

LAW OFFICES
ABRAHAMS, LOEWENSTEIN & BUSHMAN
A PROFESSIONAL CORPORATION

New Jersey Office

41 GROVE STREET
HADDONFIELD, NEW JERSEY 08033
(856) 795-5560
Fax: (856) 795-4468

DIRECT DIAL NUMBER
(215) 587-0860

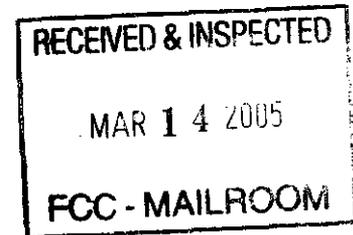
DIRECT E-MAIL:
dbrennan-scott@e-alb.com

RESPOND TO: Philadelphia

Bucks County Office

THREE PARKWAY
16th & CHERRY STREETS, SUITE 1300 MAKEFIELD EXECUTIVE QUARTERS
PHILADELPHIA, PENNSYLVANIA 19102-1321 301 OXFORD VALLEY ROAD
SUITE 101-B
YARDLEY, PA 19067
(215) 561-1030
Fax: (215) 587-0888
Http://www.e-ALB.com
(215) 493-1807
Fax: (215) 493-0331

March 11, 2005



**VIA FEDERAL EXPRESS
AND E-FILING**

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

RE: ANSWER TO "IN THE MATTER OF REQUEST FOR REVIEW BY
RELCOMM, INC. OF DECISION OF UNIVERSAL SERVICE"
ADMINISTRATOR
CC Docket No. 02-6
SLD Decisions 1185824 and 1185996
Year Seven E-Rate
Billed entity #123420: Atlantic City Board of Education

Dear Sir/Madam:

Please be advised that this firm represents the interests of Micro Technology Groupe, Inc., a successful bidder, selected vendor and third-party in the above-captioned matter.

Enclosed please find an original and four copies of Micro Technology Groupe, Inc.'s Response to RelComm, Inc.'s Request for Review of Universal Service Administrator's Year Seven E-Rate decisions.

Thank you for your attention to this matter.

Respectfully submitted,

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

BY:


Donna M. Brennan-Scott

DBS/dg
Encls.

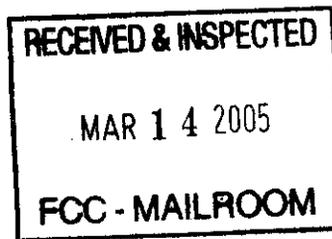
cc: J. Phillip Kirchner, Esq.
Deborah Weinstein, Esq.
Michael Blee, Esq.
Schools and Library Division

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ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

By: Ralph J. Kelly, Esquire
By: Donna M. Brennan-Scott, Esquire
41 Grove Street
Haddonfield, NJ 08033
(856) 795-5560



Attorneys for Defendant, Micro Tech

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Schools and Libraries Universal Service Mechanism	:	CC Docket No. 02-6
	:	
	:	SLD Decisions 1185824 and
	:	1185996, 1185946, 1185717,
	:	1185789 and 1185745
In the Matter of Request for Review by	:	
RelComm, Inc. of the Decision of the Universal	:	Billed Entity No. 123420
Service Administrator	:	Atlantic City Board of Education

RESPONSE OF THIRD-PARTY MICRO TECHNOLOGY GROUPE, INC. TO RELCOMM, INC.'S REQUEST FOR REVIEW OF DECISION OF UNIVERSAL SERVICE ADMINISTRATION FOR YEAR SEVEN OF THE E-RATE PROGRAM

I. INTRODUCTION

Here we go again. This marks petitioner RelComm Inc.'s (hereinafter "RelComm") fourth attempt to disrupt the rightful award of funds under the E-rate program to the Atlantic City Board of Education to third-party contractors such as Third-Party Respondent, Micro Technology Groupe, Inc. (hereinafter "MTG"). Relcomm's latest attempt is as flawed as its earlier ones, riddled with half-truths, glaring omissions and tortured constructions. Relcomm's latest attack suffers from a glaring critical flaw: Relcomm failed to submit a bid for the Year 7 contract. Relcomm, therefore, lacks standing to challenge the Year 7 award. It is time to put an end to this nonsense and deny Relcomm's baseless Petition and allow the various contractors, including MTG to fulfill its contract with the ACBOE.

