

INTRODUCTION

Mr. Inga's opposition to AT&T's motion,¹ and his outrageous request for sanctions against AT&T, demonstrate that sanctions are not only proper but necessary to prevent his continuing abuse of the Commission's processes. Mr. Inga has completely failed to refute AT&T's showing of extraordinary and egregious misconduct. In fact, he confirms a number of AT&T's central charges (such as his submission of a fabricated letter) and engages in more of the very types of misconduct that precipitated AT&T's motion in the first place.

Mr. Inga claims, for example, that he understood the Commission's January 12th order to mean "that AT&T should stop its fraudulent use argument," not that he "was going outside the scope" of Judge Bassler's referral by raising his shortfall and discrimination claims. Opp. at 67. Yet, he expressly acknowledged in his motion for reconsideration that the January 12th order meant "that 'the other open issues' referred by the June 2006 District Court Order *do not include shortfall and discrimination issues.*" Req. For Recons. or FCC Guidance For District Court Re: Issues Already Commented On, *But Not Before FCC* (Feb. 8, 2007) (emphases added). His current claims are not simply false, therefore, but reflect an apparent belief that he is free to misrepresent facts and positions with complete impunity.

This is but one of many false or misleading statements Mr. Inga has seen fit to make in response to a motion meant to address this very type of misconduct. But his defense of his conduct in submitting a fabricated Internal Revenue Service ("IRS") letter is even more egregious. Mr. Inga has now finally admitted the obvious—that he was the author of this unauthorized letter. Opp. at 12. He asks the Commission to believe this submission was an

¹ It is perfectly clear that the petitioners in this proceeding and Tips Marketing are mere alter egos of Mr. Inga. *See infra* pp. 10-11. Accordingly, AT&T has dispensed with any pretext that petitioners and Tips Marketing are distinct legal entities operating for their own (as opposed to Mr. Inga's) interests and refers instead to Mr. Inga directly.

innocent mistake caused by bad advice from IRS employees. But none of his numerous representations about the views and statements of various IRS officials are made under oath. Nor has he submitted any signed letter by any of the officials whose views he purports to represent. These are not mere oversights. AT&T has learned that many of his statements are false or deliberately misleading.

Mr. Inga claims that he had a single, brief encounter with Ms. Lee of the IRS's Mountainside, N.J., office, in which she allegedly reviewed a letter from him and, after "several minutes" in her cubicle, "proceeded to stamp and fax" the letter he wrote, advising him that she did not place the letter on IRS letterhead because "that's the way we do it." *Id.* at 12-13. Through this recitation, Mr. Inga seeks to create the impression that he reasonably believed the letter he wrote was an "official" IRS statement. The truth, however, is that Mr. Inga went to Ms. Lee's office multiple times in a single day seeking to persuade her to type his letter on IRS letterhead, but she repeatedly refused to do so. Letter of Roy Schwarmann, IRS, to Jeffrey Tutnauer, AT&T Corp. (July 10, 2007) (attached hereto as Exh. 22) at 1. Despite that refusal, and despite having been told by the IRS that it "can not directly reach out and contact the FCC concerning Tips case due to its laws," *Opp.* at 64 (emphasis deleted), Mr. Inga repeatedly told the Commission that a document he wrote was a referral from the IRS and reflected the IRS's views. *See, e.g.*, March 16th Ex Parte at 2 ("the IRS want[s] these shortfall issues decided"); *id.* at 3 ("the IRS has definitively requested that all shortfall issues be resolved"). It is now indisputably clear that, when he made these statements in March, Mr. Inga knew they were false.

Mr. Inga likewise claims that Mr. Schwarmann of the IRS described the March 14th letter as unauthorized only because he never saw the IRS fax cover sheet showing "Ms. Lee's name, initialization and badge number." *Opp.* at 16, *see also id.* at 27, 76. According to Mr. Inga, it

was AT&T that “instituted the IRS investigation” into the letter, *id.* at 78, 99, by making “false” and “outlandish” allegations and presenting “false ‘presumptions’” and outright fabrications to the IRS. *Id.* at 26, 77, 79, 98. These claims are also flatly untrue. AT&T initiated no IRS investigation and made no allegations to the IRS about whether Mr. Inga knew or paid anyone at the IRS; AT&T simply provided the March 14th letter and Mr. Inga’s March 16th Ex Parte Comments to Mr. Schwarmann. *See* Declaration of Richard Sinton (“Sinton Decl.”) ¶¶ 5, 9 (attached hereto as Exh. 23); Declaration of Jeffrey Tutnauer (“Tutnauer Decl.”) ¶¶ 5, 7 (attached hereto as Exh. 24); Declaration of Thomas E. Nath (“Nath Decl.”) ¶¶ 5, 7 (attached hereto as Exh. 25); *see also* Exh. 22 attached hereto at 1. It was Mr. Schwarmann who initiated the investigation, and he did so *after* discussions with “the Taxpayer Service employee who faxed” the March 14th letter, *i.e.*, Ms. Lee. Exh. 22 attached hereto at 1.

Mr. Inga also claims that he was advised on June 11th that the Treasury Department had resolved its investigation “favorably” to him. Given Mr. Inga’s many other falsehoods about the IRS letter, the Commission should not accept this unsworn and unsubstantiated hearsay at face value. In all events, a “favorable” outcome means only that Mr. Inga will not be charged with a crime, not that his conduct before the Commission was permissible. And regardless of whether it was criminal or “had [any] effect on the case,” *Opp.* at 79, his conduct was extraordinarily improper, dishonest, and manipulative, and merits the severest form of sanction available.

- He has *confirmed* that he, not the IRS, wrote the March 14th letter, *id.* at 12, and that it was not authorized by the IRS, *id.* at 101 (he “was notified by Ms. Russell that her office does not do these types of letters”); *id.* at 64 (IRS advised him that it “can not directly reach out and contact the FCC concerning Tips case due to its laws”).
- He submitted this fabrication in order to influence the Commission and falsely represented that this letter was an official statement by a federal agency.
- He withdrew the March 14th letter only after reviewing Mr. Schwarmann’s statement that it was a fabrication. *Opp.* at 96-99. Even then, Mr. Inga did not admit that he wrote the March 14th letter, but continued to describe it as an IRS-authored

document. *See* Exh. 3 to AT&T’s Mot. for Sanctions (referring to March 14th letter as a “primary jurisdiction referral” and the TAC letter as a “*second IRS* primary jurisdiction referral”) (emphasis added).

Mr. Inga’s attempt to brush off such flagrant impropriety as an innocent mistake is more than baseless. It reflects a complete failure to acknowledge the seriousness of his misconduct or to take personal responsibility for it.

