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Alexander Shiryak, Esq. (AS-4415)

Attorneys for Kosher Konnection, Inc.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11 Case No.
	:	03-13084 (RDD)
	:	
Allegiance Telecom of New Jersey, Inc,	:	
	:	
Debtors.	:	Jointly Administered
-----	X	

NOTICE OF MOTION TO VACATE AUTOMATIC STAY
PURSUANT TO SECTION 362(d) OF THE BANKRUPTCY CODE

To:

Clerk, Superior Court of New Jersey
Appellate Division
Hughes Justice Complex
25 W. Market St.
Trenton, N. J. 08625
In re: Docket No. A-2532-02T1

Kristi Izzo, Secretary
State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, N. J. 07102
In re: Docket No. TC0250311U

Hon. Barry N. Frank, A.L.J.
Office of Administrative Law
33 Washington Street
Newark, N. J. 07102
In re: Docket No. PUC09773-02N

Bruce D. Cohen, Esq.

Verizon New Jersey, Inc.
540 Broad Street, 20th Floor
Newark, N. J. 07101
Attorney for Respondent Verizon New Jersey, Inc.

David J. Shannon, Esq.
Leonard Tillery & Sciolla
320 Marter Avenue
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Attorneys for Allegiance Telecom of New Jersey, Inc.

Patricia E. Doran, Esq.
Ventantonio & Wildenhain
95 Mount Bethel Road
Warren, N. J. 07059
Attorney for Defendant Verizon New Jersey, Inc.

Kirkland & Ellis
153 East 53rd. St.
New York, N. Y. 10022
Attorneys for Debtor Allegiance Telecom of New Jersey, Inc.

PLEASE TAKE NOTICE THAT, upon the Certification of Ben D. Shiriak, Esq., dated the 16th day of June 2003 and all the prior proceedings had herein, the undersigned will move before this Court at One Bowling Green, New York, New York 10004 on the 25th day of July 2003 at 9:30 A.M. or as soon thereafter as counsel may be heard for an Order:

1. vacating the automatic stay in effect in the matter entitled Kosher Konnection, Inc. v. Allegiance Telecom of New Jersey, Inc. pending in the Superior Court of New Jersey, Appellate Division, bearing Docket Number: A-2532-02T1;
2. vacating the automatic stay in effect in the matter entitled Kosher Konnection, Inc. v. Allegiance Telecom of New Jersey, Inc. pending before the State of New Jersey Board of Public Utilities, Office of Administrative Law, bearing BPU Docket Number TC0250311U and OAL Docket Number PUC09773-02N, and
3. for such other relief as the Court may deem just and proper.

Dated: June 16, 2003

BEN D. SHIRIAK, P.C.

By: Ben D. Shiriak, Esq.
Attorneys for Kosher Konnection, Inc.
2 West Northfield Road
Livingston, New Jersey 07039
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CERTIFICATION OF SERVICE

I certify that the notice of motion to vacate automatic stay, pursuant to Section 362(d) of the Bankruptcy Code, the proposed order vacating automatic stay, and the certification of Ben D. Shiriak, Esq. have been served by regular mail upon the Superior Court of New Jersey, Appellate Division; State of New Jersey Board of Public Utilities; State of New Jersey Office of Administrative Law; and all parties.

I certify that the foregoing statements made by me are accurate. I am aware that I am subject to punishment should any statement made by me be willfully false.

BEN D. SHIRIAK, P.C.

