From: AT&T FRAUD CASE [mailto:hereismybid@optonline.net]
Sent: Monday, March 27, 2017 6:18 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; Phillip Okin (pokin@giantpackaging.com) <pokin@giantpackaging.com>; 'phillo@giantpackage.com' <phillo@giantpackage.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>; 'mail.caap@texasbar.com' <mail.caap@texasbar.com>
Subject: RE: Dan Turner --TEXAS BAR COUNSEL -Regarding AT&T Chief Counsel David McAtee

Dan

I sent the below email and it bounced. I called your office and I got the corrected email address.

So below is the email…..that everyone else got but you.

The people included here are FCC staff and other Court and State Ethics Staffs from NJ and DC.

Phil Okin the president of 800 Services, Inc is also going to file with Texas. The issues are related so the same staff should work on his issue also.

The FCC will verify for you the scam AT&T pulled on the NJFDC and how AT&T tried but failed to pull the same fraud on the FCC. Tell your boss to put top people on this AT&T fraud.

See below…

Al Inga President
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Monday, March 27, 2017 3:56 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>
Cc: 'mail.caap@texas.bar.com' <mail.caap@texas.bar.com>; 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Dan Turner --TEXAS BAR COUNSEL -Regarding AT&T Chief Counsel David McAtee

Dan

Mr Richard Brown esq. oversees AT&T's fraud in NJ and his copied in this email.
Richard Brown: rbrown@daypitney.com

Dan, thank you for your time and the website (www.cdc.texasbar.com) for ethics claims on AT&T's chief counsel David McAtee related to his AT&T counsel's intentional fraud on the Courts and the FCC.

The FCC case number is 06-210 and the file is enormous. I think the last 10 filings will be more than enough to understand the

case. https://www.fcc.gov/ecfs/search/filings?sort=date_disseminated,DESC&proceedings_name=06-210

Is it possible to just reference the ever-changing FCC file instead of uploading these documents to
(www.cdc.texasbar.com). Dan let me know by Tuesday if possible and I will either upload the documents or provide the links on the FCC case website—whichever you prefer.

The FCC's ethics staff has agreed that if the Texas Bar has any technical questions to confirm what the terms and conditions of AT&T's tariff were at the time of the transaction the FCC ethics staff said it will assist. You can email: Patrick.Carney@fcc.gov and he will answer any technical tariff questions.

My company is pleased to hear that current AT&T corporate HQ counsel David McAtee, is subjected to disciplinary actions for condoning the intentional fraud AT&T's counsels are engaged in.

You will understand how AT&T from 1995 through 2005 DC Circuit Court asserted that when only the traffic on a plan transfers but not the plan the revenue and time commitments of the non-transferred plan do not transfer. To scam the NJFDC in 2005 AT&T's counsel created a brand-new fraud on the NJFDC. It asserted that on a traffic only transfer the revenue and time commitments must transfer. AT&T incredibly created a new defense in the YEAR 2005 as its justification why it did not transfer the $54.6 million in billing in the YEAR 1995. The FCC issued an order on Jan 12th 2007 that determined the new referral in 2006 did not expand the scope of the previous 1995 referral so the case at the FCC is moot. Unfortunately, the NJFDC Judge Wigenton does not understand the language within the FCC's 2007 Order.

Attached is a letter that my companies' co-petitioner Combined Companies Inc.'s president Larry Shipp sent to AT&T's then CEO Mr Whitacre and head General Counsel James D. Ellis.

Mr Whitacre was CEO and James D. Ellis was General Counsel when CCI's February 13, 2006 letter was sent to AT&T to notify AT&T corporate HQ of AT&T's fraud.

When Mr Whitacre retired, the current CEO Randall Stephenson, took Mr Whitacre's' CEO position and Mr Whitacre claimed:

https://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=23738

"Stephenson both committed to a smooth, seamless and efficient transition. "We have a well-planned succession process underway, and it will be transparent for our customers, our employees and our investors," said Whitacre. ……In addition, James D. Ellis, AT&T's senior executive vice president and general counsel, announced his retirement. Wayne Watts, the company's senior vice president and associate general counsel, will replace Ellis upon Ellis' retirement.

Wayne Watts then retired and current General Counsel David McAtee, replaced Watts as its chief legal officer on Oct. 1. 2015. https://www.att.com/gen/investor-relations?pid=9817

AT&T's CEO and General counsel are claiming that there has been a smooth transition of knowledge and therefore the current CEO Stephenson and the current Chief General Counsel David McAtee, should be well aware of AT&T's intentional "all obligations of the transferor" fraud among other frauds AT&T engaged in on the NJFDC and the Federal Communications Commission and the DC Circuit Court.

The Texas Bar position that chief AT&T General Counsel does not himself assert intentional misrepresentations, but is aware of an intentional fraud of its counsel and does not stop it, this would be **complicit** and subject David McAtee, to substantial disciplinary actions.

Mr Brown----AT&T's CEO Stephenson is also aware of AT&T's intentional fraud and apparently is condoning AT&T counsel's intentional fraud.

Mr. Brown please review again:

4.2.A.1 Standards for Making Representations to the Court: Rule 11(b) provides that,"[b]y presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the **best of the person's knowledge**, information, and belief, formed **after an inquiry reasonable under the circumstances**" that the material presented is not filed for an improper purpose and has the **requisite degree of evidentiary** and legal support. This amendment "subject's litigants to potential sanctions for **insisting upon a position after it is no longer tenable**.

AT&T is asserting as per 11(b) that it made "an inquiry reasonable under the circumstances." Since all former AT&T counsels 1995-2005 and all AT&T offices claim that AT&T has ever transferred revenue and time commitments on a traffic only transfer ---to whom was "an inquiry reasonable under the circumstances" made in 2005 when AT&T created the fraud upon Judge Bassler that revenue and time commitments transfer of a traffic only transfer?

Petitioners have stated that it will drop all claims if AT&T can show 1 piece of evidence in which revenue and time commitments transferred on a traffic only transfer. As the FCC advised the DC Circuit as the FCC cited Judge Politan's decision---"AT&T has never provided any evidence." Thus AT&T is violating 11(b) requisite degree of **evidentiary support.**

It is abundantly clear that AT&T counsel is "insisting upon a position after it is no longer tenable," and this insistence transfers to current CEO Stephenson and current Chief General Counsel David McAtee.

David McAtee Esq should be aware of **all** litigation whether Mr Shipps' message to Mr Ellis was ever passed along.

Thank you

Al Inga President
Group Discounts, Inc.

Mr. Brown

Thank you for confirming receipt of all previous emails.

To reiterate these emails are all going to the FCC server as public comments. As you are aware the Declaratory Ruling process is a permit but disclose forum and petitioners are making full disclosure to AT&T as all FCC staff are included. AT&T obviously has no requirement to respond. AT&T's silence speaks for itself.

Timeline of AT&T Tr8179 argument (aka its 2.1.8 defense argument) and the several reasons why it is moot:

Tr8179 was AT&T's assertion that it had an implicit right within the 1995 version of 2.1.8 that it had sole discretion to force a traffic only non-plan transfer should be a plan transfer. AT&T's **basis** for determining that the **plan** must transfer--- to force the revenue and time commitments to transfer ---was **based upon** AT&T's **speculation** that former customer of the traffic (petitioners) were not going to meet its non-transferred revenue commitment.

Fact 1) The 2 traffic only transfers (Inga Companies to PSE and CCI to PSE) were done in January 1995. AT&T does not deny in writing the traffic only transfers as per 2.1.8 within 15 days as required by 2.1.8 (c). As the May 1995, non-vacated Judge Politan Decision indicates AT&T files Tr8179 on February 16th 1995. [1]

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[1] In fact, AT&T in May of 1996 filed another version of section 2.1.8 and it explained in detail that the 1995 version was a strict 15 day filing requirement to deny the transactions.

> **D.** The Current Customer will no longer be AT&T's Customer for the service as of the Effective Date of the transfer, which will be the **earlier** of the date on which AT&T provides to the New Customer a written **acceptance** of the transfer or assignment, or the **fifteenth day** after AT&T receives a fully executed original of the Transfer of Service form, except:
>
> **1**. The transfer will not be effective if, "**within fifteen days"** after AT&T receives a fully executed original of the Transfer of Service form, **AT&T provides to the New Customer a written rejection** of the requested transfer. AT&T may not unreasonably reject a transfer or assignment of service**.** …..**AT&T will provide a written statement of its reason(s) for rejecting a transfer or assignment of service.**

Fact 2) Despite stating in its February 16th 1995 filed 2.1.8 defense that it was implicit AT&T of course shows **no evidence** of any other traffic only transfers in which AT&T forced any customer to transfer the plan.

Fact 3) The agreement with PSE shows that the traffic only transfer was a temporary transfer and petitioners revenue commitment had already been met as per AT&T's own REVENUE AT RISK REPORT included in this case. Petitioners had met its revenue commitment and were $26 million over revenue commitment. Therefore, there was no merit in AT&T's speculation of being deprived of collecting charges for non-rendered services, aka shortfall charges. AT&T subjecting petitioners to Tr8179 was a violation of 203 as it was not implicit within 2.1.8 that AT&T had the right to determine a traffic only transfer was a plan transfer. It violated 202 of the 1934 Communications Act because it would be discriminatory and it would violate 201 of the Act because it would be UNREASONABLE to suspect shortfall on plans that had already met its revenue commitment and were pre-June 17th 1994 exempt from shortfall.

DC Circuit Oral Argument:

> MR. BOURNE: There's another possibility is that if the transaction were to occur **mid-year,** for instance, and a carrier had **already met its minimum usage obligations**, then there wouldn't be any issue of -- now, I don't know the answer to that, but there --
> JUDGE GINSBURG: Okay, okay.

Fact 4) AT&T counsel Richard Meade certification to Judge Politan regarding Tr8179 that AT&T's 2.1.8 defense was decided by the FCC against AT&T:

> **The FCC was concerned** that the modified language in Section 2.1.8(c) would have had a "broader effect" than was needed to achieve AT&T's specific purpose, which was simply to clarify its existing right to prevent a location transfer intended to avoid payment of charges, and so would constitute **a substantive tariff change**.

Fact 5) AT&T's Counsel David Carpenter concedes the FCC denied AT&T's 2.1.8 defense at the Third Circuit. Oral Pg 43 exhibit O in petitioners' initial filing.

> The FCC asked us to withdraw the complaint because the FCC thought we had done **more in the tariff language than codify** what the tariff already meant

Fact 6) AT&T withdraws Tr8179 on June 2, 1995 from the FCC instead of getting it either

rejected or put into effect prospectively and does not advise petitioners.

Fact 7) As the evidence shows AT&T's Joyce Suek the order processing manager informs petitioners **within a week of AT&T withdrawing Tr8179** that AT&T has decided to totally shut 2.1.8 down to all traffic only transfers no matter the size. AT&T does not change it tariff from the January 1995 version it simply engages in an illegal remedy after the FCC denies Tr8179 going in as an "implicit" modification that would have forced a plan transfer. Obviously AT&T understood that its 2.1.8 defense **was dead and could not be relied upon** as AT&T resorted to its illegal remedy of immediate June 1995 total shut down of 2.1.8. There was no way to transfer less traffic.

Fact 8) October 1995 the FCC issues Order that transcends the scope of that case to protect resellers that AT&T as AT&T was violating its tariffs. The FCC mandates that for any issue regarding 2.1.8 or Discontinuation Without Liability section AT&T must file a substantial cause pleading to meet the substantial cause test from November 1st 1995 through October 31st 1996. AT&T continues to assert it has a Tr8179 2.1.8 defense to the Third Circuit in 1996 despite stating the FCC denied AT&T's 2.1.8 defense.

Fact 8) November 9th 1995 AT&T's Tr9229 Filing that replaced Tr8179 becomes effective. AT&T mandates under Tr9229 that the former customer must put up a security deposit against potential shortfall on the non-transferred plan when substantial traffic if transferred. As a substantial tariff change it is prospective only and petitioners 2 traffic only transfers in 1995 are grandfathered. AT&T no longer needs to violate its tariff with the illegal remedy introduced in June 1995 of totally shutting down 2.1.8 to traffic only transfers as AT&T now has in place Tr9229. AT&T also no longer needs to assert that it has an implicit right within 2.1.8 to force a plan transfer to force the commitments to transfer as AT&T has Tr9229 in place.

AT&T counsel Meade certification to Judge Politan page 5-6 para 11

> "In particular, we discussed an **alternative approach** by which AT&T's concern would be met by **requiring a deposit** (either in cash or by letter of credit) in the amount of the **projected shortfall charge** that would apply as a result of the **location transfer.** The FCC was receptive to this approach, but noted that it would represent a **significant change** from the pending filing and that it would be appropriate to make that change as a new transmittal, thereby providing interested parties with a new opportunity to state objections. **The Commission asked that AT&T withdraw Transmittal 8179 and submit the new approach as a new filing."**

When AT&T lost its Substantive Cause Pleading it settled for adding additional deposit requirements on a prospective basis, and therefore there was nothing within Tr. 9229 and section 2.1.8 that would be determinative of the issue presented on the CCI/PSE transfer.

> The Deposit for Shortfall Charges included in Transmittal No. 9229 is a "new concept" that meets AT&T's business concern more directly, **without addressing**

> **the question of intent.** Because this is new, it will apply only to newly ordered term plans, and so would not be determinative of the issue presented on the CCI/PSE transfer. (Meade Exhibit N pg.7 para 16 of initial filing.)

AT&T brief in 1996 to Third Circuit Page 12 footnote 5 confirms the answer to Judge Basslers moot referral that revenue commitments do not transfer:

> FCC Tariff Transmittal 8179 would have made explicit that an existing customer could not transfer even "substantially all 800 numbers on an existing plan" under circumstances **where it would not be able to meet volume or term commitments unless the new customer agreed to assume all of the existing customer's obligations**. See Meade 2d Supp. Cert. ¶ 7 (AA 1267).

AT&T's 1996 brief to the FCC page 7 footnote 6

> AT&T Transmittal No. 8179 **would have** made explicit that an existing customer could not transfer even "substantially all 800 numbers on an existing plan" under circumstances where it would not be able to meet volume commitments unless the new customer agreed to assume "**all of the existing customer's obligations"**.

Fact 9) Judge Bassler understood that the Tr8179 filing would **only be prospective** and would have no effect on plaintiffs so there obviously ---as per Judge Bassler's referral--- any "open issue" referred to the FCC on this already determined moot issue:

> After Judge Politan's May 1995 ruling, however, **AT&T withdrew transmittal 8179 purportedly after the FCC advised AT&T that the transmittal would have prospective effect only**. On October 26, 1995, it filed a second transmittal offering proposed revisions to clarify six of AT&T's tariffs.

Fact 10) Judge Bassler "open issues" had to do about the shortfall infliction issues: The FCC's 2003 Decision clearly shows that the dates of the FCC filings by AT&T and petitioners are **August 26, 1996**, and **September 23, 1996;** obviously after the **June 1996** shortfall infliction.

Fact 11) AT&T provides petitioners customer database to its wholly owned telemarketing facility in Florida, called Transtech. About 60 hours of audio taped recorded phone calls are given to AT&T as evidence of AT&T delaying Tr8179 and Tr9229 while AT&T telemarketers solicited all petitioner's end-users and offered $100 a month users more of a discount than petitioners that were doing $54 million in billing---in an effort to put petitioners out of business.

