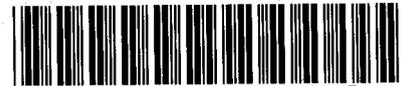


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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

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AZ CORP COMMISSION
DOCKET CONTROL

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IN THE MATTER OF THE FORMAL
COMPLAINT OF ACCIPITER
COMMUNICATIONS, INC. AGAINST
VISTANCIA, LLC, AND COX ARIZONA
TELCOM, LLC.

DOCKET NO. T-03471A-05-0064

PROCEDURAL ORDER

BY THE COMMISSION:

On January 31, 2005, Accipiter Communications, Inc. ("Accipiter") filed with the Arizona Corporation Commission ("Commission") a formal complaint against Vistancia Communications, LLC and Shea Sunbelt Pleasant Point, LLC, both of which are now known as Vistancia, LLC ("Vistancia"), and Cox Arizona Telcom, LLC ("Cox"). The complaint arose out of Vistancia's controlling telecommunications providers' access to the Vistancia development in Peoria, Arizona, through a private easement arrangement and assessment of an access fee. Accipiter alleged that Cox and Vistancia had created the private easement arrangement to unlawfully stifle competition.¹ This docket remains open because, although Accipiter has entered into a Settlement Agreement with Vistancia and Cox, the Commission's Utilities Division Staff ("Staff") has continued to pursue the allegations against Cox.

An evidentiary hearing was held in this matter on August 28-31, 2006. During the hearing, Cox repeatedly asserted the attorney-client privilege as to communications between Linda Trickey, Cox's senior in-house counsel, and Cox employees regarding the private easement arrangement with Vistancia and the related access fee. (See, e.g., Tr. at 192, lines 11-13; Tr. at 230, lines 7-10.) The Administrative Law Judge ("ALJ") questioned whether *State Farm Mutual Automobile Insurance Co. v. Lee*, 199 Ariz. 52 (2000) ("*State Farm v. Lee*"), which deals with implied waiver of the

¹ Accipiter alleged that there was a scheme crafted by Vistancia and Cox to monopolize the telecommunications market within the Vistancia development by intentionally excluding competition and advancing the financial interests of Vistancia at the expense of customer choice. Accipiter also alleged that the Vistancia and Cox scheme supplanted the jurisdiction of the Commission.

1 privilege, applies in this matter, and counsel for Cox expressed a desire to brief the issue. (Tr. at 376,
2 line 9 through 381, line 10.) On August 31, 2006, as the hearing had not yet concluded, the ALJ
3 directed the parties to discuss additional hearing dates, the specific witnesses to be called, any
4 objections to those witnesses, and a briefing schedule to address the attorney-client privilege issue.

5 On February 2, 2007, Cox and Staff filed a Joint Motion requesting additional hearing dates
6 during the week of May 14, 2007. By Procedural Order issued on February 6, 2007, the hearing was
7 scheduled to reconvene on May 14, 2007; Cox was ordered to file, by February 23, 2007, a brief
8 addressing the attorney-client privilege issue; and responsive briefs were required to be filed by
9 March 9, 2007.

10 On February 23, 2007, Cox filed a Briefing Regarding Attorney-Client Privilege. In its
11 Briefing, Cox asserted that Cox witnesses Tisha Christle² and Ms. Trickey had carefully limited their
12 testimony to factual matters and had refused to disclose any privileged communications between Ms.
13 Trickey and Cox personnel. Cox also asserted that it had not raised an advice-of-counsel defense.
14 Instead, Cox asserted that the arrangement had originated with the developer, that the developer's
15 counsel (Lesa Storey) had informed Ms. Trickey that the arrangement proposed by the developer had
16 been found to be legal elsewhere, and that Ms. Trickey had not conducted any independent research
17 but had instead relied on Ms. Storey's representations and the fact that the City of Peoria had
18 approved the developer's request for a private easement. Cox asserted that it had carefully redacted
19 privileged communications between Cox counsel and Cox personnel in the documents produced for
20 Staff and that Cox had expressly declined to waive the attorney-client privilege as to the redacted
21 documents. Cox also asserted that *State Farm v. Lee* does not necessitate a finding that Cox has
22 impliedly waived the privilege. Cox closed its Briefing with a request that the Commission and the
23 ALJ either cease any further briefing or discussions concerning Cox's privileged communications or
24 order Staff to submit briefing as to the basis for the asserted waiver and provide Cox an opportunity
25 to reply.

26 On March 9, 2007, Staff filed its Reply Brief. In its Reply Brief, Staff asserted that there is an
27 exception to the attorney-client privilege when a party relies upon the advice of counsel as a defense
28 to charges against it and then turns around and claims the privilege to prevent disclosure of the advice

² Ms. Christle is the former Cox sales employee who had handled the Vistancia account.