Dated: June 16, 2003

By: Ben D. Shiriak, Esq.
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	03-13084 (RDD)
Allegiance Telecom of New Jersey, Inc,	:	
	:	
Debtors.	:	Jointly Administered
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PROPOSED ORDER VACATING AUTOMATIC STAY

On the ___ day of _____, 2003, it is hereby

ORDERED that Kosher Konnection, Inc.'s motion to vacate the automatic stay pursuant to Section 362(d) of the Bankruptcy Code is granted; and it is further

ORDERED that the automatic stay in effect in the matter entitled Kosher Konnection, Inc. v. Allegiance Telecom of New Jersey, Inc., pending in the Superior Court of New Jersey, Appellate Division, bearing Docket Number: A-2532-02T1, is vacated; and it is further

ORDERED that the automatic stay in effect in the matter entitled Kosher Konnection, Inc. v. Allegiance Telecom of New Jersey, Inc., pending in the State of New Jersey Board of Public Utilities, Office of Administrative Law, bearing BPU Docket Number TC0250311U and OAL Docket Number PUC09773-02N, is vacated.

Hon. Stephen D. Drain

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11 Case No.
	:	03-13084 (RDD)
Allegiance Telecom of New Jersey, Inc,	:	
	:	
Debtors.	:	Jointly Administered
-----	X	

CERTIFICATION OF BEN D. SHIRIAK, ESQ.

1. I am an attorney at law of the State of New Jersey, represent Kosher Konnection, Inc., and am fully familiar with the facts and circumstances herein.

2. I make this certification in support of Kosher Konnection, Inc.'s motion to vacate the automatic stay pursuant to Section 362(d) of the Bankruptcy Code.

3. Pursuant to Section 362(a)(1) of the Bankruptcy Code, an automatic stay is imposed on all judicial and other legal proceedings against the debtor. 11 U.S.C. § 362(a)(1).

4. However, pursuant to Section 362(d)(1) of the Bankruptcy Code, a party in interest may obtain relief from the automatic stay for cause. 11 U.S.C. § 362(d)(1).

5. Movant, Kosher Konnection, Inc., is the plaintiff in the matter entitled Kosher Konnection, Inc. v. Allegiance Telecom of New Jersey, Inc., pending in the Superior Court of New Jersey, Appellate Division, bearing Docket Number: A-2532-02T1. The case involves Kosher Konnection, Inc.'s claim for damages resulting from "slamming," negligence, and

intentional torts, including consumer fraud, against defendants, Allegiance Telecom of New Jersey, Inc. and Verizon-New Jersey, Inc.

6. In this Superior Court of New Jersey case, Allegiance Telecom of New Jersey, Inc. is represented by an insurance company. Upon information and belief, any judgment against Allegiance Telecom of New Jersey, Inc. would be paid by said insurance indemnification. Consequently, the debtor's property and other financial interests are not at stake herein and the automatic stay is not warranted.

7. Furthermore, Kosher Konnection, Inc. and Allegiance Telecom of New Jersey, Inc. are parties to an administrative proceeding entitled Kosher Konnection, Inc. v. Allegiance Telecom of New Jersey, Inc., pending in the State of New Jersey Board of Public Utilities, Office of Administrative Law, bearing BPU Docket Number TC0250311U and OAL Docket Number PUC09773-02N. The relief sought by petitioner Kosher Konnection, Inc. is a declaratory judgment by the Board of Public Utilities that Allegiance Telecom engaged in unlawful slamming, and violated N.J.S.A. 48:3-2, concerning illegal actions by public utilities.

8. The BPU matter is also being defended by the insurance company, and not by Allegiance itself. Consequently, the automatic stay should be vacated as to the administrative proceeding as well as to the Superior Court of New Jersey proceeding.

9. As an exception to the automatic stay, Section 362 (b)(4) of the Bankruptcy Code, provides that the stay does not effect the "continuance of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power." 11 U.S.C. § 362(b)(4). While it is true that Kosher Konnection brought the Board of Public Utilities, it is also true that Kosher Konnection does not seek damages in this proceeding, only the imposition by the Board of appropriate penalties upon Allegiance.

10. Kosher Konnection respectfully requests that the Court grant the instant motion.

I certify that the foregoing statements made by me are accurate. I am aware that I am subject to punishment should any statement made by me be willfully false.

Respectfully submitted,

BEN D. SHIRIAK, P.C.

Dated: June 16, 2003

By: Ben D. Shiriak, Esq.
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