Mr Inga

Judge Politan included within the complaint both the CCI to PSE and the Inga to PSE transfers. You have the right to choose for damages which ever one provides the Inga Companies with the most damages. Under the CCI to PSE traffic transfer the 4 Inga companies have absolutely no issues concerning the Inga Companies continued rights after the plans being transferred to CCI. The Commission would have never gone ahead with the 2003 FCC Order if it did not understand that you were a switchless reseller. The Commission understands that the 4 Inga Companies did not sell its plans and walk away into the sunset. The 4 Inga Companies continued to be non-facilities based switchless resellers offering telecommunications for a fee directly to the public.

It really did not even make a difference that the Inga Companies continued to have letter of agency status on the locations even after the plan transfer to CCI and AT&T continued directing the business locations to your office to service these locations. Just the fact that the 4 Inga Companies continued to be resellers of telecommunications service for a fee subjects AT&T to damages under "The 1934 ACT for AT&T's numerous violations while the 4 Inga Companies continued to be switchless resellers.

> Telecommunications service: 47 CFR 52.5 - Definitions.
>
> "The term telecommunications service refers to the **offering of telecommunications for a fee directly to the public**, or to such classes of users as to be effectively available directly to the public, **regardless of the facilities used.** For purposes of this part, the term telecommunications service includes interconnected VoIP service as that term is defined in 47 U.S.C. 153(25)."
>
> "(m) End user means any customer of an interstate or foreign telecommunications service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that **offers telecommunications services exclusively as a reseller** shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller."

It was not even necessary that the Inga Companies did not own facilities i.e. a telecom switch. As the definition of

Telecommunications service points out: **regardless of the facilities used.**

It did not even make a difference whether the Inga Companies were a direct AT&T customer. The 4 Inga Companies "offered telecommunications for a fee directly to the public, regardless of the facilities used."

You don't have to be concerned at all with this AT&T nonsense and the Commission knows AT&T's argument is total nonsense.

From: Town News [mailto:townnews@optonline.net]
Sent: Thursday, March 23, 2017 5:11 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown--CASE IS MOOT.....

Mr. Brown

Petitioners are giving AT&T the opportunity to respond and then will upload the below comments to the FCC server before presenting Judge Wigenton with the emails. The declaratory ruling process is a permit but disclose forum. The reason why petitioners are including all FCC staff and State Ethics Staffs is because AT&T knows it can't scam the FCC like it did Judge Wigenton. Judge Wigenton will see these emails and understand AT&T counsel was not willing to scam the FCC like it did Judge Bassler and Judge Wigenton.

The FCC's 2003 Order confirms that AT&T's 2.1.8 defense was **not part of the tariff** and if it became part of the tariff it would be **prospective** and petitioners traffic transfer would be grandfathered. Tr8179 was replaced with Tr9229 which became a prospective tariff filing which initiated deposit requirements against potential shortfall. AT&T counsel intentionally misrepresented to Judge Wigenton the Tr9229 explicit tariff law that conclusively indicates revenue and time commitments do not transfer on a traffic only transfer. Despite the fact that AT&T counsel Fred Whitmer advised Judge Politan in 1995 that AT&T had done thousands of traffic only transfers in which the revenue and time commitments **do not** transfer, AT&T created a brand new fraud on Judge Bassler that 2.1.8 allowed traffic only transfer but the revenue and time commitments **MUST transfer.** Obviously AT&T has **no evidence** to support its POST 2005 fraud -- with cover-up ---on Judge Bassler that 2.1.8 mandates that for traffic only transfers the revenue and time commitment must transfer. AT&T scammed Judge Wigenton as AT&T asserted to Judge Wigenton that AT&T already addressed "alleged other transfers" at the FCC --- but of course the FCC itself advised the DC Circuit that has AT&T never provided evidence to the FCC ---no evidence exists! It was all an intentional fraud on Judge Bassler and now on Judge Wigenton.

The non-vacated May 1995 Judge Politan Decision also confirms that it was **AT&T's own position** that the outcome of the Tr8179 filing would determine whether AT&T had any defense under 2.1.8---as AT&T's only defense other defense as per the FCC 2003 Order was 2.2.4 fraudulent use.

Additionally, this 2.1.8 defense could not be asserted anyway as:

1) It was filed at the FCC on February 16th 1995 which was more than 15 days after section 2.1.8 (c) 15-day filing requirement and is thus precluded.
2) It was **revived** during the FCC's October 1995 Order 1 year review period of November 1995 through October 31st 1996 that mandated AT&T must meet the substantial cause test for any controversies under 2.1.8. Thus, it would be precluded in any event for violation of the FCC's October 1995 Order.
3) Even if AT&T's defense was a part of the tariff and was retroactive and not precluded under the FCC's October 1995 Order -----the defense was **BASED UPON** AT&T's speculation that it would be deprived of collecting shortfall charges on the revenue commitment that does not transfer on a traffic only transfer. Judge Politan has already determined that the plans were pre-June 17th 1994 ordered and the FCC 2003 Decision also stated this. AT&T's counsel Charles Fash and AT&T's current FCC comments concede the plans were shortfall immune at the time of the January 1995 CCI to PSE and Inga to PSE traffic only transfers. As the FCC's R.L. Smith stated AT&T must first show it has MERIT to raise such speculation in the first place. Judge Politan has already determined AT&T has "not substantiated" its shortfall speculation. Thus, it does not matter what the FCC or DC Circuit state when AT&T itself has conceded that it can't even achieve the MERITS of raising this defense.
4) It does not address account movement without the plan using 3.3.1Q bullet 4 which AT&T's own counsel Charles Fash stated was permissible.

Mr Brown, you certainly do not have to respond. You can create brand new scams to hit Judge Wigenton with. Petitioners simply wanted to show under this "permit but disclose" forum that AT&T not only failed to provide any evidence in violation of 11(b), it intentionally scammed Judge Wigenton that it addressed "evidence" at the FCC when of course it did not.

AT&T insistence upon a position, that AT&T's own executives claim is a fraud, is **no longer tenable** and deserves substantial sanctions.

Al Inga
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Thursday, March 23, 2017 1:22 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown--CASE IS MOOT.....

Mr. Brown

The following is the FCC's 2003 Order and its position on AT&T's **attempted** 2.1.8 defense. The FCC states that AT&T's attempted 2.1.8 defense via Tr8179 was not a part of the tariff and even if it became a part of the tariff it would be **prospective** as it would modify the terms and conditions of 2.1.8. As the Commission points out AT&T withdrew its 2.1.8 defense on June 2nd 1995 because the Commission as AT&T counsels Meade and Carpenter conceded

were going to suspend or reject Tr8179 and thus AT&T withdrew Tr8179 that controversy and AT&T's attempted 2.1.8 defense was denied.

See…

FCC 2003 Order page 11:

> "After AT&T refused to permit petitioners to move the traffic, it filed Transmittal 8179 with the Commission in February 1995, which sought to amend Tariff No. 2. The district court's May 1995 primary jurisdiction referral to the Commission **was based, in part, upon AT&T's contention that the Commission's consideration of Transmittal No. 8179 would clarify whether CCI was entitled, under the tariff, to move the traffic without the plans to PSE.** (FOOTNOTE 73 BELOW) According to the record, however, AT&T ultimately withdrew Transmittal 8179 on June 2, 1995.[2] Thus, Transmittal 8179 **never became effective**."
>
> FCC 2003 Order FN 73:
> *"See First District Court Opinion* at 12, 16-17; *Second District Court Opinion* at 3-4, 13; *see also* Petition at 14-16 & n.7 (quoting AT&T's Brief filed in 1995 with the district court **("Transmittal 8179 … make[s] explicit AT&T's implicit rights under the tariff. Accordingly, the proceeding in the FCC will resolve that issue ….").** The district court found that *Mical Communications, Inc. v. Sprint Telemedia, Inc.*, 1 F.3d 1031 (10th Cir. 1993), was persuasive authority on one of the factors relevant to the primary jurisdiction referral: whether a decision by the court prior to an Commission response to a petition pending before that agency might result in conflicting decisions. *See First District Court Opinion* at 14 n.10; *see also* Petition at 14-15 n.7 (quoting AT&T's Brief filed in 1995 with the district court). A tariff transmittal, however, **is a different kind of administrative filing** than the petition for declaratory ruling, *see Mical*, 1 F.3d at 1037, that was at issue in the *Mical* case. As we discuss in Section III.C, below, a tariff transmittal is a carrier-initiated document which, if not withdrawn or deferred by the carrier, or suspended or rejected by the Commission, **becomes effective, *i.e.*, modifies the tariff, within a certain number of days from the transmittal filing date.** *See* 47 U.S.C. § 203(a), (b); 47 C.F.R. § 61.58(a), (b). Until the transmittal becomes "effective" **it is not part of the tariff.** In the interim, the carrier has the power to defer the effective date of a particular transmittal, file an amended version of it, or, as AT&T did in this matter, **withdraw it."**

Mr Brown—When you were scamming Judge Bassler into referring a 2.1.8 defense "any other **open** issues" that was already denied by the FCC in 1995---didn't you think the FCC was going to understand that AT&T's 2.1.8 defense was not part of the tariff and not a controversy as the

[2] *Second District Court Opinion* at 4.

Commission itself had denied it already? The operative word in Judge Bassler's referral is the word: **OPEN.** There was no open 2.1.8 issue when AT&T withdrew Tr8179.

AT&T has made at least 3 personal visits to the Commission urging the staff to issue a decision. As per the Administrative Procedures Act the Commission cannot issue a decision on a non-controversy. AT&T is requesting the Commission staff to **interpret tariff law** that the Commission has ALREADY advised AT&T that it is **NOT A PART OF THE TARIFF!!!** The Commission has already determined in 1995 that there is nothing implicit within 2.1.8 that gives AT&T the authority to determine that a **conceded** traffic only transfer must be deemed a PLAN transfer.

You can keep scamming Judge Wigenton but the Commission **is not going to allow you to complete the fraud!!!** The Commission has now removed the case from circulation because it understood that it was the obstacle that Judge Wigenton referenced. That obstacle is now gone. As the FCC noted the issue is moot because it would be a **prospective change.**

Additionally, given the fact that AT&T has conceded that the plans were pre June 17th 1994 ordered and the 2.1.8 defense was based upon AT&T suspecting shortfall it would have NO MERIT in any event as Judge Politan determined.

Al Inga
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Wednesday, March 22, 2017 3:13 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov'

<Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: FW: Richard Brown intentional Fraud on Judge Wigenton.

Richard Brown
Please read below and provide this evidence….

Mr Inga

We went through all the briefs and oral argument and decisions for Judge Bassler. There was no controversy in Judge Bassler's Court where AT&T claimed it had the right to determine that plaintiffs traffic transfer was a plan transfer.

Ask Mr Brown to show you where in the Bassler record AT&T claimed it had the right to re-argue the Tr8179 defense after the non-vacated District Court Decision stated that the FCC's treatment of Tr8179 would resolve that issue.

Clearly the Judge Bassler referral was written in that manner because where AT&T knew it could not refer a controversy where there wasn't one.

Since AT&T was arguing to Judge Bassler 2.1.8 allowed traffic transfers but that the plan obligations must also transfer it would not have made any sense to also be arguing it had the right to force a plan to transfer. When the DC Circuit made multiple statements that 2.1.8 allowed traffic only transfers AT&T simply continued agreeing that 2.1.8 allowed the transfers and had no reason to argue that a plan transfer had to be ordered. It appears that Judge Bassler not only got hoodwinked by AT&T on the "all obligations" misrepresentation but AT&T put a referral in front of his face that he signed, not knowing AT&T was going to mislead the FCC that there was a controversy in Bassler's Court over AT&T's ability to determine a traffic only transfer was a plan transfer. Ask Mr. Brown to show the Commission where in the Judge Bassler there was this alleged controversy. The Commission can't rule unless controversies are referred. The Judge Politan referral was straight forward: Did 2.1.8 allow traffic transfers. The fraudulent use issue was already denounced by Politan due to the plans immunity. The 8179 issue was already resolved by the FCC when it refused AT&T's Tr8179 substantial cause filing. The question we have is why is the Commission allowing AT&T's sham, since the Commission staff must see AT&T showed no evidence that there was a "Tr8179" type controversy in Judge Bassler's Court. We are sure there are many people at the Commission that realize AT&T has not only

bamboozled all the Judges but made the Commission look foolish also. The Commission staff can't be too please with AT&T. Lot of real good people over there and they don't appreciate when counsel "gets over" on them.

From: Town News [mailto:townnews@optonline.net]
Sent: Monday, March 20, 2017 10:29 AM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Subject: FW: Richard Brown intentional Fraud on Judge Wigenton.

Richard

Thank you for confirming receipt.

Al Inga President
Group Discounts, Inc.

From: Brown, Richard H. [mailto:rbrown@daypitney.com]
Sent: Sunday, March 19, 2017 10:27 PM
To: 'Town News' <townnews@optonline.net>
Cc: ray@grimes4law.com
Subject: RE: Richard Brown intentional Fraud on Judge Wigenton.

Received.

From: Town News [mailto:townnews@optonline.net]
Sent: Sunday, March 19, 2017 4:28 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown intentional Fraud on Judge Wigenton.

UPLOADED TO FCC SERVER

Mr. Brown

Please confirm Receipt.

Mr Brown petitioners have asked for you to confirm receipt of the last several emails that include all FCC Staff and State Ethics Staffs and the DC Circuit Court's Ethics Staff and you have decided that you do not want to confirm receipt.

AT&T, FCC Staff, FCC Ethics Staff, DC Circuit Court's Ethics Staff and State Ethics Staffs

Petitioners have submitted to the FCC server the emails detailing AT&T counsel's fraud on Judge Bassler and Judge Wigenton.

The evidence conclusively shows that there were no open controversies within the scope of the original referral as per 2.1.8. The 2.1.8 assertion made by AT&T via Tr8179 was based upon first determining that AT&T under 2.2.4 had merit to initiate Tr8179.

The fraudulent use controversy was decided against AT&T by the DC Circuit Court and the Fraudulent use controversy is first dependent upon having merit in the first place. Judge Politan has already determined in his non-vacated May 1995 Decsion that the plans were immune from shortfall and termination charges at the time of the 1995 traffic only transfers. AT&T has conceded the plans were immune as the Jan 1995 CCI to PSE and Inga Companies to PSE traffic only transfers.

Given the fact that AT&T has conceded the plans were immune as of January 1995, and conceded that if it could enact Tr8179 it was based upon suspected loss of shortfall and termination charges ---AT&T has thus agreed with Judge Politan that there would be no controversy as AT&T would not have merit to force a plan transfer to force the revenue and time commitments to transfer.

AT&T's Counsel Charles Fash July 1996 Letter explicitly stated that AT&T could not have possibly suspected shortfall as the fiscal year end did not even occur until March 31st 1996. AT&T's interpretation of the duration of the June 17th 1994 exemption was the plans were **only** immune from April 1995 through March 31st 1996 conceding they were immune. Petitioners disagree and believe the tariff would provide immunity for at minimum a 3-year period through 1997. The tariff evidence presented also indicates that petitioners would have sole discretion to renew in 1997 under the same terms and conditions through 2000.

