Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	IB Docket No. 02-286
	)	File Nos. ISP-PDR-20020822-0029;
GLOBAL CROSSING, LTD.	)	ITC-T/C-20020822-00406
(Debtor-in-Possession),	)	ITC-T/C-20020822-00443
	)	ITC-T/C-20020822-00444
Transferor,	)	ITC-T/C-20020822-00445
	)	ITC-T/C-20020822-00446
and	)	ITC-T/C-20020822-00447
	)	ITC-T/C-20020822-00449
	)	ITC-T/C-20020822-00448
GC ACQUISITION LIMITED,	)	SLC-T/C-20020822-00068
	)	SLC-T/C-20020822-00070
Transferee	)	SLC-T/C-20020822-00071
	)	SLC-T/C-20020822-00072
Application for Consent to Transfer	)	SLC-T/C-20020822-00077
Control and Petition for Declaratory	)	SLC-T/C-20020822-00073
Ruling	)	SLC-T/C-20020822-00074
	)	SLC-T/C-20020822-00075
	)	0001001014
	)	

COMMAXXESS' RESPONSE IN OPPOSITION
TO THE APPLICANTS FOURTH AMENDED APPLICATION FOR CONSENT TO TRANSFER CONTROL AND PETITION FOR DECLATORY RULING.

COMMAXXESS provides the following in response to the June 30, 2003 filing submitted by the Applicants as the "Fourth Amendment for Consent to Transfer Control and Petition for Declaratory Ruling" to matters filed before this Commission.

Equal Access Networks ("EAN") and all of its assets have been in the bankruptcy since January 28, 2002 as a separate bankruptcy but consolidated with the Global Crossing Chapter 11 for case administration purposes. Global Crossing was supposed to list and disclose the assets in bankruptcy as required under the United States Bankruptcy Code.

However, if the Global Crossing people are covering up bigger issues like $600,000,000 in Frontier Communications debt that is in the wrong place what are a few wireless licenses? It is this same class of creditors that are holding the bankruptcy ransom to hide their own complicity and who was involved in the insider deal that transferred Frontier Communications to Citizens Communications and then to Adelphia

and why that $600,000,000 in debt was conveniently left behind to enhance the value of the deal for the insiders that did it.

Page 1 of the Applicants Fourth Amendment:

> "Applicants only recently became aware of GCL's controlling interest in EAN and the regulatory implications of the licenses it holds, and filed this submission as soon as all facts were ascertained and other procedural steps were complete".

This Commission should ask itself several questions:

1. Exactly how did the Applicants miss those licenses, since EAN has been in bankruptcy since January 28, 2002 right along with Global Crossing? These Applicants have had plenty of time for due diligence to have found the licenses long before now. They have had 17 months and 6 days as of today after the bankruptcy was filed to have prevented such an oversight. They have had even longer than that if one remembers that Hutchison signed the Confidentiality Agreement on June 25, 2001 and STT signed the Confidentiality Agreement on August 23, 2001.

It is probably not a regretful inconvenience as much as it is a hiding of assets and playing games with all parties in the bankruptcy and before this Commission. The only other possible explanations being either: i.) negligence; or ii.) maybe Global Crossing is hemorrhaging red ink because of largesse and they may not have a clue what they are doing.

2. The EAN direct parent Global Crossing Ventures is also in bankruptcy right along with Global Crossing and EAN so exactly how did they miss the wireless licenses the Applicants just now disclose to the Commission?

3. The Applicants did disclose these wireless assets on June 17, 2003 to this Commission, but only now on June 30, 2003 disclose them to the public. Why was that allowed to happen if this matter is going to be considered in the light of public concerns and national security?

4. Did Global Crossing and EAN fail to list all "assets of the estate" in the bankruptcy? That could potentially be a serious violation of shielding or hiding assets under the U.S. Bankruptcy Code if that is the case. Those bankruptcy forms are signed and filed under penalty of perjury and disclosing all assets is required. This Respondent submits that an untruth "signed under oath, under penalty of perjury" is still an untruth by any other name.