Relcomm posits that it is an “aggrieved party which participated in the bid process for entity #123420 . . .” for Year Seven of the E-Rate Program, and therefore, has standing to appeal the decisions of the SLD dated January 11, 2005. To the contrary, RelComm is **not** an “aggrieved party” as to have standing to petition the Federal Communications Commission for review of the decision of the SLD because it never even submitted a bid to the ACBOE for the Year Seven E-Rate awards. Since RelComm did not bid, it is not an aggrieved party.

RelComm cites the case of Entech Corporation vs. City of Newark, 351 N.J. Super. 440, 462, 798 A.2d 681, 694 (N.J. Law Div. 2002) for the proposition that ACBOE was required to suspend the bid and respond to RelComm’s letter challenging the Year Seven bid request. RelComm is grossly misguided.

First, Entech involves an interpretation of New Jersey state law and is inapplicable. Second, Entech merely holds that N.J.S.A. 40A:11-13(e) “affords potential bidders the right to preserve a bid specification challenge which can then be perfected after the bid opening and affords the contracting entity the flexibility to address the challenge before the opening of the bid or defer it until after the opening with the knowledge that the bid award may then be brought into question.” Entech at 351 N.J. Super. 460, 798 A.2d 681, 693. Furthermore, the statutory provision is consistent with the judicial holding that unsuccessful bidders who bid on a contract without first objecting to the specifications lack standing to “challenge the award of the contract to a rival bidder or to attack allegedly illegal

specifications.” Id. at 459, 692.

Unlike the plaintiff in Entech, RelComm was not bidding under State regulations, but rather, Federal regulations. Additionally, RelComm, is **not** an unsuccessful bidder. Rather, it is not a bidder at all because it never submitted a bid, successful or unsuccessful. In Entech, the plaintiff had at least submitted a bid.

RelComm attempts to justify its failure to submit a bid by claiming that it challenged the bid specifications and then assumed the bid process had been suspended even though it admits that the ACBOE never suspended the bid. Then, in a classic case of the double speak-double negative that earmarks its earlier pleadings, RelComm claims that “unbeknownst to RelComm, . . . , ACBOE did not suspend the bid, but instead went forward” and RelComm was therefore “prevented from submitting its bid.” RelComm Petition for Review at p. 3. In other words, RelComm is claiming that it did not know that the bid was not suspended. Once one cuts through the double negative, what remains is that RelComm knew that the bid was going forward. RelComm’s conclusion that it was prevented from submitting its bid is a clear non-sequitor. The truth is that RelComm knew the bid was going forward, nothing prevented it from submitting its bid, it simply chose not to bid and cannot now challenge the award.

Additionally, as previously noted, the New Jersey statutes are inapplicable as this is a Federal bidding process and not a State bidding process. Therefore, if RelComm did not submit a bid, it has not sustained an injury.

It is overly speculative to suppose that RelComm, Inc. has been prejudiced or harmed by the Year Seven E-Rate awards because it has not set forth a specific record of relevant material facts. An action by the Administrator may be challenged only by the party that is aggrieved by the action. See In the Matter of Request for Review of the Decision of the Universal Service Administrator by Virginia Department of Education, Richmond, Virginia, 17 F.C.C. R. 947 (2002). In that case, the Request for Review did not detail whether the applicant was denied funding as a result of the alleged actions by the SLD and made no showing that the Administrator's actions caused it to be aggrieved. Therefore, the Request for Review was denied and dismissed.

Similarly, RelComm here fails to show that its interests have been adversely affected or harmed by the SLD's decision, and has failed to even demonstrate that it submitted a bid in the Year 7 program which was unsuccessful. Moreover, it has failed to demonstrate good cause for not participating and submitting a bid in the Year 7 E-rate program. Such lack of information is in violation of the general filing requirements of 47 C.F.R. § 54.721(b) and, therefore, RelComm's request for review should be denied.

RelComm's instant allegations are largely the outgrowth of its baseless complaints regarding bidding process violations pertaining to the ACBOE's Year Six E-Rate bid process and bid awards. Accordingly, MTG incorporates herein by reference its previous responses to RelComm's Request for Review and true and correct copies are attached hereto as Exhibit "A".