The key here is AT&T's own counsel confirmed that the plans were pre-June 17th immune at the time of the January 1995 traffic only transfer, till at least March 31st 1996.

Since AT&T could not reasonably suspect shortfall---AT&T could not reasonably determined, that petitioners must be forced to transfer its plans to force the revenue and time commitments to transfer.

If the Commission had ruled on the pre-June 17th 1994 immunity duration, there wouldn't have been any question from the DC Circuit regarding suspecting

shortfall and mandating obligations to transfer---as the DC Circuit would have understood AT&T's entire case was predicated on a **total bullshit** speculation that it was going to be defrauded of shortfall charges ----which, by definition are for **SERVICES NOT EVEN RENDERED!!!!**

As the FCC's R.L. Smith pointed out---AT&T just assumes fraudulent use is there!

This Commission has allowed AT&T to get away with a massive intentional fraud up to now. The Commission could have simply reissued the Jan 12th 2007 FCC Order and explicitly told Judge Wigenton— WE REALLY ARE NOT LAZY---- That is the reason ---as per the Administrative Procedures Act the Commission has not ruled. THE CASE IS MOOT!!!

Al Inga
Group Discounts, Inc.

From: Brown, Richard H. [mailto:rbrown@daypitney.com]
Sent: Thursday, March 23, 2017 5:50 PM
To: 'Town News' <townnews@optonline.net>
Cc: ray@grimes4law.com
Subject: RE: Richard Brown--CASE IS MOOT.....

Received

The following are emails that were sent to FCC staff and AT&T counsel Mr Brown confirmed receipt of these emails. The emails evidence why the Judge Bassler 2006 referral has no controversies to decide that were within the scope of the 1995 referral, as the FCC 2007 Order has already so determined. The FCC should first make its determination that there are no controversies as per Judge Bassler's referral based upon the Inga Companies to PSE traffic only transfer. If the FCC believes there is a controversy it should resolve the controversies of the traffic only non-plan transfer and the June 1996 penalty infliction based upon the Inga Companies to PSE traffic only non-plan transfer which would occur prior to the CCI to PSE traffic only transfer.

It is best to read these emails from bottom up in chronological order….

From: Town News [mailto:townnews@optonline.net]
Sent: Saturday, March 11, 2017 4:57 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov'

<Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown intentional Fraud on the NJFDC....

Richard

This is AT&T's position to the DC Circuit Court:

---AT&T reply brief to DC Circuit pg 9:

> "Section 2.1.8 "addresses" the transfer of end-user traffic ***without*** the associated liabilities."
>
> Petitioners agree that 2.1.8 addresses traffic only transfers without the liabilities which the parties agreed in 1995 were the revenue and time commitments and their associated liabilities (Shortfall and termination) for not meeting those customer plan obligations.
>
> AT&T's counsel Friedman advised the FCC in 2003 that the termination penalties were not a concern of AT&T's because petitioners were not terminating its plans.
>
> FCC page 8 FN 56:
>
> "Opposition at 5. Although AT&T also argues that the move also avoided the payment of tariffed *termination* charges, *id.*, it separately states that termination liability (payment of charges that apply if a term plan is discontinued before the end of the term) is not at issue here. Opposition at 3 n.1. That is consistent with the facts

of this matter; petitioners never terminated their plans. Accordingly, termination charges are not at issue in this matter."

AT&T was confirming that the termination commitment stayed with the non-transferred plan under section 2.1.8 but AT&T did not present that as a controversy of speculation of being deprived of collecting termination charges as per AT&T's fraudulent use speculation because the plans were not being terminated. AT&T's 2005 brief to the DC Circuit is clearly stating 2.1.8 allows traffic only transfer without the associated liabilities agreeing with its AT&T counsel Friedman's position to the FCC in 2003. Yet you advised Judge Bassler and Judge Wigenton that IT HAS ALWAYS BEEN AT&T's position that 2.1.8 mandates the revenue and time commitments must transfer on a traffic only transfer.

AT&T's brief to the DC Circuit also pointed out exactly where in section 2.1.8 it allows traffic only transfers agreeing with petitioners.

As you are aware the DC Circuit despite AT&T having detailed where in section 2.1.8 it allowed traffic only transfers said it did not see it on its face:

DC Circuit Page 7:
"The Section on its face does not differentiate between transfers of entire plans and transfers of traffic, but rather speaks only in terms of WATS — the telephone service itself."

But as you pointed out to the DC Circuit and petitioner agreed what the DC Circuit overlooked was it allowed ANY NUMBER singular or PLURAL.

FCC 2003 Order page 6 FN 46:

> Transfer or Assignment – WATS, including **any** associated telephone **number**(s), may be transferred or assigned to a new Customer, provided that:
>
> A. The Customer of record (former Customer) requests in writing that the Company transfer or assign WATS to the new Customer.
>
> B. The new Customer notifies the Company in writing that it agrees to assume all obligations of the former Customer at the time of transfer or assignment. These obligations include (1) all outstanding indebtedness for the service and (2) the unexpired portion of any applicable minimum payment period(s).
>
> C. The Company acknowledges the transfer or assignment in writing. The acknowledgement will be made within 15 days of receipt of notification.

So, Richard even though the DC Circuit did not actually see on its FACE why 2.1.8 allowed traffic only non-plan transfers AT&T and petitioners have always agreed that 2.1.8 does allow traffic only transfers as AT&T asserted to the DC Circuit Court. So, the DC Circuit got it correct even though it did not see it on its face. But no harm no foul the DC Circuit was only there reviewing the FCC decision on fraudulent use.

But DC got it right:

The DC Circuit Decision stated on pg.8:

> Absent such reliance, the commission provides us with little reason why the plain language of Section 2.1.8 fails to encompass **transfers of traffic alone.**

and the DC Circuit Decision stated on pg.10:

> As the foregoing discussion indicates, we find the Commission's interpretation implausible on its face. First, the plain language of Section 2.1.8 encompasses all transfers of WATS, and **not just transfers of entire plans.**

Obviously since the DC Circuit got it correct that 2.1.8 allowed traffic only transfers that means by default **it must take the position** and agree with the 1995 -2005 positions of AT&T, petitioners, and the FCC and Judge Politan's that revenue and time commitments do not transfer.

AT&T counsel Friedman to the FCC in 2003:

As AT&T's customers-of-record, Petitioners were responsible for the tariffed shortfall and termination charges. Section 3.3.1.Q of AT&T FCC No 2 See also AT&T Further Comments filed April 2nd 2003 ("AT&T's Further Comments 2003") at 7-8.

Mr. Friedman is correct. You can't transfer traffic and keep the plan and no longer have any obligations. If the plan is kept by definition the party is still an AT&T customer of Record and must as per 3.3.1Q CSTPII/RVPP definitions must as AT&T counsel Friedman stated to the FCC keep its shortfall and termination charge responsibilities.

Given the fact that the parties agreed going into the DC Circuit that 2.1.8 allowed traffic only transfers and agreed that the revenue and time commitments did not transfer these items are NON CONTROVERSIES. Even though the DC Circuit did not understand on its face that 2.1.8 allowed traffic only transfers and was totally confused as to which obligations transfer ----ONCE it determined that 2.1.8 allowed traffic only transfers it had to BY DEFAULT determine the non-transferred plans MUST KEEP ITS COMMITMENTS as CSTPII/RVPP Definitions as AT&T counsel Friedman pointed out!!!

Under the Administrative Procedures Act the FCC will only interpret controversies within the scope of the original referral. The original referral the parties agreed that 2.1.8 allowed traffic only transfers and agreed the shortfall and termination liabilities stayed with the non-transferred plan.

So the fraud that you and Joey Guerra created in Judge Bassler's Court regarding which obligations transfer is outside the scope of the original referral as there was no controversy as per 2.1.8. The DC Circuit having decided that 2.1.8 allows traffic only transfers even though it did not see it means by default the DC must determine the obligations don't transfer as per 3.3.1.Q. Simply put an AT&T CSTPII/RVPP CUSTOMER by definition MUST HAVE A COMMITMENT between $600,000 to $33 million. You can't be a AT&T CSPTII/RVPP customer without a revenue and time commitment!!! You can't transfer away the commitment UNLESS You transfer AWAY THE ENTIRE PLAN and are a FORMER AT&T customer of the PLAN. The new customer must assume all obligations of the **FORMER** AT&T CUSTOMER that no longer has a plan. That you knew, so you called the day after to see how much money petitioners wanted to settle before the cover-up of the language was exposed.

So, Judge Bassler's referral CAN'T be decided by the FCC as the parties CLEARY AGREED in 1995 and going into the DC Circuit Court that 2.1.8 allowed traffic only transfers and the revenue and time commitments MUST stay with the non-transferred plan. The FCC only determines controversies and there was no controversy as per 2.1.8. The only controversy was 2.2.4 fraudulent use.

That is why the FCC can't rule. But you knew that. That is why AT&T opposed the FCC reissuing the January 12th 2007 Order---because Judge Wigenton did not understand the case is moot---by law the FCC can't rule on non-controversies.

The FCC is not lazy -----The Judge Bassler referral is MOOT! That is why the FCC has not and can't by law rule on non-controversies.

Al Inga President
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Saturday, March 11, 2017 3:14 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo'

<Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown intentional Fraud on the NJFDC....

Richard

Thank you for confirming receipt.
Al Inga President

Group Discounts, Inc.

From: Brown, Richard H. [mailto:rbrown@daypitney.com]
Sent: Saturday, March 11, 2017 2:41 PM
To: 'Town News' <townnews@optonline.net>
Cc: ray@grimes4law.com
Subject: RE: Richard Brown intentional Fraud on the NJFDC....

Received

From: Town News [mailto:townnews@optonline.net]
Sent: Saturday, March 11, 2017 11:39 AM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>;

'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown intentional Fraud on the NJFDC....

Richard Brown

Please reply all and confirm receipt. I will upload these comments and you are welcomed to respond.

AT&T counsel is violating:

4.2.A.1 Standards for Making Representations to the Court: Rule 11(b) provides that,"[b]y presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the **best of the person's knowledge**, information, and belief, formed **after an inquiry reasonable under the circumstances**" that the material presented is not filed for an improper purpose and has the **requisite degree of evidentiary** and legal support. This amendment "subject's litigants to potential sanctions for **insisting upon a position after it is no longer tenable**.

AT&T is not providing the requisite degree of evidentiary evidence to support its "all obligations" position because none exists. AT&T continues to insist **upon a position after it is no longer tenable**.

Below is additional evidence outlining the intentional fraud on Judge Bassler and Judge Wigenton:

Judge Politan's May 1995 Order detailed that after the deposit requirement on the plan transfer from Inga Companies to CCI was resolved **the only controversy** was fraudulent use.

Here are the facts:
Judge Politan's Confirms AT&T sole defense was fraudulent use:

> On January 13, 1995, PSE and CCI jointly executed and submitted written orders to AT&T to transfer the 800 traffic under the plans CCI had obtained from the Inga companies to the credit of PSE. Only the traffic was to be transferred, not the

plans themselves. In this way, **CCI would maintain control over the plans** while at the same time benefiting from the much larger discounts enjoyed by PSE under KT-516. AT&T refused to accept this second transfer on the ground that CCI was not the customer of record on the plans at issue, and thus could not transfer the traffic under those plans to PSE. **AT&T was further troubled** by the fact that if **only the traffic on the plans and not the plans themselves were transferred to PSE**, the liability for **shortfall and termination charges attendant thereto would then be vested in CCI**: an empty shell in AT&T's view." **(1995 Decision pg. 10 para 2**

AT&T counsel Meade **page 5-6 para 11**

"In particular, we discussed an **alternative approach** by which AT&T's concern would be met by **requiring a deposit** (either in cash or by letter of credit) in the amount of the **projected shortfall charge** that would apply as a result of the **location transfer.** The FCC was receptive to this approach, but noted that it would represent a **significant change** from the pending filing and that it would be appropriate to make that change as a new transmittal, thereby providing interested parties with a new opportunity to state objections. **The Commission asked that AT&T withdraw Transmittal 8179 and submit the new approach as a new filing."**

AT&T counsel Carpenter conceded to Third Circuit (Oral Pg. 43) the FCC Rejected Tr8179:
"The FCC asked us to withdraw the complaint because the FCC thought we had done **more** in the tariff language **than codify** what the tariff already meant."

AT&T's sole defense was fraudulent use under 2.2.4, there was no AT&T controversy under 2.1.8 when AT&T lost its retroactive attempt to "clarify" what it asserted it believed 2.1.8 allowed it to do. AT&T asserted under its Tr8179 filing that 2.1.8 allowed AT&T to force a plan transfer when a substantial traffic only transfer was ordered. AT&T advised the FCC that forcing they PLAN to transfer was the only way it could force the customer plan commitments (revenue and time commitments) to transfer----and of course the potential shortfall and termination charges on those customer plan commitments.

The following is AT&T counsel Richard Meade conceding that the controversy of whether AT&T had the right to decide if a substantial traffic only transfer was a plan transfer had been defeated by the FCC and this controversy ended. AT&T counsel Meade explains that AT&T replaced Tr8179 with Tr9229 which became AT&T's solution to protect itself from exposure to not being able to collect shortfall charges on the non-transferred plan when substantial traffic was transferred away from those non-transferred plans. AT&T added security deposits against potential shortfall on the non-transferred plan acknowledging that the revenue commitments do not transfer on a traffic only non-plan transfer.

AT&T counsel Richard Meade 1996 certification to NJ District Court Judge Politan pg.7 para 15:

> "On October 26th 1995, AT&T Corp. filed Tariff Transmittal No 9229 with the FCC. Transmittal No 9229 addresses the problem implicated in the **CCI-PSE** transfer--- **the segregation of assets (locations) from liabilities (plan commitments)** --- in the following manner.

Above AT&T counsel is conceding that when just end-user locations transfer--- but not the plan--- the liabilities (revenue and time commitments) stay with the non-transferred plan. AT&T's "problem" was 2.1.8 mandated that as long as the main billed telephone number remained on the non-transferred plan the revenue and time commitments must not transfer.

Meade certification to Judge Politan pg.7 para 16

> The Deposit for Shortfall Charges included in Transmittal No. 9229 is a **"new concept"** that meets **AT&T's business concern** more directly, without addressing the question of **intent.** Because this is **new,** it will **apply** only to newly ordered term plans, and so would **not be determinative** of the issue presented on the **CCI/PSE transfer**.

Above counsel Meade is addressing the FCC's concern that AT&T was attempting with the previous Tr8179 filing to subjectively measure INTENT of the former customer. The FCC under Tr8179 was not going to allow AT&T to subjectively determine when a traffic only transfer meets AT&T's subjective threshold to be deemed a PLAN TRANFER---to force the customer plan obligations to transfer. AT&T counsel Meade conceded the October 26th 1995 change to 2.1.8 was new and was not determinative on petitioners January 1995 transfer. As you are aware any substantive changes to a tariff are prospective. Thus, although the tariffs terms and conditions still applied to petitioners the added security deposit against potential shortfall was not a requirement upon petitioners as it was grandfathered from this new added requirement.

The below AT&T tariff of course shows the deposit is required on the party that transferred away locations. The security deposit against potential shortfall was required when there was projected shortfall on the non-transferred revenue commitment. This obviously confirms that revenue and time commitments do not transfer on a traffic only transfer and of course answers Judge Bassler's moot question anyway.