5. What else is being hidden from view in those 214 subsidiaries, only 83 of which are in bankruptcy and the Applicants do not seem to be sure what assets are in those that are in bankruptcy? This Respondent is reminded of Polaroid, Richard Cashin[1]

[1] http://corporate-law.widener.edu/documents/complaints/17814-001.pdf; **defendant Richard Cashin** in IXNet and IPC, Global Crossing securities fraud case in Delaware. Same person, former Citigroup Venture

and One Equity making off with a vast fortune of "photographic art" that was sequestered outside of the bankruptcy case and then "rolled up", or "rolled back" if one prefers, to the new owners post-bankruptcy.

Such is the purpose of "nesting doll arrangements" to hide assets. In the case of this Commission possibly to hide even greater issues of violating National Security of the United States of America and putting a sham deal through this Commission for change of control.

6. Why is the FCC doing anything regarding Global Crossing and these EAN licenses without doing so in the full light of public scrutiny under IB Docket 02-286?

Even after the Bankruptcy Court held a hearing on June 9, 2003 to consider the extension of the exclusivity period for Global Crossing and its poor management team, such request for the Fourth of Extension of Exclusivity was not granted until July 1. These Applicants filed wireless license change of control and STA on June 17 and June 18, 2003. This Commission summarily approved those applications on June 24 and June 26 while GCL still did not have an extension of the exclusivity period nor are GCL and STT assured of being in control of the bankruptcy or even the licenses much longer.

Only on July 1, 2003, 2:49 PM EDT did news hit that the Court had agreed to the Fourth Extension of the Exclusivity Period. See Attachment 1.

Did they know on June 17 and 18, or on June 30, 2003 that the Extension Period was going to be extended, or did this Commission know on June 24 or 26?

This was also part of what was sent to The White House and majority leaders in the Senate and House by this Respondent on June 23, 2003:

> "When Congress passed the bankruptcy laws the intent was to allow the company involved and the management an opportunity to reconstitute their business along sound business practices . . . . and to have the capacity to protect the business and its employees in this process. Therefore, there was provided a period of exclusivity[2] where company management could work to provide answers to their business problems and provide protection from creditors while this was being accomplished. The legislative intent of Congress is plenty clear and unambiguous that such was the overall objective. It does not appear that the legislative intent was to create an environment whereby the bankruptcy courts

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Capital. Also includes Peter A. Woog of Pivotal Private Equity, the purported "arms length" buyer of Pacific Crossing Ltd. See GlobalAxxess Response, June 6, 2003 disclosing Woog and Cashin. "[1]http://contracts.corporate.findlaw.com/agreements/globalcrossing/ipc.option.2000.02.22.html; AGREEMENT, dated as of February 22, 2000 (the "Agreement") among Global Crossing Ltd., a company formed under the laws of Bermuda ("Global Crossing"), IPC Communications, Inc., a Delaware Corporation ("IPC"), IXnet, Inc., a Delaware Corporation ("IXnet") and a subsidiary of IPC, and the individuals signatory hereto (each, a Holder")".

[2] U.S. Bankruptcy Code, 11 U.S.C. § 1121(b), (c) and (d).

could regularly be used as a haven from fraudulent conduct, however that is the situation as it exists today in many bankruptcy cases".

"Management still has a fiduciary responsibility to shareholders during the bankruptcy. However, we submit that when management (the "elite employee class" of top management) is actively engineering the demise of the shareholders and taking equity in the post-bankruptcy company that fiduciary responsibility is turning into a highly motivated adversary of the shareholders".

"Under those circumstances after a reasonable length of time (to sort things out) and the debtors cannot seem to achieve a workable plan of reorganization, the courts should be the sole arbitrator and have to look at any and all bids that would maximize the value of the business to stockholders, employees and creditors if a stand-alone reorganization or a new infusion of capital from a "stalking horse buyer" is not possible".

"Under how the process is being conducted right now, such unsolicited bids or even bids submitted under court ordered 11 U.S.C. § 363 auction of the assets are being submitted to the Debtor, its financial advisor and the debtor counsel. That is a flaw in the current system whereby bids are rejected without even being reviewed by the Bankruptcy Court and in some instances receipt of the bid is disavowed or never disclosed to the Court for it contained provisions that ran contrary to the debtor's (management) agenda".

