

**AFFIDAVIT OF ANTHONY ZABIT  
IN SUPPORT OF COMPLAINT**

1. I am a resident of California and a user of telecommunications services provided within and outside of California, including services previously provided by NetFortris Acquisition Company, Inc. (“NetFortris”).
2. I previously used telecommunications services provided by NetFortris.
3. NetFortris operates as a provider of interstate telecommunications services under Federal Registration Number 0022976716.
4. I founded IXC Holdings, Inc. (“IXC Holdings”), but in January 2014, IXC Holdings was acquired by NetFortris.
5. I was an employee of Netfortris until October 1, 2014.
6. As a founder of IXC Holdings, I know that as part of IXC Holdings’ telecommunications offerings, it installed equipment capable of allowing customers to record conversations.
7. I know that after it acquired IXC Holdings, NetFortris continued to make use of this recording equipment and to offer the call recording capabilities to customers.
8. The call recording capability was a feature sold to NetFortris customers and utilized internally for quality assurance and training purposes.
9. I was aware that NetFortris had the capability to record conversations as part of its telecommunications offerings.
10. It was my understanding that the call recording feature was enabled for a discreet number of employees who were aware of the recording.
11. I inquired of NetFortris whether my calls were being recorded.
12. I was informed by NetFortris that call recording was not turned on for my extension.

13. I was further told that my extension had been included in a special group extensions that did not allow my calls to be recorded even if I called someone who had call recording enabled.
14. The equipment used by NetFortris to record conversations does not include an audible warning for calls made to or between direct dialed numbers not associated with the main call center number.
15. On October 1, 2014, my employment at NetFortris terminated. Thereafter I discovered that NetFortris was recording conversations made by me on my business land line, my company cell phone, and my personal cell phone prior to my departure from the company.
16. Based on my preliminary knowledge of the recordings NetFortris made, I estimate that approximately 100 interstate calls were recorded.
17. NetFortris continued to record my telephone conversations made on my personal cell phone after October 1<sup>st</sup>, 2014, after my employment with NetFortris was terminated.
18. After it was discovered that NetFortris was recording my telephone conversations, my wife who still worked at NetFortris, resigned.
19. NetFortris identified calls involving me by searching within its call recording system all calls within a certain date range from or to known phone numbers that I used, including my personal cell phone, my former work extension and my former work cell phone.
20. The call recordings made by NetFortris were digital.
21. NetFortris compiled call records detailing the date and duration of recorded calls and identified the calling and called number for some of the calls made or received by me.

22. In some instances, the call records prepared by NetFortris included an email address identifying myself and/or the call recipient.
23. NetFortris released these call records identifying callers, recipients, dates of the calls and call duration to its personnel.
24. On information and belief, certain officers and members of the NetFortris board of directors knew about and approved the surreptitious recordings and release of my proprietary customer calling information.
25. The recordings made by NetFortris were not for the purpose of rendering, billing or collecting for telecommunications services.
26. The recordings made by NetFortris were not for the purpose of compiling phone directories, responding to government orders or subpoenas, or for any other purpose allowed by federal law.
27. On information and belief, the conversations were recorded for purposes of gaining competitive advantage in an employment dispute between NetFortris and myself unrelated to the provision of telecommunications services.
28. Specifically, some of the calls involved discussions with my business partner in regards to ongoing negotiations between me and NetFortris regarding my severance agreement and a settlement of post-closing issues arising from the 2014 sale of IXC Holdings to NetFortris.
29. On further information and belief, NetFortris recorded my conversations for the purpose of gaining an advantage over competitors because some of the calls involved my discussions with telecommunications users or vendors and NetFortris may have been attempting to learn information about product offerings and pricing or marketing

strategies for other business opportunities I was exploring with potential customers or vendors after I was no longer employed by NetFortris.

30. I did not consent to having proprietary information about my calling patterns released to for compilation, review or analysis.

### **DAMAGES**

31. I have suffered damages as a result of NetFortris unlawfully monitoring and recording my phone calls and disclosing my customer proprietary network information.

32. I have suffered damages including injury to reputation, property, person and health.

33. The actions of NetFortris have damaged my reputation in the telecommunications industry, which has direct impact on my ability to make a living using my knowledge, skills and industry contacts.

34. I am further economically damaged by NetFortris because my spouse immediately quit her job at NetFortris when she discovered that NetFortris surreptitiously recorded my phone calls. The economic value of this loss is approximately \$150,000 per year and it would be expected that she would have stayed for at least an additional 3 years.

35. The actions of NetFortris have injured my health and person, including changes in sleep, weight, loss of appetite, and exacerbating other health concerns.

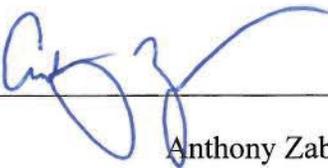
36. The actions of NetFortris have caused me humiliation, mental anguish, severe stress, isolation from others, and feeling a lack of privacy and security in my daily life.

37. I request that FCC require NetFortris to compensate me for these damages in the amount of at least \$500,000, or a higher amount the FCC determines just for NetFortris' deliberate, unauthorized use and disclosure of my CPNI.

38. Further, I request that NetFortris and all of its officers and board members who were

aware of NetFortris' recording of my conversations be required to disclose to all state regulatory commissions the existence and results of this complaint now and in any future applications for certificates to operate or to acquire an interest in a regulated entity.

Under penalty of perjury of the laws of the state of California, I declare the above Affidavit to be true and correct to the best of my belief.



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Anthony Zabit