Additionally, most of the facts in this Request for Review of the decision of the Universal

and installation of a 165 node VPBX at the ACBOE high school facility is a mistake due to the decision by ACBOE and its consultant, Martin Friedman, to file separate Form 470s. It is the position of MTG that any response to this allegation is more appropriately answered by ACBOE and/or Martin Friedman. By way of further answer, however, even if Petitioner is factually correct that the eligible discount percentage is only 80% and not 90%, the appropriate remedy would be to correct the discount rate and not reverse the entire funding decision.

Accordingly, Petitioner's Request for Review should be denied.

C. FRNs 1185946; 1185717

RelComm contends that these two FRNs awards the identical same work to two different vendors and are, therefore, duplicates of each other. Once again, RelComm is factually incorrect. First, the wiring was never performed for Year 6 because the funding was stopped, as RelComm is well aware. Secondly, the two FRNs are not duplicates for the same area but, rather, are for two different areas, another fact of which RelComm is well aware. Finally, it should be noted that the 200 cable drops are necessary because the original wiring that was installed by RelComm was poorly and inadequately installed thereby necessitating the current work.

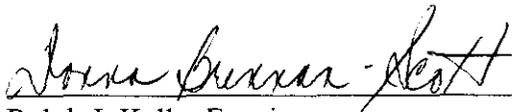
For these reasons, Petitioner's Request for Review should be denied.

III. CONCLUSION

MTG properly and competitively bid for the ACBOE Year 7 E-Rate contract and, once again, RelComm's bid protest is meritless. For the foregoing reasons, MTG requests that RelComm's

Request for Review be denied, that all relief requested by RelComm be denied, and that the Commission award such other and further relief as is just and necessary.

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

BY: 

Ralph J. Kelly, Esquire
Donna M. Brennan-Scott, Esquire
Attorneys for Micro Technology Groupe, Inc.

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

By: Ralph J. Kelly, Esquire

By: Donna M. Brennan-Scott, Esquire

41 Grove Street

Haddonfield, NJ 08033

(856) 795-5560

Attorneys for Defendant, Micro Tech

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Schools and Libraries Universal Service Mechanism	:	CC Docket No. 02-6
	:	
	:	SLD Decision 1185824 and 1185996
	:	
In the Matter of Request for Review by RelComm, Inc. of the Decision of the Universal Administrator	:	Billed Entity No. 123420 Atlantic City Board of Education

PROOF OF SERVICE

On March 11, 2005, I, the undersigned, personally served an original and four (4) copies of the within Micro Technology, Groupe, Inc.'s Response to Relcomm's Request for Review of Year Seven E-Rate Decisions of Universal Service Administrator to the Office of the Secretary of the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, MD 20743 via Federal Express Overnight Delivery and E-Filing.

I further certify that on March 11, 2005, I, the undersigned, personally served one copy of the within Response of Micro Technology, Groupe, Inc. upon the following individuals via First Class Mail:

J. Phillip Kirchner, Esquire
Flaster Greenberg, P.C.
1810 Chapel Road
West Cherry Hill, NJ 08002

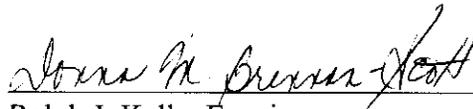
Deborah Weinstein, Esquire
The Weinstein Firm
225 West Germantown Pike, Suite 204
Plymouth Meeting, PA 19462-1429

Michael Blee, Esquire
Rovillard & Blee
8025 Black Horse Pike
Bayport One, Suite 455
W. Atlantic City, NJ 08232

Schools and Library Division
Box 125
Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

BY:



Ralph J. Kelly, Esquire

Donna M. Brennan-Scott, Esquire

Dated: March 11, 2005

ABRAHAMSON, LOEWENSTEIN & BUSHMAN, P.C.