Finally, in a breathtaking display of chutzpah, Mr. Inga argues that AT&T should be sanctioned for having brought the fabricated letter to the Commission’s attention. He claims that AT&T “trumped up the entire IRS picture,” *Opp.* at 27, based on speculation and unfounded assumptions concerning a letter that had already been withdrawn, *id.* at 75-79, and at a time when AT&T supposedly knew or should have known that the IRS had resolved its investigation favorably to Mr. Inga, *id.* at 78, 99, 104. These astounding claims are themselves sanctionable:

- AT&T did not “trump” up charges of misconduct, but simply provided what appeared to be a forgery to an IRS official, who confirmed that the March 14th letter Mr. Inga had submitted to the Commission was not written or authorized by the IRS.
- Mr. Schwarmann was fully aware of Ms. Lee’s role in faxing the March 14th letter, yet he still believed that the initiation of a potentially criminal investigation by the Treasury Inspector General for Tax Administration was warranted. Exh. 22 attached hereto.
- AT&T made no allegations to IRS or Treasury personnel of bribery or impermissible favoritism, and was never advised of the outcome of the Treasury Department’s investigation. Indeed, since receiving Mr. Inga’s opposition, AT&T has been advised that it cannot learn the outcome. *See* Sinton Decl. ¶ 10 (Exh. 23 attached hereto).

Mr. Inga’s claim that AT&T should be punished for seeking sanctions based on conduct that led to an official investigation into a potential crime is the epitome of a frivolous filing.

Mr. Inga’s rank campaign of abuse and misrepresentation demonstrates that he has little regard for the truth, no respect for the Commission’s processes, and absolutely no concern about the undue burdens he has imposed on the Commission and AT&T. It is hard to imagine a clearer

case for sanctions. And it is equally impossible to imagine that Mr. Inga will cease his abusive and improper conduct unless and until he is sanctioned.

**MR. INGA AND HIS COMPANIES
SHOULD BE SANCTIONED
FOR EXTRAORDINARY MISCONDUCT**

I. Mr. Inga's Misconduct Concerning The March 14th Letter Merits Sanctions.

Throughout his opposition, Mr. Inga attempts to portray himself as a hapless victim of bumbling bureaucrats who repeatedly gave him bad advice, and of a baseless vendetta by AT&T. The portrayal, which rests on nothing but Mr. Inga's self-serving and unsworn assertions, is simply not true. In fact, Mr. Inga admits the central charge against him—that he wrote and submitted an unauthorized letter and tried to pass it off as an official pronouncement from the IRS. And AT&T has learned that many of his representations concerning that letter are either false or deliberately misleading.

Mr. Inga has now admitted, for the first time, that he, not the IRS, authored the March 14th letter and that the letter was not sent on behalf of the IRS, despite Mr. Inga's assertions that the letter constituted an IRS referral. *See* AT&T's Mot. for Sanctions at 14-15. As Mr. Inga explains, he wrote the March 14th letter before entering the IRS's Mountainside, N.J., office. Opp. at 12. Mr. Inga also confirms the equally obvious fact that the March 14th letter was not authorized. Despite his many statements about being mis-directed to various IRS offices, Mr. Inga admits that he was advised by the IRS that it "can not directly reach out and contact the FCC concerning Tips case due to its laws." *Id.* at 64. He was also "notified by Ms. Russell that her office does not do these types of letters." *Id.* at 101. Thus, as Mr. Schwarmann of the IRS stated in his March 23rd letter to AT&T, the March 14th letter Mr. Inga submitted was not "prepared or authorized" by the IRS. Exh. 2 to AT&T's Mot. for Sanctions.

Instead, what Mr. Inga tries to suggest in his opposition is that he reasonably believed the letter was effectively authorized by the IRS. To create this impression, he claims that, after he was incorrectly referred to the Mountainside office, he entered that office once and met Ms. Lee, who sent the March 14th letter on her own after “several minutes,” while Mr. Inga stood by patiently. Opp. at 12-13. Renouncing his former claims of tax expertise as an Enrolled Agent of the IRS, Mr. Inga dons the mantle of innocent taxpayer and claims that he, too, was puzzled by Ms. Lee’s failure to put the letter on IRS letterhead, but says he was told ““that’s the way we do it,”” and was in no position “to tell her how she should do her job.” Opp. at 13.

In actuality, Mr. Inga entered “the Mountainside office several times that day” and actively tried to persuade Ms. Lee to type his letter on IRS letterhead. Exh. 22 attached hereto. Thus, Mr. Inga affirmatively sought to obtain a facially official letter from the IRS. Ms. Lee did not suggest that an unsigned letter that was not on IRS letterhead was somehow just as official or authorized, because ““that’s the way we do it,”” nor did Mr. Inga idly sit by unable “to tell her how she should do her job.” Opp. at 13. Rather, Mr. Inga importuned Ms. Lee to type the letter on IRS letterhead, and she refused. Exh. 22 attached hereto.

These facts do more than belie Mr. Inga’s claims of innocence and undermine the credibility of his entire account of events. They show that, after being told that the IRS does not issue official letters to other agencies due to privacy laws, and after trying and failing, despite repeated efforts, to obtain just such an official letter from the IRS, Mr. Inga then repeatedly told the Commission that the March 14th letter was an official expression of interest by the IRS. *See, e.g.,* March 16th Ex Parte at 2 (“the IRS want[s] these shortfall issues decided”); *id.* at 3 (“the IRS has definitively requested that all shortfall issues be resolved”). Thus, when he made these statements in March, Mr. Inga necessarily knew they were false.

Nor is there any merit to Mr. Inga's utterly hypocritical assertion that he "took it upon" himself to inform the Commission that it should not rely on the March 14th letter because he discovered he had gone to the wrong IRS location. Opp. at 25. Mr. Inga asked the Commission to rely solely on the April 3rd TAC letter only *after* AT&T alerted him to the falsity of the March 14th letter. See AT&T's Mot. for Sanctions at 16. Indeed, he explains that he only sought the TAC letter in response to AT&T's assertion that the March 14th letter was fabricated. Opp. at 16, 18-19. Moreover, even after this, he continued to rely on the March 14th letter in his request to drop his motion for reconsideration of the January 12th Order (which, in his mistaken view, was partially mooted by the IRS "referral" of the shortfall issues). *Id.* In fact, Mr. Inga filed that request the day after he learned of Mr. Schwarmann's letter and called Mr. Cain to discuss the problems with the March 14th letter. See Drop Pet'r Mot. for Recons. on Discrimination Issues (April 3, 2007); Opp. at 16 (stating that Mr. Inga spoke with Mr. Cain on April 2nd). According to Mr. Inga, Mr. Cain, on that day, informed him that he had gone to the wrong IRS location, which is precisely the information that Mr. Inga claims prompted the April 12th email disavowing the March 14th letter. Opp. at 17, 24, 28. Yet, despite this information, he asked the Commission on April 3rd to rely on the March 14th letter as a referral.²

Furthermore, even when Mr. Inga asked the Commission on April 12th not to rely on the March 14th letter, he did not advise the Commission of his role in drafting the letter or of the circumstances he now claims made its submission an innocuous mistake. To the contrary, he continued to assert that the March 14th letter was an official IRS document, calling it a "primary jurisdiction referral on shortfall claims" and describing the TAC letter as merely a "*second* IRS primary jurisdiction referral." See Exh. 3 to AT&T's Mot. for Sanctions (emphasis added).