"No "debtor agenda" should be allowed to stand if such is causing a fundamental denial of Constitutional rights of any shareholders and/or creditors, for this is in fact the situation at this time. We clearly recognize that there are "debtor rights" granted under the Bankruptcy Code, and creditor rights at law. Shareholder rights are what are being undermined on a routine basis including a Constitutional rights violation".

"What is occurring in many bankruptcy cases now is the extension of the "exclusivity period" as a primary means of keeping the debtor from being under a full review and due diligence that would be demanded by shareholders or a new buyer of the assets and such would probably uncover much of the fraud that some debtors are trying to cover up in the reorganization process where "lock up" is synonymous to "lock out". It is also being used to deter or block out other "higher and better" bids and even better Chapter 11 plans that would benefit the creditors and in some instances the shareholders".

"Now, when the bankruptcy courts takes away the property of the shareholders (owners) and gives it to the manager (hired help) . . . it certainly makes one wonder and is representative of what is happening in many of these Chapter 11 bankruptcy cases billed as reorganizations. Stewards who do not exhibit good stewardship have always been a problem. That problem has grown over the past six years to being a deprivation of property amounting to tens of billions of dollars wrongfully taken from the investing public through sham bankruptcy cases that were designed more for such Constitutional violations and transfer of wealth to a select few than true reorganization efforts".

Much of that burden is being shifted in various ways to being a taxpayer burden and needlessly so. That matter is elaborated on below.

> What is happening now in bankruptcy is the "hired help" (management) is collaborating with creditors to deprive the "owners" (stockholders) of any interest in the post-bankruptcy newly reconstituted corporation. Almost every recent major bankruptcy case has taken the approach that the property of the shareholders is worth $0 and the assets should become the property of the management and creditors. In some instances, the property is being transferred to new "investors" or buyers working in conjunction with management and the creditors to wipe out the shareholders and effectively transfer the wealth and all prior stock investments in the company. That is where SS direct investment could end up being a financial calamity in league with or greater than the S&L crisis.
>
> The authors of this document believe that direct investment of SS funds is an idea worth pursuing, but not before the "killing fields" have been removed to where such investment would be foolhardy at best.

Now this Respondent, many American citizens and many Global Crossing shareholders have questions about the actions of these Applicants:

Footnote 1, page 1 of Applicants Fourth Amendment:

> "Attached are copies of From 603 (Exhibit 1) and (2) Form 602 filed in June 28, 2003 and June 29, 2003, respectively. Exhibits B and C to Form 602 are copies of the Application and the Third Amendment and are therefore not included with this filing".

Why did this Commission approve the STA and then the EAN transfer of licenses without notifying the parties tracking the matters related to IB Docket 02-286?

Footnote 2, page 2 of Applicants Fourth Amendment:

> "On June 17, 2003, EAN filed Form 603 requesting the transfer of control of EAN to GCL (ULS File No. 0001351238) and on June 18, 2003, EAN filed Form 601 requesting Special Temporary Authority ("STA") for that transaction (ULS File No. 0001352905). The STA was granted on June 24, 2003. The same day, EAN filed Form 603 requesting the *pro forma* assignment of its common carrier radio licenses to Equal Access Networks, LLC (Debtor-in Possession). (ULES File No. 0001359746). The assignment was granted on June 26, 2003 and consummated on June 27, 2003".

Why did the Commission even accept for filing such transfers of control without notifying the parties tracking the matters pertaining to IB Docket 02-286?

We understand that the Commission regularly accepts wireless transfer of control applications and they are processed very quickly in most instances. However, most wireless license transfers are not at the request of Applicants pursuing a much larger agenda and now exposed in covering up fraud in the bankruptcy, or the "reverse roll up" of Asia Global Crossing, Pacific Crossing and Global Crossing.

This Respondent respectfully submits that the Commission has a duty to keep all parties advised on any and all matters regarding Global Crossing and GC Acquisition Limited even if a peripheral matter such as the EAN licenses that these Applicants should have known about the day Global Crossing filed bankruptcy. Hutchison and ST Telemedia announced on that same day a "$750,000,000 bid for all Global Crossing assets".