By: Ralph J. Kelly, Esquire

By: Donna M. Brennan-Scott, Esquire

41 Grove Street

Haddonfield, NJ 08033

(856) 795-5560

Attorneys for Defendant, Micro Tech

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Schools and Libraries Universal Service	:	CC Docket No. 02-6
Mechanism	:	
	:	SLD Decision 1022916 and
	:	1023492
In the Matter of Request for Review by	:	
RelComm, Inc. of the Decision of the Universal	:	Billed Entry No. 123420
Administrator	:	Atlantic City Board of Education

**RESPONSE OF MICRO TECHNOLOGY GROUP, INC.
TO RELCOMM, INC.'S REQUEST FOR REVIEW
OF UNIVERSAL SERVICE ADMINISTRATOR'S DECISION**

I. INTRODUCTION

Respondent, Micro Technology Groupe, Inc. (hereinafter "MTG") hereby responds to RelComm Inc.'s (hereinafter "RelComm") Petition for Review. Preliminarily it should be noted that most facts in the Request for Review are directed to the Atlantic City Board of Education (hereinafter "ACBOE") and pertain to facts peculiarly within the knowledge of the School District. Accordingly, Micro Technology Groupe, Inc. concurs in the joint response of ACBOE and Alemar Consulting and incorporates by reference its answers therein as though fully set forth herein at length.

This marks RelComm's third attempt to prevent the legitimate award of work to MTG. Like its first two attempts, RelComm's Petition is riddled with half-truths, misrepresentations and other distortions in a critically flawed effort to block the legitimate award of work that was

brought about largely by its own defective work for the Atlantic City Board of Education and its schools.

RelComm asserts that its allegations “are currently the subject of a lawsuit pending in the Superior Court of New Jersey . . .” and RelComm attaches a copy of the complaint to its petition. What RelComm conveniently fails to mention is that it dropped MTG from the suit because it had no evidence to support its allegations against MTG. A true and correct copy of the order dismissing MTG from the suit is attached hereto as Exhibit A. This is typical of RelComm’s continual “throw it against the wall and see if it sticks” tactics in this matter. Make enough averments, regardless of their completeness or accuracy, and maybe your opponent will not be able to respond to all of them.

The whole truth of the matter is that RelComm did not have a federal court case against MTG (it dropped that lawsuit in the face of a motion to dismiss); a few months ago, in state court, it did not have sufficient evidence to sustain a case against MTG and it dropped them from that lawsuit; and it does not have one now. The specifics of its Petition suffer from the same defect as the half-truth contained in its introduction. The whole truth is that RelComm’s performance for the ACBOE under the E-rate program was defective. Consequently, when the ACBOE invited competition, RelComm could not legitimately compete in what was a full and fair competitive bidding process, and now it seeks this Commission’s assistance in continuing its defective work and in depriving the legitimate award to a reputable company.

II. MTG HAS NO "RELATIONSHIP" WITH ALEMAR - IT SIMPLY WON E-RATE BIDS

RelComm contends that MTG has received a contract award each and every time "Alemar has managed the E-Rate process on behalf of a school district, a total of 31 times dating back to Year 3 of the E-Rate Program". See *RelComm Request for Review at 3*. Again, this is true only so far as it goes. What RelComm omits is the whole truth: MTG received only part of the entire E-rate program award, and fails to mention the bids and/or portions of the bids that MTG did not receive. Other entities such as Peco Hyperion, Geoffrey P. Deans, Nextel, Compuworld, ComTec, and others also received awards for those programs. More significantly, the propriety of those awards was never challenged and RelComm cannot point to known bid-rigging, bid protest, or other irregularities in the award of those bids in the very public arena that is E-Rate. Far from showing any malfeasance, the award of these E-Rate contracts is a testament to MTG's competency and integrity in the E-Rate arena.

III. THERE WAS NO SECRET WALK-THROUGH - THE DISTRICT TOLD RELCOMM OF THE EARLIER WALK-THROUGH IN WHICH OTHER BIDDERS PARTICIPATED

As to its claim that Alemar conducted a second walk-through of the high school facilities to which RelComm and others were not invited, this is yet another example of RelComm's penchant for playing fast and loose with the facts. The truth is that there was no second walk-through to which RelComm and other bidders were not invited.