When Judge Wigenton in 2014 asked AT&T counsel Guerra about this deposit issue on the traffic transfer Mr Guerra pulled a fast one on her Court and said THAT SECURITY Deposit had to do with the first security deposit between the Inga Companies and CCI which was resolved by the May 1995 Judge Politan Order. Obviously Judge Wigenton was asking about the traffic only transfer but Mr Guerra deflected the conversation because Mr Guerra understood the conclusive tariff evidence showed that revenue and time commitments do not transfer on a traffic only transfer.

Fast forward to 2016 in Judge Wigenton's Court when petitioners detailed the 2014 "security deposit against potential shortfall" deflection AT&T pulled in 2014. What did AT&T do it 2016?

AT&T's 3.21.16 brief to Judge Wigenton page
34

> "Plaintiffs nevertheless base their contrary assumption on the fact that the Court was asking "about transferring obligations in reference to the CCI-PSE transfer." Pls. Br. at 8. But Transmittal 9229 would have had prospective effect only, **<u>and so would not have governed the CCI/PSE transfer at all</u>**."

AT&T simply scammed Judge Wigenton into believing that just because petitioners were grandfathered from having to post security deposits against potential shortfall that the tariff did not apply to petitioners, which of course is total nonsense. If the fundamental terms and conditions of the tariff did not apply to petitioners, then there would be nothing to preclude petitioners from ordering whatever type of transfer it wanted. So, AT&T's own intentional fraud on Judge Wigenton even made no sense. Does anyone really believe that Mr Brown and Mr Guerra actually believe that the tariff did not apply to petitioners! Unbelievable the intentional fraud AT&T counsel got away with!

AT&T of course did confirm as Meade certified to Judge Politan that Tr9229 was AT&T's new way to handle substantial traffic only transfers. Thus AT&T's "CLOSE ENOUGH" to a plan transfer assertion under Tr8179 was done ---that controversy was

over---and AT&T moved on using security deposits against potential shortfall with its prospective tariff change to 2.1.8.

AT&T's only remaining defense was fraudulent use under 2.2.4 and the FCC denied it:

The FCC denied the sole defense of fraudulent use.

FCC 2003 Pg.10 para 13.

> "Because AT&T did not act in accordance with the **"fraudulent use"** provisions of its tariff, which did not explicitly restrict the movement of end-user locations from one tariff plan to another, AT&T cannot rely on them as authority for its refusal to move the traffic from CCI to PSE. AT&T does not rely upon **"any other provisions of its tariff"** to justify its conduct."

The DC Circuit's position on fraudulent use was that it would only be fraudulent use under 2.1.8 if a party refused to accept ANY OBLIGATIONS. Given the fact that as the DC Circuit Decision indicates and Judge Bassler also determined and the Judge Politan's May 1995 non-vacated Decision shows that PSE did assume all the obligations within section 2.1.8 in January 1995. Thus, the sole controversy of fraudulent use was ruled against AT&T by the DC Circuit.

The DC Circuit Legal Director Martha Tomich stated that DC Circuit Court Decision was not a remand. If the DC Circuit Decision was a remand it would say it's a remand. By definition that means there were no other open issues (i.e. controversies) WITHIN THE SCOPE OF THE ORIGINAL REFERAL that were left open to resolve.

The only controversy referred by Judge Politan was fraudulent as AT&T's Tr8179 attempt on 2.1.8 failed. Below we see AT&T confusing Judge Bassler into believing the DC Circuit Court Decision was a remand:

15 THE COURT: Let me just stop you there for a minute.

16 I think there's some loose language in one of your

17 briefs where -- I don't have the page number in front of me,

18 where **you say the DC Circuit remands the case to the FCC**. I

19 don't see any language of remand.

20 MR. GUERRA**: Your Honor, you are correct, there's no**

21 **formal remand** but our view is that that's the only sensible way

22 to interpret what the DC Circuit did because it knew there was

23 primary referral to the FCC whether the transfer at issue was

24 permitted under the tariff. The FCC said the tariff provision

25 doesn't apply. That was the first ruling. The DC Circuit says

1 that's completely wrong but here's this issue that has to be

2 decided if this transfer is permissible.

3 THE COURT: **You don't think the DC Court knows how to**

4 **use the word "remand?"**

The FCC's task was simply to determine whether AT&T could use section 2.2.4 to prohibit a traffic only transfer. The FCC determined that AT&T used an illegal remedy when using 2.2.4 and thus denied 2.2.4. The fact that the FCC did not see that 2.1.8 allowed traffic only transfers had no effect on the FCC's determination that AT&T was not allowed to use the fraudulent use provision in the manner that it did. The controversy as to section 2.1.8 allowed a substantial traffic only transfer had been resolved with the FCC's denial of Tr8179 and replacement with Tr9229.

Mr Guerra created a controversy that had been resolved already with Tr8179 and the Tr9229. That was AT&T's solution to the 2.1.8 controversy. There was no need for the FCC to determine which obligations transfer under 2.1.8 as AT&T, Judge Politan and petitioners all agreed 2.1.8 allowed traffic only transfers.

Under the Administrative Procedures Act the FCC only interprets controversies. There is no controversy to decide in reference to 2.1.8. Those controversies as AT&T's counsel Mead and Carpenter stated before the referral was sent were already settled with Tr9229 replacing Tr8179.

The FCC's General Counsel Austin Schlick said in 2005 that it was the FCC's position that the DC Circuit Decision was NOT A REMAND and thus by definition the fraudulent use controversy has been determined and since it is not a remand that means there are no other open controversies.

READ EMAILS IN CHRONOLOGICAL ORDER FROM BOTTOM UP:

From: Al [mailto:ajdmm@optonline.net]
Sent: Friday, April 15, 2005 6:09 PM
To: Austin Schlick
Cc: John Ingle
Subject: Re: Mr. Schlick & Mr. Ingle

Thank you
Al Inga
The Inga Companies
----- Original Message -----
From: Austin Schlick
To: Al
Cc: John Ingle
Sent: Friday, April 15, 2005 6:05 PM
Subject: RE: Mr. Schlick & Mr. Ingle

Yes.

*** Non-Public: For Internal Use Only ***

-----Original Message-----
From: Al [mailto:ajdmm@optonline.net]
Sent: Friday, April 15, 2005 6:01 PM
To: Austin Schlick
Subject: Re: Mr. Schlick & Mr. Ingle

Mr Schlick

May I use the email below, as is, in a letter to Judge Bassler.

----- Original Message -----
From: Austin Schlick
To: Al
Cc: John Ingle
Sent: Friday, April 15, 2005 3:12 PM
Subject: RE: Mr. Schlick & Mr. Ingle

Any letter from the court to the FCC, or from a party in litigation to the FCC concerning the litigation, could be directed to me:

Austin C. Schlick
Acting General Counsel

Federal Communications Commission
Washington, D.C. 20554

*** Non-Public: For Internal Use Only ***
-----Original Message-----
From: Al [mailto:ajdmm@optonline.net]
Sent: Friday, April 15, 2005 2:22 PM
To: Austin Schlick; John Ingle
Subject: Mr. Schlick & Mr. Ingle

Gentleman

Is there some time point where the FCC will put in writing that it is not treating the DC Courts decision as a remand?

Mr Arleo was told by John Ingle of this FCC position, but Judge Bassler in the NJ District Court may want to see something in writing.

If the FCC will not declare in writing the FCC proceedings are over will the FCC respond to a letter from Judge Bassler?

If the FCC will answer the Judge to whom at the FCC can the Judge address his question to?

I hope you appreciate the situation that the Inga Companies are in. Generally, Judges are not apt to act on verbal stances.

I have not been able to retain Mr. Arleo as of yet and part is because he does not want to represent to the Judge the FCC's verbal position.

Please understand my predicament.

Al Inga
Inga Companies

ABOVE IS THE START OF THE EMAILS FROM FCC GENERAL COUNSEL.

The question that Judge Bassler asked was:

Under the Administrative Procedures Act the FCC only resolves controversies. The parties have always agreed that 2.1.8 allowed traffic only transfers and had in 1995 agreed that revenue and time commitments do not transfer on a traffic only transfer. The controversy of the size of the transfer was resolved when AT&T was denied retroactively modification to 2.1.8 when it filed Tr8179 and then replaced it with Tr9229 security deposits against potential shortfall. So no controversy exists as to the SIZE of the transfer. Judge Bassler understood 2.1.8 allowed traffic only transfers and Judge Bassler understood there was no longer a controversy due to the size of the transfer. Judge Bassler understood the fraudulent use decision went against AT&T. Judge Bassler's sole issue was did petitioners also have to transfer the shortfall and termination liability:

Page 23 -24

19 THE COURT: Why does the agency have the more expertise
20 on making the call as to whether the tariff phraseology, **"all**
21 **obligations" includes shortfall in termination?**

"Shortfall and termination" are the penalties that result from failing to meet the non-transferred plans revenue and time commitments. As the FCC 2007 Order indicates this referral does not expand the scope of the original 1995 referral---which was on the fraudulent use controversy.

AT&T's entire defense of fraudulent use had to take the position that revenue and time commitments did not transfer in order to even assert that defense. So obviously, there was no controversy between the parties as to the fact that revenue and time commitments must not transfer under 2.1.8. That's why AT&T tried to retroactively change 2.1.8 via Tr8179!

If there was an issue regrading which obligations transfer it would have been referred to the FCC and then the FCC would have interpreted it. Then the DC Circuit would have reviewed it. The DC Circuit Decision is explicitly states that the obligation allocation issue was not reviewable because the FCC was not asked to interpret it. Of course, the very reason why Judge Politan did not need for the FCC to interpret which obligations transfer ---nor did he need to determine whether section 2.1.8 allowed substantial traffic only transfers was the ONLLY CONTROVERSY was section 2.2.4 fraudulent use.

See DC Circuit Decision:

---"The Communications Act **precludes us from addressing only those issues which the Commission has been afforded no opportunity to pass."** 47 U.S.C. Section 405(a)." (DC Circuit Decision in Plaintiffs initial brief pg. 10 fn1.

--- "How this enumeration affects the requirement that new customer assume "*all* obligations of the former Customer" (emphasis added) is **beyond the scope of our opinion**." **DC pg. 11 fn2**

---"We also do not decide precisely which obligations should have been transferred in this case, as this question was **neither addressed by the Commission** nor adequately presented to us." **DC Circuit Page 11**

Simple: 1) Judge Politan did not need to refer a controversy as to which obligations transfer as AT&T raised no defense in 1995 as per 2.1.8 that the parties did not transfer what it was supposed to transfer for traffic only transfers. **2)** Thus, the FCC was not asked to interpret which obligations transfer. **3)** Thus, the DC Circuit Court appropriately stated it can't review obligation allocation because the FCC was not asked to interpret it and of course did not issue a remand on fraudulent use controversy. The DC Circuit simply decided that it would be fraudulent use under 2.1.8 if a customer refused to accept ANY OBLIGATIONS. That of course did not happen in the CCI to PSE traffic only transfer or the Inga Companies to PSE traffic only transfer.

As we now realize the Third Circuit ended up referring the fraudulent use controversy to the FCC but Judge Politan had already determined that the plans were immune from shortfall and termination liability so AT&T had no merit to raise its fraudulent use defense in the first place.

March 1996 Judge Politan Decision Page 16 para 1:

> The Court finds **nothing** in the Tariff F.C.C. No. 2 which prevents fractionalization, and contemplates a like finding by the F.C.C. Cleary, therefore, plaintiffs have established a strong likelihood of success on the merits.

NOTHING IS NOTHING. Nothing having to do with the SIZE of the transfer under 2.1.8. Nothing having to do with whether 2.1.8 allows traffic only transfers. Nothing having to do with whether AT&T could use section 2.2.4 to prohibit a permissible 2.1.8 traffic only transfer. Nothing! Nothing! Nothing!

Judge Bassler referral was done in error as the only 1995 controversy of fraudulent use was referred to the FCC by the 3rd circuit. When by March 1996 Judge Politan determined AT&T's fraudulent use defense had no merit because the plans were all pre-June 17th 1994 grandfathered:

> A) Judge Politan: "Commitments and shortfalls are little more than **illusionary concepts** in the reseller industry—concepts which constantly undergo renegotiation and restructuring. The only "tangible" concern at this juncture is the service AT&T provides. The Court is satisfied that such services and their costs are protected. To the extent however that **AT&T's demand for fifteen million dollars' security is premised on the danger of shortfalls,** the Court finds that threat neither pivotal to the instant injunction **nor properly substantiated by AT&T**. March 1996 Politan Decision (page 19 para 1)
> B) Judge Politan: **"**Suffice it to say that, with regard to **pre-June, 1994 plans**, methods exist for defraying or erasing liability on one plan by transferring or subsuming outstanding commitments into new and better plans pursuant to AT&T's own tariff." **May 1995** NJFDC Decision pg. 11
> C) Judge Politan: "In answer to the court's questions at the hearing in this matter, Mr. Inga set forth certain methods for restructuring or refinancing by which resellers can and do **escape termination and also shortfall charges** through renegotiating their plans with AT&T." **May 1995 NJFDC Decision pg. 24**

Note 2 of 3 quotes above are from the non-vacated May 1995 Judge Politan Decision.

The FCC Pricing Line Division issued the January 12th 2007 FCC Order which determined Judge Bassler's 2006 referral did not expand the scope of the original 1995 referral on fraudulent use.

The FCC Pricing Line Division January 2007 Order properly took the position that the Judge Bassler referral was a new controversy. It was a 2005 created controversy that AT&T created by intentionally scamming Judge Bassler with AT&T's misquote and cover-up of the ("all obligations language within 2.1.8) and incredibly asserting the DC Circuit Decision was a remand—when of course it was not. AT&T's original position was revenue and time commitments do not transfer on traffic only transfers and when asserting fraudulent use. AT&T since 2005 now asserts that revenue and time commitments must transfer on a traffic only transfer under 2.1.8.

The FCC Pricing Line Division referred petitioners to the FCC ethics staff. This of course is further confirmation that the Jan 2007 FCC Order determined AT&T created a bogus "all obligations" new controversy—which AT&T tried on the FCC.

AT&T counsel understood it was engaging in an intentional fraud that it could not possibly support with evidence—as AT&T has never required revenue and time commitments to transfer.

The very reason AT&T tried to retroactively change section 2.1.8 via Tr8179 was AT&T understood there was NOTHING in 2.1.8 that prohibited substantial traffic only non-plan transfers.

AT&T Counsel asserted to Judge Politan as March 8th 1995 there were thousands of traffic only transfers among aggregators and **AT&T can't produce one** in which the plan commitments transfer:

> "But there are literally - - my guess is hundreds, if not thousands, of transfers that have happened **among aggregators** and aggregations plans." NJFDC Oral Argument pg. 53

4.2.A.1 Standards for Making Representations to the Court: Rule 11(b) provides that,"[b]y presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the **best of the person's knowledge**, information, and belief, formed **after an inquiry reasonable under the circumstances**" that the material presented is not filed for an improper purpose and has the **requisite degree of evidentiary** and legal support. This amendment "subject's litigants to potential sanctions for **insisting upon a position after it is no longer tenable**.

