

4. Plaintiff's counsel intends to depose the following employees of Defendant ACBOE: Lisa Mooney, Marilyn Cohen and Elijah Thompkins. The Court has established the following default dates for the depositions of those three individuals: August 20, 2004 and September 17, 2004;

5. Plaintiff intends to depose Martin Friedman of Alemar Consulting. The default date for Mr. Friedman is October 1, 2004;

6. Plaintiff intends to conduct the deposition of two employees of Micro Technology Group, Inc. The default date for those depositions is October 29, 2004;

7. Plaintiff intends to depose Fredrick P. Nickles and Donna Hays. The default dates for those depositions are November 12, 2004 and/or November 15, 2004;

8. Plaintiff shall conclude all depositions on or before November 30, 2004;

9. Defendant ACBOE has identified the following individuals to be deposed: Michael Shea, President of RelComm; Suzanne Zammit, Relcomm Director of Marketing; Konstantine Raznitsky, RelComm, Director of Technology; Joseph Coccovias, an employee of RelComm, Inc.; Jack Wingard, an employee of RelComm, Inc.; Jon Jones, a former ACBOE employee and Frank Delonzo, Technology Coordinator of the Toms River School District. The default dates for those depositions are as follows: December 1, 2004, December 2, 2004, December 3, 2004, December 10, 2004, December 13, 2004, December 14, 2004 and December 15, 2004;

10. Defendants Nickles and Hays intend to depose the following individuals: Bo Christian, ACBOE Vice Principal of Ohio Avenue School; Bo Christian, ACBOE Vice Principal of Ohio Avenue School; Carol Cox, ACBOE Administrative Secretary; Rebecca Barrett, ACBOE Administrative Secretary; Wilma Rodriguez, Purchasing Secretary; Kathy Silver, Purchasing Secretary; Roy Wesley, ACBOE Tech Teacher/Webmaster; Donald Harris, ACBOE Tech Teacher; Marty Small, former ACBOE Board member and Judy Brown, ACBOE Tech Teacher.

The default dates for those depositions are as follows: January 7, 2005, January 14, 2005, January 21, 2005, and January 28, 2005.

11. All other depositions to be conducted by the parties shall be completed on or before February 28, 2005.

12. A Management Conference will be scheduled by the Court on December 22, 2004 at 8:45 AM PM. All parties may appear via telephone. The conference call shall be initiated by Counsel for RelComm, Inc.

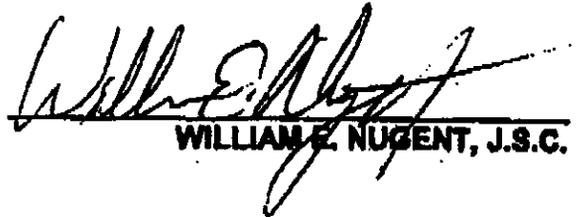

WILLIAM E. NUGENT, J.S.C.

EXHIBIT "B"

January 30, 2003

Mr. Martin Friedman
442 Lyndhurst Drive
Broomall, PA 19008

Dear Mr. Friedman,

MICRO Technology Groupe, Inc. (MTG) is pleased to submit this comprehensive proposal for the Atlantic City Board of Education Year 6 E-rate application.

We have proposed a solution for internal connections. This includes: cabling, network electronics, servers, and video. It also includes installation costs, maintenance agreements, and engineering costs.

We have used hardware from Cisco Systems and Compaq (HP) for the servers and network electronics. As you are aware, Cisco and Compaq are widely recognized as leaders in the technology industry.

We have configured the servers as per the bid specifications.

We feel the wiring in many of the schools should be replaced. We are not willing to provide any LAN enhancements using the existing wiring in those schools. We have provided prices to rewire (or add wiring) to the buildings. There is a per drop price for a cable run which will allow you to make any add/deletes to the number of runs that we propose.

We understand the district has two-pair fiber optic cable from each school building to the Dr. Martin Luther King School Complex. We propose to use this fiber as the districts' Wide Area Network links. We propose two Cisco Catalyst 6509 switches to provide redundant WAN connection.

Further, we propose Cisco Catalyst 6506 switches in each school building with Cisco Catalyst 2950 stackable switches in the various network closets.

Please be aware there are a few issues the district must address. They include providing adequate environmental conditions in the wiring closets and providing proper electrical power in the buildings. We do not believe these services are eligible under Year 6 of the E-rate program. MTG can provide the names of companies who offer such services.

MTG has been providing technology solutions to schools and businesses since 1989. We offer the highest quality of support on both the Windows and Macintosh platforms. We understand the district uses a mix of Windows and Mac OS computers. We believe we can partner with the district to become a reliable and valued Systems Integrator.