The high school was toured during the first walk-through and MTG was not the only vendor to participate. CompuWorld also participated in that walk-through and submitted a

competitive bid. Martin Friedman's e-mail to RelComm, attached to the ACBOE's response to the Request for Review as Exhibit 2, specifically conveyed to RelComm that "one walk-through has already taken place and, I believe, that a second walk-through is being scheduled for this week. Please contact John Holt . . . to be placed on that tour." RelComm's contention is also specifically contradicted by its own submission. Exhibit H to RelComm's petition is the sign-in sheet for the walk-through that shows that representatives from Interlink, Comtec and Geoff Deans also attended the walk-through that RelComm now contends others were not invited to.

There was also nothing secret about any walk-throughs. Martin Friedman explicitly told RelComm in the above-referenced e-mail that one had occurred and another was being scheduled. Significantly, until it commenced its flurry of defective litigation, RelComm never complained to anyone about the walk-through that it now contends was a bidding irregularity.

IV. PVBX IS NOT A BID IRREGULARITY; IT'S AN E-RATABLE PRODUCT PRODUCT CALLED FOR BY THE BID DOCUMENTS

RelComm's contention that MTG's inclusion of a PVBX in its bid is further proof of a bidding irregularity also fails. First, as set forth in ACBOE's response to the Request for Review, the Form 470 called for a VOIP with video and video equipment, and the PVBX is the functional equivalent of that system. The PVBX solution was included in the MTG bid because the School Board wanted a "best solution." It was understood that such equipment was 100% E-rate eligible and the PVBX pricing was separated from the rest of the other prices in case the School Board chose not to submit it for E-rate funding. However, it was approved by the SLD for funding in Year 6.

Contrary to RelComm's bald assertion that it is not e-ratable, it is clearly e-ratable, and we concur in the response filed by the ACBOE and incorporate the same by reference as though fully set forth herein at length.

V. **MTG WAS NOT GIVEN SEPARATE DOCUMENTS;**
RELCOMM AUTHORED THE DOCUMENTS

This is yet another example of RelComm's duplicitous behavior. RelComm contends that MTG was given documents that were not given to other prospective bidders. *See RelComm Request for Review at 9-10.* RelComm claims that documents regarding the PVBX system, a document entitled Network Diagram of ACBOE, and a document that RelComm alleges contains the existing wiring LAN breakdown of all the schools within the district were provided to MTG and "not given to other bidders." Lost in the babble, however, is whether or not RelComm had access to these documents. The fact, and whole truth, is that the Network Diagram and LAN breakdown are RelComm's own documents that RelComm clearly had access to and, in fact, refused to give to other bidders. RelComm clearly cannot claim a bidding irregularity regarding "documents not given to other bidders" when RelComm itself had access to these documents because it generated them in the course of its earlier E-rate work at the District.

In addition to this glaring omission by RelComm is the additional fact that nowhere does RelComm explain the significance of these documents, or how it gave MTG an unfair advantage over it or other bidders. RelComm does not make this claim because it cannot.

RelComm itself had the distinct advantage of being the most familiar with the network infrastructure (having been the provider for the past four years sans a competitive bidding process.) MTG, on the other hand, had no knowledge of the kind of network in place, or types of network servers, or even the manner of interconnections on the network. When MTG questioned the district tech employee who was at the first walk-through about network infrastructure, the district technician produced two documents but clearly advised the vendors that she did not know if the information was accurate, when it was developed or even if it was up to date. The Network Diagram merely showed the number of servers and the wiring diagram merely showed the manner of interconnections on the network. Neither provided any unfair advantage, nor can RelComm prove any.

Moreover, the documents regarding the PVBX system were not provided by the School District. Rather, MTG obtained these documents from the Internet. MTG was never given different specifications or modified specifications that were not given to RelComm or other bidders. In fact, although thousands of pages of documents have been produced in the aforementioned litigation, RelComm can point to no such different or modified specifications.

VI. MTG'S BID WAS PROPERLY DETERMINED TO BE THE BEST SOLUTION

RelComm contends that because MTG's bid was the highest at \$3.6 million and allegedly contained non-E-ratable items, it should be disqualified. *See Request for Review at 9.* However, the \$3.6 million "best solution" bid included "per drop" pricing for cabling, which allows the School Board to scale up or down the amount of wiring they wished to submit.

Additionally, MTG provided the School Board with pricing on non-E-rate eligible items which were separate and intended to let the School Board know what it would encounter financially to fully implement the technology. All was properly in accordance with the "best solution" approach specifically asked for, and stressed to the vendors, by the School District.