Obviously AT&T did not need to make an inquiry to its business people to ask which obligations go where. Mr Brown advised the Third Circuit in 1996 that it was self-evident under 2.1.8 that on a traffic only transfer the revenue and time commitments don't transfer. Obviously AT&T counsel are "insisting upon a position after it is no longer tenable". Mr Brown and Mr Guerra simply INTENTIONALLY scammed the NJFDC silly and **tried to cover it up** by misquoting the tariff:

Below are just a few from dozens of misquotes of the tariff by AT&T's counsels in Judge Bassler's Court and the FCC in 2007, prior to the tariff analysis being realized. The actual tariff language is "the new customers must assume all obligations of the **FORMER** customer at the time of the transfer." **Former** is an adjective that modifies the noun. But AT&T thought the word **former** was much too long of a word to use so it felt it needed to misquote the tariff:

> 1) "Thus, the second sentence of § 2.1.8B did not limit the sweepingly broad requirement that a **transferee** accept "all obligations" of the **transferor**."
> 2) the `new' customer in the transfer, did not assume all the obligations' of **the `old'** customer, CCI,"
> 3) "whether a proposed transfer of virtually all end-user WATS traffic, without a transfer of "all obligations" of the **transferor,** complies with § 2.1.8."

4) "ARGUMENT I. SECTION 2.1.8 REQUIRES A **TRANSFEREE** TO ACCEPT "ALL OBLIGATIONS" OF THE **TRANSFEROR** COMPANY, INCLUDING ANY OBLIGATION TO PAY SHORTFALL OR TERMINATION
CHARGES."

5) "whether a **transferee's** refusal to accept all of a **transferor's** obligations satisfies § 2.1.8."

After the cover was blown AT&T incredibly stated to the FCC that it was just paraphrasing! This was no paraphrasing—it was an intentional attempt to cover-up the actual language of the tariff to pull off the intentional fraud. Imagine AT&T expected the FCC staff and Judge Wigenton to believe this---**without any evidence!!!** Most people paraphrase by making a long passage and making it shorter. Here AT&T needed to change ONE WORD: **Former** into 2 words: OLD PLAN and the TRANSFEROR.

PSE is only responsible for assuming all obligations of the FORMER Customer. If the PLAN is not transferring then the transferor is not a FORMER AT&T customer as it remains an AT&T customer and as per CSTPII definitions must maintain its CSTPII/RVPP revenue and time commitments.

If section 2.1.8 really mandated that for traffic only non-plan transfers the revenue and time commitments must transfer, then AT&T would have been able to show the Court and FCC thousands of examples. But of course, no evidence exits. It was obviously an intentional AT&T fraud.

AT&T has clearly violated its Rule 11B. It does not have the **requisite degree of evidentiary and it continues to insist upon a position after it is no longer tenable**.

Al Inga
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Friday, March 10, 2017 8:42 AM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>;

'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deanne.Erwin@fcc.gov' <Deanne.Erwin@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'laynede@dor.state.fl.us' <laynede@dor.state.fl.us>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'MeredithAttwell.Baker@fcc.gov' <MeredithAttwell.Baker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown intentional Fraud on the NJFDC....

Mr Brown

Please confirm receipt

AT&T creates new controversy in 2005 that 2.1.8 allows traffic only transfers but insists it was its position within 10 days of the 1995 traffic only transfers that petitioners **refused to transfer the plan commitments** and this was the reason why AT&T denied the transfer. The following Judge Bassler Oral Argument section has no mention of AT&T 1995 defense of fraudulent use mandating that the plans revenue and time commitments must transfer.

It also does not assert a Tr8179 controversy that due to the size of the traffic only transfer AT&T believed it had the right to force a plan transfer to force the revenue and time commitments and their associated liabilities for shortfall and termination liability.

AT&T's bogus assertion was simply 2.1.8 for traffic only transfers mandates the revenue and time commitments must transfer and that is why AT&T denied the transfer:

The following Oral Argument in 2006 in Judge Bassler's Court shows Judge Bassler understanding the only two obligations listed in 2.1.8 were transferred (the bad debt and the minimum payment period) but Judge Bassler erroneously believed the DC Circuit Decision was a REMAND as to whether the shortfall and termination liability should also transfer:

Page 20 :
AT&T counsel Guerra Arguing plan obligations transferring is the controversy:

15 We have been litigating 11 years because they say they
16 didn't have to transfer that. I, frankly, don't understand.
17 They say that's a question of fact. It's in every one of their
18 briefs, including briefs they submitted here. They've done the

19 things. They have transferred. That's why they're fighting.
20 **They have no intention of transferring them.**

PAGE 22 AT&T Counsel Guerra regarding discrimination claims:

8 MR. GUERRA: It's a possibility. But I think getting
9 the answer from the FCC is first.
10 Just as the FCC said, you don't get to this question
11 until you conclude that 2.1.8. **Required all these obligations**
12 **to transfer.** Because if it didn't, then AT&T didn't
13 discriminate with respect to the other parties **allegedly** allowed
14 to make transfers without switching the obligations over.
15 THE COURT: If you waived it to the other ones,

16 assisted on it here --
17 MR. GUERRA: But already resolved the refusal here was
18 unlawful based on the language. Tariff, you wouldn't need to
19 get into discrimination.

Page 23 -24

19 THE COURT: Why does the agency have the more expertise
20 on making the call as to whether the tariff phraseology, **"all**
21 **obligations" includes shortfall in termination?**
22 MR. GUERRA: Well, your Honor, first of all the FCC
23 interprets tariffs all the time. It has an understanding of
24 what's common practice. It has an understanding that no Court
25 would have. The Third Circuit has always said **interpreting 2.18**

1 is a job. FCC, they identify generality, important social
2 policies.

Mr Guerra simply flat out lies to Judge Bassler that the 1995 controversy was that AT&T denied the January 1995 transfers within 15 days because it was insisting that on a **traffic only transfer** the revenue and time commitments must transfer.

Notice how AT&T counsel Mr Guerra says there are "the other parties **allegedly** allowed to make transfers without switching the obligations over."

Mr Brown before Judge Wigenton used the same "**alleged** other transfers" line in her Court.

AT&T Counsel Mr Whitmer advised Judge Politan in 1995 that there had already as of 3.8.95 been **thousands** of traffic only transfer in which the revenue and time commitments DID NOT TRANSFER. Judge Politan wanted to know from AT&T counsel Fred Whitmer what the largest

traffic only transfers were and what the default ratios were in AT&T not being able to collect shortfall and termination charges. So her asked AT&T counsel how many traffic only transfers were done and the sizes of them.

AT&T Counsel asserted to Judge Politan as March 8th 1995 there were thousands of traffic only transfers among aggregators and AT&T can't produce one in which the plan commitments transfer:

"But there are literally - - my guess is hundreds, if not thousands, of transfers that have happened <u>among aggregators</u> and aggregations plans." NJFDC Oral Argument pg. 53

AT&T has never provided any evidence:

> "To the extent however that AT&T's demand for fifteen million dollars' security is <u>premised on the danger of shortfalls,</u> the Court finds that threat neither pivotal to the instant injunction **<u>nor properly substantiated by AT&T</u>**. March 1996 Politan Decision (page 19 para 1)

NJFDC Judge Politan stated in his March 5th 1996 Order at 18-20 that the parties could:

> "revisit the issue of security at any time in the future upon the filing of appropriate papers supported by **<u>credible documentary or testimonial evidence</u>** (emphasis added)."

The FCC's DC Circuit brief cited Judge Politan's Decision that also noted AT&T provided **<u>no evidence</u>** and AT&T misled this Court that it has "<u>responded</u>" to the FCC as to why it has zero evidence:

> "Again, they have also made these contentions to the FCC (see Brown Cert., Ex. O at 73-76 (discussing alleged ambiguity) and 174-178 (**<u>raising alleged other transfers of transfers of service</u>**), and **<u>AT&T has responded to those arguments in that proceeding</u>**."AT&T Pg. 29

AT&T hasn't "<u>responded to "alleged other transfers of service" in that proceeding".</u> AT&T's own executive's contradicting its own counsel assertion that revenue and time commitments

must transfer on a traffic only transfer were FCC filed by Tips Inc., on June 2014 and AT&T conceded it stopped responding May 2008!"

Regarding AT&T having zero evidence, the FCC pg. 13 fn. 87 stated:

> "Assuming that further inquiry is appropriate, efficiency favors their resolution in the district court where the evidentiary record already has been developed."

So Richard the FCC is saying we should go back to Judge Wigenton and let her see if AT&T really does have evidence of traffic only transfers in which the revenue and time commitment transfer. Additionally, petitioners need AT&T to show Judge Wigenton EVIDENCE that AT&T within 15 days of the CCI to PSE and Inga to PSE traffic only transfers stated it denied those transfers because 2.1.8 requires revenue and time commitments to transfer on a traffic only transfer and that petitioners and PSE were refusing to accept the revenue and time commitments.

Show the FCC 1 single statement before we go back to NJFDC.

Richard you remember this scam AT&T pulled on Judge Wigenton:

AT&T's 3.21.16 brief page 33:

> "Counsel's point was that PSE had not agreed to accept "all" of the obligations, not that it was assuming "zero" obligations. And this Court understood AT&T's position:
> THE COURT: So your position, then, Mr. Guerra, is had there been some understanding that all the obligations would transfer as well, then everything would have obviously proceeded and the contracts would have been fine and AT&T would have been on board. It was the notation of **"traffic only"** which was sort of the impediment?
> MR. GUERRA: Yes. And, again, this is the understanding that the DC Circuit had, the FCC had. Id. at 18 (emphasis added). Moreover, both the **D.C. Circuit and FCC** did understand that, under the proposed transaction, PSE would not assume all of CCI's obligations."

The notations on the forms were "Traffic Only" and noted all locations transferred except the ones indicated on the form. The forms do not say transfer TRAFFIC ONLY NO OBLIGATIONS. The forms do not indicate any mandate upon AT&T to alter in any way what the 2.1.8 required as far as obligation allocation.

Show the FCC and Judge Wigenton one single statement within 15 days of the traffic only transfers in 1995 AT&T was denying the traffic only transfer because section 2.1.8 required on a traffic only transfer to transfer revenue and time commitments. There are none. AT&T's position was exactly the opposite arguing that because section 2.1.8 mandated that the revenue and time commitments must stay with the non-transferred plan AT&T was denying the traffic only transfers based upon section 2.2.4 fraudulent use. AT&T simply lied to Judge Wigenton. AT&T understood section 2.1.8 allowed both traffic only and plan transfers. Petitioners were simply advising AT&T that this was a traffic only

transfer not a plan transfer and then the explanation continued with stating the accounts to remain. There is no mention of obligation allocation.

Richard--- Where do you see the FCC believing that the Traffic Only sentence meant NO OBLIGATIONS were being transferred:

Judge Politan and the FCC understood the Traffic Only sentence.

> Accordingly, CCI and PSE jointly executed and submitted to AT&T nine TSA forms for each of the nine plans.[1] At the bottom of each TSA, in handwriting, these parties directed AT&T to move the **"traffic only"** on each plan to PSE.[2] The January 13 letter, under which these nine TSAs were forwarded, directs AT&T to "**move the locations associated with these plans [but] not ... in any way to discontinue the plans**."[3] In this way, CCI and PSE attempted to move to PSE the end-user traffic associated with each of the nine CSI CSTP II/RVPP plans**, but not to move the actual plans themselves.**

DC Circuit Court Reference to Traffic Only Statement:

AT&T, however, argues persuasively that the FCC misinterpreted its comment. Immediately following the alleged concession, AT&T's submission noted that:

> [Section 2.1.8], by its terms, allows a transfer of CCI's service to PSE only if PSE agreed to assume all obligations under those **plans.** *Yet CCI explicitly amended the transfer of services form to read "Traffic Only."*
> By expressly declaring that it did not intend to effectuate a transfer of all obligations under the **plans** to PSE . . . *the proposed transfer, on its face, violated the terms of Section 2.1.8.*

What AT&T asserted to the FCC was a misstatement of facts that the traffic only transfer was a **plan** transfer. A plan transfer did require the revenue and time commitments to transfer under 2.1.8 and AT&T was asserting that petitioners UNDER A **PLAN** TRANFSER would be violating section 2.1.8. if it did not transfer the revenue and time commitments.

AT&T did not say that petitioners under a **traffic only** transfer would be violating 2.1.8. AT&T understood that only on a **plan** transfer as in the INGA TO CCI **plan** transfer do the revenue and time commitments transfer. AT&T was simply misstating the facts of the transfer to the FCC in 2003---that it was a plan transfer and not a traffic only transfer.

---

[1] *First District Court Opinion* at 10; *see* Exhibit H to Petition.
[2] *See First District Court Opinion* at 10; Exhibit H to Petition.
[3] *See* Exhibit H to Petition.

The key here is not what AT&T was stating to either the FCC in 2003. The key is what evidence does AT&T have to show Judge Wigenton that within 15 days of the traffic only transfers that AT&T asserted anything close to a statement such as: Section 2.1.8 requires traffic only transfers to transfer the revenue and time commitments.

There are absolutely no AT&T statements in the record made by AT&T within 15 days of the required written denial that AT&T was even confused by the Traffic Only sentence. AT&T understood the traffic only sentence simply was a traffic only order as opposed to a plan transfer order. The FCC understood this also.

The real key is what Judge Politan understood in 1995.

AT&T's sole defense and thus the controversy in 1995 was whether section 2.2.4 fraudulent use could prohibit a permissible 2.1.8 traffic only transfer. AT&T was asserting that revenue and time commitments DO NOT Transfer under section 2.1.8 on a traffic only transfer:

See NJFDC Judge Politan March 1996 page 17 fn 7

> "Indeed, **AT&T's own counsel** focused the issue by indicating that the tariffed obligations "*involved herein*" are all **tariffed obligations**, for which **"CCI, not PSE"** would be obligated.

--During the 11.28.95 hearing AT&T counsel kept asserting its fraudulent use defense and CCI's Mr Shipp kept agreeing that as per section 2.1.8 plan commitments don't transfer. It led to this comment:

AT&T's Whitmer: And one of the obligations of the customer, Winback & Conserve or CCI, that did not go to PSE in the attempted transfer was the obligations for shortfall and termination, correct?
Mr Shipp: That's correct. And we so **identified that on the transfer of service document**.
The Court: **I know all these facts, Mr Whitmer. I really do. I swear to God**.
Mr Whitmer: I have no further questions.

Mr Brown petitioners again will remind you of your obligations to the Court:

4.2.A.1 Standards for Making Representations to the Court: Rule 11(b) provides that,"[b]y presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the **best of the person's knowledge**, information, and belief, formed **after an inquiry reasonable under the circumstances**" that the material presented is not filed for an improper purpose and has the

requisite degree of evidentiary and legal support. This amendment "subject's litigants to potential sanctions for **insisting upon a position after it is no longer tenable**.

Have you made "inquiry reasonable under the circumstances" and requisite degree of evidentiary and legal support? **You are insisting upon a position after it is no longer tenable.**

You are flat out engaged in an intentional fraud on Judge Bassler and Judge Wigenton.

You tried to scam the FCC too. The FCC's 2007 Order determined the new controversy created in 2005 on which obligations transfer under 2.1.8 did not expand the scope of the original fraudulent use controversy of 1995.

Petitioners want Judge Wigenton to see AT&T will refuse to provide the required **evidence** that it claimed to Judge Wigenton that it addressed at the FCC in that proceeding.

Please comment to all FCC staff.

