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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11 Case No.
	:	03-13057 (RDD)
ALLEGIANCE TELECOM, INC., <i>et al.</i> ,	:	
	:	Jointly Administered
Debtors.	:	

**DEBTORS' SIXTH OBJECTION TO CERTAIN PROOFS
OF CLAIMS, FILED BY SBC TELECOMMUNICATIONS, INC.**

(CLAIM NOS.: 360, 380, 430, 1066, 1420, 1501, 1503, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1873, 2126, 2127, 2686, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2761 and 2770)

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

Allegiance Telecom, Inc. and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, "Allegiance" or the "Debtors"), respectfully represent:

Introduction

1. On May 14, 2003 (the "Commencement Date"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"). The Debtors are authorized to

operate their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

2. No trustee or examiner has been appointed in these chapter 11 cases. On May 28, 2003, pursuant to section 1102 of the Bankruptcy Code, the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed a statutory creditors' committee (the "Creditors' Committee") in these chapter 11 cases.

Jurisdiction

3. This Court has subject matter jurisdiction to consider and determine this motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

4. Allegiance is a facilities-based national local exchange carrier that provides integrated telecommunications products and services to small and medium-sized business customers, large businesses (*i.e.*, national customers with multiple locations), governmental entities and other institutional users. Allegiance offers its customers a variety of services, including:

- local and long distance voice services, including basic telephone services and advanced calling features;
- broadband and other Internet and data services, including high-speed Internet access, wide area network interconnection, domain name registration, web hosting, email and collocation services;

- integrated local long distance / Internet access offerings, which provide customers with integrated voice and Internet access over a single broadband line;
 - equipment collocation, managed modem ports and Internet protocol traffic aggregation; and
 - customer premise equipment sales and maintenance services.
5. As of the December 31, 2003, the Debtors served more than 100,000 business customers in 36 markets. As of December 31, 2003, the Debtors employed approximately 2,893 people, of which approximately 66 were covered by collective bargaining agreements.
6. As of December 31, 2003, the Debtors had approximately \$284.2 million of unrestricted cash on hand. As of December 31, 2003, the Debtors' consolidated books and records reflected assets totaling approximately \$1.136 billion and liabilities totaling approximately \$1.449 billion. For the twelve months ending December 31, 2003, the Debtors, on a consolidated basis, reported revenues of approximately \$776.9 million and net losses of approximately \$360.0 million.

Bar Date and Proofs of Claim

7. On or about September 23, 2003, the Court entered an order, pursuant to Bankruptcy Rule 3003(c)(3), establishing a final date for filing proofs of claim and approving the bar date notice and the notice and publication procedures (the "Bar Date Order"), which, among other things, established November 26, 2003 (the "Bar Date") as the last date for all persons and entities (including governmental units) holding or wishing to assert pre-petition and certain other "Claims" (as such term is defined in 11 U.S.C. § 101(5)) against the Debtors to file a proof of claim form (the "Proofs of Claim") with respect to each such Claim.

8. Within fifteen (15) days of the entry of the Bar Date Order, the Debtors' notice and claims agent, Bankruptcy Management Corporation ("BMC"), provided notice of the Bar Date by mailing the notice of the Bar Date approved by the Court (the "Bar Date Notice") and a proof of claim form upon the persons or entities listed in the Debtors' Schedule of Assets and Liabilities (the "Schedules"), which were previously filed with the Court, and upon those parties listed in the Bar Date Order.

9. In addition, the Debtors published the Bar Date Notice in the USA Today (National Edition) on one occasion at least twenty-five (25) days before the Bar Date.

10. To date, approximately 2,730 Proofs of Claim have been filed against the Debtors in these Chapter 11 cases. In the Debtors' first omnibus claims objection approximately 780 claims were addressed. The Debtors' second omnibus claims objection address 42 claims. The third omnibus claims objection addresses 146 claims. In the Debtors' fourth claims objection 18 claims of BellSouth Telecommunications, Inc., its affiliates and related entities were addressed. The Debtors' fifth claims objection addressed 46 claims of Verizon Communications, Inc., its affiliates and related entities. Twenty-Seven (27) Claims of SBC Telecommunications, Inc., its affiliates and related entities are addressed in this Sixth Objection.

