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

FILED/ACCEPTED

FEB 20 2008

Federal Communications Commission
Office of the Secretary

In the Matter of)	EB Docket No. 07-197
)	
Kurtis J. Kintzel, Keanan Kintzel, and all)	File No. EB-06-IH-5037
Entities by which they do business before)	NAL/Acct. No. 200732080029
the Federal Communications Commission)	
)	FRN No. 0007179054
)	

To: Kurtis J. Kintzel, Keanan Kintzel, and all
Entities by which they do business before
the Federal Communications Commission

**ENFORCEMENT BUREAU'S OBJECTIONS AND RESPONSES
TO DEFENDANTS' FIRST SET OF INTERROGATORIES**

On February 6, 2008, Defendants Kurtis J. Kintzel, Keanan Kintzel, and all Entities by which they do business before the Federal Communications Commission ("Defendants"), filed their First Set of Interrogatories ("Interrogatories") in the above-captioned proceeding. The Enforcement Bureau ("Bureau"), pursuant to Section 1.323(b) of the Commission's rules, 47 C.F.R. § 1.323(b), hereby submits its objections and responses to the Interrogatories. The responses were drafted by counsel of record for the Bureau, in consultation with Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission.

The Bureau notes that discovery in this proceeding has only just commenced. The Bureau reserves the right to supplement its responses to the Interrogatories based upon information obtained during the course of discovery.

Objections

1. By the subject Interrogatories, Defendants seek information from the Bureau

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that is neither relevant to any issue designated in the captioned proceeding nor is reasonably calculated to lead to the discovery of admissible evidence.

2. By the subject Interrogatories, Defendants seek discovery from the Bureau that is outside the purview of permissible discovery under Section 1.311(b)(4) of the Commission's rules, 47 C.F.R. § 1.311(b)(4).

3. By the subject Interrogatories, Defendants improperly seek to have the Bureau engage in legal argument and provide characterization of evidence.

Responses

1. Identify each individual likely to have discoverable information that You may use to support Your allegations and claims against the Defendants, and identify the subject matter of the discoverable information and how such discoverable information is relevant to Your allegations and claims. Identify each individual consulted in answering this Interrogatory, and the bases of the individuals' knowledge.

Response: The Bureau objects to Interrogatory No. 1 to the extent it calls for a legal conclusion. The Bureau further objects to Interrogatory No. 1 to the extent the information sought is outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4). The Bureau also objects to Interrogatory No. 1 to the extent that discovery in this proceeding has only just begun. Moreover, the Bureau has not yet decided which individuals it intends to call as witnesses at the hearing in this proceeding. Notwithstanding and subject to the foregoing objections, the Bureau states that the following individuals are likely to have relevant information regarding the allegations and claims in the Order to Show Cause in the above-captioned proceeding (the "Order to Show Cause"):

1. Kurtis Kintzel. Mr. Kintzel is likely to have information regarding each of the violations alleged in the Order to Show Cause, the business practices of each of Business Options, Inc. ("BOI"), Buzz Telecom Corp. ("Buzz"), Avatar Enterprises ("Avatar") and US Bell, Inc. ("US Bell") (collectively, the "Companies"), and the relationships between and among the Companies.
2. Keanan Kintzel. Mr. Kintzel is likely to have information regarding each of the violations alleged in the Order to Show Cause, the business

practices of each of the Companies and the relationships between and among the Companies.