Al Inga
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Thursday, March 09, 2017 4:13 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'Frank Arleo' <Frank.Arleo@arleodonohue.com>; 'Nicholas.Degani@fcc.gov' <Nicholas.Degani@fcc.gov>; 'nick.degani@fcc.gov' <nick.degani@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'Amy.Bender@fcc.gov' <Amy.Bender@fcc.gov>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Richard Brown intentional Fraud on the NJFDC....

Richard

Please confirm receipt.

I will upload these emails after I give AT&T the opportunity to respond to everyone.

AT&T counsel David Carpenter advised the DC Circuit Court Judge Ginsburg that all petitioners had to do was submit the TSA form to satisfy the tariff. Petitioners did use the form issued by AT&T.

> DC Circuit Oral Argument page 13:
>
> JUDGE GINSBURG: Is the transfer form part of the filed tariff?
>
> MR. CARPENTER: No, the **transfer form implements the filed tariff.**
>
> JUDGE GINSBURG: Okay, so it's not really authoritative as to whether it's, what the meaning of the tariff is or whether it's even consistent with the tariff.
>
> MR. CARPENTER: No, but the transfer form happens here to say exactly what the tariff says, and **the only way you can satisfy the tariff is either use our form** or submit in writing something that says exactly what our form says.

Please point out to the FCC staff where in the submitted AT&T TSA forms that it stated anything having to do with requiring that certain obligations do or don't get transferred. The non-

disputed fact is there was no special requirement being requested by PSE or petitioners. Mr. Brown ---under your current fraud on Judge Wigenton that you and Joseph Guerra started in 2005---- AT&T's position is that petitioners **refused in 1995** to transfer the revenue and time commitment on the traffic only transfer. Please review the cover letter from PSE and the 9 TSA forms. Please indicate where there was a stipulation made to ALTER whatever 2.1.8 required for obligation allocation.

AT&T had 15 days to raise a defense as per 2.1.8. Richard even your fraud has holes. You need another fraud Richard. Your intentional fraud that petitioners refused to transfer and accept revenue commitments has zero evidence. Of course, Richard if 2.1.8 mandated that revenue and time commitments transferred on traffic only transfers AT&T would have thousands of samples per your co-counsel Mr Whitmer.

You tried the fraud on the FCC and FCC case manager Deena Shetler wasn't about to allow you to get away with the fraud and issued the January 12th 2007 Order which you manipulated and presented to Judge Wigenton. Then when petitioners requested that the FCC reissue the Jan12th 2007 Order to simply clarify it for Judge Wigenton you OPPOSED clarification.

Petitioners offer still stands---Show 1 single traffic only transfer under 2.1.8 in which the revenue and time commitments transferred and we will drop the case. Your co-counsel Mr Whitmer said you have thousands of them.

Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Thursday, March 09, 2017 12:49 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov'

<Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--Rule 11b subjects litigants to sanctions for insisting upon a position after it is no longer tenable.

FCC Staff & Richard Brown

What the Commission needs to focus on is the fact that there was no controversy between the parties once Tr8179 was resolved as to which obligations transferred under 2.1.8. The May 1995 Decision explicitly states that PSE was going to be responsible for the bad debt on all the accounts transferred to it. AT&T agreed that it could not force a plan to transfer to force the revenue and time commitments to transfer.

You also must focus on the fact that PETITIONERS NOR PSE indicated within the TSA's and Cover letter that went with the TSA's that there **NEEDED TO BE ANY MODIFICATION OF WHICH OBLIGATIONS TRANSFER!!!**

PLEASE REVIEW FCC 2003 Order page 3:

> "Accordingly, CCI and PSE jointly executed and submitted to AT&T nine TSA forms for each of the nine plans.[1] At the bottom of each TSA, in handwriting, these parties directed AT&T to move the **"traffic only**" on each plan to PSE.[2] The January 13 letter, under which these nine TSAs were forwarded, directs AT&T to "**move the locations associated with these plans [but] not ... in any way to discontinue the plans**."[3] In this way, CCI and PSE attempted to move to PSE the end-user traffic associated with each of the nine CSI CSTP II/RVPP plans, but **not to move the actual plans themselves**."

In other words… Petitioners simply submitted the forms and AT&T as per section 2.1.8 (c) within 15 days must process the transfer as per **WHATEVER 2.1.8 mandated as far as obligation allocation**.

Section 2.1.8 handles traffic only and plan transfers. As the FCC 2003 Order indicated petitioners simply advised AT&T that it wanted a Traffic Only transfer and explicitly indicated on each TSA the end-user location traffic that was to be left on the non-transferred plan.

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[1] *First District Court Opinion* at 10; *see* Exhibit H to Petition.
[2] *See First District Court Opinion* at 10; Exhibit H to Petition.
[3] *See* Exhibit H to Petition.

Do you see any comments from the FCC that the petitioners were mandating that AT&T traffic transfer ONLY if the obligations are to be allocated in a manner other than what 2.1.8 required? NO!

It was AT&T's responsibility to simply process that ORDER **under whatever obligation allocation it believed was necessary to adhere to the terms and conditions of section 2.1.8.** The onus is on AT&T to process the order in accordance with the terms and conditions---not petitioners!!!!

It was AT&T that FIRST SPOKE UP and stated it would not process the order due to **FRAUDULENT USE** 2.2.4. AT&T by asserting fraudulent use was -----as the evidence shows -----was advising exactly what it believed 2.1.8 mandated in obligation allocation. It was AT&T that took the position that it would not process the order because the revenue and time commitments do not transfer.

It was AT&T that ran to the FCC on February 16th 1995 and tried to change 2.1.8 and failed. When AT&T accepted the fact that the FCC denied Tr8179 the 2.1.8 CONTROVERSY WAS DONE!!! In fact the 2.1.8 controversy was actually done 15 days after submission. AT&T filed Tr 8179 on February 16th 1995. AT&T only had 15 days to question 2.1.8. The traffic was transferred Jan 13th from CCI to PSE ----that was held up due to security deposits. However, the Inga to PSE traffic only transfer of Jan 30th 1995 was not denied due to security deposits and that transfer was not denied at all. February 16th 1995 is more than 15 days after Jan 30th 1995. Tr 8179 failed anyway so the controversy as per 2.1.8 was over within 15 days –if there even was a controversy. AT&T raised the controversy not petitioners!!! Petitioners simply asked for a traffic only transfer!!! That is it!!

After the DC Circuit AT&T asserted to Judge Bassler that 2.1.8 in 1995 did allow traffic only transfers but petitioners were not transferring the revenue and time commitments on its traffic only transfer. Where in the 9 TSA's and cover letter does it mandate AT&T to ALTER WHAT 2.1.8 requires? It doesn't!!!

If there were truly an animal that existed that allowed a traffic only transfer where it required, the revenue and time commitments to also transfer then WHY DIDN'T AT&T SIMPLY PROCESS THE ORDER in January 1995?

The very question of which obligations transfer is a MOOT Question. The answer is simple: The petitioners submitted the paperwork and explicitly stated it was doing a **proper** traffic only transfer. If AT&T BELIEVED in 1995 that traffic only transfers were permissible as Mr Whitmer indicated AT&T had done THOUNADS of Them and the revenue and time commitments did not transfer.

However, if AT&T believed that due to the SIZE of the traffic only transfer that revenue and time commitments must transfer w/o the plan then why didn't AT&T simply do that!!! Look the Bottom-line is petitioners asked for a traffic only transfer and AT&T on page 9 of its brief to the DC Circuit that 2.1.8 addresses transfers of traffic w/o the revenue and time commitments. We

all know AT&T counsel is engaged in a fraud on obligation allocation----but the point here is that EVEN UNDER AT&T's FRAUD the issue is MOOT as AT&T should have simply processed the order within 15 days and transferred the revenue and time commitment.

AT&T is responsible for process the submission in accordance with the terms and conditions of section 2.1.8. The proper paperwork was submitted. It is AT&T's responsibility to adhere to the tariff. Given the fact that AT&T is claiming 2.1.8 allows traffic only transfers---there can't be any controversy as to obligation allocation as the proper paperwork was submitted!

All an AT&T customer can do is submit the proper paperwork! There is no controversy as per 2.1.8. between the parties. The FCC can only address controversies under the administrative procedures act. AT&T never claimed to Judge Politan that petitioners were requesting an order that would alter the normal obligation allocation of 2.1.8.

When AT&T filed Tr8179 there were MANY AT&T customers that were involved and all AT&T customers agreed with AT&T that 2.1.8 did not require revenue and time commitments to transfer on a traffic only transfer---BUT EVEN UNDER current AT&T counsel fraud ---there was nothing to stop AT&T from transferring the revenue and time commitments IF that is what it believed was necessary.

You can't penalize an AT&T customer for ordering a traffic only transfer and not have it processed within 15 days. Given the undeniable fact that **the proper paperwork was submitted that is ALL that can be required by a customer**. The onus is on AT&T---**so even under AT&T's fraud the 2.1.8 Judge Bassler referral is moot.**

AT&T raised the obligation allocation issue not petitioners…..

Judge Politan's Confirms AT&T sole defense was fraudulent use:

> On January 13, 1995, PSE and CCI jointly executed and submitted written orders to AT&T to transfer the 800 traffic under the plans CCI had obtained from the Inga companies to the credit of PSE. Only the traffic was to be transferred, not the plans themselves. In this way, **CCI would maintain control over the plans** while at the same time benefiting from the much larger discounts enjoyed by PSE under KT-516. AT&T refused to accept this second transfer on the ground that CCI was not the customer of record on the plans at issue, and thus could not transfer the traffic under those plans to PSE. **AT&T was further troubled** by the fact that if **only the traffic on the plans and not the plans themselves were transferred to PSE**, the liability for **shortfall and termination charges attendant thereto would then be vested in CCI**: an empty shell in AT&T's view." **(1995 Decision pg. 10 para 2**

(A) Judge Politan March 1996 pg.17 fn. 7: "Indeed, **AT&T's own counsel** focused the issue by indicating that the tariffed obligations ***"involved***

> ***herein*"** are all **tariffed obligations**, for which **"CCI, not PSE"** would be obligated.

FCC 2003 Pg.10 para 13.

> "Because AT&T did not act in accordance with the **"fraudulent use"** provisions of its tariff, which did not explicitly restrict the movement of end-user locations from one tariff plan to another, AT&T cannot rely on them as authority for its refusal to move the traffic from CCI to PSE. AT&T does not rely upon **"any other provisions of its tariff"** to justify its conduct."

Once the **Tr8179 was dropped** by AT&T and it was replaced with TR9229 there was never a controversy **as per 2.1.8** only 2.2.4.

Petitioners also need for the FCC to understand AT&T has already conceded that the plans were pre June 17th 1994 at the time of the Jan 1995 traffic only transfers:

Please review the following dates:

> Finally, we refuse the parties' request that we declare whether "pre-June 17, 1994 CSTP II plans, as are involved here, may never have shortfall charges imposed, as long as the plans are restructured prior to each one-year anniversary." *See* Joint Motion for Expedited Consideration at 2; Opposition at 14-15; Reply at 25. Declaratory relief on this issue – which also was not referred to us by the district court – is inappropriate because whether CCI's plans were pre- or post-June 17, 1994 plans **is a disputed fact.**

AT&T counsel Charles Fash dated July 3,1996 which is under the FCC's October 1995 Order period. Charles Fash confirms the objections involving Shortfall infliction and illegal billing controversy:

> You claim that AT&T, by placing tariffed shortfall charges on bills sent to CCI's end-users, was somehow stepping outside the established forum for resolution of the collection dispute (supposedly, the pending lawsuit between the parties). In fact, however, this is a new dispute that has nothing to do with the pending suit. Indeed, the relevant period for calculation of the of the shortfall charges in issue did not expire until **March 31, 1996** and the charges were then billed on the **June 1, 1996 bills**.

AT&T's claim for payment of these charges obviously could not have been the subject of litigation until both of these events had occurred.

The controversy as per the PENALTY INFLICTION is how many post June 17th 1994 restructures does an AT&T customer have that is within a 3 years CSTPII/RVPP contract. AT&T's position in 1996 was that AT&T was not going to allow a second restructure even though petitioners were within the 3 year contract

The critical part that AT&T concedes ----and thus is NOT A DISPUTED FACT -----that as of the January 1995 the plans had not yet been restructured even 1 time after June 17th 1994 as the fiscal year was April 1995 thru March 31st 1996.

It is NOT a disputed fact that AT&T had as of Jan 1995, TRAFFIC ONLY TRANSFER AT&T HAD NO MERIT IN SUSPECTING FRAUDULENT USE AS THE PLANS---- EVEN UNDER AT&T'S SELF SERVING INTERPRETATION OF THE JUNE 17th EXEMPTION DURATION---were immune from charges. Yes, it is not relevant now that the DC Circuit decided the Fraudulent Use against AT&T. However, if the FCC in 2003 understood the plans were fiscal year plans and the penalty did not hit until June 1996---so of course the plans were immune –even without the FASH letter.

Al Inga President
Group Discounts, Inc.

From: Town News]
Sent: Wednesday, March 08, 2017 4:19 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--Rule 11b subjects litigants to sanctions for insisting upon a position after it is no longer tenable.

May 1995 Non Vacated Politan Decsion:

Tr 8179 was to resolve the controversy of whether AT&T had the right to force a customer that did a substantial traffic only transfer to mandate that it must do a **plan** transfer instead, so as to force the plan commitments to transfer.

The controversy ended when AT&T withdrew Tr8179 and determined it could not force a plan transfer under 2.1.8. Note the only request AT&t made was to force a PLAN TRANSFER. It did not make a request under Tr8179 to force a COMMITMENT TRANSFER because that anaimal never existed. AT&T created the new controvery in Judge Bassler's Court that 2.1.8 ALLOWED traffic only transfers without the plan but the PLAN COMMITMENTS must transfer—as if that was even an option.

When AT&t withdrew Tr8179 based upon the FCC's feedback and AT&T's Counsel Meade and Carpenter both advised Judge Politan that this controversy of whther AT&T could force a plan transfer on a substantial traffic only transfer under 2.1.8 was NO LONGER A CONTROVERSY as it accepted it could not and then came up with tr9229 to replace Tr8179.

The Bottom-line is the FCC at this point can NOT address a NON CONTROVERSY under 2.1.8. There is no controversy under 2.1.8 for the FCC to determine. There is no longer a controversy under fraudulent use as the DC Circuit determined that it would only constitute fraudulent use if there weren't any obligations transferred.

Furthermore this May 1995 non vacated Order clearly states that the plans were pre June 17th 1994 immune from shortfall and thus there was NO MERIT to suspect fraudulent use in the first place.

See Page 16 screenshot ---

From: Town News [mailto:townnews@optonline.net]
Sent: Wednesday, March 08, 2017 12:10 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--Rule 11b subjects litigants to sanctions for insisting upon a position after it is no longer tenable.

Richard

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AL Inga
Group Discounts, Inc.

From: Brown, Richard H. [mailto:rbrown@daypitney.com]
Sent: Wednesday, March 08, 2017 11:51 AM
To: 'Town News' <townnews@optonline.net>
Cc: ray@grimes4law.com
Subject: RE: Mr Brown--Rule 11b subjects litigants to sanctions for insisting upon a position after it is no longer tenable.

