

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE  
DISTRICT OF MAINE**

<b>In re:</b>	)	
	)	<b>Chapter 11</b>
<b>PEGASUS SATELLITE TELEVISION, INC., <u>et al.</u>,</b>	)	<b>Case No. 04-20878</b>
<b>Debtors.</b>	)	<b>(Jointly Administered)</b>
	)	
<b>PEGASUS SATELLITE TELEVISION, INC., <u>et al.</u>,</b>	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>Adversary Proceeding</b>
	)	<b>No. _____</b>
<b>NATIONAL RURAL TELECOMMUNICATIONS</b>	)	
<b>COOPERATIVE, <u>et al.</u>,</b>	)	
<b>Defendants.</b>	)	
	)	

**DECLARATION OF WILLIAM J. DORRAN**

**I, WILLIAM J. DORRAN, declare:**

1. I am Senior Vice President of Pegasus Development Corporation, a subsidiary of Pegasus Communications Corporation. Before joining Pegasus, I was previously employed by the National Rural Telecommunications Cooperative ("NRTC") for approximately seven years, and overall I have more than 16 years experience in the satellite television industry. I have firsthand knowledge of the facts stated in this declaration and, if called upon to do so, can and will testify competently as to these facts.

2. I am intimately familiar with both the NRTC/Member Agreement for Marketing and Distribution of DBS Services ("Member Agreement") and the DBS Distribution Agreement,

having participated extensively in the pre-launch discussions and/or contract negotiations of both those agreements. The Member Agreement was intended to provide and does provide Pegasus with ownership of and exclusive rights to use "Subscriber Information" (as defined in the DBS Distribution Agreement) relating to any subscriber in Pegasus's exclusive territories. Member Agreement Section 20(b). "Subscriber Information" was intended to include, and in practice has in fact included, the name, address, zip code and telephone number of each subscriber, information on the programming services provided to each subscriber, billing account information and – very importantly for the present context – the subscriber's receiver access card (or "Smart Card") number, the receiver's serial identification number, and other information necessary to authorize the receiver to decode program data.

3. In order to receive satellite broadcast programming of any kind, a subscriber must have a properly activated and authorized receiver, sometimes referred to as a "decoder" or "set top box." Only authorized set top boxes can receive program services and, in the case of a Pegasus customer, only a Pegasus representative can authorize the set top box and confirm through the Billing & Authorization System that the box has been authorized. When a Pegasus subscriber's receiver is first activated, the information from that subscriber's unique access card (along with the subscriber's name, address, zip code and other subscriber information) is forwarded by a Pegasus representative to the Billing & Authorization System, which is controlled and managed by DIRECTV. From there, the information is communicated to the Conditional Access Management Center ("CAMC") – which is also managed and controlled by DIRECTV – so that the CAMC can signal the set top box, as to what program services the particular set top box has been authorized to receive.

4. Although extensive Pegasus subscriber information – name, address, zip code, account history, access card number and much more – is forwarded by Pegasus through systems managed and controlled by DIRECTV, that information remains the exclusive property of Pegasus under the Member Agreement. Indeed, it is precisely because DIRECTV has physical control over Pegasus subscriber information and can use it without Pegasus’s consent that it is critical to have strict enforcement of the protections afforded to subscriber information under the Member Agreement.

5. Pegasus has provided sworn testimony to this Court (I was present for the hearing on Monday, June 7, 2004), and DIRECTV has not denied the fact, that DIRECTV is specifically targeting current Pegasus subscribers, and only current Pegasus subscribers, with a message on Channel 205 that describes the purported termination of DIRECTV’s relationship with Pegasus and encourages current Pegasus subscribers to switch their accounts to DIRECTV. DIRECTV evidently claims that this communication can be accomplished without using any subscriber information that belongs to Pegasus. As explained below, this claim cannot be true or correct.

6. No programming – Channel 205 or otherwise – can be received by a set top box unless that box has been authorized to receive it. With regard to a Pegasus subscriber, the information that a receiver is authorized to receive programming (together with the name, address and zip code of the customer, the number of the access card, the services to which the customer subscribes, and other information) is provided by Pegasus, is Pegasus subscriber information, and is owned by Pegasus. DIRECTV cannot transmit Channel 205 to Pegasus customers without using at least some of this subscriber information.

7. Even if DIRECTV were to claim that it is broadcasting Channel 205 to *all* subscribers (both Pegasus and other), then blocking access by all non-Pegasus subscribers (so

that the only direct “communication” as to access is with non-Pegasus customers), DIRECTV still must ascertain which Pegasus subscribers have been authorized by Pegasus to receive any programming at all. In others words, even if DIRECTV claims that its only “active” role is to block reception of Channel 205 by its own subscribers, while “passively” allowing that channel to be received by Pegasus subscribers, DIRECTV must still rely on Pegasus subscriber information to identify the universe of subscribers to which Channel 205 will be “passively” allowed. The proof of this experimentally is that if a new receiver is purchased, properly installed and turned on, it will not receive Channel 205 unless and until it is activated and authorized by a Pegasus representative to receive programming as a Pegasus subscriber. The fact that a Pegasus representative has activated and authorized a Pegasus subscriber to receive programming is Pegasus subscriber information. DIRECTV cannot do what it is doing with regard to Channel 205 without using such Pegasus subscriber information in one way or another.

8. While DIRECTV may be able to invent even more imaginative technical “work-arounds” so as to broadcast Channel 205 to Pegasus subscribers while attempting to avoid the force of the Member Agreement and this Court’s Order precluding DIRECTV from using subscriber information in Pegasus’s files, DIRECTV cannot do what it is doing with Channel 205 without relying on subscriber information from Pegasus’s files in some fashion. The proof of this point lies in a fact which DIRECTV cannot dispute: without control of and access to Pegasus subscriber information in the Billing & Authorization System and the CAMC, DIRECTV could not be broadcasting Channel 205 to Pegasus subscribers and only to Pegasus subscribers.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 14<sup>th</sup> day of June, 2004, at San Francisco, California.

  
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William J. Dorran