² In yet another attempt to mislead, Mr. Inga suggests that the "IRS Referral" in his April 3rd submission was the TAC letter, not the March 14th fabrication. Opp. at 97. But the TAC letter was not even received until April 4th. See Exh. 4 to AT&T's Mot. for Sanctions (Commission stamp indicating it was received on April 4th).

Thus, Mr. Inga sought to maintain the impression that he had two official letters from the IRS while seeking to avoid any liability for submitting a wholly fabricated letter.

Indeed, Mr. Inga now indicates that he was the principal author of the April 3rd TAC letter as well. While he claims that Mr. Gardiner and Mr. Acquino retained the authority to revise the letter, Mr. Inga states they asked him to draft this second letter. Opp. at 20. But, regardless of who wrote it, the TAC letter is nothing more than a submission by Mr. Inga's case advocate, who is representing Mr. Inga's interests *before the IRS*. See AT&T's Mot. for Sanctions at 17. It is not a letter from someone who can or who purports to speak *on behalf of the IRS* to the Commission, even if the Taxpayer Advocate Office is a department of the IRS or has an IRS "logo." Opp. at 27. Thus, the TAC letter does not render submission of the March 14th letter mere harmless error, as Mr. Inga tries to suggest.

The Taxpayer Advocate Service serves "as the primary advocate, *within the IRS, for taxpayers.*" Evolution of the Office of the Taxpayer Advocate at 1, *available at* http://www.irs.gov/pub/irs-utl/evolution_of_the_office_of_the_taxpayer_advocate.pdf (emphases added and deleted). Taxpayer Advocates are not auditors or investigators, nor do they work in enforcement. Indeed, "Service as an employee of the Office of the Taxpayer Advocate is not considered IRS employment under" the IRS Restructuring and Reform Act of 1998. *Id.* at 3. As Mr. Inga now confirms, the Taxpayer Advocate employees were merely trying to help Mr. Inga resolve the impasse *before the IRS*. See, e.g., Opp. at 22 ("IRS/Tips impasse"), 81.

Indeed, the TAC letter only confirms—as Mr. Inga's explanation essentially confirms—that Mr. Inga is pursuing his own "private tax-bounty request" and that he has tried to use Commission processes to do so, not that there is in fact an investigation into whether AT&T owes taxes on shortfall charges made to aggregators or that the IRS itself wants the Commission

to resolve any “shortfall” issues.³ AT&T’s Mot. for Sanctions at 17. Mr. Inga’s claims that he spoke with the rewards department and that they confirmed by phone and by letter that he has an active rewards claim does not mean that AT&T is currently being investigated by the IRS for allegedly not paying taxes on shortfall charges. *E.g.*, Opp. at 20-21. AT&T is unaware of any such investigation by the IRS or Florida Department of Revenue. Sinton Decl. ¶ 11 (attached hereto as Exh. 23). The rewards department and TAC letters simply confirm that Mr. Inga contacted the IRS as an “informant” and submitted a tip in the hope that he may be entitled to a reward if the information he supplied results in the collection of taxes from AT&T. *See* Internal Revenue Manual 25.2.2.1 to -.3, *available at* <http://www.irs.gov/irm/part25/ch02s02.html>. The IRS may or may not follow up on his tip. But these letters do not prove, as Mr. Inga claims, that AT&T is being investigated for “massive tax fraud.” AT&T’s Mot. for Sanctions at 17. In fact, the IRS cannot disclose to informants such as Mr. Inga whether any action has been taken on the information they submit. *See* Internal Revenue Manual 25.2.1.4(1)(g), *available at* <http://www.irs.gov/irm/part25/ch02s01.html> (“the Service is prohibited from disclosing any information about specific actions taken by the Service” as a result of taxpayer tips).

As AT&T correctly explained, Mr. Inga’s TAC letter only proves that he has merely pursued his own rewards claim and tried to use the Commission’s processes in his pursuit. AT&T’s Mot. for Sanctions at 17. Indeed, Mr. Inga openly admits that the basis for his interaction with the IRS is a claim for a 15 percent bounty. Opp. at 28. He also states that he has his “own interests to get [his] tax reward from the IRS for money AT&T owes the IRS,” regardless of what happens with the issue currently before the Commission. *Id.* at 56.

³ Mr. Inga claims that AT&T asserted “the IRS never checked to see if the tax Rewards Issue was pending or whether there was an actual investigation at all.” Opp. at 22. AT&T never said this in its motion, or to anyone at the IRS. *See* AT&T’s Mot. for Sanctions; Sinton Decl. ¶ 9 (attached hereto as Exh. 23); Tutnauer Decl. ¶ 7 (attached hereto as Exh. 24); Nath Decl. ¶ 7 (attached hereto as Exh. 25).

Without any credible evidence, Mr. Inga also makes much of the supposedly “favorable” outcome of the Treasury Department investigation. *E.g.*, Opp. at 77-78, 99. In light of his many other misrepresentations, this unsworn and unsubstantiated hearsay is entitled to no weight. Indeed, AT&T tried to confirm its accuracy with Agent Koles, who investigated the matter on behalf of the Treasury Department, and was informed that the Treasury Department will not release such information. Sinton Decl. ¶ 10 (attached hereto as Exh. 23). In all events, even if true (and there is no basis to believe that it is), the fact that the investigation ended “favorably” is hardly evidence that Mr. Inga’s conduct before the Commission was in any way proper or justified. It simply means that he was not prosecuted criminally. In an earlier phone conversation with Agent Koles, he only indicated that “if he discovered wrongdoing he would forward the case to the United States Attorney’s office.” *Id.* ¶ 6. The principal duties of a Treasury Inspector General for Tax Administration, like Agent Koles, are “to enforce criminal provisions under section 7608(b) of the Internal Revenue Code.” *See* 5 U.S.C. App. 3, § 8D(k)(1). It is in performing his “law enforcement function” that an agent must report “grounds to believe there has been a violation of Federal criminal law to the Attorney General.” *Id.* § 8D(k)(2)(A). Hence, the supposedly favorable outcome of the investigation simply means that the Treasury Department is not “pursu[ing]” Mr. Inga criminally. *E.g.*, Opp. at 27.

Finally, Mr. Inga cannot avoid the consequences of his conduct by standing behind the corporate veil. Mr. Inga argues that he, Tips, and his other companies are all separate entities and cannot be treated as one. *E.g.*, Opp. at 10. But Mr. Inga refers to himself and “Tips” interchangeably throughout his narrative of events preceding and following the March 14th letter. *See, e.g., id.* at 12-13 (“Ms. Lee went to her cubicle for a [sic] several minutes and Tips

did not see her It was assumed that while she was in her cubicle she was bringing up in the computer system the case ID's that were provided by Mr. Inga”).