3. Elizabeth Ontiveros-Rosas. Address and telephone number unknown. On information and belief, Ms. Ontiveros-Rosas is likely to have information regarding the Companies' business practices, consumer complaints against the Companies, the Companies' compliance with Commission rules regarding changes to consumers preferred long distance service providers, the discontinuance of service to the Companies' customers in November 2006 and the relationships between and among the Companies.
4. Current and/or former employees of the Companies. Such individuals are likely to have information regarding various of the violations alleged in the Order to Show Cause, the relationships between and among the Companies, and the Companies' business practices generally.
5. Steve Hansen, Qwest Communications Corp., 1801 California Street, Suite 2400, Denver, Colorado 80202. Mr. Hansen is likely to have information regarding the Companies' relationship with Qwest Communications Corp. ("Qwest"), the discontinuance of service to the Companies' customers in November 2006, the reasons for such discontinuance and the transfer of the Companies' customers to UMCC Holdings, Inc. ("UMCC").
6. Cindy Ebell, Qwest Communications Corp., 1801 California Street, Suite 2400, Denver, Colorado 80202. Ms. Ebell is likely to have information regarding the Companies' relationship with Qwest, the discontinuance of service to the Companies' customers in November 2006, the reasons for such discontinuance and the transfer of the Companies' customers to UMCC.
7. Cindy Bell, Qwest Communications Corp., 1801 California Street, Suite 2400, Denver, Colorado 80202. Ms. Ebell is likely to have information regarding the Companies' relationship with Qwest, the discontinuance of service to the Companies' customers in November 2006, the reasons for such discontinuance and the transfer of the Companies' customers to UMCC.
8. Scott Wilson, UMCC Holdings, Inc., 484 East Carmel Drive, #290, Carmel, IN 46032. Mr. Wilson is likely to have information regarding the Asset Purchase Agreement entered into between Buzz Telecom, Business Options, Inc. and UMCC.
9. Margary Anderson, 12509 60th Street, SE, Snohomish, WA 98290, (360) 568-6810. Ms. Anderson is likely to have information regarding the alleged unauthorized change of her preferred long distance service

provider by Buzz.

10. Alesia Cummings, 715 Brookfield Drive, Pembroke, NC 28372, (910) 521-6266. Ms. Cummings is likely to have information regarding the alleged unauthorized change of her preferred long distance service provider by Buzz.
11. Rita Harvey, 136 Timber Lane, Madison Heights, VA 24572, (434) 929-6721. Ms. Harvey is likely to have information regarding the alleged unauthorized change of her preferred long distance service provider by Buzz.
12. Derry Hewett, P.O. Box 6, Ty Ty, GA 31795, (229) 402-0566. Mr. Hewett is likely to have information regarding the alleged unauthorized change of his elderly mother's (Betty Nolan) preferred long distance service provider by Buzz.
13. Martin Houseman, 1605 Louisa Street, Burlington, IA 52601, (319) 752-3582. Mr. Houseman is likely to have information regarding the alleged unauthorized change of his preferred long distance service provider by Buzz.
14. Gary Ingram, 2248 Blackburn Avenue, Ashland, KY 41101, (606) 325-7946. Mr. Ingram is likely to have information regarding the alleged unauthorized change of his preferred long distance service provider by Buzz.
15. Norbert Kleitsch, 121 Forest Street, Fairbank, IA 50629, (319) 635-2692 Mr. Kleitsch is likely to have information regarding the alleged unauthorized change of his preferred long distance service provider by Buzz.
16. Roy Morris, 2223 Endrow, Canton, OH 44705, (330) 455-8349. Mr. Morris is likely to have information regarding the alleged unauthorized change of his preferred long distance service provider by Buzz.
17. Irene Mowan, c/o Gail Perry, , 416 NE 42nd Street, Pendleton, OR 97801, (541) 276-9135. Ms. Mowan is likely to have information regarding the alleged unauthorized change of her preferred long distance service provider by Buzz.
18. Betty Nolan, 524 South Elm Street, Adel, Georgia, 31620, (229) 896-3302. Ms. Nolan is likely to have information regarding the alleged unauthorized change of her preferred long distance service provider by Buzz.
19. Gail Perry, 416 NE 42nd Street, Pendleton, OR 97801, (541) 276-1629. Ms. Perry is likely to have information regarding the alleged

unauthorized change of her elderly mother's (Irene Mowan) preferred long distance service provider by Buzz.

