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UNITED STATES BANKRUPTCY COURT RECEIVED-FPSC
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION 08 NOV 21 AM 8:36

In re

STARVOX COMMUNICATIONS, INC.,
A CALIFORNIA CORPORATION
Employer's Tax ID No. 09-0211168

COMMISSION
CLERK
Case No. 08-51447-RLE-7

STARVOX COMMUNICATIONS, INC.,
A DELAWARE CORPORATION
Employer's Tax ID No. 84-1178691

Case No. 08-51450-RLE-7

CAPITAL TELECOMMUNICATIONS, INC.,
A PENNSYLVANIA CORPORATION
Employer's Tax ID No. 23-2217634

Case No. 08-51451-RLE-7

EASTERN TELEPHONE SYSTEMS, INC.,
A DELAWARE CORPORATION
Employer's Tax ID No. 23-2216998

Case No. 08-51452-RLE-7

CAPITAL TELECOMMUNICATIONS OF
ERIE, INC., A PENNSYLVANIA
CORPORATION
Employer's Tax ID No. None-Inactive

Case No. 08-51453-RLE-7

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STAR TEL OF VICTORIA, INC., A TEXAS
CORPORATION
Employer's Tax ID No. 74-2384891

Case No. 08-51454-RLE-7

STAR TEL TRANSMISSION CO., INC.,
A TEXAS CORPORATION
Employer's Tax ID. No. 74-2435874

Case No. 08-51455-RLE-7

Debtors.

NOTICE OF TRUSTEE'S INTENT TO COMPROMISE CONTROVERSY:
AND OPPORTUNITY FOR HEARING
(Counterforce, Inc. and Red Hawk Industries, LLC)

TO CREDITORS AND PARTIES IN INTEREST:

PLEASE TAKE NOTICE that Carol Wu, Trustee in bankruptcy of the estate of the above-named Debtors, intends to compromise a claim that she has asserted against Counterforce, Inc., a division of UTC Fire & Security ("Counterforce") and Red Hawk Industries, LLC, a division of UTC Fire & Security ("Red Hawk"), customers of Debtor. Under the agreement, Counterforce will pay to the Trustee of Capital Telecommunications, Inc. the sum of \$23,751.02 and Red Hawk will pay to the Trustee of Capital Telecommunications, Inc. the sum of \$8,085.00, both for post petition services.

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Background

Counterforce and Red Hawk were both customers of Capital Telecommunications, Inc. On March 26, 2008, Debtors filed voluntary petitions for relief under Chapter 7 of the Bankruptcy Code. Debtors were in the telecommunications industry and provided roughly eleven thousand business and consumer customers (largely small businesses) with wholesale and retail traditional voice and enhanced VoIP telecommunications service. The seven debtor entities operated on a consolidated basis, as a single entity.

Just prior to the filing of the petition, Debtors effectively ceased ongoing operations. They stopped affirmatively providing services. They retained a skeletal staff to facilitate the transition of customers to new carriers.

Notwithstanding the closure of the active operation of the business, the equipment of Debtors and its network remained up and operating. That is, if any of the Debtors' customers attempted to make phone calls or use similar data transmission services, the calls would be directed onto Debtors' switches and routers, which would then route them onto one of roughly sixty carriers (generally on lines that Debtors leased) and the call would then be connected and completed.

Shortly after the filing of the petition, the Trustee had to make a determination as to whether or not to allow these "passive operations" to continue so that services would still remain available for some period of time. Alternatively, the Trustee could have "powered down" the equipment, so that calls could not be completed. The Trustee would then not be using lines and services of other parties and potentially incurring administrative expenses.

Some of Debtors large customers approached the Trustee early in the case and asked that the services not be powered down. They promised to pay for post petition serviced used. Among these large customers were Counterforce and Red Hawk.

The Settlement

The intent of the settlement is that Counterforce and Red Hawk will pay the Trustee, for post-petition services only, at the same rate that they were paying for services prior to the Chapter 7 filing. That is, the calculation takes the average daily charges to Counterforce and Red Hawk pre-petition multiplied by the number of post-petition days that the services were used.

Based on this calculation, Counterforce has agreed to pay the to the Trustee the sum of \$23,751.02 within 10 days of Bankruptcy Court approval of this agreement. Based on the same calculation, Red Hawk, which took a little longer to switch over to a new carrier, agreed to pay \$8,085.00 within 10 days of Bankruptcy Court approval of this agreement. The total of the two payments will be \$31,836.02.