Moreover, Mr. Inga has clearly orchestrated and authored virtually all of his companies', including Tips', submissions to the Commission, calling himself at one time a “one man band who works at home.” Req. for Combining Declaratory Rulings and Extension of Time to File Reply Comments (Jan. 3, 2007) at 3. Indeed, in that same submission, which was ostensibly submitted by petitioners, Mr. Inga requested an extension on behalf of the “4 Inga telecom companies *and Tips*.” *Id.* at 4 (emphasis added). His countless references to the “Inga Companies” or the “4 Inga telecom companies” in many filings, as well as his representations on behalf of Tips in submissions ostensibly made by the others, belie any claim that they are legally distinct entities. Beyond question, these companies are mere alter egos, and there is no basis to respect corporate formalities when Mr. Inga uses them interchangeably to serve his own ends.

In sum, Mr. Inga confirms AT&T's central contentions concerning the March 14th letter: he submitted a letter he wrote and tried to pass it off to the Commission as an official IRS referral in order to have the Commission consider an issue he claims will personally benefit him. This flagrant abuse of the Commission's processes is sufficient, in and of itself, to merit the severest sanctions available. The fact that Mr. Inga has attempted to defend this misconduct by making additional false or misleading statements simply underscores the necessity of sanctions.⁴

II. Mr. Inga's Motion For Sanctions Is Itself Sanctionable.

Apparently believing that the best defense is a frivolous offense, Mr. Inga claims that AT&T should be sanctioned for seeking sanctions based on his submission of a fabricated letter

⁴ Betraying a well-founded concern that his latest misrepresentations will be exposed, Mr. Inga has submitted two separate emails asking the Commission to prohibit AT&T from responding to his Opposition. *See* Email of Mr. Inga to Ms. Shetler (July 15, 2007) (attached hereto as Exh. 26); Email of Mr. Inga to Ms. Shetler (July 9, 2007) (attached hereto as Exh. 27). There is of course no legitimate basis for this extraordinary request.

to the Commission. This request also rests on a series of false and misleading assertions. Indeed, it is so utterly baseless that it separately merits sanctions.

Contrary to Mr. Inga's unsworn and unsubstantiated claims, AT&T did not "misrepresent" or "trump up" the events preceding or following the March 14th letter, nor are AT&T's claims "totally baseless" or founded on mere speculation and assumptions. Opp. at 11, 14, 27, 75-79. After receiving a copy of the March 14th letter, AT&T employees noted that "it did not conform to correspondence . . . typically see[n] from the IRS," and thus decided to inquire into its authenticity. Sinton Decl. ¶ 3 (attached hereto as Exh. 23); Nath Decl. ¶ 3 (attached hereto as Exh. 25). AT&T contacted Mr. Schwarmann, an "IRS auditor working on AT&T's income tax review," because he "works out of the Mountainside N.J., IRS office from which the letter was faxed." Sinton Decl. ¶ 3; Nath Decl. ¶ 3. In response to AT&T's inquiry, Mr. Schwarmann sent his March 23, 2007 letter to AT&T indicating that the March 14th letter "was not prepared or authorized by the Internal Revenue Service." Exh. 2 to AT&T's Mot. for Sanctions. AT&T also learned, around the same time, that the Treasury Department was exploring the matter in an investigation initiated by the IRS. Sinton Decl. ¶¶ 4-6.

The IRS confirmation that the March 14th letter was not authentic, the Treasury Department investigation into that letter, and Mr. Inga's failure to explain the origins of the letter even after he was informed of Mr. Schwarmann's March 23rd letter confirm that AT&T reacted appropriately. To suggest otherwise, Mr. Inga claims that AT&T "instituted the IRS investigation," *id.* at 78, 99, by making "false" and "outlandish" allegations and presenting "false 'presumptions'" and outright fabrications to the IRS, *id.* at 26, 77, 79, 98. He claims Mr. Schwarmann would never have suggested an investigation if he had the "final" March 14th letter

with “Ms. Lee’s name, initials, badge number” and other information, and that Mr. Schwarmann did not complete a thorough investigation. *Id.* at 15, 27, 76. All of these claims are false.

AT&T did not make any allegations or any other statements to the IRS suggesting Mr. Inga or any IRS employee committed wrongdoing. *Id.* at 14-15, 26, 77, 79, 98. AT&T’s entire interaction with the IRS concerning the March 14th letter and the events thereafter consisted of forwarding the letter and accompanying documents to Mr. Schwarmann, asking for his views on the letter’s authenticity, and having two phone conversations with an agent of the Treasury Department. *See* Sinton Decl. ¶¶ 3, 7 (attached hereto as Exh. 23); Nath Decl. ¶ 3 (attached hereto as Exh. 25). AT&T did not make any allegations concerning Mr. Inga to Mr. Schwarmann, Sinton Decl. ¶ 3; Nath Decl. ¶ 3, or Agent Koles, Sinton Decl. ¶ 6. At no time did AT&T suggest that Mr. Inga “had a relationship with . . . had obtained favors from [or] had paid IRS or Treasury Department personnel . . . or had engaged in any other wrongdoing.” Sinton Decl. ¶ 9; Nath Decl. ¶ 7; Tutnauer Decl. ¶ 7.⁵ Nor did AT&T actively instigate or lobby for an investigation with either the IRS or Treasury Department. Sinton Decl. ¶ 3; Nath Decl. ¶ 3.

The simple fact is that Mr. Schwarmann initiated the investigation entirely on his own, and did so after he had all of the supposedly “exculpatory” information about Ms. Lee’s involvement in faxing the letter. Mr. Schwarmann’s recent July 10, 2007 letter confirms that, before sending his March 23, 2007 letter, he conducted a thorough investigation that included discussions with the “Taxpayer Service employee who had faxed the 3/14/07 letter.” Exh. 22

⁵ Mr. Inga apparently bases these claims on AT&T’s passing reference, in its sanctions motion, that “presumably” Mr. Inga knew someone in the Mountainside, N.J., office. *E.g.*, Opp. at 76. AT&T theorized that this might be the case because it could not understand how Mr. Inga had an obviously fabricated IRS letter sent from an IRS office and because Mr. Inga had never offered any explanation for how he obtained it. This fleeting comment does not justify Mr. Inga’s wild accusations of “fabrications” to the IRS. For the record, moreover, Mr. Inga’s many purported quotations of AT&T’s position can be found nowhere in AT&T’s brief. *See, e.g.*, Opp. at 15 (“Mr Inga’s IRS friends helping Mr. Inga out”), 16 (“favor”; “knew her”), 19 (“relationship with Mr. Inga”), 22 (“the IRS never checked to see if the tax Rewards Issue was pending or whether there was an actual investigation at all”), 24 (“IRS had no interest”), 26 (“doing a favor for an old tax friend”; “use of friends”), 27 (“knew IRS people”; “special favor”), 77 (“doing special favors for friends of Mr Inga”). This list is by no means exhaustive.

attached hereto. Thus, before sending his letter, Mr. Schwarmann knew precisely who had faxed the March 14th letter and the events leading up to the fax. *Id.* That he may not have had the “finished product,” with Ms. Lee’s stamp and badge number, Opp. at 15, is immaterial. Moreover, Mr. Schwarmann had all the information (and more) that Mr. Inga claims undermines the March 23rd letter before he referred the matter to the Treasury Department.