20. Mindy Stoltzfus, 219 Elm Street, Storm Lake, IA 50588, (712) 732-0991. Ms. Stoltzfus is likely to have information regarding the alleged unauthorized change of her preferred long distance service provider by Buzz.
21. Consumers whose preferred long distance service provider may have been changed by the Companies in violation of Section 258 of the Act and Section 64.1120 of the Commission's rules.
22. Employees of the Federal Communications Commission, Office of the Managing Director, 445 12th Street, S.W., Washington, D.C. 20554. Such individuals are likely to have information regarding the Companies' violations of Paragraphs 14(f), 14(g) and 15 of the consent decree entered into between the Commission and BOI on or about February 11, 2004 in connection with a proceeding under EB Docket No. 03-85 (the "Consent Decree") and Sections 1.95, 54.706, 64.604(c)(5)(iii)(A) of the Commission's rules.
23. Employees of the Universal Service Administrative Company, 2000 L Street, N.W., Suite 200, Washington, D.C. 20036, (202) 776-0200. Such individuals are likely to have information regarding the Companies' alleged violations of Paragraph 14(f) of the Consent Decree and Section 54.706 of the Commission's rules.
24. Employees of the National Exchange Carriers Association, 80 South Jefferson Road, Whippany, NJ 07981, (973-884-8334). Such individuals are likely to have information regarding the Companies' alleged violations of Paragraph 14(g) of the Consent Decree and Section 64.604(c)(5)(iii)(A) of the Commission's rules.

2. Disclose by description and location all documents, data compilations, emails, and all other tangible things (whether or not in Your possession, custody, or control—and specify who has or may have possession, custody, or control) that You may use to support Your allegations and claims. Identify each individual consulted in answering this Interrogatory, and the bases of the individuals' knowledge.

Response: The Bureau objects to Interrogatory No. 2 as unduly burdensome. The Bureau further objects to Interrogatory No. 2 to the extent that discovery in this proceeding has only just begun. The Bureau will be seeking discovery of many types of documents, including the categories of

documents set forth in the Bureau's First Request for Production of Documents to All Defendants. Moreover, the Bureau has not yet decided on which documents it intends to rely in supporting its allegations and claims. Notwithstanding and subject to the foregoing objections, the Bureau states that the following documents and categories of documents may be relevant to the allegations and claims in the Order to Show Cause:

1. Documents relating to the 2003 hearing proceeding, including but not limited to the Consent Decree, depositions, responses to interrogatories, responses to requests for admissions, Memorandum Opinions and Orders. Such documents are publicly available on the Commission's Electronic Comments Filing System ("ECFS"). A copy of the docket listing from ECFS is attached hereto as Attachment A.
2. Defendants' responses to requests for admissions and discovery requests propounded in the current hearing proceeding. These documents are in the Defendants' possession, custody or control. These documents are also located in the files of counsel for the Bureau.
3. The December 20, 2006 letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Keanan Kintzel, Business Options, Inc. This document is in the Defendants' possession, custody or control. These documents are also located in the files of counsel for the Bureau.
4. Documents provided to the Commission by BOI and/or Buzz in connection with the January 17, 2007 response to the December 20, 2006 letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Keanan Kintzel, Business Options, Inc. These documents are in the Defendants' possession, custody or control. These documents are also located in the files of counsel for the Bureau.
5. Documents attached as exhibits to the Bureau's Requests for Admission of Facts and Genuineness of Documents to the Defendants. These documents are in the Defendants' possession, custody or control. These documents are also located in the files of counsel for the Bureau.
6. Communications between the Commission, or any Bureau or Division thereof, and any of the Defendants. These documents are in the Defendants' possession, custody or control. Certain of these documents are also located in the files of counsel for the Bureau.