11. Prior to the commencement of these Chapter 11 cases, the Debtors maintained, in the ordinary course of their business, books and records that reflected, among other things, the Debtors' liabilities and the amounts thereof owed to their creditors (the "Books and Records"). The Debtors have conducted a review of the

Proofs of Claim and their Books and Records and compared each Proof of Claim against the Books and Records. For the reasons set forth in more detail below and based upon these reviews, the Debtors have determined that certain of the Claims asserted against the Debtors in the Proofs of Claim are objectionable, and therefore the Debtors hereby object to the allowance of those Claims.

The Objection and Request for Relief

12. By this Sixth Objection, the Debtors seek to reduce, disallow, or expunge, as appropriate, the Claims set forth as the “SBC Claims” in Exhibit A attached hereto filed by SBC Telecommunications, Inc., its affiliates and related entities (“SBC”) against one or more Debtors in these Chapter 11 cases (the “SBC Claims”). The aggregate amount of the SBC Claims is \$20,481,678.12.

A. Disputed and Overstated Claims

13. Allegiance through its various operating subsidiaries purchases various telecommunications facilities and services on a wholesale, retail, or other basis, from SBC. Allegiance uses most of these services to provide its own integrated telecommunications products and services to Allegiance customers. Allegiance also provides certain telecommunications facilities and services to SBC that SBC uses to provide services to its customers. The relationship between Allegiance and SBC is governed, among other things, by state and federal tariffs (the “Tariffs”), and Interconnection Agreements (“ICA”). Charges for services provided by SBC arise under the Tariffs or under the ICA itself.

14. Since telecommunication traffic flows in both directions, on a monthly basis both parties have amounts due to and from each other. In general,

Allegiance reviews and analyzes charges from SBC upon receipt of SBC's invoices and, except as explained below, all charges that Allegiance determines are appropriate are paid, and the balance of the disputed charges are set aside for resolution at a later date. As these disputed charges accumulate, they can grow to a significant amount. Periodically, representatives from both Allegiance and SBC settle the disputed amounts but that has not occurred for these claims. Here, a significant amount of the claims that SBC assert as unpaid pre-petition amounts continue to be disputed. The SBC Claims objected to herein are disputed for a variety of reasons.

Disputed Amounts

15. The Debtors have reviewed the SBC Claims and have determined that such claims are overstated. SBC has asserted amounts that are not due under the ICA or Tariffs, or has miscalculated or otherwise improperly asserted the amounts due by the Debtors to SBC. The Debtors' Books and Records reflect that the total pre-petition amount actually invoiced by SBC under the ICA and Tariffs is \$25,308,618.¹ After taking into consideration the pre-petition disputed and overstated amounts of \$14,302,711 invoiced by SBC per the Debtors' Books and Records, the aggregate of the SBC Claims should be reduced to \$11,005,907.

16. In addition to the foregoing reductions, the SBC Claims should be further reduced in amount based on certain rights of set off that the Debtors have against SBC as discussed below.

¹ This amount is based on what the Books and Records indicate are the aggregate of invoiced charges from SBC. The Debtors have not yet been able to reconcile these invoices with the total amount asserted in the SBC Claims.

Setoff Rights

17. Section 553 of the Bankruptcy Code preserves the non-bankruptcy rights of parties (creditors and debtors) to effect set off of mutual obligations. The right of set-off “[A]llows entities that owe each other money to apply their mutual debts against each other, thereby avoiding the absurdity of making A pay B when B owes A.” In re Bennett Funding, *supra*, at 140 (quoting Citizens Bank of Maryland v. Strumpf, 516 U.S. 16, 18, 116 S. Ct. 286, 289, 133 L.Ed.2d 258 (1995) (quoting Studley v. Boylston Nat. Bank, 229 U.S. 523, 528, 33 S. Ct. 806, 808, 57 L.Ed. 1313 (1913))). See also, PC COM, Inv. v. Proton, Inc., 906 F. Supp. 894, 903 (S.D.N.Y. 1995) (citing with approval Darr v. Muratore, 8.F.3d. 854, 860 (1st Cir. 1993) (“[t]he common law right to set-off allows parties that owe mutual debts to each other to assert the amounts owed, subtract one from another, and pay only the balance”)).