In addition, RelComm contends that the unlawful nature of MTG's bid is demonstrated by its "wastefulness." See *RelComm Request for Review at 10*. RelComm contends that MTG's bid, calling for the complete rewiring of the entire district network despite the fact that the existing wiring was under warranty, is wasteful. The fact that the existing wiring may be under warranty is not the issue and RelComm, again, misses the mark.

First, MTG's contract award does not call for rewiring of the entire ACBOE network. The cover letter that was submitted with the bid states only that "many schools" should have their wiring replaced. See Exhibit "B" attached hereto. Furthermore, as the letter indicates, the way that many of the schools were wired provided an inefficient network infrastructure and, in some cases, failed to meet industry standards. For example, there were instances whereby the location of the existing wiring did not allow for any electrical components, such as network switches and UPS equipment, to be powered via AC power. Moreover, having network wiring in that fashion was inefficient in trying to diagnose network problems in cases where technicians would need to enter and disrupt classes to try and diagnose problems.

Further, MTG did not intend to replace all of the wiring but only those that suffered from the above problems. (There were a few areas where the wiring was properly installed and those areas would not be replaced.) Therefore, MTG recommended the wiring be replaced in

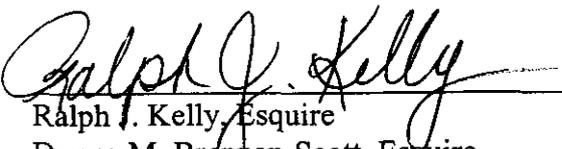
certain areas and, in some cases, certain buildings. Again, this recommendation was consistent with the ACBOE's desire for a "best possible solution."

Conversely, as far as "wastefulness" goes, it was RelComm that excessively billed the District for servers and other hardware for many times the going rate in RelComm's earlier E-rate projects. *See Atlantic City Board of Education Response, Appendix 1, Answer and Counterclaim to Plaintiff's Complaint, at 9 - 12, Paragraphs 8 - 17.*

VII. CONCLUSION

MTG properly and competitively bid for the ACBOE contract and RelComm's bid protest is meritless. For the foregoing reasons, MTG requests that RelComm's Request for Review be denied, that all relief requested by RelComm be denied, and that the Commission award such other and further relief as is just and necessary.

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

BY: 
Ralph J. Kelly, Esquire
Donna M. Brennan-Scott, Esquire
Attorneys for Micro Technology Groupe, Inc.

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

By: Ralph J. Kelly, Esquire
By: Donna M. Brennan-Scott, Esquire
41 Grove Street
Haddonfield, NJ 08033
(856) 795-5560

Attorneys for Defendant, Micro Tech

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Schools and Libraries Universal Service	:	CC Docket No. 02-6
Mechanism	:	
	:	SLD Decision 1022916 and
	:	1023492
In the Matter of Request for Review by	:	
RelComm, Inc. of the Decision of the Universal	:	Billed Entry No. 123420
Administrator	:	Atlantic City Board of Education

PROOF OF SERVICE

On November 5, 2004, I, the undersigned, personally served an original and four (4) copies of the within Petition of Micro Technology Groupe, Inc. for Waiver of 47 C.F.R. § 54.721(d) and Response to Request for Review by RelComm, Inc. of Decision of Universal Administrator to the Federal Communications Commission, Office of the Secretary, 445 - 12th Street, SW, Washington, DC 205654 via Federal Express Overnight Delivery.

I further certify that on November 5, 2004, I, the undersigned, personally served one copy of the within Petition of Micro Technology Groupe, Inc. for Waiver of 47 C.F.R. § 54.721(d) and Response to Request for Review by RelComm, Inc. of Decision of Universal Administrator upon the following individuals via First Class Mail:

J. Phillip Kirchner, Esquire
Flaster Greenberg, P.C.
1810 Chapel Road
West Cherry Hill, NJ 08002

Gino F. Santori, Esquire
Jacobs & Barbone
1125 Pacific Avenue
Atlantic City, NJ 08240

Michael Blee, Esquire
Rovillard & Blee
8025 Black Horse Pike
Bayport One, Suite 455
W. Atlantic City, NJ 08232

Deborah Weinstein, Esquire
The Weinstein Firm
225 West Germantown Pike
Suite 204
Plymouth Meeting, PA 19462-1429

Joseph Lang, Esquire
Lenox Socey Law Firm
3131 Princeton Pike
Building 1B
Lawrenceville, NJ 08648

Schools and Library Division
Box 125
Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

I hereby certify that the foregoing statements made by me are true. I am aware that if any
of the foregoing statements made by me are willfully false, I am subject to punishment.

