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FILED
U S B C SOUTHERN DISTRICT OF NEW YORK
ALLEGIANCE TELECOM, INC
03-13057 (RRD)

1530

REC'D NOV 25 2003

Counsel for Claimant L A T INVESTMENT CORPORATION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

11 In re) CASE No 03-13109
12)
13 VIR TUALIS SYSTEMS, INC ,) Chapter 11
14 Debtor) PROOF OF CLAIM
15)

ADMINISTRATIVE RENT CLAIM \$3,662 27

CLAIM FOR REJECTION OF LEASE \$98,125 92

1 David M Gurewitz, whose address is P O Box 1267, Kilauea, HI 96754, the attorney for
2 Creditor, L A T Investment Corporation ("Claimant"), having its place of business at 5777 W Century Blvd ,
3 Ste 950, Los Angeles, California 90045, is duly authorized to make this Proof of Claim on Claimant's behalf

4 Virtualis Systems, Inc ("Debtor"), the above named Debtor, is justly and truly liable to
5 Claimant in the amount of \$3,662 27 for administrative rent and in the further amount of \$98,125 92 as a result
6 of Debtor's rejection of its lease with Claimant for Suite 385/395 at 5777 W Century Blvd , Los Angeles,
7 California

8 The above-stated sums due Claimant are net of the security deposit Debtor had posted on
9 account of the subject lease Specifically, Debtor had posted a security deposit of \$8,030 00 under the subject
10 lease There was a pre-petition debt of \$538 10 owed by Debtor to Claimant under the lease and the security
11 deposit was applied to the entire amount of said pre-petition claim, reducing the security deposit to \$7,491 90



1 Furthermore, at the time possession of the Premises was restored to Claimant, there was damage to the
2 Premises caused by Debtor for which Debtor is responsible in the amount of \$4,270 00. Consequently, of the
3 amount of \$7,491 90 remaining of the security deposit, \$4,270 00 of the security deposit was applied to repair
4 said damage. The remaining \$3,221 90 of the security deposit was applied to the Claimant's Administrative
5 Rent Claim of \$6,884 14, reducing the Administrative Rent Claim made herein to \$3,662 27.

6 4 Said liability arises from the considerations set forth in a written lease agreement. The lease
7 is voluminous so a copy of said lease is not attached hereto. Rather, the lease is summarized on Exhibit A.
8 The lease is for premises within the building commonly known as 5777 W Century Blvd, Los Angeles,
9 California, and are described as Suite 385,395 in said building.

10 5 The security deposit held by Claimant with respect to said lease has been applied by Claimant
11 as stated in Paragraph 3, above.

12 6 The subject lease was rejected by Court Order entered on or about June 13, 2003. Possession
13 of the premises was returned to Claimant on June 27, 2003, resulting in the original Administrative Rent Claim
14 of \$6,884 14 (26 days divided by 30 days in the month times \$7,943 27 (the monthly rent for June, 2003
15 inclusive of operating expense)).

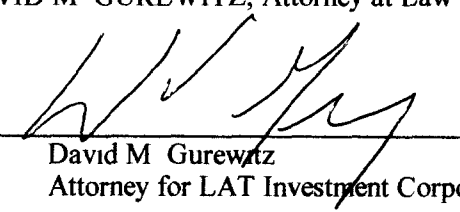
16 7 The amount of all payments on this claim have been credited and deducted for the purpose of
17 making this Proof of Claim.

18 8 This claim is not subject to any setoff or counter-claim.

19 DATED November 18, 2003

DAVID M GUREWITZ, Attorney at Law

20
21 By


David M Gurewitz

Attorney for LAT Investment Corporation

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EXHIBIT "A" TO PROOF OF CLAIM

SUMMARY OF LEASE

- 1 Lease Premises Suite 385/395
- 2 Lease Commencement Date July 1, 1999
- 3 Lease Expiration Date June 30, 2003
- 4 Monthly Rent At the time of termination of the lease for Suite 385/395, and as of July 1, 2003 rent due under the lease, the monthly rent was \$8,177 16 (inclusive of operating expenses)

Claimant shall produce copies of said lease to the Court or any interested party requesting same of Claimant's attorney

In Re
Service List

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Debtor

Virtualis System, Inc
c/o J Christopher Luna,
Legal Counsel
9201 Central Expressway
Dallas, TX 75231

Counsel for Debtor

Kirkland & Ellis, LLP
Citigroup Center
153 E 53rd Street
New York, NY 10022-4611

Office of the U.S Trustee

Pamela J Lustrin, Esq
33 Whitehall St , 21st Floor
New York, NY 10004

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____ X
In re

Allegiance Telecom, Inc , et al.,

Debtors

Chapter 11 Case No
03-13057 (RDD)

