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BEFORE THE ARIZONA CORPORATION COMMISSION

30E

MARC SPITZER  
Chairman  
WILLIAM A. MUNDELL  
Commissioner  
JEFF HATCH-MILLER  
Commissioner  
MIKE GLEASON  
Commissioner  
KRISTEN K. MAYES  
Commissioner

Arizona Corporation Commission

DOCKETED

APR - 2 2004

DOCKETED BY *[Signature]*

AZ CORP COMMISSION  
DOCUMENT CONTROL

2004 APR - 2 P 3: 35

RECEIVED

UTILITIES DIVISION STAFF,

Complainant,

vs.

Docket No. T-03889A-02-0796  
T-04125A-02-0796

LIVEWIRENET OF ARIZONA, LLC n/k/a THE  
PHONE COMPANY MANAGEMENT GROUP, LLC;  
THE PHONE COMPANY OF ARIZONA JOINT  
VENTURE, d/b/a/ THE PHONE COMPANY OF  
ARIZONA; ON SYSTEMS TECHNOLOGY, LLC, and  
its principals, TIM WETHERALD, FRANK TRICAMO,  
DAVID STAFFORD, MARC DAVID SHINER and  
LEON SWICHKOW; THE PHONE COMPANY OF  
ARIZONA, LLP and its members

Respondents.

IN THE MATTER OF THE PHONE COMPANY OF  
ARIZONA JOINT VENTURE d/b/a/ THE PHONE  
COMPANY OF ARIZONA'S APPLICATION FOR  
CERTIFICATE OF CONVENIENCE AND NECESSITY  
TO PROVIDE INTRASTATE  
TELECOMMUNICATIONS SERVICE AS A LOCAL  
AND LONG DISTANCE RESELLER AND  
ALTERNATIVE OPERATOR SERVICE.

Docket No. T-04125A-02-0577

IN THE MATTER OF THE APPLICATION OF THE  
PHONE COMPANY MANAGEMENT GROUP, LLC  
f/k/a LIVEWIRENET OF ARIZONA, LLC TO  
DISCONTINUE LOCAL EXCHANGE SERVICE.

Docket No. T-03889A-02-0578

IN THE MATTER OF THE APPLICATION OF THE  
PHONE COMPANY MANAGEMENT GROUP, LLC  
FOR CANCELLATION OF FACILITIES BASED AND  
RSOLD LOCAL EXCHANGE SERVICES.

Docket No. T-03889A-03-0152

IN THE MATTER OF THE APPLICATION OF THE  
PHONE COMPANY MANAGEMENT GROUP, LLC  
d/b/a/ THE PHONE COMPANY FOR THE  
CANCELLATION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

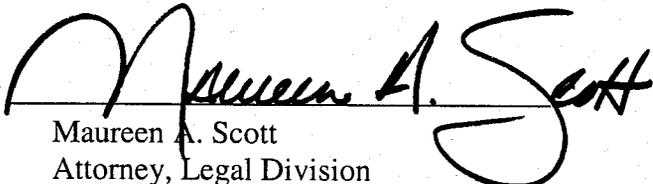
Docket No. T-03889A-03-0202

STAFF'S NOTICE OF FILING  
LATE FILED EXHIBIT

1 The Staff of the Arizona Corporation Commission ("Staff") hereby files the attached late-  
2 filed exhibit in the above referenced proceeding.

3 RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of April , 2004.  
4

5 STAFF OF THE ARIZONA CORPORATION COMMISSION  
6

7  
8 By: 

9 Maureen A. Scott  
10 Attorney, Legal Division  
11 1200 West Washington Street  
12 Phoenix, Arizona 85007  
13 (602) 542-6022

14 Original and 21 copies of the foregoing filed  
15 this 2<sup>nd</sup> day of April, 2004, with:

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington  
19 Phoenix, Arizona 85007

20 Copy of the foregoing mailed this 2<sup>nd</sup> day  
21 of April, 2004, to:

22 Tim Wetherald  
23 10730 East Bethany Road, Suite 206  
24 Aurora, CO 80014

25 Steven Petersen  
26 2989 Brookdale Drive  
27 Brooklyn Park, MN 55444

28 David Stafford Johnson  
740 Gilpin Street  
Denver, CO 80218

Timothy Berg  
Theresa Dwyer  
Fennemore Craig  
3003 N. Central, Suite 2600  
Phoenix, AZ 85003-2913

Roald Haugan  
Managing Partners Chairman  
32321 County Highway 25  
Redwood Falls, MN 56283  
The Phone Company of Arizona, LLP

Qwest Corporation  
Attn: Law Department  
4041 N. Central, 11<sup>th</sup> Floor  
Phoenix, AZ 85012

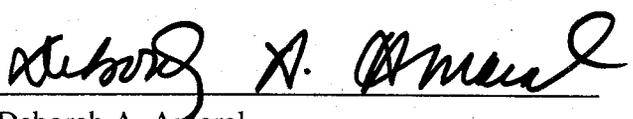
Travis & Sara Credle  
3709 West Hedrick Drive  
Morehead City, NC 28557  
The Phone Company of Arizona, LLP

Thomas H. Campbell, Esq.  
Lewis and Roca  
40 North Central  
Phoenix, AZ 85004

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Jeffrey Crockett  
Snell & Wilmer  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004

Frank Tricamo  
6888 South Yukon Court  
Aurora, CO 80128



Deborah A. Amaral  
Assistant to Maureen A. Scott

## STATE ACTIONS:

1. State of Washington v. Timothy Alan Wetherald et al.  
Case No. 94-2-21036-0

Complaint filed pursuant to the States Consumer Protection Act. A stipulated agreement resulted in the issuance of a Consent Decree prohibiting Tim Wetherald from engaging in telecom business in Washington.

2. State of Oregon v. Tim Wetherald et al.  
Circuit Court of Oregon, Multnomah County  
Case No. A8907-04289

Complaint filed under consumer protection laws resulting in injunction against Tim Wetherald from selling long distance telephone services in the state for three years.

3. State of Iowa Department of Commerce Utilities Board  
In Re: ServiSense, Docket No. FCU-02-17

Investigation ending in revocation of CC&N.

4. State of Minnesota Public Utilities Commission  
The Minnesota Phone Company  
Docket No. P6164/C-02-1383

Complaint filed for failure to obtain a certificate of authority and for failure to obtain consent to transfer property.

5. State of Colorado Public Utilities Commission

Several dockets were opened involving

- 1) transfer of assets without Commission approval  
(Docket No. 03C-372T)
- 2) Mile High Telecom application to discontinue service  
(Docket No. 02A-463AT)
- 3) telecom services without the requisite CC&N  
(Docket No. 02C-082T)

## **Federal Actions**

1. Securities and Exchange Commission v. Timothy Wetherald et al.  
United States District Court, Southern District of Florida  
Case No. 03-60175-CIV-ZLOCH

Complaint

## **Washington Bankruptcies**

1. In Re: Intranet Communication, Inc.  
Western District of Washington at Seattle  
Case No. 93-01807  
Filed March, 1993

Voluntary Petition signed by Tim Wetherald, President

2. In Re: Network Communications, Inc.  
Western District of Washington  
Case No. 92-05044  
Filed July, 1992

Involuntary Petition filed by Creditors. Tim Wetherald was an officer Network Communications, Inc.

## **Oregon Bankruptcies**

1. In Re: Tel-Analysis, Inc.  
District of Oregon  
Case No. 89-32862  
Filed June, 1989

Voluntary Petition filed by Tim Wetherald.

2. In Re: Ultra Com, Inc.  
District of Oregon  
Case No. 89-33618  
Filed August, 1989

Voluntary Petition filed by Tim Wetherald

## **Colorado Bankruptcies**

1. In Re: Mile High Joint Venture  
District of Colorado  
Case No. 02-30555  
Filed December, 2002

Voluntary Petition signed by Tim Wetherald as Manager of On Systems Technology, LLC.

2. In Re: Voice Networks, Inc.  
District of Colorado  
Case No. 00-23777  
Filed November, 2000

Voluntary Petition signed by Tim Wetherald as CEO.

(Official Form 1) (9/97)

<b>FORM B1</b>		<b>United States Bankruptcy Court District of Colorado</b>		<b>VOLUNTARY PETITION</b>	
Name of Debtor (If individual, enter Last, First, Middle): <b>Voice Networks Inc.</b>			Name of Joint Debtor (Spouse)(Last, First, Middle)		
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):			All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):		
Soc.Sec./Tax I.D. No. (If more than one, state all): <b>84-1364695</b>			Soc.Sec./Tax I.D. No. (If more than one, state all):		
Street Address of Debtor (No. & Street, City, State & Zip Code): <b>14231 E. Fourth Avenue, #218 Aurora, CO 80011</b>			Street Address of Joint Debtor (No. & Street, City, State & Zip Code):		
County of Residence or of the Principal Place of Business: <b>Arapahoe</b>			County of Residence or of the Principal Place of Business:		
Mailing Address of Debtor (if different from street address):			Mailing Address of Joint Debtor (if different from street address):		
<b>00-23777 SBB</b>					
Location of Principal Assets of Business Debtor (if different from street address above):					

**Information Regarding the Debtor (Check the Applicable Boxes)**

**Venue (Check any applicable box)**

Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

<p><b>Type of Debtor (Check any applicable box)</b></p> <p><input type="checkbox"/> Individual(s)      <input type="checkbox"/> Railroad</p> <p><input checked="" type="checkbox"/> Corporation      <input type="checkbox"/> Stockbroker</p> <p><input type="checkbox"/> Partnership      <input type="checkbox"/> Commodity Broker</p> <p><input type="checkbox"/> Other _____</p>	<p><b>Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box)</b></p> <p><input type="checkbox"/> Chapter 7      <input checked="" type="checkbox"/> Chapter 11      <input type="checkbox"/> Chapter 13</p> <p><input type="checkbox"/> Chapter 9      <input type="checkbox"/> Chapter 12</p> <p><input type="checkbox"/> Sec. 304 - Case Ancillary to Foreign Proceeding</p>
<p><b>Nature of Debts (Check one box)</b></p> <p><input type="checkbox"/> Consumer/Non-Business      <input checked="" type="checkbox"/> Business</p>	<p><b>Filing Fee (Check one box)</b></p> <p><input checked="" type="checkbox"/> Full Filing Fee attached</p> <p><input type="checkbox"/> Filing Fee to be paid in installments. (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.</p>
<p><b>Chapter 11 Small Business (Check all boxes that apply)</b></p> <p><input checked="" type="checkbox"/> Debtor is a small business as defined in 11 USC §101.</p> <p><input type="checkbox"/> Debtor is and elects to be considered a small business under 11 USC §1121(e)(Optional)</p>	

**Statistical/Administrative Information (Estimates Only)**

Debtor estimates that funds will be available for distribution to unsecured creditors.

Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

<b>Estimated Number of Creditors</b>							
1-15	16-49	50-99	100-199	200-999	1000-over		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<b>Estimated Assets</b>							
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Estimated Debts</b>							
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

THIS SPACE IS FOR COURT USE ONLY

DISTRICT CLERK  
CLERK

MAY 17 2004

CLERK

(Official Form 1) (9/97)

FORM B1, Page 2

<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): <b>Voice Networks Inc.</b>	
<b>Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attached additional sheet)</b>			
Location Where Filed: <b>None</b>	Case Number:	Date:	
<b>Pending Bankruptcy Case Filed by Any Spouse, Partner, or Affiliate of the Debtor (If more than one, attached additional sheet)</b>			
Name of Debtor: <b>None</b>	Case Number:	Date:	
Relationship:	District:	Judge:	

**Signatures**

**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.  
 [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under Chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.  
 I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Signature of Joint Debtor

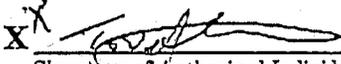
\_\_\_\_\_  
Telephone Number (if not represented by attorney)

\_\_\_\_\_  
Date

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

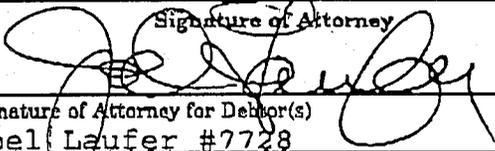
  
Signature of Authorized Individual

**Tim Wetherald**  
Printed Name of Authorized Individual

**CEO**  
Title of Authorized Individual

**11-15-00**  
Date

**Signature of Attorney**

  
Signature of Attorney for Debtor(s)

**Joel Laufer #7728**  
Printed Name of Attorney for Debtor(s)

**LAUFER and PADJEN LLC**  
Firm Name

**707 17th Street, Suite 2900**  
Address

**Denver, CO 80202**

**(303) 296-7615**  
Telephone Number

**November 14, 2000**  
Date

**Signature of Non-Attorney Petition Preparer**

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. §110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

\_\_\_\_\_  
Printed or Typed Name of Bankruptcy Petition Preparer

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document: If more than one person prepared this document, attach additional signed sheets conforming to the appropriate official form for each person.