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Sent: Wednesday, March 08, 2017 9:36 AM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>;

'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--Rule 11b subjects litigants to sanctions for insisting upon a position after it is no longer tenable.

Mr. Brown

Please reply all and confirm receipt. Please review and comment if you like. Petitioners will wait for AT&T's comments and then upload the emails to the FCC server.

AT&T counsel Whitmer detailed PSE does not need to assume plaintiff's obligations when AT&T was asserting its sole defense of "Fraudulent Use" on 3/21/1995 cross examination of Mr. Inga in Judge Politan's Court:

> Whitmer: Q: Mr Inga, you know, do you not that if the service, **except for the home account**—or Mr. Yeskoo called it the **"lead account**" ---is transferred to PSE **the shortfall and termination liabilities remain** with Winback & Conserve, **isn't that correct?**
> Inga: Yes

As you can see above there is NO CONTROVERSY between the parties as to which obligations are transferred on a traffic only transfer. If the home or lead account was not transferred it remains a traffic only transfer not a plan transfer. In tariff terms Home or lead account number is referred to as the MAIN BILLED TELEPHONE NUMBER.

AT&T then gets the March 1996 injunction issued against it by Judge Politan because Judge Politan determined AT&T's sole defense of fraudulent Use had no merit because the plans were all pre-June 17th 1994 ordered. AT&T appeals that decision based on primary jurisdiction

claiming the FCC needs to determine the case. At this point, AT&T has already violated the October 1995 FCC Order mandating that it must meet the substantial cause test. Such as filing would have provided AT&T the FCC interpretation it claimed it was being denied. So, the case gets appealed to the Third Circuit and AT&T counsel Richard Brown on 4.25.96 addresses the Third Circuit.

Mr Brown understood that 2.1.8 allowed traffic only transfers and that the only two obligations that were listed within 2.1.8 were properly transferred. So, what Mr Brown decided to do was simply lie regarding the FACTS of the transfer. All end-user locations were **not** transferred as petitioners understood that if the main billed telephone number aka lead or home location was not transferred the plan and its revenue and time commitments must remain with the non-transferred plan. Mr Brown mischaracterized CCI-PSE transfer as a **plan** transfer then asserted it was **self-evident** for traffic only transfers that the shortfall and termination obligations **don't transfer**:

Richard Brown on 4.25.96 addresses the Third Circuit.

> "CCI Notes that a transfer of service can apply either **to individual end user locations or to entire plans**. See CCI Br. At 31-32 & n13. CCI then, incongruously, seeks to defend the District Court by citing **"record evidence"** that addressed transfers **individual end user locations (not entire plan liabilities), and showed that the only "obligation" transferred to the "new customer" in that event is the unpaid liability associated with the individual end user location** that is transferred. **But that is self-evident under the tariff.** By contrast, when ***all*** the plan's traffic and locations are being transferred to a new customer and the "plan" would then exist only as an **empty shell**, then the "new customer" would not be assuming "all" the associated "obligations" unless it assumed the "existing customer's" shortfall and termination commitments."
>
> Mr Brown clearly understood how 2.1.8 worked and clearly understood there was "**record evidence"** how the terms and conditions of 2.1.8 played out. This wasn't so

called “alleged other transfers” that AT&T bogusly asserted it addressed at the FCC as Mr. Brown intentionally scammed Judge Wigenton.

Despite Mr Brown’s co-counsel Mr Whitmer detailing that because the home/lead account did not transfer the revenue and time commitments do not transfer---Mr Brown simply lied to the Third Circuit and said **ALL** the accounts transferred and it was an EMPTY SHELL. All the accounts did not transfer and it was not an empty shell. AT&T’s account executive Joseph Fitzpatrick advised petitioners what it needed to do to maintain the plan and its revenue and time commitments and this is what was done.

The following is AT&T’s comments to the FCC in 2003 in which it acknowledged the two obligations within 2.1.8 were transferred but AT&T also wanted transferred the revenue and time commitments and their associated charges for shortfall and termination charges for failure to meet those plan obligations. AT&T simply misstates that it is a **PLAN** Transfer ---not a traffic only transfer:

AT&T FCC 2003 Reply J. Appendix 533:

“Petitioners were precluded under the governing tariff from transferring their CSTP II **plans** to PSE unless PSE agreed to assume all of the Petitioner's obligations under those same **plans**, ***including tariffed shortfall and termination charges***.”

No emphasis added on italics. AT&T understood the only two obligations listed in 2.1.8 were transferred but under its misrepresentation that it is a **plan** transfer it stated the tariffed shortfall and termination charges must transfer. AT&T in Judge Bassler’s Court then creates the new fraud that EVEN ON A TRAFFIC ONLY transfer the revenue and time commitments must transfer.

It’s obvious Mr Brown is well aware of the record evidence and well aware of 2.1.8’s terms and conditions; however, Mr. Brown and his co counsels Joseph Guerra and others have decided to engage in an intentional fraud on the NJFDC which AT&T also attempted on the FCC in 2006.

This case is over. Judge Bassler understood and agreed with AT&T and petitioners that 2.1.8 allowed traffic only transfer. He understood that petitioners did transfer the only two obligations listed within 2.1.8 and thus he understood petitioner’s transaction was not being denied by the DC Circuit for fraudulent use. Judge Bassler understood that the issue of fraudulent use was NOT REMANDED and was thus a decided issue.

15 THE COURT: Let me just stop you there for a minute.

16 I think there's some loose language in one of your

17 briefs where -- I don't have the page number in front of me,

18 where you say the **DC Circuit remands the case to the FCC**. **I**

19 **don't see any language of remand**.

3 THE COURT: You don't think the DC Court knows how to

4 use the word **"remand?"**

Judge Bassler understood 2.1.8 allowed traffic only transfers and the fraudulent use issue was determined against AT&T. The issue his Court did understand was that the DC Circuit confusion over which obligations transfer under 2.1.8 was a NON-CONTROVERSY in 1995. The DC Circuit explicitly stated it was not able to review which obligations transfer as that was not a controversy the FCC interpreted. Of course, the reason why the FCC was not asked to interpret which obligations transfer under 2.1.8 was that there was no controversy in 1995 in Judge Politan's Court as AT&T and the Inga Companies as the Whitmer/Inga oral argument questioning shows agreed that revenue and time commitments do not transfer unless the lead/home account transfers.

Judge Bassler's referral was CREATED BY AT&T. It asked the FCC to decide precisely which obligations transfer and any OPEN ISSUES. There are no **open** issues for the FCC to decide. Judge Bassler's statement the DC Circuit Courts was not a remand of fraudulent use. There was No other controversies in Judge Bassler's Court regarding where section 2.1.8 allowed substantial traffic only transfers.

There was no controversy in Judge Bassler's Court as to whether AT&T can decide if a substantial traffic transfer can be determined a PLAN transfer. No "horse shoe" ---"well it is almost a plan transfer" controversy. Judge Bassler understood we are resolving a TRAFFIC ONLY transfer under 2.1.8.

The only open issue in Judge Bassler's Court was which obligations transfer under 2.1.8. AT&T has not presented any evidence to the FCC showing there was any other controversy in Judge Bassler's court other than whether 2.1.8 allowed a traffic only transfer in which the revenue and time commitments must transfer. However, that controversy was OUTSIDE THE SCOPE of the original fraudulent use controversy.

The FCC under the Administrative Procedures Act must only decide referred controversies based upon the determined facts of the District Court. The NJFDC understood section 2.1.8 allowed

traffic only transfers and the facts of the case is that this transaction in question concerns a TRAFFIC ONLY transfer not a plan transfer or ALMOST a plan transfer. You're either pregnant or you're not pregnant!

The FCC has already heard AT&T's CLOSE ENOUGH TO A PLAN TRANFER assertion under Tr8179 filed by AT&T on February 16th 1995. The FCC denied AT&T's ability to retroactively deny the January 1995 transfer based upon what AT&T asserted it had the right to do under 2.1.8. AT&T **accepted** that FCC decision and created Tr9229 to deal with substantial traffic only transfers without subjectively measuring INTENT TO DEFRAUD AT&T of ANTICPATED SHORTFALL CHARGES by adding security deposits against potential shortfall on the plan that REMAINED WITH THE REVENUE COMMITMENT. The Tr8179 CLOSE ENOUGH ARGUMENT has been decided already and AT&T Counsel Carpenter conceded to the Third Circuit that the FCC denied AT&T's "close enough" assertion under 2.1.8. Once AT&T conceded that the FCC denied the CLOSE ENOUGH assertion it was a NON CONTROVERSY!!!

Based upon the referral sent by Judge Bassler and the fact that his Court accepted that the DC Circuit Court Decision was NOT A REMAND as to fraudulent use---and the obligation allocation does not expand the scope of the previous referral ----the FCC's JOB IS DONE!!! There are no open controversies within the scope of the 1995 referral. Judge Politan's 1996 Decision determined there was "NOTHING" that precluded the traffic from being transferred under 2.1.8.

It is conclusive that AT&T counsels intentionally lied to every court (3 Judges at the NJFDC, Third Circuit, FCC, DC Circuit Court) and tried to cover-up its lies. It is conclusive that there are no controversies within the scope of the 1995 referral. Furthermore, the FCC itself stated that its decision and that of the DC Circuit mean NOTHING if the NJFDC understood that AT&T did not have MERIT to raise a fraudulent use defense in the first place as the plans were shortfall immune at the time of the traffic transfer and AT&T concedes the plans were under pre-June 17th 1994 terms and conditions at the time of the January 1995 traffic only transfers of CCI to PSE and INGA to PSE.

Al Inga President
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Tuesday, March 07, 2017 7:02 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov'

<Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--Rule 11b subjects litigants to sanctions for insisting upon a position after it is no longer tenable.

Richard Brown

As you are aware you are petitioners designated contact for AT&T.

Since petitioners can't email these AT&T people directly can you please email them. As you are aware as counsel you are required by law to have made **"reasonable inquiry**" to AT&T executives concerning its position on 2.1.8.; regarding allocation of obligations on traffic only transfers before having made the bogus assertions without evidentiary support.

Please ask them if they are aware of the 06-210 case and invite them to file public comments at the FCC and comment on the attached FCC Comments.

It would be interesting to see if all these AT&T senior executives are behind your assertion to Judges Bassler and Judge Wigenton that revenue and time commitments transfer on a traffic only transfer under 2.1.8.

Your own counsel Mr Whitmer advised Judge Politan that AT&T has done thousands of traffic only transfers and never did the revenue and time commitments transfer.

Rule 11b subjects litigants to **sanctions** for **insisting upon a position after it is no longer tenable**.

Mr Brown--- **"Tenable"** left the train station in 1995.

When petitioners filed at the FCC the "former customer tariff comments and you called out of the blue asking how much petitioners wanted to settle for.

Moreover, YOU were personally involved in the case in 1996 when you advised the Third Circuit Court that it was "self-evident" under 2.1.8 that revenue and time commitments don't transfer on a traffic only transfer.

Petitioners are filing with Judge Wigenton and in addition to damages we will be asking for **substantial sanctions** against AT&T counsel for the intentional fraud on Judge Bassler and Judge Wigenton, unless you produce 1 single traffic only transfer in which the revenue and time commits transfer under section 2.1.8.

On top of that you intentionally lied to Judge Wigenton that you addressed at the FCC "these alleged other transfers!"

The thousands of traffic only transfers that AT&T counsel Mr Fred Whitmer referred to in Judge Politan's Court in 1995 in which the plan obligations did not transfer were all alleged?

Please contact your AT&T business executives and make reasonable inquiry.

Thank you
Al Inga President
Tips, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Tuesday, March 07, 2017 4:21 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'oig.hotline@usdoj.gov' <oig.hotline@usdoj.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--

Thank you Mr Brown for confirming receipt.

We will await your response via email and upload to the FCC server.

You obviously do not have to respond. If you do not wish to respond I'm sure you can create some comical excuse for Judge Wigenton.

Please forward all emails to AT&T counsel Mr Joseph Guerra. Please advise whether Mr Guerra has confirmed receipt of the below questions.

Thank you

Al Inga

Group Discounts, Inc.

From: Brown, Richard H. [mailto:rbrown@daypitney.com]
Sent: Tuesday, March 07, 2017 3:36 PM
To: 'Town News' <townnews@optonline.net>
Cc: ray@grimes4law.com
Subject: RE: Mr Brown--

Received.

From: Town News [mailto:townnews@optonline.net]
Sent: Tuesday, March 07, 2017 3:33 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'oig.hotline@usdoj.gov' <oig.hotline@usdoj.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--

Mr Brown

Please confirm receipt:

Show just one example in which the revenue and time commitments transferred under section 2.1.8 on a traffic only non-plan transfer and petitioners will drop all claims.

I will wait for your response before we upload this to the FCC website.

Petitioners are giving AT&T the opportunity to prove to all the FCC Staff and State Ethics Staffs that you did not intentionally engage in an intentional fraud on Judge Bassler and Judge Wigenton.

The Tr9229 tariff filing mandated a security deposit against potential shortfall and confirmed revenue commitments do not transfer on a traffic only transfer. You told Judge Wigenton that the security deposit had to do with the Inga to CCI plan transfer when her Court was addressing the Traffic only transfer to PSE. Even though petitioners were grandfathered from having to post

security deposits are you telling the FCC that the fundamental terms and conditions of the tariff do not apply just because an AT&T customer is grandfathered? So, when a customer is grandfathered from having to post security deposits against potential shortfall those AT&T customers must transfer their revenue and time commitments on a traffic only transfer? Is that what your position is?

Petitioners don't expect you to respond. We are just proving to Judge Wigenton that you scammed the NJFDC silly.

Al Inga
Group Discounts, Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Tuesday, March 07, 2017 1:22 PM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'oig.hotline@usdoj.gov' <oig.hotline@usdoj.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--

Mr Brown

Six certifications have been presented in this case from other AT&T aggregators. All of them stated that under 2.1.8 the revenue and time commitments stay with the non-transferred plan. Additionally, AT&T business executives have stated that AT&T has never done a traffic only transfer in which revenue and time commitments transfer.

In 2014 you advised Judge Wigenton that AT&T had already addressed at the FCC "alleged other transfers of service" of other AT&T customers that transferred traffic only under 2.1.8 without transferring the non-transferred plans revenue and time commitment.

Here is AT&T's 2014 Pg. 29 statement to Judge Wigenton:

> "Again, they have also made these contentions to the FCC (see Brown Cert., Ex. O at 73-76 (discussing alleged ambiguity) and 174-178 (**raising alleged other transfers of transfers of service**), and AT&T has responded to those arguments **in that proceeding**."

Richard ---Petitioners are going back to Judge Wigenton and would like to give AT&T the opportunity to point out where in the FCC record did AT&T address to the FCC AT&T's reason why it allowed all other AT&T customers to transfer traffic only, without the revenue and time commitment transferring but refused petitioners.

Is AT&T's current position that the 6 aggregator certifications and AT&T's own employees and all AT&T's former counsels---including Mr Whitmer who said to Judge Politan AT&T has done thousands of traffic only transfers and none had revenue and time commitments transferring …..are all "mistaken?" You and Joseph Guerra advised Judge Bassler that 2.1.8 does not allow traffic only transfers in which the revenue and time commitments transfer.

Remember Judge Politan was evaluating Fraudulent Use and he asked Freddy Whitmer about the quantity of traffic only transfers and the size of the transfers. He wanted to know how much exposure AT&T had after these traffic only transfers were done. How many beat AT&T for shortfall charges after the traffic only transfer was provisioned.