Jointly Administered

_____ X

**STIPULATION AND AGREED ORDER RESOLVING
CLAIMS 1576, 1577, 2603, 2957, AND 2958 OF L.A.T INVESTMENT CORPORATION**

This STIPULATION AND AGREED ORDER is by and between the Allegiance
Telecom Liquidating Trust (the "ATLT"), as successor to the Debtors (as defined below), and L A T
Investment Corporation ("Claimant") The parties hereby stipulate and agree as follows

WHEREAS, prepetition, Debtor Allegiance Telecom Company Worldwide, Inc
("ATCW") entered into a lease (the "310 Lease") with Claimant for office space at Suite 310, 5777 W
Century Boulevard, Los Angeles, California, and

WHEREAS, prepetition, Debtor Virtualis Systems, Inc ("Virtualis") entered into a
lease (the "385/395 Lease") with Claimant for office space at Suite 385/395, 5777 W Century
Boulevard, Los Angeles, California, and

WHEREAS, ACTW paid to Claimant a cash security deposit in the amount of
\$12,479 65 (the "310 Security Deposit"), and

WHEREAS, Virtualis paid to Claimant a cash security deposit in the amount of
\$8,030 00 (the "385/395 Security Deposit"), and

Docket 1820
eod 10/13/04

claims 1576, 1577, 2603, 2957, 2958

WHEREAS, on May 14, 2003, Allegiance Telecom, Inc and its direct and indirect subsidiaries (collectively, the “Debtors”) commenced voluntary cases (the “Chapter 11 Cases”) under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the Bankruptcy Court for the Southern District of New York, Case No 03-13057 (RDD) (the “Bankruptcy Court”), and

WHEREAS, the Chapter 11 Cases were consolidated for procedural purposes only and were jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure, and

WHEREAS, on or about June 13, 2003, the Bankruptcy Court entered an order pursuant to section 365(a) of the Bankruptcy Code authorizing the Debtors to reject certain unexpired leases of nonresidential real property, including the 310 Lease and 385/395 Lease, and

WHEREAS, on or about November 25, 2003, Claimant filed a proof of claim numbered 1576 (the “First 310 Proof of Claim”) for an unsecured, non-priority claim against ATCW in the amount of \$142,129 32 and an administrative expense claim against ATCW in the amount of \$10,319 18 (the “First 310 Claim”), and

WHEREAS, on or about November 25, 2003, Claimant filed a proof of claim numbered 1577 (the “First 385/395 Proof of Claim”) for an unsecured, non-priority claim against Virtualis in the amount of \$98,125 92 and an administrative expense claim against Virtualis in the amount of \$3,662 27 (the “First 385/395 Claim”), and

WHEREAS, on or about December 3, 2003, Claimant filed a proof of claim numbered 2603 (the “Second 310 Proof of Claim”) for an unsecured, non-priority claim against ATCW in the amount

of \$142,129.32 and an administrative expense claim against ATCW in the amount of \$10,319.18 (the "Second 310 Claim"), and

WHEREAS, the Debtors filed their Third Amended Joint Plan of Reorganization dated June 8, 2004 (the "Plan") with the Bankruptcy Court and the Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Third Amended Joint Plan of Reorganization on June 10, 2004 (the "Confirmation Order"), and

WHEREAS, in accordance with the terms of the Plan, on the Initial Effective Date, the ATLT was created, and

WHEREAS, pursuant to the Plan, Eugene I. Davis was appointed as the plan administrator (the "Plan Administrator") for the ATLT, and

WHEREAS, among other things, the purpose of the ATLT is to (i) wind-down the Debtors' affairs, including making distributions as contemplated in the Plan, (ii) investigate, enforce and prosecute avoidance and other causes of action, (iii) object to, settle, compromise, dispute and/or prosecute disputed claims, and (iv) administer the Plan and take such actions as are necessary to effectuate the terms of the Plan, and

WHEREAS, the ATLT, as the successor to the rights of the Debtors, and the Plan Administrator has the authority to, *inter alia*, perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704 and 1106 of the Bankruptcy Code, and

WHEREAS, on or about August 5, 2004, Claimant filed a proof of claim numbered 2957 (the "Third 310 Proof of Claim") for an administrative expense claim against ATCW in the amount of \$10,319.18 (the "Third 310 Claim"), and

WHEREAS, on or about August 5, 2004, Claimant filed a proof of claim numbered 2958 (the "Second 385/395 Proof of Claim") for an administrative expense claim against Virtualis in the amount of \$3,662.27 (the "Second 385/395 Claim"), and