Did these Applicants not know what they were acquiring after seven (7) months of lead-time to investigate and analyze the deal? (Hutchison June 25, 2001, ST Telemedia August 23, 2001).

Page 2 and 3 of Applicants Fourth Amendment:

> "The Commission should not permit this minor addition to the Application to be used by commenters to revisit the substantive issues already addressed in this proceeding."

But of course, let us all suppress the First Amendment right of free speech and suspend the procedural requirements and requisite filing of true facts for these Applicants. Let us all just bypass the right of full Public Comment and review before this Commission, not to mention that the overall process of how many bankruptcy cases are being crammed down the throats of investors as a violation of the Fifth Amendment guarantee against deprivation of property without due process of law.

It is ludicrous to even suggest as the Applicants have that we should all refrain from procedural steps or Constitutional rights so these cover up artists can sneak this sham through the system.

Fact: On June 9, 2003 the Fourth Extension of Exclusivity for Global Crossing was not granted and is a matter that was still up in the air as of the date the Applicants filed the Fourth Amendment for Consent to Transfer Control and Petition for Declaratory Ruling. The importance of that matter is that it makes the Applicants Third and Fourth Amendments "hypothetical applications" before this Commission.

Fact: There is absolutely no assurance that the ST Telemedia and GC Acquisitions (Global Crossing Newco, post-bankruptcy) are even going to survive to be the purchaser of Global Crossing assets.

Last Page of Exhibit 1, Federal Communications Commission, ULS Online Filing confirmation:

Select	Application Status	Date Entered	File Number/ Call Sign	Purpose	Radio Service	Licensee Name
	Complete	June 28, 2003	0001366194	Transfer of Control	ALL	GC Acquisition

		10:48PM				Limited

GC Acquisition Limited as a Licensee is a hypothetical. At the time they filed the Fourth Amendment, with no extension of the exclusivity of Global Crossing in bankruptcy at that time, and neither GC Acquisition Limited nor ST Telemedia are assured of completing the deal.

Therefore, this Fourth Amended Application for Consent to Transfer Control and Petition for Declaratory Ruling are "*procedural games with the Commission*"[3] and still a "*hypothetical application*"[4] and should not be considered or approved by the Commission.

Exhibit A, Section B[5], page 2 of 3, Applicants Fourth Amendment[6]:

> "Applicants only recently became aware of GCL's controlling interest in EAN and the regulatory implications of the licenses it holds, and submitted this filing as soon as all pertinent facts were ascertained and other procedural steps were completed".

The facts in the above footnotes, which have already been brought to the attention of the Commission on May 26, 2003 and yet to be posted where the public can see what is in that document, begs the question of how many years the Applicants needed to find the assets that were right under their noses all the time. It will be two full years as of August 23, 2001 when ST Telemedia signed the Confidentiality Agreement.

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[3] GlobalAxxess Response May 9, 2003, page 20; "*As noted above, the Commission is not expected 'to play procedural games with those who come before it in order to ascertain the truth". '"*RKO General v FCC, 216 U.S. App D.C. 57, 71, 670 F.2d 215, 229 (1981) (internal citations omitted)

[4] *The applications should be dismissed as hypothetical or inconsistent under Section 1.747[10] of the Commission's rules or alternatively processing should be suspended until the dust settles at CFIUS and in the Bankruptcy Court.* [10]The rule reads: "When an application is pending or undecided, no inconsistent or conflicting application filed by the same applicant, his successor, or assignee, will be considered by the Commission."

[5] **GlobalAxxess Response to Third Amendment, May 26, 2003, page 3 of 69;** On page 60 of the Hutchison Whampoa / ST Telemedia Asset Purchase Agreement with Debtor Global Crossing the following is disclosed:

> *"Hutchison Confidentiality Agreement" shall mean the Confidentiality Agreement, dated as of June 25, 2001, between the Company and Hutchison Whampoa Ltd, as amended.*

[6] **GlobalAxxess Response to Third Amendment, May 26, 2003, page 3 of 69**; On page 66 of the Hutchison Whampoa / ST Telemedia Asset Purchase Agreement with Debtor Global Crossing the following is disclosed:

> ***"ST Telemedia Confidentiality Agreement" shall mean the Confidentiality Agreement, dated August 23, 2001, between the Company and ST Telemedia, as amended.***

Exhibit A, Section C, page 2 of 3, Applicants Fourth Amendment:

> "Applicants regret the lateness of this filing and any resulting inconvenience to the Commission".