**Exhibit A**

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

Exhibit A is attached and made a part of this petition.

\_\_\_\_\_  
Signature of Bankruptcy Petition Preparer

\_\_\_\_\_  
Date

**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

\_\_\_\_\_  
Signature of Attorney for Debtor(s)

\_\_\_\_\_  
Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy may result in fines or imprisonment or both. 11 U.S.C. §110; 18 U.S.C. §156.

02-30555 ABC

United States Bankruptcy Court

INVOLUNTARY  
PETITION

District of Colorado

IN RE (Name of Debtor - If Individual: Last, First, Middle)

MILE HIGH TELECOM JOINT VENTURE

ALL OTHER NAMES used by debtor in the last 6 years  
(Include married, maiden, and trade names.)

SOC. SEC./TAX I.D. NO. (If more than one, state all.)

STREET ADDRESS OF DEBTOR (No. and street, city, state, and zip code)

3025 South Parker Road  
Suite 1000  
Aurora, CO 80014

MAILING ADDRESS OF DEBTOR (If different from street address)

COUNTY OF RESIDENCE OR  
PRINCIPAL PLACE OF BUSINESS

Arapahoe

LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR (If different from previously listed addresses)

CHAPTER OF BANKRUPTCY CODE UNDER WHICH PETITION IS FILED

Chapter 7  Chapter 11

INFORMATION REGARDING DEBTOR (Check applicable boxes)

Petitioners believe:

- Debts are primarily consumer debts  
 Debts are primarily business debts (complete sections A and B)

TYPE OF DEBTOR

- Individual  Corporation Publicly Held  
 Partnership  Corporation Not Publicly Held  
 Other: \_\_\_\_\_

A. TYPE OF BUSINESS (Check one)

- Professional  Transportation  Commodity Broker  
 Retail/Wholesale  Manufacturing/  Construction  
 Railroad  Mining  Real Estate  
 Stockbroker  Other

B. BRIEFLY DESCRIBE NATURE OF BUSINESS

Telecommunications services

VENUE

- Debtor has been domiciled or has had a residence, principal place of business, or principal assets in the District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.  
 A bankruptcy case concerning debtor's affiliate, general partner or partnership is pending in this District.

PENDING BANKRUPTCY CASE FILED BY OR AGAINST ANY PARTNER  
OR AFFILIATE OF THIS DEBTOR (Report information for any additional cases on attached sheets.)

Name of Debtor	Case Number	Date
Relationship	District	Judge

ALLEGATIONS  
(Check applicable boxes)

1.  Petitioner(s) are eligible to file this petition pursuant to 11 U.S.C. § 303(b).  
2.  The debtor is a person against whom an order for relief may be entered under title 11 of the United States Code.  
3.a.  The debtor is generally not paying such debtor's debts as they become due, unless such debts are the subject of a bona fide dispute;  
or  
b.  Within 120 days preceding the filing of this petition, a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

COURT USE ONLY

U.S. BANKRUPTCY COURT  
DISTRICT OF COLORADO

DEC 17 PM 3:14

FILED  
RECORDED & INDEXED  
CLERK

**TRANSFER OF CLAIM**

Check this box if there has been a transfer of any claim against the debtor by or to any petitioner. Attach all documents evidencing the transfer and any statements that are required under Bankruptcy Rule 1003(a).

**REQUEST FOR RELIEF**

Petitioner(s) request that an order for relief be entered against the debtor under the chapter of title 11, United States Code, specified in this petition.

Petitioner(s) declare under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information, and belief.

X [Signature] Manager  
Signature of Petitioner or Representative (State title)  
On Systems Technology, LLC 12-17-02  
Name of Petitioner Date Signed

Name & Mailing  
Address of Individual Tim Wetherald  
Signing in Representative 3025 S. Parker Rd.  
Capacity Suite 1000  
Aurora, CO 80014

X [Signature] 12-17-02  
Signature of Attorney Denis H. Mark Date  
WALLER and MARK, P.C.  
Name of Attorney Firm (If any)  
5105 DTC Pkwy, #450, Greenwood Village, CO 80111  
Address  
303-741-4741  
Telephone No.

X  
Signature of Petitioner or Representative (State title)  
Name of Petitioner Date Signed  
Name & Mailing  
Address of Individual  
Signing in Representative  
Capacity

X  
Signature of Attorney Date  
Name of Attorney Firm (If any)  
Address  
Telephone No.

X  
Signature of Petitioner or Representative (State title)  
Name of Petitioner Date Signed  
Name & Mailing  
Address of Individual  
Signing in Representative  
Capacity

X  
Signature of Attorney Date  
Name of Attorney Firm (If any)  
Address  
Telephone No.

**PETITIONING CREDITORS**

Name and Address of Petitioner	Nature of Claim	Amount of Claim
On Systems Technology, LLC 3025 S. Parker Rd, Suite 1000	General Partner and services rendered	\$2,500,000.00
Name and Address of Petitioner <u>Aurora, CO 80014</u>	Nature of Claim	Amount of Claim
Name and Address of Petitioner	Nature of Claim	Amount of Claim
Note: If there are more than three petitioners, attach additional sheets with the statement under penalty of perjury, each petitioner's signature under the statement and the name of attorney and petitioning creditor information in the format above.	Total Amount of Petitioners' Claims	\$2,500,000.00

STEVENS-NESS LAW PUBLISHING CO.  
Portland, Oregon 97204

[NOTE:—These official forms should be obtained and used with such alterations as may be appropriate to suit the circumstances. See Rule 9009.]

**VOLUNTARY CASE**  
**INDIVIDUAL or JOINT PETITION**  
Form No. 1

United States Bankruptcy Court for the \_\_\_\_\_ District of Oregon

In re ULTRA COM, INC.

(List ALL names used by each debtor(s) in last 6 years INCLUDING assumed business name and AKA's)  
None

Case # \_\_\_\_\_  
SS # (Husband) N/A  
SS # (Wife) N/A  
Ch 7 ; Ch 11 ; Ch 12   
Employer I.D. # unknown 93-0937018  
County of Residence Multnomah

1. Petitioners' post-office address is 4147 SE Division, Portland, OR 97202

2. Petitioner(s) has (have) resided [or has (have) been domiciled or debtor(s) principal place of business has (have) been or debtor(s) principal assets have been] within this district for the preceding 180 days [or for a longer portion of the preceding 180 days than in any other district].

3. Petitioner(s) is (are) qualified to file this petition and is (are) entitled to the benefits of Title 11, United States Code (U.S.C.) as a voluntary debtor(s).

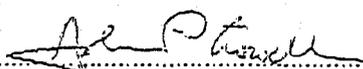
4. [If petitioner is a Corporation filing for relief under Chapter 11 of Title 11, U.S.C.] Exhibit A is attached to and made a part of this petition.

5. [If appropriate] A copy of petitioners' proposed plan, dated N/A, is attached [or Petitioner(s) intend(s) to file a plan pursuant to Chapter 11 (or Chapter 12 or Chapter 13) of Title 11, U.S.C.].

6. [If petitioner is an individual filing for relief under Chapter 7 of Title 11, U.S.C. and whose debts are primarily consumer debts.] Petitioner is aware that [he or she] may proceed under Chapter 7 or 13 of Title 11, U.S.C., understands the relief available under each such Chapter, and chooses to proceed under Chapter 7 of such title.

7. [If petitioner is an individual filing for relief under Chapter 7 of Title 11, U.S.C. and whose debts are primarily consumer debts and such petitioner is represented by an attorney.] A declaration or an affidavit in the form of Exhibit B is attached to and made a part of this petition.

Wherefor petitioner(s) pray(s) for relief in accordance with Chapter 7 [or Chapter 11 or Chapter 12 or Chapter 13] of Title 11, U.S.C.

Signed: 

William J. Claussen, QSB #69032  
 ATTORNEY FOR PETITIONER(S)  PETITIONER(S)  
PETITIONER(S) SIGN(S) IF NOT REPRESENTED BY ATTORNEY  
Claussen & Associates, P.C.  
PRINT OR TYPE NAME  
1001 Sw Fifth Avenue, Suite 1010  
ADDRESS  
Portland, OR 97204 (503) 224-7104  
PHONE

I/we, \_\_\_\_\_, the petitioner(s) named in the foregoing petition, declare under penalty of perjury that the foregoing is true and correct.

PETITIONER

Executed on \_\_\_\_\_ DATE

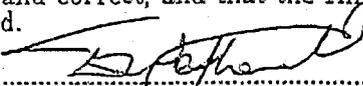
PETITIONER

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY**  
**ON BEHALF OF A CORPORATION OR PARTNERSHIP**

Form No. 5, October 1, 1979

I, Timothy A. Wetherald, [the President or other officer or an authorized agent of the corporation] [or a member or an authorized agent of the partnership] named as petitioner in the foregoing petition, certify under penalty of perjury that the foregoing is true and correct, and that the filing of this petition on behalf of the [corporation] [or partnership] has been authorized.

Executed on August 8, 1989 [DATE]

  
Timothy A. Wetherald SIGNATURE

STEVE G. NESS LAW PUBLISHING CO.  
Portland, Oregon 97204

UNITED STATES BANKRUPTCY COURT  
FOR THE \_\_\_\_\_ DISTRICT OF Oregon

CASE COVER SHEET

This form must be attached on top of each petition and all copies! 32862

In re TEL-ANALYSIS, INC.  
(DEBTOR(S))  
(List ALL names used by each debtor(s) in last 6 years INCLUDING assumed business name and AKA's)  
dba Tel-Analysis Network Management Services

Case # \_\_\_\_\_  
SS # (Husband) N/A  
SS # (Wife) N/A  
Employer I.D. # 93-0982054

CLERK, U.S. BANKRUPTCY COURT  
89 JUN 26 1989  
FOR OFFICE USE ONLY

County of Residence Multnomah

Debtor's Mailing Address 4147 S.E. Division St., Portland, OR 97202

Place an (X) in the boxes which apply appropriate information: (NOTE: ALL questions MUST be answered, or else have the word "NONE" inserted unless otherwise noted):

1. Any non-exempt assets for trustee distribution  yes  no. Approximate amount \$ 0  
DESCRIBE ASSETS REQUIRING TRUSTEE'S IMMEDIATE ATTENTION: None

2. Check ALL applicable blanks:  Joint Petition  Filing Fees Paid in Full  
 No Debtor's Attorney  Application to Pay Filing Fees in Installments