WHEREAS, Claimant has not filed any proofs of claim in the Chapter 11 Cases besides the First 310 Proof of Claim, the Second 310 Proof of Claim, the Third 310 Proof of Claim, the First 385/395 Proof of Claim and the Second 385/395 Proof of Claim, and

WHEREAS, the ATLT disputes the amounts sought by Claimant in the First 310 Proof of Claim, the Second 310 Proof of Claim, the Third 310 Proof of Claim, the First 385/395 Proof of Claim and the Second 385/395 Proof of Claim, and

WHEREAS, on or about September 2, 2004, the ATLT filed its Tenth Omnibus Objection to Certain Proofs of Claim, which included an objection to the Third 310 Proof of Claim and the Second 385/395 Proof of Claim, and

WHEREAS, on or about September 2, 2004, the ATLT filed its Eleventh Omnibus Objection to Certain Lease Rejection Damages Claims, which included an objection to the First 310 Proof of Claim and First 385/395 Proof of Claim, and

WHEREAS, the ATLT and Claimant have negotiated in good faith at arm's length and have reached a consensual resolution, as set forth below, with respect to the First 310 Proof of Claim, the Second 310 Proof of Claim, the Third 310 Proof of Claim, the First 385/395 Proof of Claim, and the Second 385/395 Proof of Claim to avoid incurring significant additional litigation expenses that would necessarily be incurred in litigating this matter to an uncertain conclusion.

ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS.

1 Upon the entry of a Final Order (as defined below) approving this Stipulation, the ATLT is hereby authorized and directed to grant Claimant an allowed ATCW Unsecured Claim (as such term is defined in the Plan) of \$142,129.32 (the "Allowed 310 Unsecured Claim") and an allowed Administrative Expense Claim (as such term is defined in the Plan) of \$5,159.59 (the "Allowed 310 Administrative Expense Claim") in full and complete satisfaction of the First 310 Claim, the Second 310 Claim, and the Third 310 Claim.

2 Upon the entry of a Final Order (as defined below) approving this Stipulation, the ATLT will cause (i) the First 310 Proof of Claim to be amended in the ATLT's claims register to reflect the Allowed 310 Unsecured Claim and the Allowed 310 Administrative Expense Claim, (ii) distributions on the Allowed 310 Unsecured Claim to be made at the same time and in the same pro rata amounts that distributions are made to other holders of ATCW Unsecured Claims, and (iii) the Allowed 310 Administrative Expense Claim to be paid.

3 Upon the entry of a Final Order (as defined below) approving this Stipulation, the ATLT is hereby authorized and directed to grant Claimant an allowed ATCW Unsecured Claim (as such term is defined in the Plan) of \$98,125.92 (the "Allowed 385/395 Unsecured Claim") and an allowed Administrative Expense Claim (as such term is defined in the Plan) of \$1,831.14 (the "Allowed 385/395 Administrative Expense Claim") in full and complete satisfaction of the First 385/395 Claim and the Second 385/395 Claim.

4 Upon the entry of a Final Order (as defined below) approving this Stipulation, the ATLT will cause (i) the First 385/395 Proof of Claim to be amended in the ATLT's claims register to reflect

the Allowed 385/395 Unsecured Claim and the Allowed 385/395 Administrative Expense Claim, (ii) distributions on the Allowed 385/395 Unsecured Claim to be made at the same time and in the same pro rata amounts that distributions are made to other holders of ATCW Unsecured Claims, and (iii) the Allowed 385/395 Administrative Expense Claim to be paid

5 Claimant hereby stipulates and agrees to elect the Cash Recovery (as defined in the Plan) on account of the Allowed 310 Unsecured Claim and the Allowed 385/395 Unsecured Claim, regardless of any prior election to the contrary

6 Upon the entry of a Final Order approving this Stipulation, the ATLT is hereby authorized and directed to expunge all the proofs of claims (including the Second 310 Proof of Claim, the Second 385/395 Proof of Claim, and the Third 310 Proof of Claim) other than the First 310 Proof of Claim, as amended in accordance with this Stipulation, and the First 385/395 Proof of Claim, as amended in accordance with this Stipulation, from the ATLT's claims register

7 Claimant hereby stipulates and agrees that it will not file any proofs of claim or requests for the payment of administrative expenses against the ATLT, the Debtors, or the Debtors' estates, whether in the Chapter 11 Cases or otherwise

8 Upon entry of a Final Order approving this Stipulation, Claimant hereby irrevocably, unconditionally and without reservation of any kind waives, releases and forever discharges the ATLT, the Debtors, and the Debtors' estates, and their respective parent firms and affiliates, and their officers, directors, employees, attorneys, professionals, and agents (collectively, the "Estate Parties") from and against any and all past, present and future actions, causes of action, Claims, liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in

equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which Claimant has, had, or may have in the future against the Estate Parties, provided, however, that Claimant does not waive or release any party's obligations contained in this Stipulation.