7. Annual reports required under the terms of the Consent Decree. These documents are in the Defendants' possession, custody or control. These documents are also located in the files of counsel for the Bureau.
8. Invoices from the Commission to BOI and Buzz. These documents are in the Defendants' possession, custody or control. These documents are also located in the files of counsel for the Bureau and in the files of the Commission's Office of the Managing Director.
9. Documents relevant to the Companies' violation of Paragraph 14(f) of the Consent Decree, Section 254 of the Act and Section 54.706 of the Commission's rules, including but not limited to invoices issued by the Universal Service Administrative Company ("USAC") to the Companies and records of payments of those invoices by the Companies. These documents are located in the files of counsel for the Bureau. They are also located in the files of USAC.
10. Documents relevant to the Companies' violation of Paragraph 14(g) of the Consent Decree, Section 254 of the Act and Section 64.604 of the Commission's rules, including but not limited to invoices issued by the National Exchange Carriers Association ("NECA") to the Companies and records of payments of those invoices by the Companies. These documents are located in the files of counsel for the Bureau. They are also located in the files of NECA.
11. Complaints from consumers received by the Commission regarding the purported unauthorized change of such consumers' preferred long distance service provider. These documents are located in the files of counsel for the Bureau.
12. Documents relating to Defendants' compliance with Section 258 of the Act and Section 64.1120 of the Commission's rules, including but not limited to verification tapes maintained by independent third-party verification companies. The Bureau does not yet have any such documents.
13. Communications between any of the Defendants and Qwest. These documents are in the Defendants' possession, custody or control. The Bureau does not yet have any such documents.
14. Communications between any of the Defendants and UMCC. These documents are in the Defendants' possession, custody or control. The Bureau does not yet have any such documents.

15. Contracts between Defendants and Qwest, independent third party verifiers, independent telemarketers and independent billing agents. These documents are in the Defendants' possession, custody or control. The Bureau does not yet have all such documents.
16. January 22, 2007 deposition of Kurtis Kintzel in the matter captioned *Matter of the Commission Staff's Investigation into the Alleged MTSS Violations of Buzz Telecom*, Case No. 06-1443-TP-UNC, before the Public Utilities Commission of Ohio. A copy of this document is located in the files of counsel for the Bureau. It is also located in the files of the Public Utilities Commission of Ohio.
17. February 26, 2007 deposition of Steve Hansen, on behalf of Qwest Communications Corp., in the matter captioned *Rule Nisi Proceeding in the Matter of Buzz Telecom, Business Options, Inc., UMCC Holdings, Inc., and Ultimate Medium Communications Corporation: Allegation of Violation(s) of Georgia Public Service Commission Rules and the Telecommunications Marketing Act of 1998*, Docket No. 15968-U. A copy of this document is located in the files of counsel for the Bureau. It is also located in the files of the Georgia Public Service Commission.
18. February 28, 2007 hearing transcript in the matter captioned *Rule Nisi Proceeding in the Matter of Buzz Telecom, Business Options, Inc., UMCC Holdings, Inc., and Ultimate Medium Communications Corporation: Allegation of Violation(s) of Georgia Public Service Commission Rules and the Telecommunications Marketing Act of 1998*, Docket No. 15968-U. A copy of this document is located in the files of counsel for the Bureau. It is also located in the files of the Georgia Public Service Commission.
19. Orders Granting Motion for Default Judgment, Assessing Civil Penalties, and Prohibiting All Carriers from Serving or Billing for Respondent, in the matter captioned *In re Office of Consumer Advocate vs. Buzz Telecom, Corp.*, Docket No. FCU-06-55. Copies of these documents are located in the files of counsel for the Bureau. They are also located in the files of Iowa's Office of Consumer Advocate and/or the Iowa Department of Commerce Utilities Board.
20. News articles, press releases and other publicly available documents relating to state regulatory proceedings against the Companies regarding telecommunications violations, including slamming. These documents are publicly available.

Moreover, the following entities and individuals are likely to have documents relevant to the alleged violations in the Order to Show Cause:

1. Federal Communications Commission, Office of the Managing Director (“OMD”), 445 12th Street, S.W., Washington, D.C. 20554. OMD is likely to have documents relevant to the Companies’ violations of Paragraphs 14(f), 14(g) and 15 of the Consent Decree and Sections 1.95, 54.706, 64.604(c)(5)(iii)(A) of the Commission’s rules, including but not limited to invoices issued by the Commission to the Companies, records of payments of those invoices by the Companies and records of payments of the voluntary contribution amounts by the Companies.
2. Universal Service Administrative Company, 2000 L Street, N.W., Suite 200, Washington, D.C. 20036, (202) 776-0200. USAC is likely to have documents relevant to the Companies’ violation of Paragraph 14(f) of the Consent Decree, Section 254 of the Act and Section 54.706 of the Commission’s rules, including but not limited to invoices issued by USAC to the Companies and records of payments of those invoices by the Companies.
3. National Exchange Carriers Association, 80 South Jefferson Road, Whippany, NJ 07981, (973-884-8334). NECA is likely to have documents relevant to the Companies’ violation of Paragraph 14(g) of the Consent Decree, Section 254 of the Act and Section 64.604(c)(5)(iii)(A) of the Commission’s rules, including but not limited to invoices issued by NECA to the Companies and records of payments of those invoices by the Companies.
4. Qwest Communications Corporation (“Qwest”), 1801 California Street, Suite 2400, Denver, Colorado 80202. Qwest is likely to have documents relevant to the Companies’ violations of Paragraph 14(d) of the Consent Decree and Section 63.71 of the Commission’s rules.
5. The Verification Company (“TVC”), 1059 Broadway, Suite G, Dunedin, FL 34698. TVC is likely to have documents relevant to the Companies’ violations of Section 258 of the Act and Section 64.1120 of the Commission’s rules.
6. VoiceLog, LLC, 18927 Premiere Ct., Gaithersburg, MD 20879. VoiceLog is likely to have documents relevant to the Companies’ violations of Section 258 of the Act and Section 64.1120 of the Commission’s rules.
7. Telecommunications on Demand, Inc. (“TOD”), 1001 Village Road, Orwigsburg, PA 17961. TOD is likely to have documents

relevant to the Companies' violations of Section 258 of the Act and Section 64.1120 of the Commission's rules.

8. Billing Concepts, 7411 John Smith Drive, Suite 200, San Antonio, TX 78229. Billing Concepts is likely to have documents relevant to the Companies' violations of Section 258 of the Act and Sections 63.71 and 64.1120 of the Commission's rules.
9. USBI, , 7411 John Smith Drive, Suite 200, San Antonio, TX 78229. USBI is likely to have documents relevant to the Companies' violations of Section 258 of the Act and Sections 63.71 and 64.1120 of the Commission's rules.
10. Various state regulatory authorities responsible for enforcing regulations regarding the provision of telecommunications services.
11. The individuals listed in paragraphs 9-20 in the response to Interrogatory No. 1, *supra*. Documents relating to complaints from consumers received by the Commission regarding the purported unauthorized change of such consumers' preferred long distance service provider.

3. Provide information on each alleged instance of a violation of a statute, rule, or other law for which Defendants have been called before the Commission pursuant to the Order to Show Cause, FCC 07-165. The following information is requested:

- a. The dates on which each alleged instance of a violation is alleged to have occurred;
- b. The amount of penalty proposed for each alleged instance of a violation;
- c. The legal authority relied upon for imposing such penalty for each alleged instance of a violation (with citations to Commission rules, and citations to the enabling statutes under which such Commission rules were promulgated);
- d. The legal authority relied upon for imposing such penalties *in the amounts proposed*, for each alleged instance of a violation (with citations to Commission rules, and citations to the enabling statutes under which such

Commission rules were promulgated, with respect to the *amounts* of the proposed penalties);

- e. Identify each individual consulted in answering this Interrogatory.

Response: The Bureau objects to Interrogatory No. 3 to the extent it seeks to have the Bureau perform legal research on behalf of Defendants. Defendants are free to conduct legal research regarding Commission rules and their respective enabling statutes. The Bureau further objects to Interrogatory No. 3 to the extent the information sought is within the Defendants' knowledge. The Bureau notes that the proposed forfeiture amounts are just that – *proposed amounts*. Indeed, in paragraphs 31-33 of the Order to Show Cause, the proposed forfeiture amounts are all prefaced by the phrase “in an amount not to exceed.” The Bureau bears the burden of proving the alleged violations. The amount of forfeitures to be imposed for such violations, should the Bureau meet its burden of proof, will be set by the Presiding Officer, not the Bureau. Notwithstanding and subject to the foregoing objections, the Bureau states the following:

Paragraph 24(a) of the Order to Show Cause: In or around November 2006, service to all customers of the Companies was discontinued in numerous states. Discovery in this proceeding has only just begun, so the information available to the Bureau at this time is still incomplete. However, according to the Companies' response to the Bureau's letter of inquiry, Buzz had customers in 43 states, and service was discontinued to all customers in all states where Buzz provided service. The Companies' response to the Bureau's letter of inquiry did not provide information regarding the states in which BOI had customers to whom service was discontinued. As noted in the Order to show cause, each violation of Paragraph 14(d) of the Consent Decree is subject to a maximum forfeiture amount of \$130,000.

Paragraph 24(b) of the Order to Show Cause: Because of the Companies' failure to respond fully and completely to the Bureau's letter of inquiry, and because discovery in this proceeding has only just begun, the Bureau cannot yet say with precision on which dates the Companies violated Paragraph 14(f) of the Consent Decree. Each violation is continuing. As noted in the Order to Show Cause, each violation is subject to a potential forfeiture of \$130,000 per violation or each day of a continuing violation, up to a maximum of \$1,325,000 for any single act or failure to act.

Paragraph 24(c) of the Order to Show Cause: Because of the Companies' failure to respond fully and completely to the Bureau's letter of inquiry, and because discovery in this proceeding has only just begun, the Bureau cannot yet say with precision on which dates the Companies violated Paragraph

14(g) of the Consent Decree. Each violation is continuing. As noted in the Order to Show Cause, each violation is subject to a potential forfeiture of \$130,000 per violation or each day of a continuing violation, up to a maximum of \$1,325,000 for any single act or failure to act.

Paragraph 24(d) of the Order to Show Cause: Pursuant to Paragraph 15 of the 2004 Consent Decree, the Companies were required to make forty-eight (48) monthly payments, beginning May 15, 2004. Thus, payments were to run through April 2008. On information and belief, Defendants have not made payments for the following months: June 2005, August 2005 through April 2006, June 2006 through the present. Each monthly payment not made constitutes a separate and continuing violation. As noted in the Order to Show Cause, each violation is subject to a potential forfeiture of \$130,000 per violation or each day of a continuing violation, up to a maximum of \$1,325,000 for any single act or failure to act. In addition, as noted in the Order to Show Cause, Defendants are potentially liable for the entire, or some lesser range, of sanctions that could have been imposed in the earlier proceeding had all the issues been decided adversely to the Companies, in an amount not to exceed \$1,538,533.52.

Paragraph 24(e) of the Order to Show Cause: In or around November 2006, service to customers of the Companies was discontinued in numerous states. Discovery in this proceeding has only just begun, and the Bureau does not yet know in how many states service to the Companies' customers was discontinued. As noted in the Order to Show Cause, each violation is subject to a maximum forfeiture amount of \$130,000.

Paragraph 24(f) of the Order to Show Cause: Because of the Companies' failure to respond fully and completely to the Bureau's letter of inquiry, and because discovery in this proceeding has only just begun, the Bureau cannot yet say with precision on which dates the Companies violated Section 54.706 of the Commission's rules. Each violation is continuing. As noted in the Order to Show Cause, each violation is subject to a potential forfeiture of \$130,000 per violation or each day of a continuing violation, up to a maximum of \$1,325,000 for any single act or failure to act.

Paragraph 24(g) of the Order to Show Cause: Because of the Companies' failure to respond fully and completely to the Bureau's letter of inquiry, and because discovery in this proceeding has only just begun, the Bureau cannot yet say with precision on which dates the Companies violated Section 64.604(c)(5)(iii)(A) of the Commission's rules. Each violation is continuing. As noted in the Order to Show Cause, each violation is subject to a potential forfeiture of \$130,000 per violation or each day of a continuing violation, up to a maximum of \$1,325,000 for any single act or failure to act.

Paragraph 24(h) of the Order to Show Cause: Failure to respond fully,

completely and timely to a Commission inquiry is a violation by omission. Thus, the Bureau cannot state a date on which this violation occurred. However, the Commission inquiry to which the Companies failed to respond fully, completely and timely is the December 20, 2006 letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Keanan Kintzel, Business Options, Inc., as supplemented by follow-up e-mails from Brian Hendricks, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Kurtis Kintzel on January 30 and January 31, 2007.