In a truly audacious ploy, Mr. Inga tries to find misconduct in AT&T’s decision to file its motion and raise the problems with Mr. Inga’s March 14th letter in June rather than at some earlier time. Opp. at 79, 98-99. But AT&T did not take its decision to seek sanctions lightly and did not file its motion solely because of Mr. Inga’s submission of the March 14th letter. That submission is but one example—albeit an especially egregious one—of his repeated and flagrant misconduct and abuse of the Commission’s processes.

Nor can AT&T be faulted for failing to wait for the results of the IRS investigation or acting in reckless disregard of its supposedly “favorable” outcome. *E.g.*, Opp. at 78, 99. AT&T was advised that the Treasury Department would not inform it of the results of its inquiry. Agent Koles specifically explained that “he could not discuss the matter or his investigation beyond stating that he was investigating the events surrounding the March 14th letter.” Sinton Decl. ¶¶ 5-6 (attached hereto as Exh. 23); *id.* ¶ 10 (“Agent Koles made clear that AT&T would not be informed further of any investigation.”). Indeed, AT&T recently tried to verify certain of Mr. Inga’s most recent claims with Agent Koles, but Agent Koles responded “that his organization does not discuss their investigation or the results of their investigations of this type with third parties.” *Id.* ¶ 10. And, as discussed above, even if the Treasury Department concluded that no *crime* occurred, this would hardly undercut the basis for AT&T’s motion.

In short, Mr. Inga's suggestion that AT&T should be sanctioned in these circumstances is simply outrageous. AT&T was more than justified in seeking sanctions, even more so now that Mr. Inga has confirmed the obvious—the March 14th letter is not from the IRS but from him—and has made numerous false and misleading statements in his efforts to defend his misconduct and shift the blame to AT&T. Once again, his willingness to make such an unfounded and irresponsible request confirms that sanctions are not only proper but necessary to stop his abuse of the Commission's processes.

III. Mr. Inga's Forum-Shopping And Improper Advocacy Before The Commission Merits Sanctions.

As AT&T has explained, Mr. Inga should also be sanctioned because he has engaged in blatantly impermissible forum-shopping, changing his positions in a completely unprincipled manner and filing a relentless welter of repetitive, vexatious, and intemperate submissions to justify those changes. As he did in connection with the March 14th letter, Mr. Inga defends this misconduct with a series of disingenuous, and in many instances flatly false, assertions.

1. Mr. Inga's Misrepresentations Concerning The Scope of the Referral.

Mr. Inga disputes that, after the D.C. Circuit's January 2005 decision, his companies abandoned a request they had made in 2004 for a primary jurisdiction referral of the shortfall and discrimination issues. After the D.C. Circuit ruled, however, the Inga Companies filed a motion to lift the District Court's stay, arguing that "[n]o further rulings are needed by the FCC," Letter of Frank Arleo to Hon. William Bassler (June 27, 2005) (attached hereto as Exh. 28) at 2, and that "the stay should be lifted and this matter should proceed *in this Court*," Br. in Supp. of Pls.' Mot. to Lift Stay at 1 (emphasis added).⁶ When that motion was denied, the Inga Companies sought reconsideration, claiming there was "no need to return to the FCC" because the

⁶ AT&T previously included only excerpts from this brief as Exh. 6 to AT&T Comments. AT&T has attached the entire brief as Exhibit 29 to this reply in support of its motion.

Commission had supposedly “interpreted the obligations issue in its brief filed with the D.C. Circuit” and was therefore “estopped from taking a contrary position.” Br. in Supp. of Mot. for Re-Argument at 2 (attached hereto as Exh. 30).⁷ In none of their numerous briefs in support of their motion to lift the stay or for reargument did the Inga Companies ever state that, if the Court referred the § 2.1.8 “all obligations” issue, it should also refer the issues raised in the Supplemental Complaint. To the contrary, in the motion for reargument, they stressed that, in light of the D.C. Circuit’s decision, “[t]he *only issue* is ‘which obligations’ transfer” on a “traffic-only” transfer, and they insisted that the District Court should decide that issue. *Id.* at 1 (emphasis added).

Mr. Inga now makes the preposterous claim that, because his 2004 request for such a referral “remains on the District Court’s Pacer Server today,” there was no need “to resubmit the exact same brief as [they] did in 2004.” Opp. at 45. But, by arguing that “[n]o further rulings are needed by the FCC,” Exh. 28 attached hereto at 2 (emphasis added), that “[t]he *only issue* is” is the “all obligations” issue, and that “this matter should proceed *in this Court*,” Exh. 29 attached hereto at 1 (emphasis added), the Inga Companies necessarily abandoned any argument that Commission rulings on the shortfall and discrimination issues were “needed.” This conclusion is unassailable; to deem it “a complete farce,” Opp. at 45, is itself farcical.⁸

Nor is it true that the Inga Companies “introduced the shortfall and discrimination issues into many of [their] filings” in support of their motion to lift the stay. *Id.* at 46. Mr. Inga quotes a passage from the initial brief in support of the motion to lift the stay in which these issues were

⁷ This strenuous effort to avoid returning to the Commission flatly belies Mr. Inga’s claim that all he has ever wanted is for “someone to resolve all issues—it doesn’t matter who!” Opp. at 8.

⁸ Contrary to Mr. Inga’s claim, AT&T has not asserted that his companies “abandoned [their] *claims* on shortfall and termination issues.” Opp. at 45 (emphasis added). AT&T said that his companies had abandoned “their efforts to have their shortfall and discrimination issues *referred to the Commission*.” AT&T’s Mot. for Sanctions at 6 (emphasis added). AT&T agrees that these claims are still pending in the District Court and are subject to its stay.

mentioned. *Id.* at 47. But this discussion appeared in the background section of the brief (at page 6, not page 8, as Mr. Inga states). The passage continues as follows:

This led to the filing in March 1997 of a Supplemental Complaint in the District Court. In response, AT&T filed a counterclaim against plaintiffs. Those claims are currently stayed but are not directly at issue in this motion.

Exh. 29 attached hereto at 6. This passing reference to the facts that gave rise to the suit, and its current procedural posture, does not and cannot possibly show that the Inga Companies were somehow still pursuing their earlier request for a referral of the shortfall and discrimination issues at the same time they were arguing that *no issues* should be referred to the Commission.