3. TYPE OF CASE (check one box) <input checked="" type="checkbox"/> Voluntary <input type="checkbox"/> Involuntary		NATURE OF DEBTOR (check one box) <input checked="" type="checkbox"/> BUSINESS (complete below) <input type="checkbox"/> WAGE EARNER (do not complete below)	
COMMENCED UNDER (check one box) <input type="checkbox"/> Ch. 7 <input checked="" type="checkbox"/> Ch. 11 <input type="checkbox"/> Ch. 12 <input type="checkbox"/> Ch. 7 Broker <input type="checkbox"/> Ch. 11 Railroad <input type="checkbox"/> Other		IF BUSINESS, FORM OF ORGANIZATION (check one box) <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Publicly-held Corporation <input checked="" type="checkbox"/> Closely-held Corporation	
Estimated No. Creditors (check one) <input type="checkbox"/> 1-15 <input checked="" type="checkbox"/> 16-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-999 <input type="checkbox"/> 1000-over		TYPE OF BUSINESS (check one box and answer No. 5 below) <input type="checkbox"/> Farmer <input type="checkbox"/> Retail/Wholesale <input type="checkbox"/> Mfr./Mining <input type="checkbox"/> Real Estate <input type="checkbox"/> Professional <input type="checkbox"/> Transportation <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Other Business	
Estimated Assets (in 000's Dollars) (check one) <input type="checkbox"/> Under 50 <input type="checkbox"/> 50-99 <input checked="" type="checkbox"/> 100-499 <input type="checkbox"/> 500-999 <input type="checkbox"/> 1000-over		Estimated Number of Employees — Ch. 11 and Ch. 12 Only (check one) <input type="checkbox"/> 0 <input type="checkbox"/> 1-19 <input checked="" type="checkbox"/> 20-99 <input type="checkbox"/> 100-999 <input type="checkbox"/> 1000-over	
Estimated Liabilities (in 000's Dollars) (check one) <input type="checkbox"/> Under 50 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-499 <input checked="" type="checkbox"/> 500-999 <input type="checkbox"/> 1000-over		Estimated No. Equity Security Holders — Ch. 11 and Ch. 12 Only (check one) <input type="checkbox"/> 0 <input checked="" type="checkbox"/> 1-19 <input type="checkbox"/> 20-99 <input type="checkbox"/> 100-999 <input type="checkbox"/> 1000-over	

4. ANY debts from obligations incurred in conducting a business?  yes  no. Business operating?  yes  no.  
5. Briefly describe nature of business: provider of long distance telephone service

6. If debtor is CORPORATION, give name and address of chief executive officer; if debtor is PARTNERSHIP, give names and addresses of general partners.  
Timothy A. Wetherald  
1525 S.E. 24th St.  
Portland, OR 97214

7. Are debts listed PRIMARILY consumer debts?  yes  no.  
8. Total GROSS income of the individual debtor (s) for the last tax year: \$ Est 350,000 (i.e. before any deductions,  
9. Total amount of unsecured debt: \$ 516,645

10. Total Noncontingent, Liquidated Farming Operation Debt: \$ -0-  
11. Total GROSS income from farming operation for the individual debtor(s) for last tax year: \$ -0-

12. If a voluntary case and debtor does NOT have an attorney, then give the name, address, phone number and relationship of each person who helped debtor in preparing any of the bankruptcy papers. For each person listed also describe what help was given and any amount of money paid for the help. N/A

13. Related Bankruptcy Case (if any): None  
Debtor None Case No. \_\_\_\_\_  
District \_\_\_\_\_ Divisional Office \_\_\_\_\_ Name of Judge \_\_\_\_\_

14. June 26, 1989 Date  
Claussen & Associates, P.C. Print Name of Attorney (if any)  
1935 Davcor Ct. S.E., Salem, Oregon 97302 Signer's Address (print or type)  
William J. Claussen Signature of Attorney (or Debtor if no Attorney)  
(503) 364-1371 Signer's Phone Number  
OSB#69032

STEVENS-NESS LAW PUBLISHING CO.  
Portland, Oregon 97204

(NOTE:—These official forms should be observed and used with such alterations as may be appropriate to suit the circumstances.  
See Rule 9009.)

**VOLUNTARY CASE**  
**INDIVIDUAL or JOINT PETITION**  
Form No. 1

United States Bankruptcy Court for the \_\_\_\_\_ District of Oregon

In re TEL-ANALYSIS, INC.

(List ALL names used by each debtor(s) in last 6 years  
INCLUDING assumed business name and AKA's)  
dba Tel-Analysis Network  
Management Services

Case # \_\_\_\_\_  
SS # (Husband) N/A  
SS # (Wife) N/A  
Ch 7 ; Ch 11 ; Ch 12   
Employer I.D. # 93-0982054  
County of Residence Multnomah

1. Petitioners' post-office address is 4147 S.E. Division, Portland, OR 97202

2. Petitioner(s) has (have) resided [or has (have) been domiciled or debtor(s) principal place of business has (have) been or debtor(s) principal assets have been] within this district for the preceding 180 days [or for a longer portion of the preceding 180 days than in any other district].

3. Petitioner(s) is (are) qualified to file this petition and is (are) entitled to the benefits of Title 11, United States Code (U.S.C.) as a voluntary debtor(s).

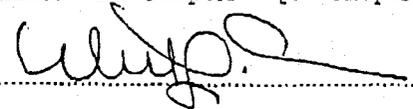
4. [If petitioner is a Corporation filing for relief under Chapter 11 of Title 11, U.S.C.] Exhibit A is attached to and made a part of this petition.

5. [If appropriate] A copy of petitioners' proposed plan, dated \_\_\_\_\_, is attached [or Petitioner(s) intend(s) to file a plan pursuant to Chapter 11 (or Chapter 12 or Chapter 13) of Title 11, U.S.C.].

6. [If petitioner is an individual filing for relief under Chapter 7 of Title 11, U.S.C. and whose debts are primarily consumer debts.] Petitioner is aware that [he or she] may proceed under Chapter 7 or 13 of Title 11, U.S.C., understands the relief available under each such Chapter, and chooses to proceed under Chapter 7 of such title.

7. [If petitioner is an individual filing for relief under Chapter 7 of Title 11, U.S.C. and whose debts are primarily consumer debts and such petitioner is represented by an attorney.] A declaration or an affidavit in the form of Exhibit B is attached to and made a part of this petition.

Wherefor petitioner(s) pray(s) for relief in accordance with Chapter 7 [or Chapter 11 or Chapter 12 or Chapter 13] of Title 11, U.S.C.

Signed: 

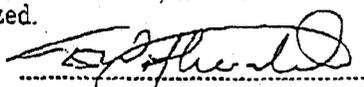
William J. Claussen OSB 69032  
 ATTORNEY FOR PETITIONER(S)  PETITIONER(S)  
PETITIONER(S) SIGN(S) IF NOT REPRESENTED BY ATTORNEY  
Claussen & Associates, P.C.  
PRINT OR TYPE NAME  
1495 Liberty St. S.E.  
ADDRESS  
Salem, Oregon 97302 (503) 364-1371  
PHONE

I/we, \_\_\_\_\_ the petitioner(s)  
named in the foregoing petition, declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ DATE \_\_\_\_\_  
PETITIONER  
PETITIONER

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY**  
**ON BEHALF OF A CORPORATION OR PARTNERSHIP**  
Form No. 5, October 1, 1979

I, Timothy A. Wetherald, [the President or other officer or an authorized agent of the corporation] [or a member or an authorized agent of the partnership] named as petitioner in the foregoing petition, certify under penalty of perjury that the foregoing is true and correct, and that the filing of this petition on behalf of the [corporation] [or partnership] has been authorized.

Executed on June 26, 1989 (DATE)  
 CEO  
Timothy A. Wetherald SIGNATURE

----- United States Bankruptcy Court ----- VOLUNTARY PETITION -----  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE -----  
Intranet Communications, Inc.  
ALL OTHER NAMES -----

NAME OF JOINT DEBTOR

NO JOINT DEBTOR

SOC. SEC./TAX I.D. NO. -----  
91-1487723

STREET ADDRESS OF DEBTOR -----  
13228 NE 20th  
Suite D-3  
Bellevue, WA 98005

COUNTY OF PRINCIPAL PLACE OF BUSINESS  
King

MAILING ADDRESS OF DEBTOR -----  
13228 NE 20th  
Suite D-3  
Bellevue, WA 98005

LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR

VENUE -----

Debtor has had its principal place of business in this District for 180 days immediately preceding the date of this petition.

----- INFORMATION REGARDING DEBTOR -----

TYPE OF DEBTOR  
Corporation Not Publicly Held  
NATURE OF DEBT  
BUSINESS

CHAPTER OF BANKRUPTCY CODE  
UNDER WHICH THE PETITION  
IS FILED

A. TYPE OF BUSINESS  
Other Business

11  
FILING FEE  
Filing fee attached

B. BRIEFLY DESCRIBE NATURE OF BUSINESS  
Reseller of telecommunications service  
STATISTICAL/ADMINISTRATIVE INFORMATION--  
Debtor estimates that there will be funds available for distribution to unsecured creditors.

ATTORNEY NAME AND ADDRESS--  
Susan Stanley  
Stanley & Nagler  
1709 Seattle Tower Bldg  
1218 Third Avenue  
Seattle, WA 98101-3065

NO. OF CREDITORS range (sard code)  
16-49 (2)

(206) 464-1453

ASSETS (thousands) 1000-9999 (5)

ATTORNEYS DESIGNATED TO  
REPRESENT DEBTOR

LIABIL. (thousands) 1000-9999 (5)

Susan Stanley

NO. OF EMPLOYEES 17 (1)

EQUITY SEC. HOLDERS 1-19 (2)

THIS SPACE FOR COURT USE ONLY

93-01807

U.S. STEPHENSON, CLERK  
U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE  
MAR 8 3 06 PM '93

FILED

Name of Debtor: Intranet Communications,  
Case No.:

Debtor intends to file a plan within the time allowed by statute,  
rule, or order of the court.

----- PRIOR BANKRUPTCY CASES FILED WITHIN LAST 6 YEARS -----

NONE

----- PENDING BANKRUPTCY CASE FILED BY PARTNER OR AFFILIATE -----

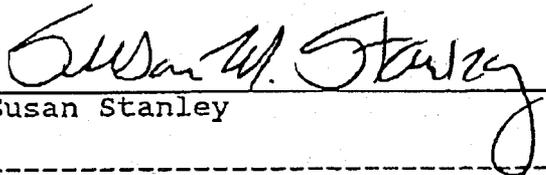
NONE

----- REQUEST FOR RELIEF -----

Debtor requests relief in accordance with the chapter of title 11  
United States Code specified in this petition.

----- SIGNATURES -----

ATTORNEY

  
\_\_\_\_\_  
Susan Stanley

3/8/93  
Date

----- PARTNERSHIP OR CORPORATE DEBTOR -----

I declare under penalty of perjury that the information provided in  
this petition is true and correct, and that the filing of this  
petition on behalf of the debtor has been authorized.

INTRANET COMMUNICATIONS, INC.

  
\_\_\_\_\_  
BY Tim Wetherald, President

3/8/93  
Date

----- EXHIBIT A -----

Exhibit A is attached and made a part of this Petition.

*cust*

FILED

JUN 19 12 36 PM '92

L.P. STEPHENSON, CLK.  
U.S. BANKRUPTCY COURT  
W.D. OF WASHINGTON  
BY                      DEB. CLK.

*m*

IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON

In Re:	)	NO.	<b>92-05044</b>
NETWORK COMMUNICATIONS,	)		
INC.,	)		
TAX I.D. NO. 91-1486085	)	INVOLUNTARY PETITION	
Debtor.	)		

1. All Other Names used by debtor in the last six years  
(Include married, maiden, and trade names):
2. Street address of debtor:  
3210 Westin Building  
2001 Sixth Avenue  
Seattle, WA 98121
3. County of Residence or Principal Place of Business: King  
County.
4. Debtor's mailing address, including county, is 3210  
Westin Building, 2001 Sixth Avenue, Seattle, King County,  
Washington, 98121
5. Location of Principal Assets of Business Debtor (if  
different from previously listed addresses): see above
6. Chapter of Bankruptcy Code Under Which Petition is Filed:  
  X   Chapter 7                             Chapter 11

INFORMATION REGARDING DEBTOR

Petitioners Believe:

- X   Debts are primarily consumer debts  
       Debts are primarily business debts (complete sections A and B)

INVOLUNTARY PETITION - (

ORIGINAL

**PAID**

Type of Debtor:

- Individual
- Partnership
- Corporation Publicly Held
- Corporation Not Publicly Held
- Other

A. Type of Business: Telecommunication services

B. Briefly Describe Nature of Business: Provides telecommunication services

VENUE

Debtor has been domiciled or has had a residence, principal place of business, or principal assets in the District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

A bankruptcy case concerning debtor's affiliate, general partner or partnership is pending in this District.