Paragraph 24(i) of the Order to Show Cause: Because Defendants failed to fully and completely respond to the December 20, 2006 letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Keanan Kintzel, Business Options, Inc., the Bureau is unable to specify the full extent to which Defendants may have changed subscribers' providers of telephone exchange or telephone toll service without authorization and/or without following the verification procedure's outlined in Section 64.1120 of the Commission's rules, nor can the Bureau say with specificity the dates on which each of the violations of Section 64.1120 occurred. The Bureau is specifically aware of the ten complaints it received directly from consumers Margary Anderson, Alesia Cummings, Rita Harvey, Martin Houseman, Gary Ingram, Norbert Kleitsch, Roy Morris, Irene Mowan (through her daughter), Betty Nolan and Mindy Stoltzfus. The Companies failed to provide all the information sought by the December 20, 2006 letter of inquiry with respect to these consumers' complaints, despite the representation made in the January 17, 2007 letter from Kurtis Kintzel responding to the Commission's letter of inquiry.

4. Calculate the penalties proposed in Interrogatory No. 3, and if the penalties do not add up to \$50 million, explain Your legal justification for proposing penalties of \$50 million against Defendants in the instant proceeding (as described in the Order to Show Cause, FCC 07-165). Identify each individual consulted in answering this Interrogatory. Identify the individual(s) who actually prepared the Answer to this Interrogatory.

Response: The Bureau objects to Interrogatory No. 4 as calling for a legal conclusion. The Bureau further objects to Interrogatory No. 4 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4).

5. Disclose all documents, data compilations, including emails, and all other tangible things (whether or not they are in Your possession, custody, or control—and specify who has or may have possession, custody, or control) related to the negotiation and drafting of the 2004 Consent Decree described in the Order to Show Cause, FCC 07-165.

Response: The Bureau objects to Interrogatory No. 5 as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. The Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.”

6. Was the 2004 Consent Decree negotiated and drafted in accordance with 47 C.F.R. § 1.93 and § 1.94?

Response: The Bureau objects to Interrogatory No. 6 as calling for a legal conclusion. The Bureau further objects to Interrogatory No. 6 as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Finally, the Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.”

7. 47 C.F.R. § 1.93 and § 1.94, by their terms, permit Consent Orders to be negotiated only between the Commission and *parties* to proceedings. Since Buzz Telecom Corp., U.S. Bell/Link Technologies Corp., and Avatar Enterprises, Inc., were not *parties* in the proceeding that was ended through negotiation of the 2004 Consent Decree, describe Your legal rationale and/or the legal authority relied upon for attempting to bind Buzz Telecom Corp., U.S. Bell/Link Technologies Corp., and Avatar Enterprises, Inc., to the 2004 Consent Decree.

Response: The Bureau objects to Interrogatory No.7 as calling for a legal conclusion. The Bureau further objects to Interrogatory No. 7 as outside the

purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4). Finally, the Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.” Notwithstanding and subject to the foregoing objections, the Bureau states: By Memorandum Opinion & Order released August 20, 2003 in the hearing proceeding that led to the 2004 Consent Decree, the issues set for determination in that hearing proceeding were enlarged. As a result, Buzz Telecom Corp., U.S.Bell Inc. and/or Link Technologies were added as parties to the hearing proceeding. Moreover, the 2004 Consent Decree speaks for itself.

8. The first paragraph of the 2004 Consent Decree does not mention Buzz Telecom Corp., U.S. Bell/Link Technologies Corp., or Avatar Enterprises, Inc. The first paragraph of the 2004 Consent Decree states that the Consent Decree is entered into between the Commission and Business Options, Inc., which was the only party in that proceeding. Why are the other companies (Buzz Telecom Corp., U.S. Bell/Link Technologies Corp., and Avatar Enterprises, Inc.) not mentioned in the first paragraph as contracting parties?