The Applicant STT has been involved since August 23, 2001 on the date they signed their Confidentiality Agreement, filed an announcement on January 28, 2002 to acquire all assets of Global Crossing for $750,000,000, and is just now coming forward in mid-June 2003 with facts that should have been known all along and been filed with the Original Application.

It begs the question of what the parties have been paying attention to if not paying attention to what they are acquiring and what procedural steps have to be accomplished as part of that "Proposed Transaction". This Respondent submits that this "*extremely tardy*" disclosure of information is probably due solely to the "preoccupation of covering up of fraud" that is going on in the Global Crossing bankruptcy.

The deal has to be postured "just so" to make sure they get away with the fraud. The "paint a picture" effort is more important than "disclosure of mandatory facts" and timely filing of those facts before this Commission.

Exhibit 2, Form 602, page 5 of 8 of the Applicants Fourth Amendment:

> "GC Acquisition Limited, 100%, FCC Registration Number (FRN) 0007547078".

On what date did GC Acquisition Limited file for and was granted an FRN and what communications business does it conduct at this time? According to FCC records this FRN license application was made on May 13, 2003 at the same time that the Applicants filed the Third Amended Application for Consent to Transfer Control and Petition for Declaratory Ruling. However, such was done without disclosing the FRN application to the public or other parties in interest involved in the IB Docket 02-286 matters.

Has Global Crossing already assigned, transferred or otherwise conveyed all of its communications licenses to GC Acquisition Limited? If so, are we now to applaud their "*fait accompli*" and grant transfer of control, notwithstanding that this "reverse roll up" of GCL, AGC, and Pacific Crossing represents a clear and present danger to the national security of the United States?

Search FRN: 0007547078[7]

Callsign
Service
Radio AL

[7] http://dettifoss.fcc.gov/acweb/dettifoss/genmen_a/db_19/s_frn.roi;7?ViewDefault

File Number **0001001014**
Status Pending Level 2
Licensee: GC ACQUISITION LIMITED
City, ST, Zip: Pittsford, NY 14534
Grant Date
Expiration Date

Total for GC ACQUISITION LIMITED: **1**
Number of records retrieved: **1**

Page 1 7/1/03

Search FRN: 0007547078 File Number: 0001001014 [8]

7/1/03 Page 1

Callsign:

File Num: 0001001014
Licensee Name: GC Acquisition Limited
Radio Service: AL
Address: 1080 Pittsford-Victor Road
City, ST, Zip: Pittsford, NY 14534
Phone: 5852188440
Contact Firm: Global Crossing Ltd. (Debtor-in-Possession)
Address: 1080 Pittsford-Victor Road
City, ST, Zip: Pittsford, NY 14534
Phone: 5852188440
Fee Code:
Application Phase: 0
App Status: Pending Level 2

Public Notice Accepted:

Developmental:

Pn Accepted:
Pn Action:
Application: A
Received: 5/13/2003 6:59:46
Engr Initials: bsummers

Frequency Drill-Down Results: ULS Database[9]

[8] http://dettifoss.fcc.gov/acweb/dettifoss/genmen_a/db_19/d_admin.roi;26741?ViewDefault
[9] http://dettifoss.fcc.gov/acweb/dettifoss/genmen_a/db_19/d_pcs_freq_p.roi;2?ViewDefault

Search FRN:0007547078 File Number: 0001001014

Number of records retrieved: 0

This FRN status of "Pending Level 2" appears to be yet another hypothetical.

This Respondent does not think or trust that the ULS entry of **June 28, 2003** at **10:48 PM** was a typographical error citing "**Transferee**" as being **GC Acquisition Limited**. This is not a "done deal" and GC Acquisition is by its very essence a "hypothetical transferee".