PENDING BANKRUPTCY CASE FILED BY OR AGAINST ANY PARTNER OR AFFILIATE OF THIS DEBTOR

(Report information for any additional cases on attached sheets.)

Name of Debtor:

Relationship:

Case Number:

District:

Date:

Judge:

ALLEGATIONS

1.  Petitioner(s) are eligible to file this petition pursuant to 11 U.S.C. § 303(b).

2.  The debtor is a person against whom an order for relief may be entered under title 11 of the United States Code.
3.  The debtor is generally not paying such debtor's debts as they become due, unless such debts are the subject of a bona fide dispute; or

\_\_\_ Within 120 days preceding the filing of this petition, a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

---

TRANSFER OF CLAIM

\_\_\_ Check the box if there has been a transfer of any claim against the debtor by or to any petitioner. Attach all documents evidencing the transfer and any statements that are required under Bankruptcy Rule 1003(a).

**REQUEST FOR RELIEF**

Petitioner requests that an order for relief be entered against the debtor under the chapter of title 11, United States Code, specified in this petition.

Petitioner declares under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information and belief.

  
Signature of Petitioner or Representative (State title)

By: Frederick A. Epler, Vice Pres. of  
Name of Petitioner MetroLink Investmen  
Company, Inc., Partner in US MetroLin  
Name of Petitioner: US MetroLink Company  
Name and Mailing Address of  
Individual Signing in  
Representative Capacity

F. A. Epler  
325 118th Ave. SE., #300  
Bellevue, WA 98005

116306

06/18/1992 15:56 FROM HILLIS CLARK

TO

4641496 P.02

William W. Hague  
Signature of Attorney

William W. Hague  
**Name of Attorney/Firm**  
(if any) Monroe, Stokes, Eitelbach & Lawrence  
**Address and Telephone Number**

800 Fifth Avenue, Suite 4000  
Seattle, WA. 98104  
(206)626-6000

REQUEST FOR RELIEF

Petitioner(s) request that an order for relief be entered against the debtor under the chapter of title 11, United States Code, specified in this petition.

Petitioner declares under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information and belief.

*[Handwritten Signature]*  
Signature of Petitioner President or Representative (State title)

Com Systems, Inc.  
Name of Petitioner

Name and Mailing Address of Individual Signing in Representative Capacity

George J. Varilakos  
2829 Townsgate Road, Suite 200  
Westlake Village, CA 91361

*[Handwritten Signature]*  
Signature of Attorney

Eric D. Larsverk  
Hillis Clark Martin & Peterson  
Name of Attorney/Firm (if any)

Address and Telephone Number

1221 Second Ave Suite 500  
Seattle WA 98101-2925  
(206) 623-1745

116506

REQUEST FOR RELIEF

Petitioner(s) request that an order for relief be entered against the debtor under the chapter of title 11, United States Code, specified in this petition.

Petitioner declares under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information and belief.

[Signature]  
Signature of Petitioner  
or Representative (State title)

THE VANCE CORPORATION  
Mark Houtchens  
Name of Petitioner

Name and Mailing Address  
of Individual Signing  
in Representative Capacity

Mark Houtchens  
300 Tower Bldg.  
Seattle WA, ~~98101~~  
98101

Michael Pierson  
Signature of Attorney

Michael Pierson/Riddell Williams  
Name of Attorney/Firm  
(if any)

Address and Telephone  
Number

1001 4th Ave. Plaza  
Suite 4400  
Seattle, WA 98154  
(206) 624-3600

116506



REQUEST FOR RELIEF

Petitioner(s) request that an order for relief be entered against the debtor under the chapter of title 11, United States Code, specified in this petition.

Petitioner declares under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information and belief.

Roger Wentzel - President  
Signature of Petitioner  
or Representative (State title)

Or Commercial Rentals, Inc.  
Name of Petitioner

Name and Mailing Address  
of Individual Signing  
in Representative Capacity

ROGER WENTZEL  
1440 NE. 2nd St.  
BELLEVUE, WA. 98007

Peter D. Francis Francis  
Signature of Attorney

Law offices of Peter D. Francis  
Name of Attorney/Firm  
(if any)

Address and Telephone  
Number

7310 E. Greenlake Dr. N.  
Seattle, WA - 98115  
525-6601

116506

PETITIONING CREDITORS

Name and Address of Petitioner:

Com Systems, Inc.  
Westlake Plaza Center Two  
2829 Townsgate Road, Suite 200  
Westlake Village, CA 91361

Nature of Claim: Unsecured business debt

Amount of Claim: \$258,821.28

Name and Address of Petitioner:

US Metrolink Company  
325 118th Ave SE Suite 300  
Bellevue, WA 98005

Nature of Claim: Judgment

Amount of Claim: \$268,508.61

Name and Address of Petitioner:

Oz Computer Rentals, Inc.  
14140 NE 21st Street  
Bellevue, WA 98007

Nature of Claim: Unsecured business debt

Amount of Claim: \$834.29

Name and Address of Petitioner:

The Vance Corporation  
300 Tower Building  
Seattle, WA 98101

Nature of Claim: Unsecured debt owed to landlord

Amount of Claim: \$32,958.77

Name and Address of Petitioner:

Duracom, Inc.  
11410 NE 124th Street  
Suite 360  
Kirkland, Washington 98034

Nature of Claim: Unsecured business debt

Amount of Claim: \$771.37

Total Amount of Petitioners' Claims: \$561,894.32

Dated: June 19, 1992

116503

From: "Dettling, Hans" <hdettling@secstate.wa.gov>  
To: 'Dawn Wilson' <DWilson@admin.cc.state.az.us>  
Date: 4/1/04 3:12PM  
Subject: RE: Inactive WA Corporation - Network Communications, Inc.

Here is what I found in our database:

Account was dissolved on: 08/19/1996

CORPORATION INFORMATION

04/01/2004  
CINF BUS203P1 OWNERSHIP - CORPORATION/LLC/LLP 14:12

-----  
---  
UBI: 601 251 507 001 Application ID: 95 131 1123

-----  
---  
Entity Type: PROFIT CORPORATION

Name: NETWORK COMMUNICATIONS, INC. \_\_\_\_\_

Reg Agent: ROBERT LEPPALUOTO \_\_\_\_\_

Office Addr: 7821 MAPLE AVE \_\_\_\_\_

City: VANCOUVER \_\_\_\_\_ State: WA Zip: 98664 \_\_\_\_\_

Alt Addr Flag:

ENDRS Exp Date: 05 31 1996 ENDRS Status: T Bus Status: A ENDRS Type:

140\_

Account Num: 2427 9150 SSO Inc Date: 05 25 1990 SSO CATEGORY:

REG

Tenure: PER SSO Inc State: WA

=====  
=====

CINF GPI202P3 CORPORATE OFFICER SCREEN 14:12

-----  
---  
UBI: 601 251 507 Bus ID: 001 Loc ID: Appl ID: 95 131  
1123

-----  
 ---  
 Title: OFFIC ER \_\_\_\_\_ 08 15 1990  
 LAG1240  
 Last: NYE \_\_\_\_\_ F: BRIAN \_\_\_\_\_ M: \_\_\_\_\_  
 Addr: UAL BLDG STE 911 \_\_\_\_\_  
 City: SEATTLE \_\_\_\_\_ St: WA Zip: 98121 \_\_\_\_\_

Title: OFFIC ER \_\_\_\_\_ 08 15 1990  
 LAG1240  
 Last: WETHERALD \_\_\_\_\_ F: TIM \_\_\_\_\_ M: \_\_\_\_\_  
 Addr: 800 5TH AVE STE 351 \_\_\_\_\_  
 City: SEATTLE \_\_\_\_\_ St: WA Zip: 98104 \_\_\_\_\_

Title: OFFIC ER \_\_\_\_\_ 08 15 1990  
 LAG1240  
 Last: LEPPALUOTO \_\_\_\_\_ F: CPT \_\_\_\_\_ M: A \_\_\_\_\_  
 Addr: 7821 MAPLE AVE \_\_\_\_\_  
 City: VANCOUVER \_\_\_\_\_ St: WA Zip: 98664 \_\_\_\_\_

=====  
 ===

If you need more information, we have to order the "dead" file from our records center, which normally takes a few days. Please let me know.

Hans Dettling  
 Corporations Division  
 Office of the Secretary of State  
 Washington State

-----Original Message-----  
 From: Dawn Wilson [mailto:DWilson@admin.cc.state.az.us]  
 Sent: Wednesday, March 31, 2004 12:45 PM  
 To: corps@secstate.wa.gov  
 Subject: Inactive WA Corporation - Network Communications, Inc.

I am inquiring as to whether you can assist us or direct us to the proper place.

The Arizona Corporation Commission has a complaint proceeding going against a person we believe was tied into the above company. However, since it is so old, I am unable to pull anything up through the internet. There was an involuntary bankruptcy for it in 1992. We are trying to connect this company to a Tim Wetherald. Do you have any filings of incorporation for this company? And if so, is there a listing of officers which might include Mr. Wetherald? Or anything referencing Mr. Wetherald?

The company went by Network Communications, Inc., tax ID 91-1486085. There appears to be another company by this name that incorporated in 1992 from Georgia. This company would have been prior to that.

Dawn A. Wilson  
Paralegal, Legal Division  
Arizona Corporation Commission  
(602) 542-3995

=====  
This footnote confirms that this email message  
has been scanned to detect malicious content.

If you experience problems, please contact  
[postmaster@ccsd.cc.state.az.us](mailto:postmaster@ccsd.cc.state.az.us)  
=====

Apr-03-02 03:42pm From: QUEST LEGAL DEPARTMENT

+3032924666

T-889 P.002

F-234

MAR - 8 1995

FILED

95 MAR -7 PM 6:13

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,

Plaintiff,

v.

GTI TELECOMMUNICATIONS, INC., a Washington Corporation, formerly d/b/a GENESIS TELECOMMUNICATIONS, INC.; TIMOTEY ALAN WETHERALD, individually and as its owner, principal officer and CEO, ALEC SPENCER, individually and as its Director of Associate Relations, and Christine C. WETHERALD, on behalf of the marital community; TEMPEST INDUSTRIES, LIMITED, a Washington corporation, JOYCE I. SPENCER, individually and as its part owner and principal officer, GERALD SPENCER, individually and as its part owner and key employee, ALEC SPENCER, individually and as its part owner and principal officer, and JANE DOE SPENCER, on behalf of the marital community,

Defendants.

NO. 94-2-21036-0

CONSENT DECREE WITH DEFENDANTS GTI TELECOMMUNICATIONS, INC. AND TIMOTEY ALAN WETHERALD

No judgment ORIGINAL

18	CYPR
19	CUST
20	COPY
21	W/ED
22	21-78
23	CPIN
24	ACDTG
25	EXH
26	ZS

I. JUDGMENT SUMMARY

- 1.1. Judgment Creditor: State of Washington
- 1.2. Judgment Debtors: GTI Telecommunications, Inc., f/d/b/a Genesis Telecommunications, Inc.; Timothy Alan Wetherald
- 1.3. Principal Judgment: -0- Injunctions; (\$200,000.00 Suspended Civil Penalties)

Consent Decree  
Page 1

QUEST LEGAL DEPARTMENT

EXP01

ATTORNEY GENERAL OF WASHINGTON  
600 FOURTH AVENUE, SUITE 2800  
SEATTLE, WASHINGTON 98104-1012  
(206) 464-7744

13

Apr-03-02

09:42pm

From QUEST LEGAL DEPARTMENT

+3032824666

T-888 P.008

F-234

- 1 1.4. Percent interest on principal judgment: 12% per annum from the date of entry
- 2 1.5. Attorney for judgment creditor: Janet D. Reis, Assistant Attorney General
- 3 1.6. Attorney for judgment debtors: Pro Se

4  
 5 Plaintiff, State of Washington, having commenced this action pursuant to Chapter 19.86  
 6 RCW, the Consumer Business Practices - Consumer Protection Act, and the Defendants GTT  
 7 Telecommunications, Inc. f/d/b/a Genesis Telecommunications, Inc. (hereinafter "GTT"); and  
 8 Timothy Alan Wetherald; having been duly served copies of the Summons and Complaint  
 9 herein; and Plaintiff appearing through its attorneys Christine O. Gregoire, Attorney General,  
 10 Sally R. Gustafson, Senior Assistant Attorney General, and Janet D. Reis, Assistant Attorney  
 11 General; Defendants named above appearing pro se, and said parties to this action having  
 12 waived Notice of Presentation of this Consent Decree;

13 Plaintiff and the above named Defendants having stipulated and agreed upon a basis for  
 14 the adjudication of the matters alleged in the Complaint herein, and the entry of this Consent  
 15 Decree against the above-named Defendants; and the Court having determined that there is no  
 16 just reason for delay in entry of a final judgment as to the above-named Defendants and having  
 17 directed entry of this Consent Decree as to the Defendants;

18 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED as  
 19 follows:

20 **II. GENERAL**

21 2.1. Jurisdiction. This Court has jurisdiction over the subject matter of this action  
 22 and of the parties. The plaintiff's Complaint in this matter states claims upon which relief may  
 23 be granted under the provisions of the Consumer Protection Act, Chapter 19.86 RCW. The  
 24 Attorney General has jurisdiction to bring this action under the provisions of Chapter 19.86  
 25 RCW.