18. Allegiance’s Books and Records show that the pre-petition claims in favor of Allegiance against SBC arising under the ICA or Tariffs total \$3,280,371.52. Consequently, Allegiance may set off amounts due against the reduced amount of the SBC Claims. After reduction of the SBC Claims on account of the disputed and overstated amounts discussed above to \$11,005,907, the aggregate of the SBC Claims against the Debtors must be further reduced by \$3,280,371.52 to \$7,725,536 (the “Net SBC Claims”), as a consequence of the application of the Debtors’ right of set off against the SBC Claims.

19. The Net SBC Claims should be disallowed in accordance with, and subject to the provisions of Section 502(d) of the Bankruptcy Code for the reasons set forth below.

Section 502(d) Objection

20. The Debtors' review of its Books and Records revealed that on or within ninety (90) days before the Commencement Date, the Debtors made one or more transfers by check, wire transfer or its equivalent (the "Preferential Transfers"), directly to or for the benefit of SBC. Further:

- SBC was a creditor of the Debtors at the time of the Preferential Transfers; and
- The Preferential Transfers were made to or for the benefit of the SBC; and
- The Preferential Transfers were made for or on account of antecedent debts owed by the Debtors to SBC; and
- The Debtors were insolvent at the time of the Preferential Transfers.

By reason of the Preferential Transfers, SBC received more on account of their debts than if the Debtors' cases had been filed under Chapter 7 of the Bankruptcy Code, the Preferential Transfers had not been made, and SBC received payment of such debt to the extent provided by the provisions of the Bankruptcy Code.

21. Section 502(d) of the Bankruptcy Code provides:

"Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim of any entity from which property is recoverable under section 542, 543, 550, or 553 of this title or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of this title, unless such entity or transferee has paid the amount, or turned over any such property, for which such entity or transferee is liable under section 522(i), 542, 543, 550, or 553 of this title."

11 U.S.C. § 502(d).

22. The Debtors have completed its initial review of potential preference causes of action against SBC. Upon information and belief, the Debtors can assert preference actions against SBC in the aggregate amount of approximately \$11.1 million. Accordingly, pursuant to Section 502(d), the Net SBC Claims must be disallowed unless SBC returns the Preferential Transfers to Allegiance. In the event that all or a portion of the Preferential Transfers are returned by SBC to the Debtors, then the Net SBC Claim amount would be increased by the actual amount of the returned transfers.

Affidavit in Support of Objections

23. Attached hereto as Exhibit B is the affidavit of G. Clay Myers, Senior Vice President of Finance and Accounting of the Debtors (the “Myers Affidavit”). The Myers Affidavit is submitted in support of the relief requested by this Sixth Objection.

Responses to Objections

24. A party wishing to oppose the relief requested in the Sixth Objection must file a written response. Only those responses timely filed with the Court and received in accordance with the notice served contemporaneously herewith (the “Notice”) will be considered by the Court. If a response is properly and timely filed in accordance with the above procedures, and the Debtors are unable to reach a consensual resolution with the claimant, the Debtors may request the Court to conduct a hearing with respect to the objection and the response.

Debtors' Replies to Responses

25. The Debtors seek leave to, at their option, file and serve a reply to a claimant's response so that it is received by the claimant (or the claimant's counsel, if represented) no later than 10:00 a.m. (Eastern Daylight Time) one day prior to any hearing on the objection.

Reservation of Rights

26. The Debtors reserve the right to amend, modify or supplement this Sixth Objection, in which case the subject claimant(s) will receive notice and a new hearing will be scheduled.

Waiver of Memorandum of Law

27. This Objection does not raise any novel issues of law, or where appropriate cites the legal authority for the requested relief. Accordingly, the Debtors respectfully request that the Court waive the requirement contained in rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York that a separate memorandum of law be submitted.