Are we all to keep granting forbearance for these Applicants not providing information that was to have been provided back in August 2002 with the initial Application and was not forthcoming in the Second Amendment or the Third Amendment, or even now in the Fourth Amendment?

It is way past time that all parties ask the hard questions and demand the full and complete answers from these Applicants, or terminate their application.

If all GCL licenses have already been transferred to GC Acquisition Limited by GCL (without notice to this Commission or the public) and this Commission is being asked, or even demanded, to rubber stamp the fraud that has now been made abundantly known to this Commission, it should consider the dangerously thin ice these Applicants are asking the Commission to tread on.

This Respondent does not trust these people under any circumstances. The truth has to almost literally be beaten out of them and they still word their way around fundamental facts that have been made known to the Commission as to what their underlying agenda is, are evading the truth, and are not forthcoming with information they are required to provide on their own initiative as part of their application before this Commission.

They evade the issues of what is being covered up in the bankruptcy and what an absolute sham that has been. They evade that the Government of Singapore owns an interest in CICC and in turn China Netcom dba: Asia Netcom.

Asia Global Crossing

Fact: The assets of Asia Global Crossing have been acquired by China Netcom, dba: Asia Netcom and the Singapore Government owns an interest in the post-bankruptcy newco via CICC. Those facts have been made known to the Commission by this Respondent and the Respondents have sidestepped those issues.

Fact: The Asia Global Crossing bankruptcy was converted to Chapter 7 liquidation on June 10, 2003. That fact has been made known to the Commission by this Respondent.

Fact: The shares of Asia Global Crossing that were held by Global Crossing (58.8%) are now worthless as of the date AGC was sold to China Netcom and further rendered so by the conversion of AGC to Chapter 7 on June 10, 2003.

Why do the Applicants file on their Exhibit 3 – Ownership Information, page 3 that "*New GX will own 100% controlling interest in Global Crossing Asia Holdings Ltd*" and what relationship or "controlling interests" could possibly exist after the sale of Asia Global Crossing to China Netcom and the balance of Asia Global Crossing dissolved in Chapter 7 liquidation?

Or with Pacific Crossing Ltd now proposed to be sold to Pivotal Private Equity?

Are the post-bankruptcy Global Crossing and STT to be shareholder beneficiaries in these other entities and the record (and the trail) just obscured so no one would figure out what they were up to?

Further down that same page "*Asia Global Crossing Ltd ("AGCL") owns 100% controlling interest in GCT Pacific".*

There is something fundamentally wrong with those claims unless "reality" versus "this Application" is not the same thing. Asia Global Crossing does not exist any more in any functional corporate form, currently owns nothing, and the shareholder interests were abolished. Or, were they abolished for all but ST Telemedia, Hutchison, GX and a "select few"?

On page 4 of Exhibit 3 "*Public and Others (including AGCL management)".* As of the sale of Asia Global Crossing, no distribution of the Debtor estate going to the shareholders of AGCL, and the final liquidation of that entity in Chapter 7 liquidation, these shares and purported "ownership" are worth exactly $0 unless there is some other game being played with this Commission and all other parties.

The Applicants Fourth Amendment discloses for the first time two names as being involved in EAN, Mr. Douglas Norton as holding 6.5% and Mr. Daniel Kelly [or "Kelley"] as holding 6.5% on page 2 of Exhibit 3 and on the organization chart named

"*Post-Closing Ownership Structure of Common Carrier Radio Licensees*". Mr. Douglas Norton[10] is understandable due to his legacy ownership in a longer-term involvement in EAN.

However, if "Daniel Kelly"[11] is the same person as "Dr. A. Daniel Kelly, aka: Dr. A. David Kelley, Senior Vice President of HAI Consulting[12], possibly the same Daniel Kelly that is a former U.S. Department of Justice Antitrust Division staff economist and formerly with the FCC, this new disclosure could be somewhat problematic.