Mr. Inga's claim that AT&T sought a referral of these issues, *Opp.* at 4, is equally baseless and rests on a completely disingenuous attempt to conflate issues that Mr. Inga has previously acknowledged are entirely distinct. He has raised two separate "shortfall" issues. The first is his argument that PSE did not have to assume CCI's obligation to pay shortfall charges because the plans were "pre-June 17, 1994 plans" and thus immune from such charges. The second is his claim that AT&T's brief imposition of shortfall charges on end-user accounts was improper. The "shortfall *immunity*" argument is directly related to the "all obligations" issue, which is why AT&T has agreed that it is encompassed by Judge Bassler's referral.⁹ The "shortfall *infliction*" (sometimes referred to as the "illegal remedy" or "shortfall permissibility") claim, by contrast, is wholly unrelated to the "all obligations" issue and thus not encompassed by the referral. The various passages Mr. Inga quotes from AT&T's briefs all concern "shortfall immunity," not the "shortfall infliction" issue Mr. Inga has improperly tried to inject. *See Opp.* at 5 (quoting AT&T's reference to "'pre-1994' plans to which 'shortfall charges allegedly could

⁹ The fact that AT&T has agreed to litigate the shortfall immunity before the Commission, *see* AT&T Comments at 31-33, demonstrates the patent falsity of Mr. Inga's claim that, after AT&T "discovered that the plans were all pre June 17th 1994" plans, "AT&T no longer wished to have the shortfall issues decided," *Opp.* at 7-8.

not apply”); *id.* at 7 (quoting AT&T reference to issue of “whether ‘pre-June 17th, 1994 CSTPII plans . . . may never have shortfall charges imposed”).¹⁰

Similarly, Mr. Inga disingenuously blurs the distinction between his different “discrimination” issues. The Supplemental Complaint alleges that AT&T violated the Communications Act’s anti-discrimination requirements by allegedly refusing to offer the same discount plans it offered to Inga’s competitors and by processing other traffic-only transfers that were allegedly identical to the CCI/PSE proposed transfer. Separate and apart from these claims, however, the Inga Companies also argued that AT&T’s processing of other allegedly identical traffic-only transfers supported their interpretation of § 2.1.8’s “all obligations” requirement. *See* Exh. 29 attached hereto at 12 (“AT&T’s stilted tariff interpretation that all shortfall and termination obligations are to be assumed on traffic transfers without the plan is totally contrary to the thousands of these types of transfers done by AT&T customers in the market place”). It was this *interpretive* argument concerning the meaning of § 2.1.8 that AT&T agreed could be addressed by the Commission. *See* Opp. at 5 (quoting AT&T’s argument to Judge Bassler that the Inga Companies “had argued both before the FCC and the D.C. Circuit that: . . . (6) that other transfers that occurred in the past also support the Inga Companies’ positions”).¹¹

Mr. Inga understands the difference between his “shortfall immunity” and discrimination-based interpretation arguments, on the one hand, and the “shortfall infliction” and discrimination

¹⁰ The same is true of the passage Mr. Inga quotes from his motion for reargument before Judge Bassler. *See* Opp. at 47 (“Additionally, these plans were *immune from S&T liabilities* due to the fact that tariff section ‘2.5.7’ was enacted which waives actual S&T obligations”) (quoting Exh. F to Further Comments of Petitioners Regarding Consolidation and Extension (Jan. 8, 2007)).

¹¹ Mr. Inga also once again cites a statement by AT&T counsel, Mr. Guerra, that “everything [Mr. Inga’s] counsel said was in fact a question of interpretation.” Opp. at 6. Mr. Guerra was addressing Inga’s arguments that the Court should not refer the “all obligations” issue because it supposedly turned on factual disputes. Indeed, on the very next page of the transcript, Judge Bassler noted that, if the Commission agreed with AT&T’s interpretation of § 2.1.8’s “all obligations” language, the parties would still “have this issue of discrimination *in this Court*,” and Mr. Guerra agreed: “You would, Your Honor.” *See* Exh. 31, attached hereto (emphasis added). Mr. Guerra was thus plainly arguing that the discrimination claims in the Supplemental Complaint would be decided in Court.

claims in the Supplemental Complaint, on the other hand. He told Judge Bassler that the issues raised in the Supplemental Complaint were “separate and distinct” from the “account movement issue.” Exh. 17 to AT&T Comments at 2. And, when AT&T first objected to his efforts to inject the shortfall infliction claim in this proceeding, Mr. Inga admitted that “[t]he traffic transfer issue and the shortfall permissibility issue are indeed separate and distinct issues.” Pet’rs’ Req. for Extension of Time to File Reply Comments at 1. Elsewhere in his opposition, moreover, Mr. Inga draws the very distinction AT&T has identified, explaining that the Commission’s January 12th Order did not prevent him from “argu[ing] pre June 17th 1994 shortfall law and discrimination issues *which affects the ‘traffic only’ transfer case.*” Opp. at 66 (emphasis added). Thus, Mr. Inga necessarily understood that when AT&T addressed the “shortfall immunity” and discrimination-based interpretive arguments that his companies raised on the “all obligations” issue, AT&T was in no way seeking a referral of the “separate and distinct” shortfall infliction and discrimination claims in the Supplemental Complaint. Thus, his arguments that AT&T sought such a referral simply cannot have been made in good faith.

Nor is there any good-faith basis for Mr. Inga’s statements concerning the email in which the Inga Companies’ counsel, Mr. Helein, framed the issue to be decided in the re-instituted proceeding. Mr. Helein referred four separate times to “*the issue*” or “*this issue*,” which he defined as: “What obligations, if any, transfer under section 2.1.8 of AT&T’s Tariff No. 2 when an aggregator or other customer transfers [t]he benefits of 800 service pursuant to Section 2.1.8.” Exh. 7 to AT&T’s Mot. for Sanctions (emphasis added). Immediately after identifying this issue, Mr. Helein explained that Judge Bassler had “directed the Inga Companies to file with the FCC pursuant to Part I of its rules *to get an answer to this issue.*” *Id.* (emphasis added).

Mr. Inga disingenuously asserts that “Mr. Helein was not seeking to debate what issues were to be decided,” but rather inquiring to see if AT&T agreed that a declaratory ruling was the proper procedural vehicle. Opp. at 50-51. But as Mr. Helein’s email makes plain, the nature of the issue to be resolved is essential to determining which procedural vehicle is proper, because issues involving factual disputes cannot be resolved in a declaratory ruling proceeding. This is why Mr. Helein specified the issue, and why he stated that: “The issue it is believed is purely legal involving no disputed facts [m]aking the proper proceeding a declaratory ruling.” Exh. 7 to AT&T’s Mot. for Sanctions. Mr. Inga plainly understands this, too, which is why he has repeatedly and improperly tried to twist Mr. Guerra’s statement before the District Court into a “concession” that the shortfall infliction and discrimination claims also involve questions of interpretation. *See supra* note 11.

In short, it is irrefutably clear that neither AT&T nor the Inga Companies sought a referral of the shortfall infliction and discrimination claims, that Judge Bassler’s referral did not include these claims, and that Mr. Inga understood this. Indeed, this is why he never carried through on his threat to return to Court and advise that AT&T had reversed its position.¹² There is simply no legitimate basis to Mr. Inga’s claims to the contrary.¹³ His continued assertion of such utterly baseless arguments is itself sufficient to justify sanctions.