Notice

28. Notice of this Objection has been provided to: (a) the U.S. Trustee; (b) attorneys for the Prepetition Lenders; (c) attorneys for the Creditors' Committee; (d) the entities set forth in the Debtors' Master Service List established pursuant to that certain Order Establishing Notice Procedures, dated May 15, 2003, and (e) the parties whose Proofs of Claim are being objected to on the attached exhibit, and any counsel of record. The Debtors submit that no other or further notice is required.

29. The Debtors have made no previous request for the relief sought herein to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit C, granting the Objections to the subject Proofs of Claim in all respects and granting the Debtors such further relief as it deems just and proper.

Dated: New York, New York
May 28, 2004

Respectfully submitted,

ALLEGIANCE TELECOM, INC., *et al.*,
Debtors and Debtors in Possession
By: Their Co-Bankruptcy Counsel,
TOGUT, SEGAL & SEGAL LLP

By: /s/ Albert Togut
ALBERT TOGUT (AT-9759)
A Member of the Firm
One Penn Plaza, Suite 3335
New York, New York 10119
Phone: (212) 594-5000

Sixth Objection: SBC Claims – Exhibit A

Claim Date	Claim #	Case #	Case Name	Creditor Name	Claim Amount
10/27/2003	1066	03-13057	Allegiance Telecom, Inc.	SBC SNET	\$11,362.85
11/10/2003	1420	03-13057	Allegiance Telecom, Inc.	SBC CALIFORNIA	\$45,984.75
11/17/2003	1501	03-13057	Allegiance Telecom, Inc.	SBC COMMUNICATIONS	\$20,776.67
11/17/2003	1503	03-13095	Allegiance Telecom of Texas, Inc.	SBC COMMUNICATIONS	\$7,938.73
11/24/2003	1606	03-13075	Allegiance Telecom of Illinois, Inc.	AMERITECH SERVICES INC	\$2,738,068.66
11/24/2003	1607	03-13076	Allegiance Telecom of Indiana, Inc.	AMERITECH SERVICES INC	\$2,363.65
11/24/2003	1608	03-13079	Allegiance Telecom of Michigan, Inc.	AMERITECH SERVICES INC	\$1,489,619.41
11/24/2003	1609	03-13088	Allegiance Telecom of Ohio, Inc.	AMERITECH SERVICES INC	\$669,813.58
11/24/2003	1610	03-13069	Allegiance Telecom of California, Inc.	PACIFIC BELL TELEPHONE COMPANY	\$4,056,770.96
11/24/2003	1611	03-13081	Allegiance Telecom of Missouri, Inc.	SOUTHWESTERN BELL TELEPHONE CO	\$2,462,117.94
11/24/2003	1612	03-13095	Allegiance Telecom of Texas, Inc.	SOUTHWESTERN BELL TELEPHONE CO	\$5,461,129.27
11/26/2003	1873	03-13057	Allegiance Telecom, Inc.	AMERITECH ADVERTISING SERVICES	\$74,024.53
11/25/2003	2126	03-13104	Coast to Coast Telecommunications, Inc.	AMERITECH SERVICES INC	\$967,909.11
11/25/2003	2127	03-13106	InterAccess Telecommunications Co.	AMERITECH SERVICE INC ET AL	\$21,229.13
1/5/2004	2686	03-13057	Allegiance Telecom, Inc.	SBC CORPORATION MIDWEST	\$9,499.37
1/29/2004	2748	03-13079	Allegiance Telecom of Michigan, Inc.	AMERITECH SERVICE INC ET AL	\$4,287.00
1/29/2004	2749	03-13075	Allegiance Telecom of Illinois, Inc.	AMERITECH SERVICE INC ET AL	\$265,119.90
1/29/2004	2750	03-13075	Allegiance Telecom of Illinois, Inc.	AMERITECH SERVICE INC ET AL	\$154,040.40
1/29/2004	2751	03-13069	Allegiance Telecom of California, Inc.	PACIFIC BELL TELEPHONE COMPANY	\$54,958.35
1/29/2004	2752	03-13088	Allegiance Telecom of Ohio, Inc.	AMERITECH SERVICE INC ET AL	\$377,658.24
1/29/2004	2753	03-13079	Allegiance Telecom of Michigan, Inc.	AMERITECH SERVICE INC	\$562,581.11
1/29/2004	2754	03-13075	Allegiance Telecom of Illinois, Inc.	AMERITECH SERVICE INC	\$985,915.61
2/2/2004	2761	03-13062	Allegiance Internet, Inc.	SBC DATACOMM	\$10,025.45
2/9/2004	2770	03-13057	Allegiance Telecom, Inc.	SBC CORPORATION MIDWEST	\$871.60
8/18/2003	360	03-13062	Allegiance Internet, Inc.	SOUTHWESTERN BELL TELEPHONE CO	\$897.17
8/18/2003	380	03-13057	Allegiance Telecom, Inc.	AMERITECH CORPORATION	\$5,684.32
8/18/2003	430	03-13107	Jump.Net, Inc.	SOUTHWESTERN BELL TELEPHONE CO	\$21,030.36