> Daniel Kelley[13]
>
> Dr. Kelley specializes in economic and public policy analysis for competitive local exchange, long distance, and wireless carriers. Since joining HAI in 1990, he has been involved in antitrust and regulatory investigations that address dominant firm cost allocation, cross-subsidy, cost of service, and pricing. **He has authored or coauthored papers submitted in the Federal Communications Commission's** Video Dialtone, Advanced Intelligent Network, Cable Rate Regulation, Interconnection, Advanced Services and BOC Merger proceedings. **Dr. Kelley has provided expert testimony** on access charge, competition, cross-subsidy, resale, interconnection and universal service issues **before the Federal Communications Commission** and the California, Colorado, Connecticut, Florida, Georgia, Hawaii, Maryland, Massachusetts, Michigan, Oregon, Pennsylvania, New Jersey, New York, and Utah Public Utility Commissions.
>
> His international experience includes advising the governments of Chile and Hungary on competition and privatization and advising a private U.S. corporation on competition and interconnection issues in Mexico. He has also advised clients in Australia and New Zealand on costing and competition matters. Dr. Kelley has participated in State Department sponsored seminars and University level instructional courses in the Czech Republic, Hungary, Poland, the Slovak Republic and Slovenia.
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> **Prior to joining HAI in 1990, Dr. Kelley was Director of Regulatory Policy at MCI Communications Corporation**. At MCI he was responsible for developing and implementing public policy positions on the entire spectrum of regulatory and legislative issues facing the company. Matters in which he was involved included the MFJ Triennial Review, Congressional Hearings on lifting

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[10] http://www.state.vt.us/psb/utility_listings/ul_clec.htm; EQUAL ACCESS NETWORK, LLC, Douglas Norton, 1 Federal Street-Building 102-3L, Springfield, MA 01105; (413) 732-8008

[11] http://www.phoenix-center.org/pcpp/PCPP12.pdf; 31 *See e.g.,* Declaration of Daniel Kelly and Richard A. Chandler, included with Worldcom Comments, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Joint Petition of BellSouth, SBC, and Verizon for Elimination of Mandatory Unbundling of High-Capacity Loops and Dedicated Transport, Appendix G, June 11, 2001 and *An Economic and Engineering Analysis of Dr. Robert Crandall's Theoretical "Impairment" Analysis* in the same proceeding.

[12] http://www.state.ma.us/dpu/telecom/98-15/phaseII_III.htm; Daniel Kelly, senior vice president of HAI Consulting, Inc

[13] http://www.hainc.com/kelley.html

the Bell Operating Company Line of Business restrictions, Tariff 12, Dominant Carrier Regulation, Local Exchange Carrier Price Caps, and Open Network Architecture. He also managed an interdisciplinary group of economists, engineers and lawyers engaged in analyzing AT&T and local telephone company tariffs.

Dr. Kelley was Senior Economist and Project Manager with ICF, Inc., a Washington, D.C. public policy consulting firm, from 1982-1984. His telecommunications and antitrust projects included analysis of the competitive effects of AT&T's long distance rate structures, forecasting long distance telephone rates, analysis of the FCC's Financial Interest and Syndication Rules, and competitive analysis of mergers, acquisitions and business practices in a variety of industries.

From January 1978 to September 1982, Dr. Kelley was with the Federal Communications Commission. **At the FCC he served as Special Assistant to Chairman Charles D. Ferris**. As Special Assistant, he advised the Chairman on proposed regulatory changes in the broadcasting, cable television and telephone industries, analyzed legislation and drafted Congressional testimony, and coordinated Bureau and Office efforts on major common carrier matters such as the Second Computer Inquiry and the Competitive Carrier Rulemaking. He also held Senior Economist positions in the Office of Plans and Policy and the Common Carrier Bureau.

Dr. Kelley was a staff economist with the Antitrust Division, U.S. Department of Justice, from September 1972 to January 1978. At the Justice Department he analyzed competitive effects of mergers and business practices in the cable television, broadcasting, motion picture, newspaper and telephone industries. As a member of the economic staff of U.S. v. AT&T, he was responsible for analyzing proposals for restructuring of the Bell System.

Dr. Kelley received a Ph.D. in Economics from the University of Oregon in 1976, with fields of specialization in Industrial Organization, Public Finance and Monetary Theory. He also holds an M.A. in Economics from the University of Oregon and a B.A. in Economics from the University of Colorado. He has published numerous articles on telecommunications economics and public policy and regularly participates as a speaker at academic and industry conferences.