We would appreciate to speak with you and the district regarding our complete proposal. I can be reached at (877) 366-3684 ext. 385. Please be aware, we recently moved our company headquarters to 311A Old Rodgers Road, Bristol, PA 19007. We can be reached on the web at www.mtgroupe.com.

Thank you for your time and courtesy.

Regards,

Richard D. Linkhorst
Account Executive

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 Entity No. 123420
Administrator	:	Atlantic City Board of Education

**MICRO-TECHNOLOGY GROUPE, INC.'S REPLY TO RELCOMM'S
OPPOSITION TO PETITION OF MICRO-TECH
FOR WAIVER OF 47 C.F.R. § 54.721(d)**

I. INTRODUCTION

RelComm's Opposition to Micro Tech's Petition for Waiver of 47 C.F.R. § 54.721(d) and its Reply to MTG's Response to RelComm Inc.'s Request for Review seems to adopt the "I can't hear you" philosophy. It thinks that it just has to repeat the half-truths and misstatements contained in its earlier submissions, ignore the critical flaws that Micro Tech's Petition brought out and that by sheer repetition the Commission will accept their flawed arguments as true. The simple facts remain: MTG was never properly served with a copy of the Request for Review pursuant to statute; undersigned counsel was not authorized to accept service on behalf of MTG because undersigned counsel was not representing MTG in any legal capacity; there is no improper relationship between Micro Tech and Alemar; there was no secret walkthrough; and Micro Tech was not given any information that RelComm (or the other bidders) did not also have

access to. What remains is that good cause has been shown for Micro Tech's delayed filing and it was properly awarded the E-rate contract.

II. GOOD CAUSE EXISTS FOR WAIVER OF 47 C.F.R. § 54.721(d)

Pursuant to 47 C.F.R. § 1.3, the FCC's rules may be waived upon a showing of good cause. Moreover, as the FCC has long recognized, "in cases where the public interest demands that the merits of a deficient petition be considered", it will consider a "late-filed petition to the extent that serious public interest questions are raised." In Re Application of Franklin D.R. McClure, et al., 5 F.C.C. 2d 148 (1966). See also In Re Applications of Radio Dispatch Corporation, 57 F.C.C. 2d 332 (1975).

In McClure, applicants operating a radio station sought to change frequency and increase power. Evidentiary hearings were held and the record was closed. Five months later, after the close of record, a petition to enlarge the evidentiary issues was filed and was, therefore, untimely. However, because it was before the initial decision was released the F.C.C. Board allowed the filing, reasoning that it would improve and expedite the FCC's disposition of the case and because public interest demanded that the merits of the deficient petition be considered. 5 F.C.C. 2d 148 at FN3.

In this matter, first, good cause exists. As noted in Micro Tech's Petition for Waiver "MTG was dropped from the state court action". It was no longer a party to the state court matter which, to this day, is still pending. Because all litigation against MTG was closed, it had no need of undersigned counsel, and was not represented by undersigned counsel, and never authorized undersigned counsel to accept service of any other legal documents. To this day, MTG has not been properly served with a copy of the Petition.

Be that as it may, public interest also demands the consideration of Micro Tech's response to RelComm's *Petition for Review*. The allegations of collusion and impropriety and fraud in the Atlantic City Board of Education's awarding of contracts, and its direct implication that Micro Tech has some sort of improper relationship with Alemar, is a matter of sufficient concern to warrant waiver of timely filing, especially given that the matter has not yet even been considered by the FCC.

III. MICRO-TECH'S OTHER CONTRACT AWARDS WERE PROPER AND THERE IS NO IMPROPER RELATIONSHIP WITH ALEMAR.

RelComm again repeats its claim that Micro-Tech has some sort of improper relationship with Alemar. Their sole basis is that Micro-Tech won contracts that Alemar was involved with. They point to no irregularity, collusion, bribe or any other irregularity. They argue that because Micro-Tech won the contracts (in truth, Micro-Tech won only parts of those contracts), there must be some irregularity. Despite the fact that RelComm has been involved in active litigation for several months, received thousands of pages of documents and deposed several witnesses, it can point to no illegality or irregularity in the award of (parts) of those contracts to Micro-Tech. It can point to no such irregularity because there is none. Instead of supplying facts, it now provides the bald conclusion that "MTG's relationship with Alemar violates E-rate program rules and FCC regulations." RelComm Opposition to Petition at p. 5. Not only does RelComm fail to supply any facts to support this allegation, it fails to cite to any E-rate rule or FCC regulation that was violated by Micro-Tech's winning of earlier contracts.