Apr-03-02 03:42pm From:QUEST LEGAL DEPARTMENT

+9082924666

T-869 P.004/011 F-294

2.1. Defendants. As used herein, the term "Defendants" shall mean GTI Telecommunications, Inc. (GTI) f/d/b/a Genaxis Telecommunications, Inc. and Timothy Alan Wetherald.

2.3. Notice. Defendants shall inform their officers, agents, servants, employees, successors, assigns, attorneys and all persons in active concert or participation with them of the provisions of this Consent Decree and shall direct those persons to comply with this Consent Decree.

2.4. Non-Endorsement. Under no circumstances shall this Consent Decree or the names of the State of Washington, the Office of the Attorney General, the Consumer Protection Division, or any of their employees or representatives, be used by Defendants, their agents, servants, employees, successors, assigns, attorneys, or other persons acting in concert or participation with them in connection with any selling, advertising, or promotion of products or services or as an endorsement or approval of any of the defendants' acts, practices, or methods of conducting business.

III. INJUNCTIVE RELIEF

3.1. Application of Injunctions. The injunctive provisions of this Consent Decree shall apply to Defendants, their successors, transferees, assigns, officers, agents, servants, employees, representatives, and all other persons or entities in active concert or participation with them.

3.2. Injunctions. Defendants and all successors, representatives, assigns, transferees, agents, servants, subsidiaries, affiliates, employees, officers and all other persons in acting, or claiming to act for, on behalf of, in participation with, or in concert with any of the above-named Defendants are hereby permanently enjoined and restrained in the State of Washington as follows:

A. Defendant is prohibited from engaging in any of the following practices, either directly or indirectly, through the ownership of, operation of, management of, or employment

Apr-08-02 09:42pm From: WEST LEGAL DEPARTMENT

+3082924868

T-889 F.005/011 F-234

1 or any other participation arrangement with or by any individual or entity which sells, directly  
2 or indirectly, interstate or intrastate long distance telecommunications services:

3 (1) selling long distance services for which tariffs have not been filed and  
4 approved as required by the Washington State Utilities and Transportation Commission  
5 and/or under applicable statutes of any other state or of the United States;

6 (2) failing to provide any material information to any bona fide supplier of  
7 intrastate or interstate long distance or "1-800" services when seeking to obtain said  
8 services for the purposes of resale to any Washington resident, which material  
9 information could reasonably be expected to be considered by said supplier(s) in  
10 determining whether to provide service;

11 (3) reselling long distance services by any method to any Washington  
12 resident without having first obtained a written agreement or comparable document  
13 from the supplier(s) of originating long distance service which sets forth with  
14 specificity the terms and conditions of the provision of service to the Defendant,  
15 Defendant's firm, Defendant's agent, Defendant's employer, Defendant's employee,  
16 or any independent representative acting in concert with or at the direction of the  
17 Defendant, for resale to members of the general public;

18 (4) directly or indirectly selling any long distance product or service to any  
19 Washington resident through use of independent sales representatives who are required  
20 to pay a fee before obtaining the right to sell said product or service without having  
21 first provided said sales representatives with a complete description of the basis for the  
22 fee, which description identifies the actual costs for products or other services provided  
23 to said sales representatives in exchange for the payment made;

24 (5) failing to maintain an internal bookkeeping system which, at a minimum,  
25 identifies all accounts payable, all accounts receivable, and maintains account histories  
26

Apr-05-02 03:42pm From:QUEST LEGAL DEPARTMENT

+3032824666

T-868 P.008/011 F-234

1 for each consumer of long distance services which accurately reflect services rendered  
2 and payments made by consumers;

3 (6) establishing customer accounts and billing individuals or accepting  
4 payment in advance of services rendered, with the exception of any account activation  
5 or similar fee, disclosed in advance to customers, provided that such activation fee is  
6 not billed or accepted until customers are able to access the services as represented;

7 (7) representing to any prospective or actual customer or sales representative  
8 that long distance services are available or that access to long distance services is  
9 available on a reliable basis from certain suppliers of service when the services are not  
10 so accessible or available from the service providers identified;

11 (8) failing to identify, to any prospective or actual customer or sales  
12 representative, all providers of long distance and/or related services that have been  
13 contacted with or are otherwise obligated to provide services to customers;

14 (9) failing to timely pay all providers of long distance service for all services  
15 rendered on terms and conditions required by said providers such that discontinuation  
16 or denigration of long distance service to any Washington resident occurs as a  
17 proximate result of said failure to pay or meet required terms.

18 B. In the event Defendant Wetherald, directly or indirectly, becomes employed or  
19 enters into any other participation arrangement with any individual or entity which sells,  
20 directly or indirectly, interstate or intrastate long distance telecommunications services,  
21 Defendant shall provide complete and legible copies of the Complaint filed in this matter and  
22 this Consent Decree prior to his employment or other participation.

23 IV. CIVIL PENALTIES

24 4.1. Civil Penalties. Pursuant to RCW 19.86.140, the plaintiff State shall recover  
25 and Defendants Tim Wetherald and GTI Telecommunications, Inc. shall be jointly and  
26

Apr-03-02 03:42pm From: QWEST LEGAL DEPARTMENT

+3092924666

T-868 P-007/011 F-234

1 severally liable for a civil penalty of \$200,000.00. These civil penalties are suspended  
2 conditioned on full compliance with all provisions of this Consent Decree.

3 V. ENFORCEMENT

4 5.1. Compliance. For the purposes of determining or securing compliance with this  
5 Consent Decree, representatives of the Office of the Attorney General shall be permitted, upon  
6 reasonable notice to Defendants:

7 a. Access during regular office hours for inspection and copying of any and  
8 all records or documents in the actual or constructive possession of Defendants  
9 regarding any matters contained in or related to this Consent Decree; and

10 b. To question or depose Defendants and any officer, director, agent,  
11 employee, representative or independent contractor of Defendant regarding any matters  
12 contained in or related to this Consent Decree.

13 5.2. Jurisdiction Retained. Jurisdiction of the Attorney General and the Court over  
14 Defendants is retained for the purpose of enabling Plaintiff to apply to the Court at any time  
15 for the enforcement of compliance with and recovery of the relief provided for in this Consent  
16 Decree.

17 5.3. Violation. The violation of any of the terms of this Consent Decree shall  
18 constitute a violation of an injunction for which civil penalties of up to \$25,000.00 per  
19 violation may be sought by the Attorney General pursuant to RCW 19.86.140 in addition to  
20 such other remedies as may be provided by law for violation of an injunction.

21 5.4. Enforcement Fees and Costs. Defendant shall bear all of plaintiff's costs,  
22 including reasonable attorney's fees, of enforcing this Consent Decree should action, including  
23 collection to enforce any provision, become necessary.

24 5.5. Private Action. Nothing in this Consent Decree shall be construed as a limit  
25 or a bar to any other person or entity in the pursuit of available remedies.

26

Apr-09-02 03:43pm

From QUEST LEGAL DEPARTMENT

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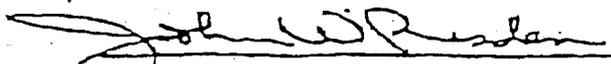
T-888 P.008/011 F-234

VI. DISMISSAL

6.1. Defendants voluntarily dismiss, with prejudice, all counterclaims stated in their Answer.

6.2. Dismissal of Action. Except as provided above, this proceeding is in all other respects dismissed as to defendants GTI Telecommunications, Inc. and Timothy Alan Wetherald, upon entry of this Consent Decree. There is no just reason for delay and the Clerk of the Court is directed to enter this Judgment as to Defendants GTI Telecommunications, Inc. and Timothy Alan Wetherald.

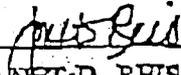
DATED this 7<sup>th</sup> day of <sup>March</sup> February, 1995.

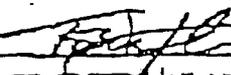
  
JUDGE/COURT COMMISSIONER

Agreed to and Approved for Entry by:

Agreed to; Approved as to Form;  
Notice of Presentation Waived By:

CHRISTINE O. GREGOIRE  
Attorney General  
SALLY R. GUSTAFSON  
Senior Assistant Attorney General

  
JANET D. REIS WSBA # 12799  
Assistant Attorney General  
Attorneys for Plaintiff  
State of Washington

  
TIMOTHY ALAN WETHERALD,  
Individually, on behalf of his marital  
community, and on behalf of GTI  
Telecommunications, Inc., formerly  
d/b/a Genesis Telecommunications,  
Inc.

FILED

CIRCUIT COURT OF OREGON

1991 MAR -7 PM 1:53

MULTNOMAH COUNTY

MULTNOMAH COUNTY DISTRICT COURT

1 STATE OF OREGON, ex rel DAVE )  
 2 FROHNMAYER, Attorney General )  
 3 of the State of Oregon, )  
 4 )  
 5 Plaintiff, )  
 6 )  
 7 TIM WETHERALD; TELANALYSIS, INC., )  
 8 an Oregon corporation; ULTRACOM, )  
 9 INC., an Oregon corporation, )  
 10 )  
 11 Defendants. )

No. A8907-04289

STIPULATED MONEY JUDGMENT AND INJUNCTION AGAINST DEFENDANTS TIM WETHERALD, TELANALYSIS, INC. AND ULTRACOM, INC.

1.

12 Judgment shall be entered for the plaintiff and against  
 13 defendants Tim Wetherald, Telanalysis, Inc. and Ultracom, Inc.  
 14 jointly and severally in the amount of \$18,000 for restitution.  
 15 Additionally, a civil penalty of \$10,000 shall be paid, subject to  
 16 the terms and conditions of the attached "Covenant not to  
 17 Execute." Each of defendants shall be liable jointly and  
 18 severally in this judgment, and interest shall accrue at a rate  
 19 of 9 percent per annum from this date forward, except as provided  
 20 in the Stipulation, Waiver and Order Re Confirmation of Chapter  
 21 13 Plan of Timothy Allen Wetherald.

MONEY JUDGMENT

- 22 1) Judgment Creditor: STATE OF OREGON, Department of Justice
- 23 2) Judgment Creditor's Attorney: James A. Prunty  
State of Oregon
- 24 3) Judgment Debtors: Tim Wetherald, Ultracom, Inc.,  
Telanalysis, Inc. (jointly and severally)
- 25 4) Principal Amount of Judgment: \$18,000.00
- 26 5) Prejudgment Interest: None.

1515 SW 5th AVENUE  
 SUITE 410  
 PORTLAND, OR 97201  
 PHONE (503) 239-6725

Page

- 1 7) Civil Penalty: \$10,000 subject to the terms and conditions  
of the Covenant not to Execute.
- 2
- 3 8) Postjudgment simple interest at the rate of 9 percent per  
annum on the total money judgment which consists of item 4  
4 from the date judgment is entered until fully paid.

INJUNCTION

2.