This Respondent has already disclosed to this Commission in its June 4, 2003 Supplement Response (also not posted so the public can review the content and make comments) that none other than Michael Milken was a key advisor to MCI Communications[14]. Now that we all know that Michael Milken = fraud and MCI WorldCom = fraud, we should all be suspect that Milken + MCI WorldCom just might have been about fraud too if this "Kelly" or "Kelley" is the reported 6.5% owner of EAN.

Marcus Aurelius: "***Of each and every thing ask but this; in its purest essence, what is it?***"

[14] GlobalAxxess Supplement Response, June 4, 2003.

What it is simply is just another "hired gun" and another "insider" rushing to the rescue of the poor hired help (Global Crossing management) so desirous of stealing from the owners (stockholders).

Global Crossing trying to play their insider game and win when what they deserve is to lose and be held accountable at every level of that corporate culture for what they have done to thousands of employees, tens of thousands of investors and now plan to do to the United States.

This is a "reverse roll up" charade and both this Commission and CFIUS should put an end to it right now. It is a clear and present danger to the national security of the United States and lest this Commission has not noticed, these Applicants are not exactly hemmed in by the truth and the truth has to be pried from them. Such actions are a symptom that this Commission and CFIUS should be very leery of now and in the future.

Respectfully submitted,

Karl W. B. Schwarz
Chairman, Chief Executive
501-663-4959

Dated: July 3, 2003

CERTIFICATE OF SERVICE

I, Karl W. B. Schwarz, hereby certify that on this 3rd day of July 2003, I caused a true and correct copy of the foregoing Supplemental Response In Support of National Security Issues to be served on the following parties in the manner indicated:

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ATTACHMENT 1

http://biz.yahoo.com/rc/030701/telecoms_globalcrossing_2.html

Reuters

UPDATE - Court grants Global Crossing's extension request

Tuesday July 1, 2:49 pm ET

PHILADELPHIA, July 1 (Reuters) - A U.S. bankruptcy court on Tuesday granted a request by bankrupt telephone company Global Crossing Ltd. (Other OTC:GBLXQ.PK - News) for an extension preserving an exclusive agreement to sell a majority stake in the company to Singapore Technologies Telemedia.

Global Crossing, the high-speed communications network operator that filed for bankruptcy court protection last year, sought an extension until October that would preserve Singapore Technologies's exclusive takeover rights so the two companies would have more time to seek U.S. approval for the deal.

"The debtors have shown the requisite good cause for an exclusivity extension ... they've given me no reason to believe that they are abusing their exclusivity rights," Judge Robert Gerber of the U.S. Bankruptcy Court for the Southern District of New York said in his ruling.

Several groups had objected to the requested extension, including XO Communications Inc. (OTC BB:XOCM.OB - News), a telephone company controlled by billionaire investor Carl Icahn, which launched an unsolicited takeover offer for Global Crossing.

XO and Global Crossing's bank lenders objected, saying that the deal faces uncertain approval due to potential concerns about foreign ownership of strategic telecommunications assets. Singapore Technologies is a unit of Temasek Holdings, the investment arm of the Singapore government.

Judge Gerber said the bankruptcy court had "neither the role nor the expertise" to predict the outcome of the regulatory process and had no role in determining whether Global Crossing's assets should be sold to other bidders or under what terms.

"The issues before me are much narrower," he said.

In hearings last week, the judge said a witness estimated that the regulatory review process would take about one to three more months.

XO, which has increased its offer to acquire Global Crossing's assets or debt four times, had argued that Global Crossing does not have the luxury of waiting to see if the Singapore Technologies pact got approved, contending that Global Crossing faces a cash crunch.

Global Crossing has "been attentive to their liquidity needs," and is in talks with various financial firms to secure debtor-in-position funding in the range of $75 million to $150 million, the judge said.

Global Crossing, which filed for bankruptcy last year amid an accounting investigation, said on Monday it had $537 million in cash as of May 31, including $202 million in unrestricted cash and $335 million in restricted cash.

XO's overtures have been backed by senior secured lenders but panned by unsecured creditors, who have called the company's offers "woefully inadequate."