In exchange, the Trustee will waive any and all claims that the estate might have against Counterforce and/or Red Hawk in connection with post-petition services rendered by the estate or used by Counterforce or Red Hawk. Because the settlement is to pay for post-petition services provided by the estate, the settlement proceeds are not subject to any pre-petition liens, as proceeds or otherwise (and there are no post-petition liens).

The Trustee believes that the proposed compromise meets the standards of *In re A&C Properties, Inc.* (*Martin v. Kane*), 784 F.2d. 1377, 1381 (9th Cir. 1986), *cert. denied sub nom Martin v. Robinson*, 479 U.S. 854, 107 S. Ct. 189 (1986); *see also Fireman's Fund Ins. Co. v. Woodson (In re Woodson)*, 839 F.2d. 610, 620 (9th Cir. 1988). If the Trustee litigated this dispute, she might well be able to assert that Counterforce and Red Hawk must pay the full value of the services to them, rather than the contract rate.

The value to them is probably substantially higher than the contract rate, because if the services hadn't been provided, there would have been dead time with no phone services to them which could have damaged their business. On the other hand, Counterforce and Red Hawk might be able to assert claims for the extra costs that may have been incurred in switching over to a new carrier and/or for damages or losses they may have incurred. The amount of the settlement appears to be a reasonable estimate of the judgment that the Trustee might obtain if the matter were litigated. If the matter were litigated, the Trustee is not aware of any difficulties that would be encountered in collection, but she has not reviewed financial information needed to make such a determination. The litigation would not be unduly involved or complex, but would have accounting issues that could be raised. There would necessarily be expense, inconvenience and delay attending the litigation, as there is with most litigation. The Trustee believes that the proposed settlement is in the paramount interest of Creditors.

Objections or Requests for Hearing

PLEASE TAKE FURTHER NOTICE THAT Local Rule 9014-1 of the United States Bankruptcy Court for the Northern District of California prescribes the procedures to be followed with respect to any objection to the proposed compromise or any request for hearing thereon. Any objection to the proposed compromise or request for hearing must be filed with the United States Bankruptcy Court, San Jose Division, Third Floor, Room 3035, 280 South First Street, San Jose, CA 95113-3099, and served on counsel for the Trustee at the address noted below within 20-days from the mailing of this notice. Any request for hearing or objection to the proposed compromise must be accompanied by any declarations or memoranda of law that the party objecting or requesting wishes to present in support of its objection. If no party in interest timely objects to the requested relief or requests a hearing, the Trustee will seek entry of an order approving the compromise by default, without further notice and in the absence of an actual hearing. If a timely objection or request for a hearing is made, counsel for the Trustee will give at least 10-days' written notice of the hearing to the objecting or requesting party.

PLEASE TAKE FURTHER NOTICE THAT as of January 1, 2005, the United States Bankruptcy Court for the Northern District of California has adopted mandatory electronic filing. If you are not currently qualified to file papers with the Court electronically, you should consult the Court's website (www.canb.uscourts.gov).

DATED: October 24, 2008

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By:


BARRY MILGROM

Attorneys for Carol Wu, Trustee in Bankruptcy

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Debtors.

**NOTICE OF TRUSTEE'S INTENT TO COMPROMISE CONTROVERSY;
AND OPPORTUNITY FOR HEARING**

(Woodforest National Bank)

TO CREDITORS AND PARTIES IN INTEREST:

PLEASE TAKE NOTICE that Carol Wu, Trustee in bankruptcy of the estate of the above-named Debtors, intends to compromise a claim that she has asserted against Woodforest National Bank

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

("Woodforest"), a customer of Debtor. Under the agreement, Woodforest will pay to the Trustee the sum of \$140,000.00 for post petition services.

Background

Woodforest was a customer of Capital Telecommunications, Inc. On March 26, 2008, Debtors filed voluntary petitions for relief under Chapter 7 of the Bankruptcy Code. Debtors were in the telecommunications industry and provided roughly eleven thousand business and consumer customers (largely small businesses) with wholesale and retail traditional voice and enhanced VoIP telecommunications service. The seven debtor entities operated on a consolidated basis, as a single entity.

Just prior to the filing of the petition, Debtors effectively ceased ongoing operations. They stopped affirmatively providing services. They retained a skeletal staff to facilitate the transition of customers to new carriers.

Notwithstanding the closure of the active operation of the business, the equipment of Debtors and its network remained up and operating. That is, if any of the Debtors' customers attempted to make phone calls or use data transmission services, the calls would be directed onto Debtors' switches and routers, which would then route them onto one of roughly sixty carriers (generally on lines that Debtors leased) and the call would then be connected and completed. So customers received the benefit of the continuing "passive operation" of the Debtors' business.