By RelComm's logic, the fact that Micro-Tech won earlier contracts that Alemar played some unspecified role in, disqualifies it from bidding. By such logic, other companies, such as

CompuWorld, Com-Tec, Nextel, etc. would all be precluded from bidding because they too won contracts that Alemar was involved with.

The whole truth is that there is no improper relationship between Micro Tech and Alemar, and the award of this contract to Micro Tech was totally proper.

IV. RELCOMM AND THE OTHER BIDDERS HAD THE SAME ACCESS TO MATERIALS THAT MICRO TECH HAD

RelComm again repeats its earlier claims without a scintilla of evidence and without addressing the fundamental flaws illustrated by Micro Tech's Response.

The Walkthrough. RelComm again claims that there was an earlier "secret walkthrough" of the AtlanticCity High School. RelComm Opposition to Petition at pp. 6-7. Micro Tech pointed out in its Petition that other bidders participated on the walkthrough and that RelComm was told about the earlier walkthrough as evidenced by RelComm's own exhibit attached to its Petition. See Exhibit B, RelComm Opposition to Petition.

RelComm never addresses the fact that before it submitted it was told about the walk-through. Instead, it repeats its (inaccurate) representation that this walkthrough was "secret."

Next, RelComm goes to great lengths to point out that certain participants were later disqualified or are now performing subcontractor work for Micro Tech. The fact that a bidder who participated on the walk-through had its bid disqualified is a total non-sequitur. The fact remains: the first walkthrough was not secret, other bidders participated, and RelComm was told about the earlier walkthrough. It made no objection until after the fact when it was the unsuccessful bidder.

The PVBX. This is a total red-herring. Micro Tech included the PVBX because it always includes a PVBX. Again, RelComm has failed to show any connection between the inclusion of the PVBX, the award of the contract to Micro Tech, and any illegality or irregularity.

Other Documents. RelComm again ignores the obvious regarding Micro-Tech's receipt of RelComm's network diagram and district wiring documents. In its earlier Petition, Micro Tech showed that RelComm, itself, had possession of these documents so it could not claim that Micro Tech had some unfair advantage and RelComm fails to address how these documents gave Micro Tech any leg up on the other competitors. Both issues are critical flaws which RelComm continues to refuse to address. Moreover, RelComm glosses over the fact that it was the author of these documents. Having admitted to that fact, it cannot claim that Micro Tech had some sort of advantage over it. It does not even address what these documents show and how they were used in formulating Micro Tech's bid. It cannot elucidate these things because the simple truth is that these documents did not give Micro Tech any type of advantage in its bidding.

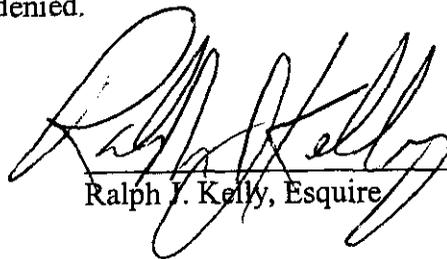
V. MICRO TECH'S BID IS THE BEST SOLUTION

Finally, RelComm claims that Micro Tech is defrauding the School District by the wiring proposal of its bid. RelComm claims that the bid calls for removal of all wiring even though RelComm contends that much of the existing wiring can be utilized. In its response, Micro Tech pointed out that the bid was a flexible per drop bid. RelComm attempts to refute this by claiming that the bid called for the entire replacement of all of the existing wiring and was not flexible. Again, RelComm resorts to twisting Micro Tech's bid to make its claim. RelComm claims that Micro Tech's bid was "quite clear that its proposed wiring was an all or nothing proposition." RelComm Opposition at p. 10. This is a distortion of Micro Tech's bid. Rather, Micro Tech

proposed that "We feel the wiring in many of the schools should be replaced." (Emphasis added). Thus, the bid provides for many schools, not the all or nothing that RelComm misconstrued. Likewise, the bid did allow for flexibility : "There is a per drop price for a cable run which will allow you to make add/deletes to the number of runs that we propose." In short, the bid was flexible.

VI. CONCLUSION

For the foregoing reasons, Micro Tech's Petition for Waiver should be granted, its response to RelComm, Inc's Petition for Review should be appropriately considered, and all relief requested by RelComm, Inc. should be denied.



Ralph J. Kelly, Esquire

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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 29, 2004, I, the undersigned, personally served an original and four (4) copies of the within Micro Technology, Groupe, Inc.s Reply to Relcomm's Opposition to Petition of Micro Technology, Groupe, Inc.s, Waiver of 47 C.F.R. § 54.721(d) to the Office of the Secretary of the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, MD 20743 via Federal Express Overnight Delivery.