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11 Case No.
 : 03-13057 (RRD)
ALLEGIANCE TELECOM, INC., *et al.*, :
 :
 : Jointly Administered
Debtors. :
-----X

**AFFIDAVIT OF G. CLAY MYERS
IN SUPPORT OF DEBTORS' SIXTH
OBJECTION TO CERTAIN PROOFS OF CLAIMS**

STATE OF TEXAS)
) ss.:
COUNTY OF DALLAS)

G. CLAY MYERS, being duly sworn, deposes and says:

1. I am the Senior Vice President of Finance and Accounting of Allegiance Telecom, Inc. and its direct and indirect subsidiaries, the above-captioned debtors and debtors-in-possession herein (the "Debtors"), and I have personal knowledge of the information set forth herein.

2. I submit this affidavit in support of the Debtors' sixth objection to certain proofs of claim (the "Application").

3. In my capacity as Senior Vice President of Finance and Accounting of the Debtors, I am familiar with the Debtors' books and records, which are subject to my direct supervision or oversight through subordinates in the ordinary course of the Debtors' business.

4. I have reviewed the proofs of claim addressed in the Application (the "Subject Claims") and have compared the information submitted in support of their treatment with the Debtors' books and records.

5. I have read the Application and agree with the statements and claim descriptions contained therein.

6. Based upon my review, I submit that the Subject Claims should be disallowed or expunged as set forth on Exhibit "A" to the Application.

/s/ G Clay Myers
CLAY MYERS

Sworn to before me this
24th day of May, 2004

/s/ Greg Gates
Notary Public

TOGUT, SEGAL & SEGAL LLP
Co-Bankruptcy Counsel for Debtors
and Debtors in Possession
One Penn Plaza, Suite 3335
New York, New York 10119
Phone: (212) 594-5000
Albert Togut (AT-9759)
Kevin R. Toole (KRT-7700)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11 Case No.
	:	03-13057 (RDD)
ALLEGIANCE TELECOM, INC., <i>et al.</i> ,	:	
	:	Jointly Administered
Debtors.	:	

**ORDER GRANTING DEBTORS' SIXTH
OBJECTION TO CERTAIN PROOFS OF CLAIMS
FILED BY SBC COMMUNICATIONS, INC.**

(CLAIM NOS.: 360, 380, 430, 1066, 1420, 1501, 1503, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1873, 2126, 2127, 2686, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2761 and 2770)

Allegiance Telecom, Inc. and its direct and indirect subsidiaries, as debtors and debtors-in-possession (the "Debtors"), by their co-bankruptcy counsel, Togut, Segal & Segal LLP, having filed a sixth objection to certain proofs of claims filed by SBC Communications, Inc., its affiliates and related entities against the Debtors' estates, dated May 28, 2004 (the "Application"); and good and sufficient notice of the Application having been given, and the Application having been considered at a hearing conducted before the Court on July 28, 2004 (the "Hearing"); and upon the record made at the Hearing and decision reached at the conclusion thereof, and upon all of the prior proceedings had herein; and good and sufficient cause appearing, it is

ORDERED, that the Application be, and it hereby is, granted in all respects; and it is further

ORDERED, that all of the proofs of claims listed on Exhibit "A" annexed hereto be, and they hereby are, disallowed, expunged, reallocated and/or reassigned as set forth therein.