¹² Mr. Inga claims he abandoned his threat to return to the District Court in order to let the Commission decide “whether or not the Judge Bassler referral encompassed the shortfall and discrimination issues due to the ambiguity of Judge Bassler’s referral.” Opp. at 54. This is not only absurd on its face—the Court was obviously best positioned to resolve any supposed ambiguities in its own order—but inconsistent with what Mr. Inga previously told the Commission. *See Pet’rs’ Req. for Extension of Time to File Reply Comments* at 4 (requesting an extension to seek “District Court guidance for the FCC as to whether the District Court wants just the traffic only transfer issue resolved,” because “this is a much better approach than going ahead and arguing at the FCC ‘what’s on the table to argue’”).

¹³ Similarly, there is no basis for Mr. Kearney’s motion to compel AT&T to produce evidence concerning “Why every other aggregator and direct AT&T customer was allowed to do a traffic transfer both before and after petitioner’s traffic transfer and no revenue commitments were ever transferred.” Mot. to Prohibit AT&T from Addressing Tips IRS Issue & Motion to Compel AT&T to Produce Evidence (July 12, 2007) at 2. As AT&T has previously explained, whether AT&T permitted other traffic transfers does not “alter the plain language of § 2.1.8.” AT&T Comments at 37. At most, it might be the basis for a separate discrimination claim, which is not before the

2. Mr. Inga's Improper Forum-Shopping Before the Commission.

Contrary to Mr. Inga's claim, Opp. at 47, AT&T does not seek sanctions because he abandoned his 2004 request for a referral of the shortfall infliction and discrimination claims or chose to argue to the District Court that nothing should be referred. Having gambled on this strategy, however, Mr. Inga was not free to try to inject these obviously irrelevant claims into the re-instituted proceedings and then raise the foregoing utterly baseless arguments for why Judge Bassler's referral included these claims. This entire effort was improper. And Mr. Inga conducted it in an egregiously vexatious and burdensome manner.

Mr. Inga inundated the Commission and AT&T with numerous overly long and highly repetitive briefs raising the baseless arguments discussed above. Over the course of six months, he submitted 20 formal pleadings totaling over 800 pages and countless emails; at least 12 of these briefs pertained, in part, to the shortfall and discrimination claims. Mr. Inga submitted no fewer than 8 of these briefs *after* the Commission advised him that these issues were outside the scope of Judge Bassler's referral. And, as AT&T has noted, virtually all of these briefs were laced with vituperative and unfounded accusations of "fraud" and "cons" by nearly every AT&T attorney involved in this dispute—conduct Mr. Inga does not dispute or defend.¹⁴

Beyond the burdens this barrage has imposed, Mr. Inga has engaged in rank manipulation of the Commission's processes to try to bolster his campaign. In addition to the improper submission of the fabricated IRS letter, Mr. Inga used his alter ego, Tips Marketing, to raise the shortfall infliction issues in a separate proceeding, then sought to consolidate that petition with

Commission and which the District Court will address. *Id.* Additionally, such a claim is ill suited for a declaratory ruling, as it entails numerous disputed issues of fact. *Id.* at 37-38. Hence, Mr. Kearney's request is inappropriate in this proceeding and should be denied.

¹⁴ Mr. Inga attempts to defend his taunting comments about the costs he has imposed on AT&T, AT&T's Mot. for Sanctions at 3, 21, by claiming that AT&T has somehow taken his comments "totally out of context and is playing reverse psychology," Opp. at 31. Not only does Mr. Inga fail to explain the context that would make such comments appropriate, he repeats the same taunts. *See id.* (AT&T counsel "was sitting there making \$500 an hour" and "wishes the case would go on forever and it [sic] could continue charging AT&T").

this proceeding. As AT&T explained in its opposition to that request, the consolidation request was utterly without merit: not only is there no basis to Tips' petition, but there was absolutely no overlap between the issues Mr. Inga sought to raise through that petition and the issues raised in this proceeding. *See* AT&T's Reply to Pet'rs' Req. For Combining Declaratory Rulings And Extension Of Time For Reply Comments. Tips' petition was a transparently baseless ploy to escape the consequences of Mr. Inga's litigation strategy before the District Court and inject these irrelevant issues into this proceeding.

Similarly, Mr. Inga has apparently orchestrated the submission of wholly duplicative comments by other, ostensibly independent commenters.¹⁵ Mr. Inga implies that he had no involvement in preparing these comments, claiming that he noticed, after the fact, that CCI's comments repeated his arguments "word for word," but that he "can not control it if the public sends in duplicate arguments." *Opp.* at 69-70. It is telling, however, that CCI's president, Mr. Shipp, responded to AT&T's motion for sanctions but said nothing about how CCI came to submit word-for-word, typo-for-typo comments.¹⁶ In addition, Mr. Inga has displayed a brazen disregard for the burdens such submissions impose on AT&T and the Commission. He argues, absurdly, that, because CCI's lengthy submission was wholly duplicative, "there was no need for the FCC or AT&T to read the comments." *Opp.* at 69. Of course, it was necessary to read the comments to determine that they were duplicative.

In addition to these tactics, Mr. Inga has repeatedly changed his positions and arguments before the Commission. He initially claimed that "Judge Bassler's far reaching statement that he

¹⁵ In its Motion, AT&T mistakenly stated that 800 Services had submitted completely identical comments, down to typographical errors. As Exhibit 13 to AT&T's Motion correctly indicated, CCI submitted verbatim comments.

¹⁶ Instead, Mr. Shipp opines at length that Mr. Inga did nothing wrong in drafting and submitting the fabricated "IRS" letter of March 14th, an event that Mr. Shipp has absolutely no first-hand knowledge of. Mr. Shipp claims first-hand knowledge of a voicemail Mr. Inga left for Mr. Schwarmann and a later conversation Mr. Inga had with a Mr. Cain of the IRS, both of which occurred after Mr. Inga submitted his fabrication and are thus irrelevant.

wanted resolved: ‘any other issues left open,’ *lead petitioners to believe* that petitioners would not have to actually argue ‘what is on the table,’ to be argued. Petitioners believed the FCC would only be concerned with the merits of each of the Declaratory Rulings filed.” Pet’rs’ Req. for Extension of Time to File Reply Comments at 1 (emphasis added and deleted). Two months later, Mr. Inga contradicted this claim of reliance on Judge Bassler’s order, arguing that “whether or not Judge Bassler intended to have the other issues addressed is irrelevant.” Further Comments of Pet’rs Regarding Recons. and Clarification of FCC Oct 12, 2007 [sic] Order at 25. Instead, Mr. Inga claimed that, in light of emails he received from the Commission’s Acting General Counsel before Judge Bassler ruled, “[i]t did not matter what the scope of the future referral was to be,” because his companies “would be permitted by the FCC ‘to define’ whatever Declaratory Rulings petitioners wished.” *Id.*; *see also* Opp. at 74 (making same argument).