1 relied upon—using the privilege both as a sword and a shield. Based upon its analysis of *State Farm*
2 *v. Lee*, Staff asserted that Cox had impliedly waived the attorney-client privilege by its conduct and
3 because it was relying upon advice of counsel as a defense. Staff stated that Cox's defense
4 affirmatively puts the privileged materials at issue and that the asserted privilege as to the advice of
5 Cox's counsel deprives the Commission of information going to Cox's state of mind, intent, and level
6 of active involvement in going ahead with the anticompetitive arrangement. Thus, Staff said, the
7 Commission should require Cox to disclose all relevant materials for which it has asserted the
8 privilege as a bar to disclosure.

9 On March 21, 2007, Cox filed a Reply Briefing. In its Reply Briefing, Cox asserted that
10 Staff's Reply Brief misstated the facts and misconstrued and misapplied the holding of *State Farm v.*
11 *Lee*. Cox stated that *State Farm* is inapplicable because Ms. Trickey did not conduct an independent
12 investigation or evaluation of the law but instead relied on assurances from a third party. Cox
13 asserted that no information provided by its lawyers was included in any evaluation process of
14 whether the private easement arrangement presented by the developer was legal. Cox also questioned
15 why Staff believes in the existence of any communications in which Cox counsel provided legal
16 advice to Cox employees about the legality of the private easement arrangement.

17 On April 13, 2007, Staff filed a Response to Cox's Reply Briefing. In its Response, Staff
18 reiterated its position that because Cox is relying on the subjective beliefs and evaluation of its
19 employees (which included advice of counsel) that their conduct in entering the private easement
20 arrangement was lawful, Cox has impliedly waived the privilege as to those communications for
21 purposes of resolving the issue whether Cox should be fined for its active participation in the
22 arrangement. Staff asserted that allowing Cox to maintain the privilege would prevent Staff and the
23 Commission from assessing whether Cox's defense is valid.

24 On May 14, 2007, the hearing in this matter resumed. Before additional evidence or
25 testimony was taken, the ALJ asked the parties to state their positions regarding the attorney-client
26 privilege issue. Staff stated that it seeks for Cox to release e-mails pertaining to the advice of counsel
27 regarding the private easement arrangement and the access fee so that the e-mails can be reviewed by
28 Staff and the ALJ. (Tr. at 879, lines 11-20.) Cox asserted that it would object to the release of those
e-mails, even on a confidential basis only to the ALJ, the Commissioners, and Staff, as release would

1 effectively waive the privilege. (Tr. at 880, lines 2-3.) Cox and Staff presented additional argument
2 on the issue, and Cox ultimately requested that the ALJ prepare a written order that Cox could take to
3 the Commission for final review and from which Cox could seek special action in court. (Tr. at 897,
4 lines 18-25; Tr. at 898, lines 1-6.) Staff stated that it would not be fair to go forward with the hearing
5 without Staff's being allowed the opportunity to review and cross-examine Cox's witnesses relating
6 to the e-mails. (Tr. at 899, lines 6-16.) Cox requested that the hearing be continued until the
7 attorney-client privilege issue is resolved. (Tr. at 905, lines 5-14.) With the consent of both Cox and
8 Staff, the ALJ continued the hearing pending resolution of the attorney-client privilege issue and
9 encouraged Cox and Staff, in the meantime, to continue settlement discussions. (Tr. at 908, line 15
10 through Tr. at 910, line 5.)

11 **Staff's Motion for *In Camera* Inspection**

12 On February 13, 2008, Staff filed a Motion for *In Camera* Inspection of Documents Claimed
13 to Be Attorney-Client Privileged. In its Motion, Staff asserted that a ruling on the attorney-client
14 privilege issue is now appropriate, as the parties' attempts to settle have been unsuccessful. Staff
15 acknowledged that an *in camera* inspection may not be necessary if the record provides sufficient
16 information to make a decision on the privilege issue, but moved for an *in camera* inspection because
17 Staff believes that an inspection may aid in making a decision on the issue. Staff requested that Cox
18 be ordered to provide the documents listed in Attachment 1 to Staff's Motion, attached hereto as
19 Exhibit A, for *in camera* inspection.