I further certify that on November 29, 2004, I, the undersigned, personally served one copy of the within Micro Technology, Groupe, Inc.s, Reply to Relcomm's Opposition to Petition of Micro Technology, Groupe, Inc.s, Waiver of 47 C.F.R. § 54.721(d) upon the following individuals via First Class Mail:

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

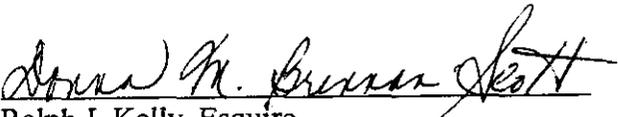
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Lawrenceville, NJ 08648

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 29, 2004

ABRAHAMSON, LOEWENSTEIN & BUSHMAN, P.C.

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By: Donna M. Brennan-Scott, Esquire

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Attorneys for Defendant, Micro Tech

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

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**THIRD PARTY PETITION OF MICRO TECHNOLOGY
GROUPE, INC. FOR WAIVER OF 47 C.F.R. § 54.721(d)**

Micro Technology Groupe, Inc. ("MTG"), the successful bidder, selected vendor and third-party in the above-captioned matter, petitions for waiver of the rules governing the review and consideration of the Request for Review submitted by RelComm, Inc. ("RelComm") to the Federal Communications Commission ("FCC") dated August 6, 2004.

Pursuant to 47 C.F.R. § 54.721(d), if a request for review alleges prohibitive conduct on the part of a third party, the request for review shall be served on the third party. Further, the "third party may file a response to the Request for Review." The third party must abide by the time period applicable to the filing of reply that is set forth in Section 1.45.

However, pursuant to 47 C.F.R. § 1.3, the FCC's rules may be waived upon a showing of good cause. Therefore, it is respectfully requested that the FCC waive the provisions of 47 C.F.R. § 54.721(d) for the following good cause reasons.

First, MTG was never properly served with a copy of the Request for Review pursuant to statute. Although undersigned counsel, who represented MTG for purposes of the state court

trial, was sent a copy of the Request for Review in the mail, he was not authorized to accept service on behalf of MTG for any other proceedings, including that instituted with the Federal Communications Commission. Furthermore, although Administrative Rule § 1.47(d) provides that "when a party is represented by an attorney of record in a formal proceeding, service shall be made upon such attorney," MTG was dropped from the state court action and it is no longer a party to that matter which is still pending. Additionally, undersigned counsel never represented MTG in any formal proceeding pertaining to the bidding process or awarding of the contract by the Atlantic City Board of Education and, as a result, service should have been made on MTG directly.

Therefore, since MTG has never been properly served, and undersigned counsel has since been authorized as representative of MTG for purposes of these proceedings, it is respectfully requested that MTG's Petition for Waiver be granted and the Commission accept the attached response.

Additionally, assuming *arguendo*, that service was proper, a review of the voluminous documents filed by RelComm indicates a complex and lengthy pleading relying on documentation obtained in the state court matter of which Petitioner is not a party. Most facts are directed to the Atlantic City Board of Education and are issues peculiarly within the knowledge of the Atlantic City Board of Education. Petitioner, then, had to devote substantial time to investigating and analyzing the contents of the Request for Review and was dependent upon the Atlantic City Board of Education, who has been in the midst of pretrial litigation and discovery in the civil lawsuit filed by RelComm, for a comprehensive response. For this reason, it is respectfully requested that MTG's Petition for Wavier be granted and the commission accept

the attached response.

Finally, this is an important matter to Micro Technology Groupe, Inc. as it involves allegations of improprieties and a request to reverse SLD's decision to fund ACBOE's Year-Six application and to suspend or disbar Micro Technology Groupe, Inc. from participation in the E-Rate Program. The severity of the remedy which RelComm seeks would be extremely harsh and detrimental to the business of MTG. Consequently, it is in the public interest to consider the attached response and RelComm will not be prejudiced if this Petition is granted.

WHEREFORE, Petitioner Micro Technology Groupe, Inc. respectfully submits that it has shown good cause in support of its Petition for Waiver and requests that 47 C.F.R. § 54.721(d), if applicable in light of lack of proper service, be waived so that the attached response may be filed.

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

BY:



RALPH J. KELLY, ESQUIRE
DONNA M. BRENNAN-SCOTT, ESQUIRE
Attorneys for Petitioner

Dated: 11-5-04

ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.

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Attorneys for Defendant, Micro Tech

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

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

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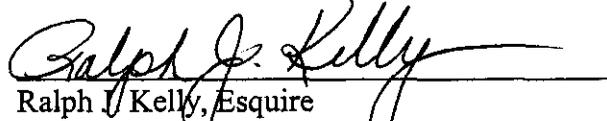
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Whippany, NJ 07981

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