This assertion is essentially an admission of gamesmanship—*i.e.*, that Mr. Inga believed he could try to avoid returning to the Commission by telling Judge Bassler there was only one issue left for resolution and then, if he lost, he could use the Schlick email in an effort to inject numerous other issues before the Commission. In addition to being blatantly improper, Mr. Inga’s “free bite at the apple” theory is baseless. Mr. Inga points to a portion of a July 14, 2005 email exchange in which he asked Mr. Schlick if a declaratory ruling could be on “‘only’ the limited issue of statute of limitations or do you have to plead the entire issue.” Exh. B to Pet. For Declaratory Ruling. Mr. Schlick’s response—“You can define the issue on which you seek a Commission ruling,” *id.*—plainly does not state that Mr. Inga was free to seek Commission rulings on issues even where (1) those issues were raised in a complaint that is subject to a

judicial stay and (2) a Court has defined the parameters of a referral following extensive litigation over its scope.¹⁷

Similarly, after injecting the shortfall infliction and discrimination claims into this proceeding, repeatedly urging the Commission to reconsider its January 12th Order, and filing his fabricated IRS letter to bolster his demand for a ruling on the first of these issues, Mr. Inga abruptly changed course. Shortly after seeing Mr. Schwarmann's letter, Mr. Inga sought to bring this proceeding to a close, first by peremptorily declaring victory and, later, asking to suspend the proceedings so he could return to the District Court. *See* AT&T's Mot. for Sanctions at 18-20. His purported reasons for returning to the District Court, moreover, are patently baseless.

Mr. Inga claims that the "discovery" of AT&T "concessions" from the mid-1990s that Judge Bassler never saw and Judge Bassler's supposed "misreading of the FCC 2003 Decision" make it "appropriate" to return to the District Court to modify the referral order "to make it explicit that all issues are to be resolved." *Opp.* at 8-9; *see also id.* at 30. This claim is doubly disingenuous. First, AT&T's supposed "concessions" pertain to the "all obligations" issue, as does Judge Bassler's supposed "misreading" of the Commission's decision (*i.e.*, his alleged failure to appreciate that the Commission had somehow decided which obligations must be assumed in traffic-only transfers, even though it expressly said that § 2.1.8 did not govern such transfers). Because they pertain to the "all obligations" issue, these arguments obviously provide no reason to seek an expansion of the referral to include the shortfall infliction and discrimination claims.

¹⁷ Mr. Inga claims he is a mere "novice[]" who, in light of Mr. Schlick's response to his inquiry, was "led to believe that Declaratory Ruling requests do not have to solely emanate from a District Court." *Opp.* at 74. But, at the time Mr. Inga received Mr. Schlick's July 2005 email, his companies were (and continue to be) represented by Mr. Arleo. Less than three weeks before his companies filed their petition seeking to raise issues outside the Bassler referral, they were represented by Mr. Helein, a practitioner before the Commission. Mr. Inga's claims of unsophisticated ignorance are thus entirely hollow and cannot excuse his clear attempts to manipulate the Commission's processes.

Second, neither claim makes it at all “appropriate” to suspend proceedings before the Commission to return to the District Court. To the contrary, it is ludicrous to argue that, because Judge Bassler allegedly misinterpreted a decision *by the Commission*, the appropriate course of action is to ask a new judge to determine what the Commission meant *rather than allow the Commission to interpret its own decision*. Nor is there any reason that a District Court is better suited to determine what significance AT&T’s prior statements have on the proper interpretation of § 2.1.8.¹⁸ Instead, these arguments confirm that Mr. Inga wants to avoid a ruling by the Commission on the “all obligations” issue.

Finally, Mr. Inga continues his practice of changing his positions to suit his immediate purposes even as he denies this very conduct. Taking issue with AT&T’s characterization of the Commission’s decision and the D.C. Circuit ruling, Mr. Inga claims that “[w]hat the D.C. Circuit reversed was the FCC’s decision that § 2.1.8 *did not allow* ‘traffic only’ transfers.” Opp. at 43 (emphasis added). But his companies told Judge Bassler that, as result of the D.C. Circuit’s ruling, they “went from an FCC decision . . . that [their] transaction was *not prohibited* to a D.C. decision that the transaction was expressly permissible.” Exh. 28 attached hereto at 2 (emphasis added).

Similarly, he claims he understood the Commission’s January 12th order to mean “that AT&T should stop its fraudulent use argument,” not that he “was going outside the scope” of

¹⁸ As AT&T has explained in numerous prior submissions, Mr. Inga’s “concessions” consist of distortions of statements that, placed in their proper context, are entirely consistent with AT&T’s interpretation of § 2.1.8. AT&T will not rehash that showing here. But the “concession” Mr. Inga claims AT&T has failed to address,” *see* Opp. at 34, is illustrative of his tactics. He cites a 2002 document stating that AT&T’s transfer form “may require” a transferee to assume all of the transferor’s obligations. *See* Exh. J to Pet. for a Declaratory Ruling. But the transfer forms in effect in 1995, when Mr. Inga proposed his traffic-only transfer, explicitly tracked the language of § 2.1.8 at that time, and stated that the New Customer “hereby assumes *all* obligations” of the old customer, *see* Exh. H to Pet. for a Declaratory Ruling (emphasis added), which is why Mr. Inga sought to modify the form by hand. In all events, because it is the language of the tariff at the relevant time that controls, if any of AT&T’s statements were inconsistent with that language—and they are not—such statements would be legally irrelevant. *See* AT&T’s Mot. for Sanctions at 20.

Judge Bassler's referral by raising his shortfall and discrimination claims. Opp. at 67. Yet, he expressly acknowledged in his motion for reconsideration that the January 12th order meant "that 'the other open issues' referred by the June 2006 District Court Order *do not include shortfall and discrimination issues.*" Req. For Recons. or FCC Guidance For District Court Re: Issues Already Commented On, *But Not Before FCC* (Feb. 8, 2007) (emphases added). Indeed, his lawyer told Judge Wigenton precisely the same thing in May. See Letter of Frank Arleo to Hon. Susan D. Wigenton (May 31, 2007) (attached hereto as Exh. 32) ("[T]he FCC views Judge Bassler's referral as only encompassing the 'traffic only' transfer issue"). His current claims are not merely flatly inconsistent with what he told the Commission and a federal judge within the last six months, they illustrate Mr. Inga's willingness to say virtually anything that he believes may be advantageous to his claims, without the slightest regard to their truth or accuracy.

CONCLUSION

As all of the foregoing evidence makes clear, Mr. Inga has engaged in the rankest forms of deception, dishonesty, and manipulation and is thus deserving of the severest sanctions. The numerous blatantly false, misleading, and disingenuous claims in his latest submission simply confirm the obvious: that he is incapable of restraint or responsible advocacy and that, unless sanctioned, he will simply continue his abusive tactics. Accordingly, for all of the foregoing reasons and those set forth in AT&T's motion, AT&T requests that the Commission grant all the relief AT&T has requested and deny Mr. Inga's request for sanctions.

Respectfully submitted,

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July 18, 2007

CERTIFICATE OF SERVICE

I hereby certify that, on this 18th day of July, 2007, I served the foregoing "Reply in Support of AT&T's Motion for Sanctions and Opposition to Motion for Sanctions Against AT&T" by first class mail to the following:

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