7 Defendant, Tim Wetherald, his agents, associates or employees  
8 are restrained and enjoined from selling long distance telephone  
9 services in the State of Oregon for three (3) years from the date  
10 this Order is signed.

3.

12 Defendants Tim Wetherald, Telanalysis, Inc. and Ultracom, Inc.  
13 are permanently enjoined and restrained from violating the  
14 Oregon Unlawful Trade Practices Act, ORS 646.605 through ORS  
15 646.656.

4.

17 Defendants Tim Wetherald, Telanalysis, Inc. and Ultracom, Inc.  
18 are permanently enjoined and restrained directly or indirectly  
19 from collecting costs of long distance telephone services from  
20 consumers in advance unless they have the actual present ability,  
21 both technically and legally, to provide promised services to  
22 consumers. Defendants are also permanently enjoined and  
23 restrained directly or indirectly from collecting up-front fees  
24 for goods and services related to the provision of long distance  
25 or local telephone services without escrowing those fees pending  
26 delivery of promised goods or services.

DEPARTMENT OF JUSTICE  
1515 SW 5th AVENUE  
SUITE 410  
PORTLAND, OR 97201  
PHONE (503) 229-5725

1 5.

2 Defendants Tim Wetherald, Telanalysis, Inc. and Ultracom,  
3 Inc. are permanently enjoined directly or indirectly from  
4 handling, processing, depositing, cashing, or directing the  
5 handling, processing, depositing or cashing of customer  
6 payments for long distance equipment or services sold in the  
7 State of Oregon for three (3) years from the date this Order is  
8 signed.

9 6.

10 Defendants Tim Wetherald, Telanalysis, Inc. and Ultracom,  
11 Inc. are enjoined directly or indirectly from the assignment,  
12 allocation, distribution, use or directing the assignment,  
13 allocation, distribution or use of authorization codes and  
14 access codes issued by long distance telephone service  
15 providers or at the direction of long distance telephone  
16 service providers on behalf of or for the benefit of Oregon  
17 consumers for a period of three (3) years from the date this  
18 Order is signed.

19 7.

20 Defendants Tim Wetherald, Telanalysis, Inc. and Ultracom,  
21 Inc. are enjoined for a period of three (3) years from the date  
22 of this Order from being signatories to bank accounts into  
23 which payments from Oregon consumers for long distance  
24 telephone services and equipment are directly or indirectly  
25 deposited, placed or transferred.

26 ///

Page

3 - MONEY JUDGMENT AND INJUNCTION AGAINST DEFENDANTS TIM  
WETHERALD, TELANALYSIS, INC. AND ULTRACOM, INC.



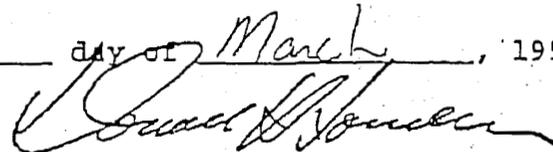
1 10.

2 Defendant Tim Wetherald shall be permanently enjoined  
3 from violating the requirements set out in ORS 759.001, et  
4 seq., OAR Chapter 32, and ORS 646.605 et seq.

5 11.

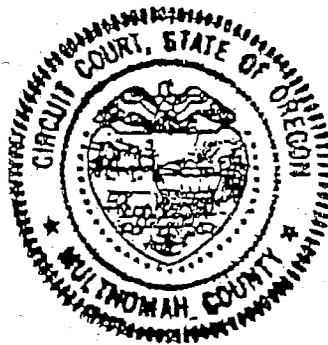
6 Judgment is entered. There is no just reason for delay.  
7 Judgment is ordered entered forthwith. ORCP 67B.

8 IT IS SO ORDERED this 7 day of March, 1991.

9   
10 W Circuit Court Judge

11 Prepared by:  
12 James A. Prunty #84128  
13 Assistant Attorney General  
14 Oregon Department of Justice  
15 Financial Fraud Section  
16 100 Justice Building  
17 Salem, OR 97310  
18 (503) 378-4732

19  
20  
21  
22  
23  
24  
1315 SW 5th Avenue  
Suite 410  
Portland, OR 97201  
Phone (503) 229-5726



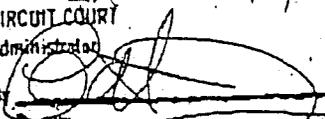
STATE OF OREGON  
 County of Multnomah } ss.

The foregoing copy has been compared and is certified by me as a full, true and correct copy of the original in my office and in my custody.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the

Court on: March 7, 1991

CIRCUIT COURT  
 Administrator

By:   
 Deputy

Certified to be a true and correct copy of the original and of the whole thereof.

Assistant Attorney General of Attorneys for Plaintiff  
CIRCUIT COURT OF OREGON  
MULTNOMAH COUNTY

FILED

1990 APR 18 PM 4:35

JUDICIAL DISTRICT

1  
2  
3 STATE OF OREGON, ex rel DAVE )  
4 PROHNMAYER, Attorney General )  
5 of the State of Oregon, )  
6 Plaintiff, )  
7 v. )  
8 TIM WETHERALD; TELANALYSIS, INC., )  
9 an Oregon corporation; ULTRACOM, )  
10 INC., an Oregon corporation. )  
11 Defendants. )

No. A8907-04289

ORDER OF CONTEMPT

ENTERED  
APR 19 1990  
IN REGISTER BY LK

12 This matter came before the court on application of  
13 plaintiff for an Order to Show Cause Why Defendant, Tim  
14 Wetherald, Should Not be Held in Contempt of Court for  
15 Violation of a Preliminary Injunction issued by this court on  
16 August 21, 1989. A hearing was held before the Honorable  
17 Robert L. Kirkman, Acting Circuit Court Judge, on Friday,  
18 February 9, Monday, February 12, Tuesday, February 13, Friday,  
19 February 16 and Tuesday, February 20, 1990. Plaintiff appeared  
20 through James A. Prunty, Assistant Attorney General, and  
21 defendant, Tim Wetherald, was represented by counsel,  
22 Douglas G. Combs. The court heard the testimony of 25  
23 witnesses and reviewed 25 exhibits entered into evidence. The  
24 court FINDS as follows:

25 1. Defendant Tim Wetherald had knowledge of an August 21,  
26 1989 Preliminary Injunction Order issued by this court.

2. Defendant Tim Wetherald continued to sell long distance  
services and collect fees and other charges up-front from

1 Oregon consumers before entering into a written agreement with  
 2 Universal Communications, Inc. to provide those services on  
 3 September 8, 1989.

4 3. Defendant Tim Wetherald collected fees and other  
 5 charges up-front from consumers on a number of occasions  
 6 without forwarding those fees to Universal Communications as  
 7 required by the contract, reflected in Exhibit 11. Defendant  
 8 Tim Wetherald knew there were problems regarding the  
 9 authorization codes being sent to consumers yet continued to  
 10 sell and collect up-front fees without regard to whether such  
 11 services could be provided.

12 4. Defendant Tim Wetherald's conduct in selling, marketing  
 13 and collecting up-front fees from consumers was frequent and  
 14 not accidental, but intentional. After the contract with  
 15 Universal Communications was abrogated in October 1989,  
 16 defendant Tim Wetherald did not take adequate and reasonable  
 17 steps to assure that National Telephone Company had the  
 18 technical or legal ability to provide the services being  
 19 marketed and sold by Tim Wetherald.

20 5. Defendant Tim Wetherald continued to sell long distance  
 21 telephone services and collect money up-front from consumers  
 22 for long distance telephone services at times when Tim  
 23 Wetherald did not have the present ability to provide such  
 24 services in October, November and December, 1989.

25 6. Defendant Tim Wetherald has collected fees from Oregon  
 26 consumers for long distance telephone services without

1 delivering said services or refunding the money received for  
2 said services. This was a violation of ORS 646.607(2) and the  
3 August 21, 1989 Preliminary Injunction Order.

4 7. Defendant Tim Wetherald failed to disclose that the  
5 dialers and redialers being sold to consumers along with long  
6 distance services being marketed were not necessary as a  
7 precondition to using long distance telephone services. This  
8 was a violation of ORS 646.608(1)(e) in that defendant failed  
9 to disclose the true benefits and characteristics of said  
10 equipment. It was also a violation of the August 21, 1989  
11 Preliminary Injunction Order.

12 8. Defendant Tim Wetherald collected up-front registration  
13 fees and phone service fees on a number of occasions. Those  
14 fees were not forwarded to Universal Communications, Inc. The  
15 payment of these fees was misrepresented to consumers and  
16 violated ORS 646.608(1)(a) and (e). This also constituted a  
17 violation of the August 21, 1989 Preliminary Injunction Order.

18 9. Defendant Tim Wetherald collected money up-front for  
19 telephone services and registration costs while promising to  
20 deliver those services within a particular time period with the  
21 intent not to deliver them as promised, in violation of ORS  
22 646.608(1)(q). Consumers who paid these fees up front were not  
23 told initially that they would be put on a waiting list. This  
24 also constituted a violation of the August 21, 1989 Preliminary  
25 Injunction Order.

26 ///

1 10. Defendant Tim Wetherald marketed and sold the long  
2 distance telephone services of National Telephone Company Long  
3 Distance Division at times when that company had neither the  
4 legal or technical ability to provide those services. This was  
5 a violation of ORS 646.608(1)(e) and (t), and the August 21,  
6 1989 Preliminary Injunction Order.

7 11. Defendant Tim Wetherald is the principal of American  
8 Long Distance. American Long Distance has no certificate of  
9 authority or present ability to supply the services being  
10 marketed and sold through Tim Wetherald, his associates and  
11 agents. This was a violation of ORS 646.608(1)(a), (b), (c),  
12 (i), (j) and (k), and the August 21, 1989 Preliminary  
13 Injunction Order.

14 12. Defendant Tim Wetherald collected re-connection fees  
15 from former subscribers to his long distance telephone services  
16 while failing to disclose that these charges were not required  
17 by Universal Communications, Inc. in violation of ORS  
18 646.3608(1)(a) and (t) and the August 21, 1989 Preliminary  
19 Injunction Order.

20 13. Plaintiff has proved beyond a reasonable doubt that  
21 defendant Tim Wetherald intentionally violated the Preliminary  
22 Injunction Order of August 21, 1989, as charged in  
23 subparagraphs (1), (2) and (3) of paragraph 3 of plaintiff's  
24 motion. The "beyond reasonable doubt" standard has been met as  
25 to these counts.

26 ///

1 14. As to the general allegation of "count 4" of paragraph  
2 3 of the Motion, the allegation is so general that the court is  
3 not willing to find Mr. Wetherald guilty of contempt beyond a  
4 reasonable doubt. Therefore, there will be a finding of  
5 Non-Guilty as to count 4.

6 15. Each of the allegations standing alone, if proven,  
7 would support the imposition of the sanctions set forth under  
8 ORS 33.010.

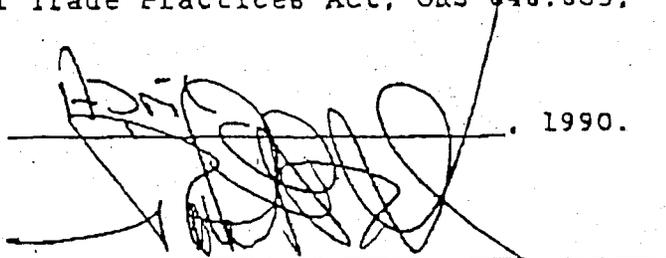
9 16. The Attorney General in bringing actions under the  
10 Unlawful Trade Practices Act (ORS 646.605 et seq) stands in the  
11 shoes of the people of the State of Oregon. The defendant, Tim  
12 Wetherald, by violating the August 1989 Preliminary Injunction  
13 prejudiced the rights of the people of the State of Oregon in  
14 this action. Thus, the defendant is subject to the sanctions  
15 set forth in ORS 33.020(1) of \$300.00 and/or imprisonment for  
16 six months for each violation.