9 Upon entry of a Final Order approving this Stipulation, ATLT hereby irrevocably, unconditionally and without reservation of any kind waives, releases and forever discharges Claimant and its respective parent firms and affiliates, and their officers, directors, employees, attorneys, professionals, and agents (collectively, the "Claimant Parties") from and against any and all past, present and future actions, causes of action, Claims, liabilities, suits, debts, judgments, and damages, of any kind whatsoever, whether matured or unmatured, whether at law or in equity, whether known or unknown, liquidated or unliquidated, foreseen or unforeseen, discoverable or undiscoverable, contingent or non-contingent, which the ATLT, the Debtors, and/or the Debtors' estates has, had, or may have in the future against the Claimant Parties with respect to the 310 Lease, including the 310 Security Deposit, and the 385/395 Lease, including the 385/395 Security Deposit

10 This Stipulation shall be governed by New York law, excluding its conflicts of laws principles and this Court shall retain jurisdiction to resolve any disputes between the parties arising with respect to this Stipulation

11 The undersigned on behalf of the ATLT and Claimant each warrants and represents that he or she has been duly authorized and empowered to execute and deliver this Stipulation on behalf of such party

12 Claimant represents and warrants to the ATLT that, as of the date hereof, it is the sole holder of all of the First 310 Proof of Claim, the Second 310 Proof of Claim, the Third 310 Proof of Claim, the First 385/395 Proof of Claim, and the Second 385/395 Proof of Claim against the Debtors, the Debtors' estates, and the ATLT, and that Claimant has not assigned, sold, hypothecated or otherwise transferred any Claims against the Debtors, the Debtors' estates, or the ATLT

13 This Stipulation is subject to approval by the Court and the entry of a Final Order by the Court approving this Stipulation, provided, however, that the parties shall support such Court approval and comply with this Stipulation pending the Court's entry of a Final Order approving or disapproving this Stipulation. For the purposes of this Stipulation, the term "Final Order" shall mean an order approving this Stipulation that has not been stayed, reversed or amended and the time, as computed under the Bankruptcy Rules, to appeal or seek review or rehearing of such order (or any revision, modification or amendment thereof) has expired and no appeal or petition for review or rehearing of such order was filed, or if filed, remains pending

14 Nothing contained in this Stipulation nor any negotiations or proceedings in connection herewith shall constitute or be deemed to be evidence of an admission by any party hereto of any liability or wrongdoing whatsoever, or the truth or untruth, or merit or lack of merit, of any claim or defense of any party. Neither this Stipulation nor any negotiations or proceedings in connection herewith may be used in any proceeding against any party for any purpose whatsoever except with respect to effectuation and enforcement of this Stipulation.

15 This Stipulation contains the entire agreement of the parties with respect to its subject matter and supersedes any prior or contemporaneous oral or written agreements. The parties

acknowledge that no promise, inducement, or agreement not stated herein has been made to them in connection with this Stipulation. The parties understand and agree that this Stipulation may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by both parties and the Court. The parties agree and acknowledge that they will make no claim at any time or place that this Stipulation has been orally altered or modified or otherwise changed by oral communication of any kind or character. Each party hereto agrees that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be employed in the interpretation, construction, or enforcement of this Stipulation.

16 This Stipulation may be executed simultaneously or in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. A facsimile copy of a signature page is the equivalent of an original signature page.

17 This Stipulation shall be binding upon the ATLT, as successor to the Debtors, and Claimant, and their predecessors, successors, heirs, subsidiaries, affiliates, assignees, agents, directors, officers, employees, the Plan Administrator, and any trustee appointed under Chapter 7 of the Bankruptcy Code.

Dated New York, New York
October 12, 2004

**ALLEGIANCE TELECOM LIQUIDATING
TRUST**

L A T. INVESTMENT CORPORATION

By /s/ Mark Stachiw
Mark Stachiw
Allegiance Telecom Liquidating Trust
1405 S Beltline Road, Suite 100
Coppell, Texas 75019

By /s/ Shirin Kia
Shirin Kia, its Vice President
5777 West Century Blvd
Suite 500
Los Angeles, California 90045

and

and

**AKIN GUMP STRAUSS HAUER & FELD
LLP**

**DAVID M. GUREWITZ, ATTORNEY AT
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Telephone (808) 828-6288

Counsel to L A T Investment Corporation

Counsel to the Allegiance Telecom
Liquidating Trust

SO ORDERED, this 13th day of October 2004

/s/Robert D. Dram
UNITED STATES BANKRUPTCY JUDGE