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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

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In re:  
  
EPICUS COMMUNICATIONS GROUP, INC.,  
et al.,  
  
Debtor.

CASE NO. 04-34915-BKC-PGH  
through 04-34916-BKC-PGH  
  
(Jointly Administered)  
Chapter 11

CERTIFICATE OF SERVICE

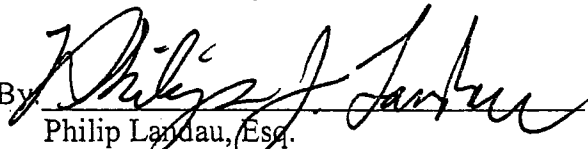
I hereby certify that true and correct copy of the attached *Joint Motion To Approve Compromise With Express Communication Management, Inc.* was furnished by U.S. mail this 14<sup>th</sup> day of October, 2005 to all persons listed on the attached Service List.

ATTORNEY CERTIFICATION

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

Respectfully submitted,

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By   
Philip Landau, Esq.  
Florida Bar No.: 0504017

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- GCL \_\_\_\_\_
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- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC 1
- OTH Grant

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UNITED STATES BANKRUPTCY COURT  
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In re:

EPICUS COMMUNICATIONS GROUP, INC.  
et al.,

Debtors.

CASE NO. 04-34915-BKC-PGH  
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(Jointly Administered)

Chapter 11

FILED BY \_\_\_\_\_  
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U.S. BANKRUPTCY  
FT. LD. SD OF FLA.

**JOINT MOTION TO APPROVE COMPROMISE WITH  
EXPRESS COMMUNICATION MANAGEMENT, INC.**

**NOTICE**

Any interested party who fails to file and serve a written response to this motion within 20 days after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be canceled.

Epicus Communications Group, Inc. and Epicus, Inc., Debtors and Debtors-in-Possession in these cases ("Debtors") and AJW Partners, LLC, AJW Offshore, Ltd., AJW Qualified Partners, LLC and New Millennium Capital Partners II, LLC (collectively, the "AJW Group"), secured creditors and parties in interest, by and through their respective counsel, jointly submit this Motion to Approve Compromise with Express Communication Management, Inc. (the "Motion"), pursuant to Rule 9019(a), Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Local Rule 9013-1(D)(3)(b), and Section 105(a) of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), and in support thereof, respectfully state as follows:

### Jurisdiction and Background

1. On October 25, 2004, the Debtors filed separate petitions for relief under Chapter 11 of the Bankruptcy Code ("Petition Date"). The Debtors' chapter 11 cases are being jointly administered.

2. On September 30, 2005, the Court entered an order confirming the Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the "Plan").

3. The Debtors continue to operate their telecommunications businesses as debtors-in-possession, pending the Effective Date of the Plan.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157.

### Express Communications' Motions and Claims

5. On or about July 11, 2005, Express Communication Management, Inc. ("Express") filed a Motion to Assume or Reject Executory Contract (the "Contract Motion"), with respect to an Independent Sales Representative Agreement dated May 31, 2001, between Express and Epicus, Inc. Pursuant to the Agreement, Express solicited and obtained customers who required telecommunications services provided by Epicus, Inc. in exchange for a commission.

6. On or about July 11, 2005, Express filed a Motion to Accept Late-Filed Claim as Timely (the "Claim Motion"). Express sought to have its claim, in the amount of \$179,848.05, deemed timely filed, and allowed as a secured claim against Epicus, Inc. Express contends that its claim is secured by virtue of an Amended Security Agreement dated April 17, 2002, and a UCC-1 financing statement filed with the Secretary of State of Florida on September 24, 2001. Express failed to file a proof of claim by the claims bar date of March 1, 2005, established by the Court, and did not object to confirmation of the Plan. The Debtors objected to the Contract Motion and the Claim Motion.

7. The Contract Motion and the Claim Motion were both set for hearing on September 1, 2005. Express sought, but did not obtain, a continuance of the hearing on its Motions. After Express failed to appear at the hearing, the Court entered an order dated September 7, 2005 denying both the Contract Motion and the Claim Motion and ordering Express to pay the attorneys fees of those attorneys who appeared at the September 1<sup>st</sup> hearing (the "September 7<sup>th</sup> Order").

8. Express has filed a Verified Motion to Reconsider the September 7<sup>th</sup> Order.

9. It is the position of the Debtors and AJW Group that even if the Court were to reconsider, the Contract Motion and the Claim Motion should be denied on the merits. For instance: (i) under the Plan, the Independent Sales Representative Agreement is deemed rejected because this agreement was not included on the list of executory contracts to be assumed; therefore, the Contract Motion is moot; (ii) the Proof of Claim filed by Express is not timely, and the parties do not believe that Express can establish facts to support excusable neglect; and (iii) Express is barred from enforcing any alleged lien rights against property of Epicus, Inc. pursuant to the injunction contained in Section 11.04 of the Plan.<sup>1</sup>

#### **Request for Relief**

10. Through negotiation, the Debtors and the AJW Group have reached an agreement with Express, resolving the various disputes among the parties regarding Express' claims against Epicus, Inc. Pursuant to this agreement, Express shall be entitled to an allowed secured claim against Epicus, Inc. in the amount of \$7,500, which secured claim shall be treated as provided in Class 2 ("Other Secured Claims") of the Plan, and once the \$7,500 is paid to Express then

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<sup>1</sup> Express did not object to the confirmation of the Plan.