17 IT IS HEREBY ORDERED:

18 That defendant Tim Wetherald is in contempt of this court's  
19 August 21, 1989 Order. Defendant having waived his statutory  
20 right to delay sentencing 48 hours, it is the order of this  
21 court that for purposes of this proceeding allegations 1, 2 and  
22 3 (counts 1, 2 and 3) merged for sentencing. The defendant Tim  
23 Wetherald will be sentenced to 90 days in jail, the execution  
24 of which is suspended and the defendant is placed on two years  
25 Bench Probation subject to the conditions announced in open  
26 court except that the fine will be \$300.00 vice \$400.00. The

1 fine will be due, in full, on June 1, 1990. As a condition of  
 2 this probation, defendant is required to obey the Preliminary  
 3 Injunction Order of August 21, 1989 and the Preliminary  
 4 Injunction Order of February 20, 1990 in addition to scrupulous  
 5 compliance with the Unlawful Trade Practices Act, ORS 646.605,  
 6 et seq.

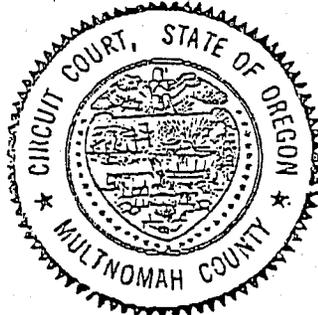
7 Dated this 17 day of \_\_\_\_\_, 1990.



Robert L. Kirkman  
 Acting Circuit Court Judge

11 Submitted by:

12 James Prunty  
 13 Assistant Attorney General  
 Department of Justice  
 14 100 Justice Building  
 Salem, OR 97310  
 15 Telephone (503) 378-4732



STATE OF OREGON }  
 County of Multnomah }  
 The foregoing copy has been compared and  
 is certified by me as a full, true and correct  
 copy of the original on file in my office and in  
 my custody.  
 In Testimony Whereof, I have hereunto set  
 my hand and affixed the seal of the

APR 26 1990

Court on:  
 CIRCUIT COURT  
 Administrator

By Robin J. Newman  
 Deputy

*JAN*  
*MAR 26 1990*

*C*

FILED

1990 MAR 26 AM 9:59

JUDICIAL DISTRICT

CIRCUIT COURT OF OREGON

MULTNOMAH COUNTY

1  
2  
3 STATE OF OREGON, ex rel DAVE )  
4 FROHNMAYER, Attorney General )  
5 of the State of Oregon. )  
6  
7 Plaintiff. )  
8  
9 v. )  
10  
11 TIM WETHERALD; TELANALYSIS, INC.. )  
12 an Oregon corporation; ULTRACOM, )  
13 INC., an Oregon corporation. )  
14  
15 Defendants. )

No. A8907-04289

PRELIMINARY INJUNCTION  
AGAINST TIM WETHERALD

ENTERED  
MAR 27 1990  
IN REGISTER BY LK

16 This matter came before the court on application of  
17 plaintiff for a Temporary Restraining Order and an Order to  
18 Show Cause Why Preliminary Injunction Should not Issue. A  
19 hearing was held before the Honorable Robert L. Kirkman,  
20 Circuit Court Judge Pro Tem, on Friday, February 9, Monday,  
21 February 12, Tuesday, February 13, Friday, February 16 and  
22 Tuesday, February 20, 1990. After hearing the testimony of 25  
23 witnesses and reviewing 25 exhibits entered into evidence, the  
24 court makes the following FINDINGS:

1. Plaintiff is likely to prevail in its complaint for unlawful trade practices against defendant Tim Wetherald.
2. Defendant Tim Wetherald has collected fees from Oregon consumers for long distance telephone services without delivering said services or refunding the money received for said services. This was a violation of ORS 646.607(2).

25 ///  
26 ///

1 3. Defendant Tim Wetherald failed to disclose that the  
2 dialers and redialers being sold to consumers along with long  
3 distance services being marketed were not necessary as a  
4 precondition to using long distance telephone services. This  
5 was a violation of ORS 646.608(1)(e) in that defendant failed  
6 to disclose the true benefits and characteristics of said  
7 equipment.

8 4. Defendant Tim Wetherald collected up-front registration  
9 and phone service fees on a number of occasions. Those fees  
10 were not forwarded to Universal Communications, Inc. The  
11 payment of these fees was misrepresented to consumers and  
12 violated ORS 646.608(1)(a) and (e).

13 5. Defendant Tim Wetherald collected money up-front for  
14 telephone services and registration costs while promising to  
15 deliver those services within a particular time period, with  
16 the intent not to deliver them as promised, in violation of ORS  
17 646.608(1)(q). Consumers who paid these fees up-front were not  
18 told initially that they would be put on a waiting list.

19 6. Defendant Tim Wetherald marketed and sold the long  
20 distance telephone services of National Telephone Company Long  
21 Distance Division at times when that company had neither the  
22 legal or technical ability to provide those services. This was  
23 a violation of ORS 646.608(1)(e) and (t).

24 7. Defendant Tim Wetherald is the principal of American  
25 Long Distance. American Long Distance has no certificate of  
26 authority or present ability to supply the services currently

1 being marketed and sold through Tim Wetherald, his associates  
2 and agents. This was a violation of ORS 646.608(1)(a), (b),  
3 (c), (i), (j) and (k).

4 B. Defendant Tim Wetherald collected re-connection fees  
5 from former subscribers to his long distance telephone services  
6 while failing to disclose that these charges were not required  
7 by Universal Communications, Inc. This was a violation of ORS  
8 646.3608(1)(a) and (t).

9 IT IS HEREBY ORDERED:

10 1) That defendant Tim Wetherald, his agents, associates or  
11 employees be restrained and enjoined from engaging in the sale  
12 of long distance telephone services;

13 2) That defendant Tim Wetherald, his agents, associates or  
14 employees, including but not limited to American Long Distance,  
15 take no affirmative action toward providing services or  
16 undertaking to sell, solicit or collect money for or market  
17 long distance telephone services, save and except to write to  
18 the 67 consumers already provided long distance telephone  
19 services to inform them of this court's order. This letter may  
20 not be used to solicit, sell or market telephone services to  
21 consumers;

22 3) That defendant Tim Wetherald, his agents, associates or  
23 employees, including but not limited to American Long Distance,  
24 shall take no action to service existing customers or sell  
25 services or equipment;

26 ///

1 4) That defendant Tim Wetherald, his agents, associates or  
2 employees be restrained and enjoined from engaging in trade or  
3 commerce related to the provision, solicitation or marketing of  
4 telecommunications services, except that American Long Distance  
5 may provide telephone services by continuing to allow consumers  
6 who purchased their services before February 5, 1990 to access  
7 American Long Distance U.S. West lines and switching equipment,  
8 until and unless the PUC or some other appropriate government  
9 agency decides otherwise by enjoining said service. In no  
10 event is American Long Distance permitted to provide these  
11 telephone services after March 31, 1990. This Order does not  
12 confer upon American Long Distance any authority, right or  
13 privilege it does not already have;

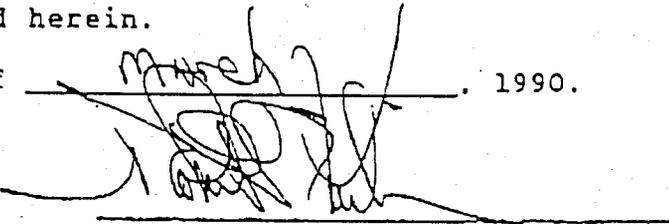
14 5) That defendant Tim Wetherald, his agents, associates or  
15 employees be restrained and enjoined from transferring,  
16 concealing, destroying or removing the books, records,  
17 documents, invoices, or other written materials relating to the  
18 defendants in the above captioned case;

19 6) That defendant Tim Wetherald, his agents, associates or  
20 employees be restrained and enjoined from transferring,  
21 spending, hypothecating, concealing, encumbering or removing  
22 the money, stocks, bonds, assets, notes, equipment, funds,  
23 accounts receivables, policies of insurance, trust agreements,  
24 or other property, real, personal or mixed, wherever situated,  
25 belonging to or owned by, in possession of, or claimed by Tim  
26 Wetherald, insofar as such property relates to, arises out of

1 or is derived from the business activities of Tim Wetherald,  
 2 save and except normal and necessary living expenses and  
 3 attorney fees. This provision shall not prevent the PUC or  
 4 other government agency from ordering that Tim Wetherald or  
 5 American Long Distance make refunds to consumers;

6 7) That defendant Tim Wetherald, his agents, associates or  
 7 employees be restrained and enjoined from engaging in the  
 8 false, misleading and deceptive acts or practices set forth in  
 9 the amended complaint filed herein.

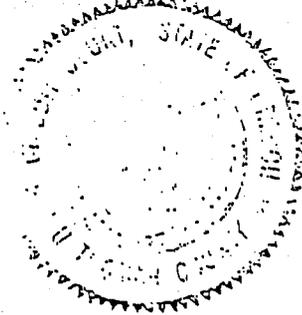
10 Dated this 23 day of March, 1990.



11  
12  
13 Robert L. Kirkman  
Circuit Court Judge Pro Tem

14 Submitted by:

15 James Prunty  
 16 Assistant Attorney General  
 Department of Justice  
 17 100 Justice Building  
 Salem, OR 97310  
 18 Telephone (503) 378-4732



STATE OF OREGON }  
 County of Multnomah }  
 The foregoing copy has been compared and  
 is certified by me as a full, true and correct  
 copy of the original on file in my office and in  
 my custody.

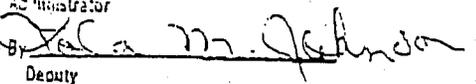
In testimony Whereof, I have hereunto set  
 my hand and affixed the seal of the

Court on 4-10-90

CLERK OF COURT

Administrator

Deputy



CIRCUIT COURT OF OREGON

MULTNOMAH COUNTY

3	STATE OF OREGON, ex rel DAVE	)	
4	FROHNMAYER, Attorney General	)	No. A8907-04289
4	of the State of Oregon,	)	
5	Plaintiff,	)	SECOND AMENDED COMPLAINT
6	v.	)	(UNLAWFUL TRADE
7	TIM WETHERALD; TELANALYSIS, INC.,	-)	PRACTICES, INJUNCTION,
8	an Oregon corporation; ULTRACOM,	)	CIVIL PENALTIES AND
8	INC., an Oregon corporation.	)	RESTITUTION)
9	Defendants.	)	

FIRST CLAIM FOR RELIEF

1.

Plaintiff, the State of Oregon, is represented in this suit through the duly elected Attorney General for the State of Oregon, Dave Frohnmayer, who sues in his official capacity pursuant to ORS 646.632.

2.

During all times relevant herein, defendants have been engaged in the sale of telecommunications services, including specifically, the sale of long distance telephone services to Oregon consumers.

3.

The defendants have not been served with a notice of alleged unlawful trade practices and the relief to be sought pursuant to the exception provisions of ORS 646.632(6).

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4.

2 In the course of marketing and selling long distance  
3 services, defendants have violated ORS 646.607(2) by failing to  
4 deliver promised long distance services and failing to return  
5 to consumers money received for undelivered services.

6

5.

7 Defendants' conduct was wilful in that they knew or should  
8 have known that it would be impossible to deliver the long  
9 distance services promised to consumers based on their limited  
10 lease of "access lines" from US West or US Bell.

11

6.

12 The defendants should be permanently restrained from  
13 engaging in the sale of long distance services within the State  
14 of Oregon.

15

7.

16 The defendants should be ordered to pay a civil penalty in  
17 the sum of \$25,000 per violation of ORS 646.607(2).

18

8.

19 The defendants should be ordered to pay to the Oregon  
20 Department of Justice its reasonable attorney's fees, costs of  
21 investigation, and costs of this lawsuit pursuant to ORS  
22 646.632(8).

23

9.

24 The court should order defendants WETHERALD and ULTRACOM  
25 to pay restitution to injured consumers pursuant to ORS 646.636.

26 ///

1 SECOND CLAIM FOR RELIEF

2 10.

3 Plaintiff realleges paragraphs 1-3 of the First Claim for  
4 Relief of this complaint.

5 11.

6 Defendants have violated ORS 646.608(1)(i) by advertising  
7 long distance telephone services with the intent not to provide  
8 them as advertised.