BY:


Ralph J. Kelly, Esquire
Donna M. Brennan-Scott, Esquire

Dated: November 5, 2004

EXHIBIT "A"

FILED

SEP - 7 2004

WILLIAM E. NUGENT, J.S.C.

**Michael J. Blee, Esquire
Rovillard & Blee
8025 Black Horse Pike
Bayport One, Suite 455
W. Atlantic City, NJ 08232
(609) 347-7301 Telephone
(609) 344-5044 Facsimile
Attorneys for Defendant Atlantic City Board of Education**

RELCOMM, INC.,

Plaintiff

v.

**ATLANTIC CITY BOARD OF
EDUCATION; MARTIN FRIEDMAN AND
ALEMAR CONSULTING, MICRO
TECHNOLOGY GROUP, INC., FREDRICK
P. NICKELS and DONNA HAYE**

Defendant(s)

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY**

Docket No. ATL-L-477-04

Civil Action

Management Order

Initial
 Supplemental

THIS MATTER coming before the Court on July 16, 2004 for a Management Conference, J. Philip Kirchner, Esquire appearing on behalf of Plaintiff RelComm, Inc; Michael J. Blee, Esquire, appearing on behalf of the Atlantic City Board of Education [ACBOE]; Donna Brennan Scott, Esquire appearing on behalf of Micro Technology Group, Inc; Joseph Lang, Esquire appearing via telephone on behalf of the Atlantic City Board of Education [ACBOE] for the Seventh Count of Plaintiff's Complaint only; Deborah Weinstein, Esquire, appearing via telephone on behalf of Martin Friedman and Alemar Consulting; and the Court having determined to enter this Order dealing with the management of these proceedings as noted during the conference;

THIS MATTER also coming before the Court on August 2, 2004 for a Management Conference conducted via telephone, J. Philip Kirchner, Esquire appearing on behalf of Plaintiff RelComm, Inc; Michael J. Blee, Esquire, appearing on behalf of the Atlantic City Board of

Education [ACBOE]; Gino Santori, Esquire, appearing on behalf of Defendant's Nickels and Hays; Deborah Weinstein, Esquire, appearing via telephone on behalf of Martin Friedman and Alomar Consulting; Laura Tillman, Esquire, appearing via telephone on behalf of the Atlantic City Board of Education [ACBOE] for the Seventh Count of Plaintiff's Complaint only;

IT IS ON THIS 7th DAY OF September 2004 ORDERED:

1. By consent of Plaintiff, RelComm, Inc., through its attorneys, Flaster/ Greenberg, PC, Plaintiff will voluntarily dismiss Count One of the Complaint alleging a violation of the New Jersey Anti-Trust Act, N.J.S.A. 56:9-1 et seq. and Count Three, alleging a violation of the New Jersey Public School Contract Law, N.J.S.A. 18A-1 et seq. without prejudice as to all defendants and any and all remaining claims against Micro Technology Group, Inc. shall be dismissed without prejudice and a Stipulation of Dismissal prepared by Plaintiff and its attorneys will be circulated among Counsel and filed with the Court;

2. Any and all outstanding document requests served by Plaintiff upon Defendant ACBOE and Defendants Nickels and Hays shall be supplied and/or made available for additional inspection on or before September 15, 2004;

3. The Court did not order specific dates upon which depositions shall be conducted. All depositions should be completed within the time frame established within this Order and convened on a date, time and location, which is mutually agreeable between the parties. However, in the absence of such an agreement between the parties, the Court will establish deposition "default dates" which are set forth below. With respect to those depositions that are conducted on "default dates", Counsel is precluded from canceling "default date" depositions in the event that designated trial counsel is unavailable. Counsel should select another member of their firm to attend the deposition or the deposition shall proceed in the absence of their representation.