Response: The Bureau objects to Interrogatory No.8 as calling for a legal conclusion. The Bureau further objects to Interrogatory No. 8 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4). Finally, the Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.” Notwithstanding and subject to the foregoing objections, the Bureau states: The 2004 Consent Decree speaks for itself.

9. Do you believe that drafting errors were made in the 2004 Consent Decree? If so, what were the errors? Are You seeking reformation?

Response: The Bureau objects to Interrogatory No.8 as calling for a legal conclusion. The Bureau further objects to Interrogatory No. 11 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4). The Bureau also objects to Interrogatory No. 11 as seeking information that is neither relevant nor reasonably calculated to lead

to the discovery of admissible evidence. Finally, the Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.”

10. Identify each individual involved in negotiating and drafting the 2004 Consent Decree. Describe the nature of the work performed by each individual, and whether their work was instrumental to the negotiation and drafting of the Consent Decree, or peripheral, or minimal, or extensive, or supervisory, etc.

Response: The Bureau objects to Interrogatory No. 10 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4). The Bureau further objects to Interrogatory No. 10 as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Finally, the Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.”

11. As to any Commission lawyers identified in the Answer to Interrogatory No. 10, describe the extent of their contract drafting experience. Specifically, the following information is requested of each Commission lawyer identified in the Answer to Interrogatory No. 10:

- a. How many contracts have they drafted in their legal careers?
- b. How many contracts have they drafted for organizations or entities other than the Commission during their legal careers?
- c. What types of contracts have they drafted (e.g., commercial, bilateral treaties, real estate, etc.), and how many of each?
- d. Each Commission lawyer identified in the Answer to Interrogatory No. 10 is requested to provide an opinion as to whether, if he/she applied for a

job at a law firm as a transactional lawyer to draft contracts, based on the contractdrafting experience cited in the Answers to Interrogatories No. 10(a) through 10(c), does he/she believe that he/she could be hired. The Commission lawyer is asked to justify his/her Answer.

- e. Each Commission lawyer identified in the Answer to Interrogatory No. 10 is requested to provide an opinion as to whether, in his/her estimation, he/she has drafted more or fewer contracts than a second-year transactional associate at a law firm.
- f. Each Commission lawyer identified in the Answer to Interrogatory No. 10 is requested to provide an opinion as to whether, if he/she applied for a job at a law firm as a transactional lawyer to draft contracts, based on the contract drafting experience cited in the Answers to Interrogatories No. 10(a) through 10(c), does he/she believe that he/she could be hired at any level above that of a second-year transactional associate. The Commission lawyer is asked to justify his/her Answer.

Response: The Bureau objects to Interrogatory No. 11 as outside the purview of permissible discovery against Commission personnel under 47 C.F.R. § 1.311(b)(4). The Bureau further objects to Interrogatory No. 11 as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Finally, the Bureau directs Defendants to Section 10 of the 2004 Consent Decree, which provides that “[t]he Parties waive their right to judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided the presiding officer issues the Order without change, addition, or modification of this Consent Decree.”

Kris Anne Monteith
Chief, Enforcement Bureau

A handwritten signature in black ink, appearing to read "Michele Levy Berlove". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michele Levy Berlove
Attorney, Investigations and Hearings Division

Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, D.C. 20554
(202) 418-1420

February 20, 2008

CERTIFICATE OF SERVICE

Rebecca Lockhart, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 20th day of February, 2008, sent by first class United States mail copies of the foregoing **Enforcement Bureau's Objections and Responses to Defendants' First Set of Interrogatories** to:

Catherine Park, Esq.
2300 M Street, NW, Suite 800
Washington, D.C. 20037

Counsel for Kurtis J. Kintzel, Keanan Kintzel, Business Options, Inc.,
Buzz Telecom Corporation, US Bell, Inc., Link Technologies and
Avatar Enterprises

A copy of the foregoing was also served via hand-delivery to:

Administrative Law Judge Richard L. Sippel
Federal Communications Commission
445 12th Street, S.W., Room 1-C861
Washington, D.C. 20054


Rebecca Lockhart