20 On March 3, 2008, Cox filed a request for a two-week extension of time to respond to Staff's
21 Motion. On March 18, 2008, Cox filed a Response to Staff's Motion. In its Response, Cox stated
22 that it continues to believe that an *in camera* review is premature pending a ruling on the legal issue
23 concerning Staff's assertion that Cox has waived the attorney-client privilege in this matter. Cox also
24 stated, however, that it will comply if the ALJ orders an *in camera* review of the documents. Cox
25 asserted that its compliance would not waive any rights now or in the future, including its position
26 that it has not waived the attorney-client privilege in this matter. Finally, Cox requested that, if *in*
27 *camera* review is ordered, Cox be afforded a three-week period to compile and submit the
28 documents.

...

1 **Discussion**

2 Rule 501 of the Arizona Rules of Evidence provides that, except as otherwise required by the
3 U.S. or Arizona Constitution or by applicable statute or rule, privilege is governed by the principles
4 of the common law. For civil actions in Arizona, the attorney-client privilege is codified in A.R.S. §
5 12-2234. The statute prohibits an attorney from being examined, without client consent, as to (1) any
6 communication made by the client to the attorney or (2) the attorney's advice given to the client in
7 the course of professional employment. The statute clarifies that the privilege pertains to
8 communications between the attorney for an organization or employer and any employee, agent, or
9 member of the organization or employer if the communication concerns acts or omissions of, or
10 information obtained from, the employee, agent, or member and is for the purpose of providing legal
11 advice, or for the purpose of obtaining information in order to provide legal advice, to the entity or
12 employer or to the employee, agent, or member.

13 The purpose of the privilege is to encourage a client to confide in his or her attorney all the
14 information necessary for the attorney to provide effective legal representation. *Granger v. Wisner*,
15 134 Ariz. 377, 379 (1982). The privilege protects communications from the client and advice to the
16 client, not facts that are not part of the communication between the attorney and the client. *Id.* at
17 379-80. Thus, the fact that a client has consulted an attorney, the identity of the client, and the dates
18 and number of visits to the attorney are normally outside the scope and purpose of the privilege. *Id.*
19 at 380. The privilege also does not apply to information acquired by the attorney or the attorney's
20 agents from non-client sources. *Id.*

21 When attorney-client privilege is asserted, the burden of persuasion is on the asserting party,
22 who must show that discovery should not be made. *State ex rel. Babbitt v. Arnold*, 26 Ariz. App.
23 333, 334 (Ariz. App. 1976) ("*State v. Arnold*"). When a prima facie showing of a privilege is made, a
24 trial court is obligated not to assume the facts that would give rise to the privilege, but to decide
25 whether disclosure should be required after an *in camera* inspection of the material asserted to be
26 privileged. *Id.* at 336 (citing *Mathews v. Pyle*, 75 Ariz. 76 (1952)), and holding that it was arbitrary
27 for the trial court to order production of a document for which the attorney-client privilege was
28 asserted without first examining it *in camera*).

In the instant case, Staff desires disclosure of Cox e-mails pertaining to the advice of Cox's

1 counsel, Linda Trickey, regarding the private easement arrangement with Vistancia and the related
2 access fee. (Tr. at 879, lines 16-20.) Staff has alternatively described the material sought as “all
3 relevant attorney-client privileged emails and communications material to the issues raised in this
4 case.” (Staff’s Reply Brief Regarding Attorney-Client Privilege at 2.) According to Staff, many
5 redacted e-mails are at issue. (Tr. at 891, line 20.) Cox initially asserted that releasing the documents
6 to Staff, the ALJ, and the Commissioners, even under a confidentiality agreement, would effectively
7 waive the attorney-client privilege.³ (Tr. at 880, lines 2-3.) Indeed, Cox has even asserted that
8 saying whether there are or are not any such documents would arguably result in a waiver of the
9 privilege. (*See, e.g.*, Tr. at 881, lines 9-14.) Cox’s position is that there cannot have been an implied
10 waiver of the privilege because advice of counsel has not been put at issue. (Tr. at 882, lines 1-18.)
11 Cox asserts that it relied on a third party, Lesa Storey, who told Cox that the arrangement was legal,
12 not on the advice of its counsel, and that there can be no advice-of-counsel defense because its
13 attorney did no independent research. (Tr. at 882-884.) Cox has even stated that “[t]here is no advice
14 of counsel here.” (Tr. at 884, line 4.)