DATED: New York, New York
July __, 2004

HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

TOGUT, SEGAL & SEGAL LLP
Co-Bankruptcy Counsel for Debtors
and Debtors in Possession
One Penn Plaza, Suite 3335
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Phone: (212) 594-5000
Albert Togut (AT-9759)
Kevin R. Toole (KRT-7700)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	X
	:	
Allegiance Telecom, Inc., <u>et al.</u> ,	:	Chapter 11 Case No.
	:	03-13057 (RDD)
	:	
Debtors.	:	Jointly Administered

**NOTICE OF HEARING ON DEBTORS' SIXTH OBJECTION TO CERTAIN
PROOFS OF CLAIMS FILED BY SBC COMMUNICATIONS, INC.**

(CLAIM NOS.: 360, 380, 430, 1066, 1420, 1501, 1503, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1873, 2126, 2127, 2686, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2761 and 2770)

PLEASE TAKE NOTICE that pursuant to the attached Application (the "Application"), dated May 28, 2004, of Allegiance Telecom, Inc. and its direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the "Debtors"), requesting an order granting the objections to certain proofs of claims filed by SBC Communications, Inc., its affiliates and related entities (the "Objections"), pursuant to section 502 of title 11 of the United States Code, as more fully set forth in the Application, a hearing will be held before the Hon. Robert D. Drain, United States Bankruptcy Judge, in Room 610 of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004-1408, on July 28,

2004, at 10:00 a.m., (Eastern Daylight Time), or as soon thereafter as the Debtors are heard.

PLEASE TAKE FURTHER NOTICE that any party holding a Claim subject to an Objection (a "Claimant") wishing to oppose the relief requested in the Application must file a written response conforming to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the Southern District of New York. Any written response filed with the Bankruptcy Court must contain at a minimum the following:

- a. The name of the claimant and a description of the basis for the amount of the subject Claim;
- b. The specific factual basis and supporting legal argument upon which the Claimant will rely in opposing the Objection to the Claim;
- c. Any supporting documentation, to the extent it was not included with the Proof of Claim previously submitted to the Bankruptcy Court, upon which the claimant will rely to support the basis for and amounts asserted in the Proof of Claim;
- d. The address to which the Debtors may serve any reply to the response; and
- e. The name, address, and telephone number of the person (the Claimant or the Claimant's legal representative) possessing ultimate authority to reconcile, settle, or otherwise resolve the Objection on behalf of the Claimant; and

shall be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (which can be found at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and served in accordance with General Order M-242, and shall further be served upon: (a) Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York,

New York 10119 (Attn: Albert Togut, Esq.); (b) Deirdre A. Martini, the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Pamela J. Lustrin, Esq.); (c) Paul, Hastings, Janofsky & Walker LLP, 600 Peachtree Street, N.E., 24th Floor, Atlanta, Georgia 30308 (Attn: Jesse Austin, III, Esq.); and (d) Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn. Ira S. Dizengoff, Esq.), so as to be actually received no later than July 14, 2004, at 4:00 p.m. (Eastern Daylight Time).

PLEASE TAKE FURTHER NOTICE that if a Claimant does not want the Court to address its Claim as proposed in the Application, the Claimant should comply with the instructions in this Notice. If a Claimant whose Claim is subject to an Objection and who is served with the Application fails to file and serve a timely response pursuant to the foregoing procedures, the relief requested in the Application as to its Claim may be granted without further notice to the Claimant.

Dated: New York, New York
May 28, 2004

Respectfully submitted,

/s/ Albert Togut
By: TOGUT, SEGAL & SEGAL LLP
Co-Bankruptcy Counsel for Debtors
and Debtors in Possession
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