Express will terminate its UCC-1 financing statement filed against the Debtors. Express shall also be entitled to an allowed general unsecured claim against Epicus, Inc. in the amount of \$172,348.05, which unsecured claim shall be treated as provided in Class 9 ("General Unsecured Claims – Epicus") of the Plan. In addition, Express shall be released from its obligation to pay the attorneys fees awarded by the Court in the September 7<sup>th</sup> Order.

11. The Bankruptcy Court has broad discretion to approve a settlement, and it should do so unless the terms of the proposed settlement fall below the lowest point in the range of reasonableness. *In re Bi-Coastal Corp.*, 164 B.R. 1009 (Bankr. M.D. Fla. 1993). The Eleventh Circuit has enunciated certain factors which must be considered in determining whether to approve a settlement, which are: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors and a proper deference to their reasonable views. *In re Justice Oaks II, Ltd.*, 898 F.2d 1544 (11<sup>th</sup> Cir. 1990) *cert. denied* 498 U.S. 959 (1990).

12. Pursuant to Bankruptcy Rule 9019(a), the Debtors and the AJW Group request the entry of an order approving the settlement with Express. The Debtors believe that the proposed settlement is in the best interests of all parties, resolves claims against the estate of Epicus, Inc. and property of Epicus, Inc., and avoids the costs and uncertainties associated with continued litigation.

13. Pursuant to Local Rule 9013-1(D)(2), a proposed Order is attached hereto as **EXHIBIT A.**

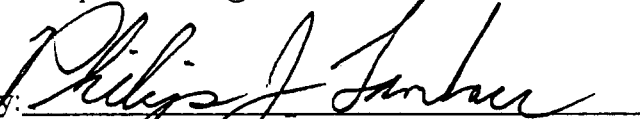
**WHEREFORE**, the Debtors and AJW Group request that this Court enter an order approving the settlement with Express upon the terms set forth herein, and granting such other and further relief as the Court deems just and proper.

**ATTORNEY CERTIFICATION**

**I HEREBY CERTIFY** that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

Respectfully Submitted,

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-and-

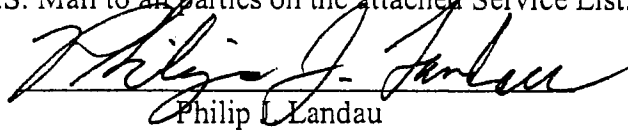
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**ATTORNEYS FOR THE DEBTORS**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished  
this 11<sup>th</sup> day of October, 2005 by U.S. Mail to all parties on the attached Service List.

  
Philip L. Landau

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

In re:

EPICUS COMMUNICATIONS GROUP, INC.  
et al.,

Debtors.

CASE NO. 04-34915-BKC-PGH  
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(Jointly Administered)

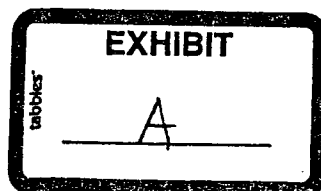
Chapter 11

**ORDER GRANTING JOINT MOTION TO APPROVE COMPROMISE WITH EXPRESS  
COMMUNICATION MANAGEMENT, INC.**

THIS MATTER came before the Court without hearing, upon Epicus Communications Group, Inc. and Epicus, Inc., Debtors and Debtors-in-Possession in these cases ("Debtors") and AJW Partners, LLC, AJW Offshore, Ltd., AJW Qualified Partners, LLC and New Millennium Capital Partners II, LLC (collectively, the "AJW Group"), Joint Motion to Approve Compromise with Express Communication Management, Inc. (the "Joint Motion"). Having reviewed the Joint Motion and the Certificate of No Response, and the Court being otherwise fully advised in the premises, it is:

**ORDERED AND ADJUDGED** as follows:

1. The Joint Motion is **GRANTED**.
2. Express Communication Management, Inc. ("Express") shall be entitled to an allowed secured claim against Epicus, Inc. in the amount of \$7,500, which secured claim shall be treated as provided in Class 2 ("Other Secured Claims") of the Plan.
3. Upon payment of the \$7,500 to Express, Express is ordered and directed to terminate its UCC-1 financing statement filed against the Debtors.





4. Express shall also be entitled to an allowed general unsecured claim against Epicus, Inc. in the amount of \$172,348.05, which unsecured claim shall be treated as provided in Class 9 ("General Unsecured Claims – Epicus") of the Plan.

5. Express is hereby released from its obligation to pay the attorneys' fees awarded by the Court in its September 7<sup>th</sup> Order.

6. The Court shall retain jurisdiction to enforce the terms of the Settlement.

**ORDERED** in the Southern District of Florida on \_\_\_\_\_.

---

**HONORABLE PAUL G. HYMAN, JR.**  
**U.S. BANKRUPTCY COURT JUDGE**

Copies to:

Philip J. Landau, Esquire

(Philip J. Landau, Esq. is directed to serve copies of this Order upon all interested parties and to file a certificate of service with the Court.)

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