9 12.

10 Defendants have violated ORS 646.608(1)(i) by advertising  
11 long distance telephone services with the intent not to supply  
12 reasonably expected public demand and without disclosing  
13 quantity limitations.

14 13.

15 Defendants acted wilfully in the above violations within  
16 the meaning of ORS 646.642.

17 14.

18 The plaintiff is entitled to a permanent injunction  
19 restraining and enjoining the defendants from engaging in any  
20 aspect of the trade or commerce relating to the sale of long  
21 distance telephone services.

22 15.

23 Plaintiff is entitled to recover, on behalf of the state,  
24 a civil penalty to be set by the court in the amount not to  
25 exceed \$25,000 per defendant per violation.

26 ///

1 16.

2 Plaintiff is entitled to collect its reasonable attorney's  
3 fees and costs of investigation in this lawsuit pursuant to ORS  
4 646.632(8).

5 17.

6 The court should order defendants WETHERALD and ULTRACOM  
7 to make restitution to injured consumers pursuant to ORS  
8 646.636.

9 THIRD CLAIM FOR RELIEF

10 18.

11 Plaintiff realleges paragraphs 1-3 of the First Claim for  
12 Relief of the complaint.

13 19.

14 Defendants have violated ORS 646.608(e) by falsely  
15 representing that defendants' long distance telephone services  
16 had benefits or qualities they did not have, in that  
17 subscribers to these services were unable to make use of these  
18 long distance services a large part of the time.

19 20.

20 Defendants violated ORS 646.608(g) by falsely representing  
21 or implying to consumers that the long distance telephone  
22 services sold, conformed to the industry standard in that they  
23 would be available to consumers most of the time.

24 21.

25 The actions of defendants above were wilful within the  
26 meaning of ORS 646.642.

1 22.

2 The plaintiff is entitled to permanent injunction  
3 restraining and enjoining defendants from engaging in any  
4 aspect of the trade or commerce relating to the sale of long  
5 distance telephone services.

6 23.

7 Plaintiff is entitled to recover, on behalf of the State,  
8 a civil penalty to be set by the court in the amount not  
9 exceeding \$25,000 per defendant per violation.

10 24.

11 Plaintiff is entitled to collect its reasonable attorney's  
12 fees and costs of investigation in this lawsuit pursuant to ORS  
13 646.632(8).

14 25.

15 The court should order defendants WETHERALD and ULTRACOM  
16 to make restitution to injured consumers pursuant to ORS  
17 646.636.

18 FOURTH CLAIM FOR RELIEF

19 26.

20 Plaintiff realleges paragraphs 1 - 3 of the First Claim  
21 for Relief of the complaint.

22 27.

23 Defendants violated ORS 646.608(1)(r) in the course of  
24 their occupations by organizing, inducing or attempting to  
25 induce membership in a pyramid club, as that term is defined in  
26 ORS 646.609.

1 28.

2 Defendants induced and attempted to induce memberships in  
3 a pyramid club in the following manner:

4 a) By charging sales people \$50 to purchase a "junior  
5 associate status";

6 b) By allowing junior associates to advance to  
7 "associates" only by sponsoring one new junior associate;

8 c) By allowing associates to advance to "senior  
9 associate" only by making 25 sales;

10 d) By only allowing promotion to "executive associate" to  
11 those making 50 sales;

12 e) By allowing executive associates to become "partners"  
13 only after making 100 sales;

14 f) By allowing partners to become "executive partners"  
15 only after they personally sponsor an associate who becomes a  
16 partner;

17 g) By making only senior partners eligible for "break  
18 away bonuses" which entitle them to commissions on the sales of  
19 each partnership group; and

20 h) By tying each level of promotion to commensurately  
21 higher commissions and hourly wages.

22 29.

23 Defendants have induced participation in a pyramid club by  
24 representing to associates that the \$50 initiation fee is an  
25 investment that will be earned back.

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30.

Without the renewed source of new junior associates paying \$50 initiation fees, the scheme will not function as promised. There is no real increase in sales profits to support the increase in commissions comprehended by this scheme.

31.

The actions of defendants described above were wilful within the meaning of ORS 646.642.

32.

The plaintiff is entitled to a permanent injunction restraining and enjoining the defendants from engaging in any trade or commerce relating to multi-level investment schemes or pyramid clubs.

33.

Plaintiff is entitled to recover, on behalf of the State, a civil penalty to be set by the court, in the amount not exceeding \$25,000 per violation per defendant.

34.

Plaintiff is entitled to collect its reasonable attorney's fees and costs of investigation in this lawsuit pursuant to ORS 646.632(8).

35.

The court should order defendants WETHERALD and ULTRACOM to make restitution to injured consumers pursuant to ORS 646.663.

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FIFTH CLAIM FOR RELIEF

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36.

Plaintiff realleges paragraphs 1 - 3 of the First Claim for Relief of the complaint.

37.

Defendants have violated ORS 646.608(1)(b), 646.608(1)(e) and 646.608(2) by causing a likelihood of confusion concerning the source, affiliation and existence of long distance services by marketing and taking money from consumers for long distance services while representing to consumers that said services would be provided by companies before contracts were entered into, and before said companies were obligated or able to deliver such services.

38.

Defendants' conduct was wilful, as defined within ORS 646.642 in that they deliberately failed to disclose to consumers that the long distance provider was under no obligation to provide service, and they knowingly collected money ahead of time for said services.

39.

The defendants should be permanently restrained from engaging in the sale or marketing of long distance telephone services within the State of Oregon.

40.

The defendants should be ordered to pay a civil penalty in the sum of \$25,000 per violation of ORS 646.608(1)(b) and 646.608(1)(e).

1 41.

2 The defendants should be ordered to pay to the Oregon  
3 Department of Justice its reasonable attorney's fees, costs of  
4 investigation, and costs of this lawsuit pursuant to ORS  
5 646.632(8).

6 42.

7 The court should order defendant Wetherald to refund all  
8 monies collected from consumers pursuant to ORS 646.636.

9 SIXTH CLAIM FOR RELIEF

10 43.

11 Plaintiff realleges paragraphs 1 - 3 of the First Claim  
12 for Relief of this complaint.

13 44.

14 Defendants committed an unlawful trade practice as  
15 provided in ORS 646.608(1)(s) when they made misrepresentations  
16 to consumers that up-front payments for long distance telephone  
17 services were required at a time when defendants' only role was  
18 to market the service and defendants had no authority from the  
19 long distance provider to collect fees.

20 45.

21 Defendants further violated ORS 646.608(1)(s) and  
22 646.608(2) by failing to disclose to consumers that equipment  
23 sold as part of the services marketed by defendants was  
24 unnecessary, optional and not required for access to long  
25 distance telephone services being sold.

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46.

Defendants acted wilfully in the above violations within the meaning of ORS 646.642.

47.

The plaintiff is entitled to a permanent injunction restraining and enjoining the defendants from engaging in any aspect of the trade or commerce relating to the sale or marketing of long distance telephone services.

48.

Plaintiff is entitled to recover a civil penalty in the amount of \$25,000 per violation of ORS 646.608(1)(s) and 646.608(2).

49.

Plaintiff is entitled to collect its reasonable attorney's fees and costs of investigation in this lawsuit pursuant to ORS 646.632(8).

50.

The court should order defendant WETHERALD to make restitution to injured consumers pursuant to ORS 646.636.

SEVENTH CLAIM FOR RELIEF

51.

Plaintiff realleges paragraphs 1 - 3 of the First Claim for Relief of the complaint.

52.

Defendants engaged in common law fraud when they intentionally collected up-front long distance charges from

1 consumers with knowledge that they had no authority or  
2 justification to do so, and intentionally kept the money for  
3 their own benefit without providing promised services to  
4 consumers.

5 53.

6 Defendants committed common law fraud when they made  
7 misrepresentations to consumers that up-front payments for long  
8 distance telephone services were required at a time when  
9 defendants' only role was to market the service and defendants  
10 had no authority from the long distance provider to collect  
11 fees.

12 54.

13 Defendants further committed common law fraud by selling  
14 equipment to consumers while representing that it was required,  
15 and failing to disclose that the equipment, sold as part of the  
16 services marketed by defendants, was unnecessary, optional and  
17 not required for access to the long distance telephone services  
18 being sold.

19 55.

20 Defendants committed common law fraud when they collected  
21 registration and connection fees without the knowledge or  
22 authorization of the long distance service provider. Said fees  
23 benefited defendants only and were wholly misrepresented,  
24 unearned and unjustified.

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Page 11 - SECOND AMENDED COMPLAINT

1 56.

2 Defendants' misrepresentations and failures to disclose  
3 material facts described above in paragraphs 53 through 55 were  
4 made with the intention of deceiving consumers into purchasing  
5 goods and services that were unnecessary, unavailable, or  
6 materially different than defendants' representations of their  
7 quality or quantity. These representations were made by  
8 defendants with the intention that consumers would rely on them.

9 57.

10 Consumers relied on the false representations by  
11 defendants described above in paragraphs 52 through 55 by  
12 paying money to defendants for goods and services that were not  
13 received.

14 58.

15 Plaintiff seeks an order directing defendant WETHERALD to  
16 pay restitution to all persons injured by defendant's  
17 fraudulent behavior.

18 59.

19 The plaintiff is entitled to a permanent injunction  
20 restraining and enjoining the defendants from engaging in any  
21 aspect of the trade or commerce relating to the sale or  
22 marketing of long distance telephone services.

23 60.

24 Plaintiff is entitled to collect its reasonable attorney's  
25 fees and costs of investigation in this lawsuit pursuant to ORS  
26 646.632(8).

## 1 EIGHTH CLAIM FOR RELIEF

2 61.

3 Plaintiff realleges paragraphs 1 - 3 of the First Claim  
4 for Relief of the complaint.

5 62.

6 Defendants promised consumers that they could deliver long  
7 distance telephone services to consumers within a specified  
8 period of time with the intention of not delivering them as  
9 promised in violation of ORS 646.608(1)(q) when they told  
10 consumers that services would begin within ten to fourteen days  
11 of payment.

12 63.

13 Defendants acted wilfully in the above violations within  
14 the meaning of ORS 646.642.

15 64.

16 The plaintiff is entitled to a permanent injunction  
17 restraining and enjoining the defendants from engaging in any  
18 aspect of the trade or commerce relating to the sale or  
19 marketing of long distance telephone services.

20 65.

21 Plaintiff is entitled to recover a civil penalty in the  
22 amount of \$25,000 per violation of ORS 646.608(1)(s) and  
23 646.608(2).

24 ///

25 ///

26 ///

1 66.

2 Plaintiff is entitled to collect its reasonable attorney's  
3 fees and costs of investigation in this lawsuit pursuant to ORS  
4 646.632(8).

5 67.

6 The court should order defendant WETHERALD to make  
7 restitution to injured consumers pursuant to ORS 646.636.

8 NINTH CLAIM FOR RELIEF

9 68.

10 Plaintiff realleges paragraphs 1 - 3 of the First Claim  
11 for Relief of the complaint.

12 69.

13 Defendants, in the course of marketing long distance  
14 telephone services, have misrepresented to consumers that the  
15 litigation with the Department of Justice has been resolved in  
16 their favor, in violation of ORS 646.608(1)(g) which forbids  
17 false representations relating to the standard, quality or  
18 grade of services being sold.

19 70.

20 The plaintiff is entitled to a permanent injunction  
21 restraining and enjoining the defendants from engaging in any  
22 aspect of the trade or commerce relating to the sale or  
23 marketing of long distance telephone services.

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71.

Plaintiff is entitled to recover a civil penalty in the amount of \$25,000 per violation of ORS 646.608(1)(B) and 646.608(2).

72.

Plaintiff is entitled to collect its reasonable attorney's fees and costs of investigation in this lawsuit pursuant to ORS 646.632(8).

73.

The court should order defendant WETHERALD to make restitution to injured consumers pursuant to ORS 646.636.

Respectfully submitted,

DAVE FROHNMAYER  
Attorney General

  
James A. Prunty #84128  
Assistant Attorney General  
Of Attorneys for Plaintiff