Shortly after the filing of the petition, the Trustee had to make a determination as to whether or not to allow these "passive operations" to continue so that services would still remain available for some period of time. Alternatively, the Trustee could have "powered down" the equipment, so that calls could not be completed. The Trustee would then not be using lines and services of other parties and potentially incurring administrative expenses.

Some of Debtors large customers approached the Trustee early in the case and asked that the services not be powered down. They essentially promised to pay for post petition serviced used. Among these large customers was Woodforest.

The Trustee obtained a court order which allowed the passive operations to continue, which also kept Debtors' in compliance with certain Federal Communications Commission requirements with respect to giving notice prior to the termination of services. Ultimately, the system could not be maintained (there were no funds to maintain it) and, without action by any party, it stopped operating.

The Trustee asserted rights against Woodforest for the use by Woodforest of the services provided and for the benefit to Woodforest based on the continuing post-petition operations. Woodforest prepared a calculation regarding the extent of the actual usage of the Debtor's lines and the services actually used by Woodforest post-petition and applied the applicable contract rates. That calculation indicated that, if Woodforest could not assert any rights of recoupment or offset, Woodforest would owe the estate roughly \$150,000 for post-petition usage at the pre-petition rates. Woodforest has asserted rights of recoupment and offset against any amounts that it might owe to the estate for, among other things, damages caused to Woodforest based on Debtors' rejection and termination of the contract. Woodforest has asserted that it incurred substantial damages from, among other things, problems with the system (including break downs in the system) and costs of transitioning to a new carrier post-petition based on Debtors' failure to fulfill the terms of the contract. The Trustee disputed Woodforest's claims for recoupment and offset and

asserted that Woodforest was liable for the value of the benefit to Woodforest of the post-petition usage, rather than the contract rate for the usage/services. That is, the Trustee asserted that Woodforest should owe more than \$150,000. In addition, the Trustee asserted that Woodforest had promised to pay for the post-petition services and therefore should not be allowed to recoup/offset its obligations against the damages caused by Debtors for rejection or other failure to perform under the terms of the contract.

The Settlement

The parties have agreed to settle their disputes generally as follows:

1. Woodforest will pay to the Trustee the sum of \$140,000.00 for post petition services.
2. The parties will grant to one another certain mutual general releases.

Because the settlement is to pay for post-petition services provided by the estate, the settlement proceeds will not be subject to any pre-petition liens, as proceeds or otherwise (and there are no post-petition liens). The Trustee believes that the proposed compromise meets the standards of *In re A&C Properties, Inc. (Martin v. Kane)*, 784 F.2d. 1377, 1381 (9th Cir. 1986), *cert. denied sub nom Martin v. Robinson*, 479 U.S. 854, 107 S. Ct. 189 (1986); *see also Fireman's Fund Ins. Co. v. Woodson (In re Woodson)*, 839 F.2d. 610, 620 (9th Cir. 1988). If the Trustee litigated this dispute, she might be able to assert that Woodforest is required to pay the full value of the benefit that it received from the services (i.e., as compared to what would have happened if the system had been powered down by the Trustee), rather than the contract rate. That value is probably substantially higher than the contract rate, because if the services hadn't been provided, there would have been dead time with no phone services to them which could have damaged their business. On the other hand, Woodforest might be able to assert claims for the extra costs that may have been incurred in switching over to a new carrier and/or for damages or losses they may have incurred. The amount of the settlement appears to be a reasonable estimate of the judgment that the Trustee might obtain if the matter were litigated. If the matter were litigated, the Trustee is not aware of any difficulties that would be encountered in collection, but she has not reviewed financial information needed to make such a determination. The legal issues in the litigation would not be unduly involved or complex, but there would be substantial accounting and damages issues that could be raised. There would necessarily be expense, inconvenience and delay attending the litigation, as there is with most litigation. The Trustee believes that the proposed settlement is in the paramount interest of creditors.

Objections or Requests for Hearing

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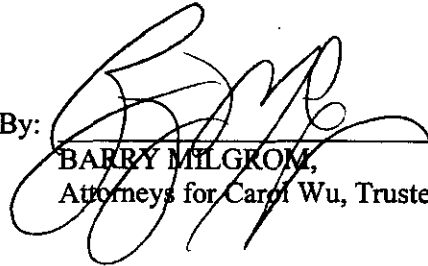
hearing. If a timely objection or request for a hearing is made, counsel for the Trustee will give at least 10-days' written notice of the hearing to the objecting or requesting party.

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DATED: November 17, 2008

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By:



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