1995 NJFDC Oral Argument pg. 53 "But there are literally - - my guess is hundreds, if not thousands, of transfers that have happened **among aggregators** and aggregations plans."

Did you lie to Judge Bassler that 2.1.8 does not allow traffic only transfers in which the revenue and time commitments don't transfer? Or is it AT&T's position that it did not lie to Judge Bassler and all these other AT&T customers were allowed to violate the tariff and engage in traffic only transfers ---that still continue today--- but you decided to discriminate against the Inga Companies and not allow it to transfer traffic only without the revenue and time commitments transferring.

So, what AT&T is incredibly saying is it's not discrimination and unreasonable practice if AT&T allows all other AT&T customers to "violate its tariff" but doesn't allow the Inga Companies to also "violate AT&T's tariff" by not transferring revenue and time commitments like all other AT&T customers?

AT&T's position to Judge Bassler was that it denied the traffic only transfer under 2.1.8 because petitioners only transferred the 2 obligations listed within section 2.1.8 but did not transfer the revenue and time commitments.

If AT&T was not telling "a little fib" to Judge Bassler is AT&T taking the position that the thousands of other traffic only transfers that did not transfer revenue and time commitments were all done in violation of 2.1.8 and the ONLY traffic only transfer that AT&T decided to uphold section 2.1.8 was the Inga Companies transfer?

When AT&T released Tr 9229 that showed revenue commitments do not transfer on a traffic only transfer did AT&T suddenly change its position that revenue commitments don't transfer --- but never notified the FCC of this tariff change? There is no change in the terms and conditions

of section 2.1.8 from Jan 1995 through the November 1995 change. Did AT&T decide to make this obligation allocation change w/o an FCC filing?

Richard—Please point out where in the FCC record you addressed the other transfers as you advised Judge Wigenton in 2014. It appears as if you understood you had no evidence to support the all obligations fraud and you did a little maneuver on Judge Wigenton – that you addressed this issue at the FCC.

Where did you address it?

Al Inga
Group Discounts, Inc

From: Town News [mailto:townnews@optonline.net]
Sent: Monday, March 06, 2017 11:22 AM
To: 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'oig.hotline@usdoj.gov' <oig.hotline@usdoj.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--

Richard

The attached is an overview why the FCC removed the case from circulation.

See DC Decision determined fraudulent use Against AT&T.
The other documents are decisions that are referenced.

Under the Administrative Procedures Act the Commission can only interpret tariff controversies that were within the scope of the original 1995 fraudulent use controversy.

The DC Circuit Decision as per Legal Directory Martha Tomich was not a remand and was the DC Circuits review of Fraudulent use which it ruled against AT&T.

Here is the in-depth overview.

Al Inga
Group discounts Inc.

From: Town News [mailto:townnews@optonline.net]
Sent: Wednesday, February 22, 2017 9:29 AM
To: 'Town News' <townnews@optonline.net>; 'Ajit.Pai@fcc.gov' <Ajit.Pai@fcc.gov>; 'David.Gossett@fcc.gov' <David.Gossett@fcc.gov>; 'Deena.Shetler@fcc.gov' <Deena.Shetler@fcc.gov>; 'Eddie.Lazarus@fcc.gov' <Eddie.Lazarus@fcc.gov>; 'HermanE@dcobc.org' <HermanE@dcobc.org>; 'Jamilla.ferris@fcc.gov' <Jamilla.ferris@fcc.gov>; 'Jane.Halprin@fcc.gov' <Jane.Halprin@fcc.gov>; 'Jay.Keithley@fcc.gov' <Jay.Keithley@fcc.gov>; 'Jennifer.Tatel@fcc.gov' <Jennifer.Tatel@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Jim.Bird@fcc.gov' <Jim.Bird@fcc.gov>; 'John.Williams2@fcc.gov' <John.Williams2@fcc.gov>; 'Jonathan.Adelstein@fcc.gov' <Jonathan.Adelstein@fcc.gov>; 'Julie.Veach@fcc.gov' <Julie.Veach@fcc.gov>; 'KJMWEB@fcc.gov' <KJMWEB@fcc.gov>; 'Karen.onyeue@fcc.gov' <Karen.onyeue@fcc.gov>; 'Kay.Richman@fcc.gov' <Kay.Richman@fcc.gov>; 'Linda.Oliver@fcc.gov' <Linda.Oliver@fcc.gov>; 'Madelein.findley@fcc.gov' <Madelein.findley@fcc.gov>; 'Matthew.Berry@fcc.gov' <Matthew.Berry@fcc.gov>; 'Meredith.AttwellBaker@fcc.gov' <Meredith.AttwellBaker@fcc.gov>; 'Michael.Copps@fcc.gov' <Michael.Copps@fcc.gov>; 'Mignon.Clyburn@fcc.gov' <Mignon.Clyburn@fcc.gov>; 'Mike.ORielly@fcc.gov' <Mike.ORielly@fcc.gov>; 'Nancy_Dunn@cadc.uscourts.gov' <Nancy_Dunn@cadc.uscourts.gov>; 'Neil.Grace@fcc.gov' <Neil.Grace@fcc.gov>; 'Pamela.Arluk@fcc.gov' <Pamela.Arluk@fcc.gov>; 'Patrick.Carney@fcc.gov' <Patrick.Carney@fcc.gov>; 'Randolph.Smith@fcc.gov' <Randolph.Smith@fcc.gov>; 'Richard.Welch@fcc.gov' <Richard.Welch@fcc.gov>; 'Robert.McDowell@fcc.gov' <Robert.McDowell@fcc.gov>; 'Rule1.24@fcc.gov' <Rule1.24@fcc.gov>; 'Sharon.Gillett@fcc.gov' <Sharon.Gillett@fcc.gov>; 'Sharon.Kelley@fcc.gov' <Sharon.Kelley@fcc.gov>; 'Stephanie.Weiner@fcc.gov' <Stephanie.Weiner@fcc.gov>; 'Suzanne.Tetreault@fcc.gov' <Suzanne.Tetreault@fcc.gov>; 'Zachary.Katz@fcc.gov' <Zachary.Katz@fcc.gov>; 'eric.botker@fcc.gov' <eric.botker@fcc.gov>; 'jcasello@cvclaw.net' <jcasello@cvclaw.net>; 'john.Ingle@fcc.gov' <john.Ingle@fcc.gov>; 'lcoven@optonline.net' <lcoven@optonline.net>; 'martha_tomich@cadc.uscourts.gov' <martha_tomich@cadc.uscourts.gov>; 'oig.hotline@usdoj.gov' <oig.hotline@usdoj.gov>; 'phillo@giantpackage.com' <phillo@giantpackage.com>; 'pokin@giantpackaging.com' <pokin@giantpackaging.com>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>; 'ray@grimes4law.com' <ray@grimes4law.com>; 'robert.ratcliffe@fcc.gov' <robert.ratcliffe@fcc.gov>; 'william.ziff@judiciary.state.nj.us' <william.ziff@judiciary.state.nj.us>; 'prosoftwarepack@yahoo.com' <prosoftwarepack@yahoo.com>
Cc: 'rbrown@daypitney.com' <rbrown@daypitney.com>
Subject: RE: Mr Brown--Traffic transfer case is off Circulation as it was properly determined as Moot...

Thank you Richard.

Now I have attached the 20-page PDF. The 06-210 case is Moot as you are aware since 2005 DC Circuit Decision when AT&T lost the fraudulent use defense. Richard –Did you really expect to get away with the ALL OBLIGATIONS fraud with zero evidence ---especially when your own counsel Fred Whitmer testified in 1995 AT&T had already done thousands of traffic only transfers?

Richard—Advocacy is one thing---flat out fraud on Federal Judges and the FCC! Why would you do that even for a big client?

As indicated it is on the FCC website as it was filed last night.

Al Inga
Group Discounts, Inc.

From: Brown, Richard H. [mailto:rbrown@daypitney.com]
Sent: Wednesday, February 22, 2017 9:16 AM
To: 'Town News' <townnews@optonline.net>

Subject: RE: Mr Brown--Traffic transfer case is off Circulation as it was properly determined as Moot...

Mr. Inga, there was no attachment to your email.

Richard H. Brown | Attorney at Law | Attorney Bio

One Jefferson Road | Parsippany NJ 07054-2891
t (973) 966 8119 | f (973) 966 1015 | m (201) 323 4266

7 Times Square, Times Square Tower | New York NY 10036
t (212) 297 5854 | f (212) 916 2940

rbrown@daypitney.com | www.daypitney.com

BOSTON | CONNECTICUT | FLORIDA | NEW JERSEY | NEW YORK | WASHINGTON, DC

From: Town News [mailto:townnews@optonline.net]
Sent: Wednesday, February 22, 2017 8:58 AM
To: Ajit.Pai@fcc.gov; David.Gossett@fcc.gov; Deena.Shetler@fcc.gov; Eddie.Lazarus@fcc.gov; HermanE@dcobc.org; Jamilla.ferris@fcc.gov; Jane.Halprin@fcc.gov; Jay.Keithley@fcc.gov; Jennifer.Tatel@fcc.gov; Jessica.Rosenworcel@fcc.gov; Jim.Bird@fcc.gov; John.Williams2@fcc.gov; Jonathan.Adelstein@fcc.gov; Julie.Veach@fcc.gov; KJMWEB@fcc.gov; Karen.onyeue@fcc.gov; Kay.Richman@fcc.gov; Linda.Oliver@fcc.gov; Madelein.findley@fcc.gov; Matthew.Berry@fcc.gov; Meredith.AttwellBaker@fcc.gov; Michael.Copps@fcc.gov; Mignon.Clyburn@fcc.gov; Mike.ORielly@fcc.gov; Nancy_Dunn@cadc.uscourts.gov; Neil.Grace@fcc.gov; Pamela.Arluk@fcc.gov; Patrick.Carney@fcc.gov; Randolph.Smith@fcc.gov; Richard.Welch@fcc.gov; Robert.McDowell@fcc.gov; Rule1.24@fcc.gov; Sharon.Gillett@fcc.gov; Sharon.Kelley@fcc.gov; Stephanie.Weiner@fcc.gov; Suzanne.Tetreault@fcc.gov; Zachary.Katz@fcc.gov; eric.botker@fcc.gov; jcasello@cvclaw.net; john.Ingle@fcc.gov; lcoven@optonline.net; martha_tomich@cadc.uscourts.gov; oig.hotline@usdoj.gov; phillo@giantpackage.com; pokin@giantpackaging.com; prosoftwarepack@yahoo.com; ray@grimes4law.com; robert.ratcliffe@fcc.gov; william.ziff@judiciary.state.nj.us; prosoftwarepack@yahoo.com
Cc: rbrown@daypitney.com
Subject: FW: Mr Brown--Traffic transfer case is off Circulation as it was properly determined as Moot...

Richard

Please reply all to confirm you have received this email with petitioners FCC filing.

The following are a few of the highlights of the attached 20 page PODF.

Petitioners have been advised that after 13 months review the FCC Commissioners have properly removed our 06-210 case from circulation. There was simply **no controversy within the scope of the original referral** that the FCC needs to interpret.

As per the **Administrative Procedures Act** the Commission is tasked to interpret **controversies**.

The FCC properly determined that there was **never a 2.1.8 controversy** amongst Judge Politan, AT&T and petitioners, as all parties agreed that 2.1.8 allowed traffic only transfers and clearly understood that the revenue and time commitments must stay with the non-transferred plan.

AT&T's sole defense as the FCC 2003 Order states was section 2.2.4 fraudulent use. AT&T asserted it could use section 2.2.4 to prohibit a permissible traffic only transfer. The attached PDF includes explicit statements from Judge Politan in 1995 regarding what the **controversy** was—fraudulent use—**not 2.1.8.**

Obviously, there was nothing within 2.1.8 to prevent the transfer--- that is why AT&T tried to **retroactively** change the terms and conditions of section 2.1.8 by filing at the FCC TR8179.

The FCC's R.L. Smith, David Nall and Judith Nitche all were involved in denying Tr8179--- determining it would be a substantive tariff change and thus prospective.

Tr8179 was replaced with Tr9229 and prospectively added in November 1995 security deposits against potential shortfall—confirming plan obligations don't transfer. As you are aware AT&T in 2015 misled Judge Wigenton regarding Tr9229 as that tariff page conclusively determined revenue and time commitments do not transfer on traffic only transfers.

A defendant can have multiple defenses; however, the defenses must be based upon **one set of facts**. AT&T tried to simultaneously assert 2 sets of facts---- as AT&T asserted that all obligations would transfer **IF** it was a **plan** transfer. The fact is it was not a plan transfer as your counsel Mr. Whitmer conceded to Judge Politan and the FCC has already decided this in its Tr8179 denial.

AT&T was advised that it was not implicit within 2.1.8 that AT&T had the right to mandate that when substantial locations were transferred that AT&T could subjectively mandate the plan must transfer—to cause the revenue and time commitments to transfer.

AT&T's defense of fraudulent use was based on the proper fact that the CCI to PSE was a traffic only transfer---but that defense was denied due to AT&T's use of an illegal remedy. It had no merit to begin with anyway as Judge Politan properly determined the plans were pre-June 17th 1994 grandfathered.

Even though AT&T advised Judge Wigenton that it would not oppose FCC resolution, AT&T opposed the clarification of the FCC's January 12th 2007 Order. AT&T understood that the FCC had determined that Judge Bassler's 2006 referral on which obligations transfer under section 2.1.8 "did not expand the scope of the original referral" and thus was moot. Now that the FCC has reviewed the case for 13 months and properly determined there is not a controversy within the scope of the original referral the clarification of the January 12th 2007 Order no longer needs to be done. The Commissioners decision to remove the case from circulation is acknowledgement that the FCC has no controversy before it within the scope of the original referral that it can interpret.

AT&T of course knows it has engaged in an intentional ("all obligations of the transferor") fraud on Judge Bassler and Judge Wigenton and attempted this fraud on the FCC. The reason AT&T has never provided evidence to support the "all obligations of the transferor" fraud is NO EVIDENCE EXISTS! It was an INTENTIOANL FRAUD ON JUDGE BASSLER AND JUDGE WIGENTON. AT&T was advised last month to show ONE example of a traffic only transfer in which the revenue and time commitments transferred and petitioners would DROP THE CASE. You confirmed receipt, but of course AT&T knew it was engaging in an intentional fraud on the NJFDC and FCC.

Counsels for Sidley Austin and Day Pitney clearly worked in concert with in-house AT&T counsels to create a new controversy in Judge Bassler's Court in 2005 ----that revenue and time commitments must transfer on a traffic only transfer. AT&T attempted to cover-up the "former customer" language as evidenced with the attached PDF that has been FCC filed last night. The evidence within the PDF conclusively indicates that it was a brand-new controversy created in the year **2005** to justify why AT&T denied the traffic only transfer in **1995.**

So, petitioners are now going back to Judge Wigenton as the barrier to her Court lifting the stay was the fact that the case **was in circulation.** Now that the case has been reviewed and the FCC agrees with the conclusive evidence that there is no controversy within the scope of the original referral the case is moot and we now should be able to proceed to the damages phase.

We will bring this to Judge Wigenton's attention.

Al Inga President
Group Discounts, Inc.