided in subsection (c) of this section, on request  
25 of a party in interest or the United States trustee or bankruptcy  
26 administrator, and after notice and a hearing, the court may convert  
27 a case under this chapter to a case under chapter 7 of this title or  
28 may dismiss a case under this chapter, whichever is in the best  
interest of creditors and the estate, for cause, including -

(1) continuing loss to or diminution of the estate  
and absence of a reasonable likelihood of rehabilitation;

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- (2) inability to effectuate a plan;
- (3) unreasonable delay by the debtor that is prejudicial to creditors;
- (4) failure to propose a plan under section 1121 of this title within any time fixed by the court;
- (5) denial of confirmation of every proposed plan and denial of a request made for additional time for filing another plan or a modification of a plan;
- (6) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;
- (7) inability to effectuate substantial consummation of a confirmed plan;
- (8) material default by the debtor with respect to a confirmed plan;
- (9) termination of a plan by reason of the occurrence of a condition specified in the plan; or
- (10) nonpayment of any fees or charges required under chapter 123 of title 28.

11 U.S.C. §1112(b)

Because the Estate has no assets, it cannot propose or effectuate a plan. There are no assets to pay a dividend to priority claims, administrative claims, or unsecured claims.

Accordingly, the Court should dismiss this case pursuant to 11 U.S.C. §1112(b).


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III  
CONCLUSION

WHEREFORE, the Debtor respectfully requests that this Court enter an order dismissing the above-captioned Chapter 11 bankruptcy case pursuant to 11 U.S.C. §1112(b) and granting any such further relief that is proper.

Dated: March 28, 2003

**MCDERMOTT, WILL & EMERY**  
**DAVID GOULD**  
**RODGER M. LANDAU**  
**Q. SCOTT KAYE**

By   
\_\_\_\_\_  
Q. SCOTT KAYE  
Attorneys for the Debtor, and Debtor in Possession





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15 financing statement under a name other than the Debtor's corporate name, Global had not  
16 perfected its security interest.

17 7. After the parties stipulated to lift the automatic stay imposed by the Global court, the  
18 Debtor filed a motion for summary judgment. Additionally, the parties attempted mediation, but  
19 a settlement could not be reached. Meanwhile in the main bankruptcy case, the Debtor, pursuant  
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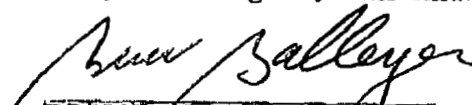
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11 10. Accordingly, the Debtor and Global agreed to settle the Global Adversary for an  
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 13 Office of the United States Trustee had no objection to the settlement. On December 30, 2002,  
 14 the Court entered an order authorizing the Debtor to settle the Global Adversary. Subsequently,  
 15 on March 26, 2003, the Court dismissed the Global Adversary.

16 11. The Global settlement has been consummated thereby leaving the estate with has no  
 17 assets.

18  
 19 I declare under penalty of perjury of the laws of the United States that the foregoing is true  
 20 and correct. Executed this 28 day of March 2003, at Los Angeles, California.

21   
 22 BRUCE W. BALLENGER  
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1 **PROOF OF SERVICE**

2 I, Terry J. Ackerman, declare:

3 I am a resident of the State of California and over the age of eighteen years, and  
4 not a party to the within action; my business address is 2049 Century Park East, 34th Floor, Los  
Angeles, CA 90067-3208. On March 31, 2003, I served the within documents:

5 **NOTICE OF MOTION AND MOTION FOR ORDER DISMISSING**  
6 **BANKRUPTCY CASE PURSUANT TO 11 U.S.C. §1112(b);**  
7 **DECLARATION OF BRUCE BALLENGER IN SUPPORT THEREOF**

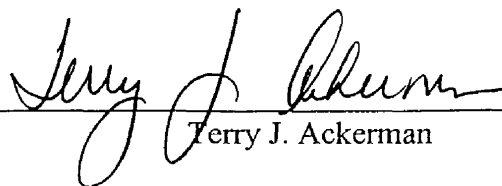
- 8  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
forth below on this date before 5:00 p.m.
- 9  by placing the document(s) listed above in a sealed envelope with postage thereon  
10 fully prepaid, in the United States mail at Los Angeles, California addressed as set  
forth below.
- 11  by causing personal delivery by \_\_\_\_\_ of the document(s) listed above  
12 to the person(s) at the address(es) set forth below.
- 13  by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope  
14 and affixing a pre-paid air bill, and causing the envelope to be delivered to a  
\_\_\_\_\_ agent for delivery
- 15  by personally delivering the document(s) listed above to the person(s) at the  
16 address(es) set forth below.

17 *Please see attached Service List*

18 I am readily familiar with the firm's practice of collection and processing  
19 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
Service on that same day with postage thereon fully prepaid in the ordinary course of business. I  
20 am aware that on motion of the party served, service is presumed invalid if postal cancellation  
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

21 I declare that I am employed in the office of a member of the bar of this court at  
22 whose direction the service was made.

23 Executed on March 31, 2003, at Los Angeles, California.

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26 \_\_\_\_\_  
Terry J. Ackerman