15 As the party asserting the privilege, Cox has the burden of persuasion as to its applicability.
16 *State v. Arnold*, 26 Ariz. App. at 334. As a preliminary matter, Cox must establish that the
17 communications at issue fall within the attorney-client privilege. To do this, Cox must establish that
18 the communications made to Ms. Trickey were for the purpose of obtaining legal advice and that the
19 communications made by Ms. Trickey were legal advice. If Ms. Trickey’s communications were not
20 legal advice, then they do not meet the criteria for the privilege under A.R.S. § 12-2234. If Ms.
21 Trickey merely served as a conduit for the message from Ms. Storey that the private easement
22 arrangement was legal, then Ms. Trickey was not giving legal advice, and both Ms. Trickey and Cox
23 can be required to testify as to those communications. *See* RESTATEMENT (THIRD) OF THE LAW
24 GOVERNING LAWYERS § 69 (2000) comment i; *Samaritan Foundation v. Goodfarb*, 176 Ariz. 497,
25 501 (1993)(“[T]o be privileged, the communication must be made to or by the lawyer for the purpose
26 of securing or giving legal advice . . .”).

27 While it appears that Staff may have accepted that the privilege applies in the instant case, and

28 ³ Cox has apparently changed its position in this regard, as shown by its Response to Staff Motion for *In Camera* Inspection.

1 is arguing not that the privilege does not apply but that it has been impliedly waived, this tribunal
2 could reach a different conclusion. Therefore, it is appropriate for this tribunal, before reaching the
3 issue of whether the privilege has been impliedly waived, to conduct an *in camera* inspection of the
4 material asserted to be privileged to determine whether the privilege applies.

5 **Conclusion**

6 It is appropriate for the ALJs to conduct an *in camera* inspection of the material asserted to be
7 covered by the attorney-client privilege, to determine whether the privilege applies. If the ALJs
8 determine that the attorney-client privilege applies to the materials that Cox asserts are covered by the
9 privilege, the ALJs will then need to determine whether, as Staff has asserted, Cox has impliedly
10 waived the privilege as to those documents through its defense.

11 IT IS THEREFORE ORDERED that **Cox shall, by April 21, 2008, produce under seal, for**
12 ***in camera* inspection by the ALJs**, all of the documents identified in Exhibit A, attached hereto and
13 incorporated herein, along with any additional documents that include communications between Ms.
14 Trickey and any Cox employee or agent, or between Cox employees or Cox employees and agents,
15 regarding the legality of the private easement arrangement and the related access fee and for which
16 Cox asserts the attorney-client privilege. Cox shall ensure that each document produced is labeled
with a distinct number.

17 IT IS FURTHER ORDERED that **Cox shall produce and shall file with Docket Control**
18 **and supply to Staff, by April 21, 2008**, a complete list of the documents produced for *in camera*
19 inspection that includes the following information for each separate document: (1) the distinct
20 document number; (2) the date the document was created; (3) the purpose for which the document
21 was created; (4) the identity of each individual who participated in the creation of the document; (5)
22 the identity of each recipient of the document, whether by direct receipt, copy, or observation; (6) a
23 description of the document; and (7) the precise privilege asserted and the basis for its assertion. Cox
24 shall craft the required list so that the list itself does not, in Cox's opinion, reveal any privileged
25 information.

26 IT IS FURTHER ORDERED that **Staff shall, by May 12, 2008, file any objections** to Cox's
27 assertion of privilege for any of the documents identified in the complete list provided by Cox. In its
28 filing, Staff shall identify by distinct document number each document to which an objection applies.

1 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
2 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
3 *pro hac vice*.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113—Unauthorized
5 Communications) applies to this proceeding and shall remain in effect until the Commission's
6 Decision in this matter is final and non-appealable.

7 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
8 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

9 DATED this 27th day of March, 2008.

10
11
12 
13 SARAH N. HARPRING
14 ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered
this 27th day of March, 2008, to:

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By: 
Debra Broyles
Secretary to Sarah N. Harpring

EXHIBIT "A"

REDACTED DR1 pages begin with C0

REDACTED DOJ pages begin with CX

Date	Page Number	Individuals in Email or Other
10/22/02	CX11326	Linda Trickey to Denise. Johnson-Davis.com
10/22/02 Count	1	
10/30/02	CX05164	Tisha Christle
10/30/02	CX08664	Tisha Christle
10/30/02	CX08665	Jennifer Hightower to Tisha Christle
10/30/02	CX08745	Tisha Christle
10/30/02	CX08746	Tisha Christle
10/30/02	CX09075	Tisha Christle
10/30/02	CX09076	Jennifer Hightower to Tisha Christle
10/30/02 Count	7	
10/31/02	C01388	Tisha Christle
10/31/02	C01426	Tisha Christle
10/31/02	C01430	Tisha Christle
10/31/02	C01433	Tisha Christle
10/31/02	CX05167	Tisha Christle
10/31/02	CX05946	Tisha Christle
10/31/02	CX05949	Tisha Christle
10/31/02	CX05953	Tisha Christle
10/31/02	CX11386	Tisha Christle
10/31/02	CX11391	Tisha Christle
10/31/02	CX11396	Tisha Christle
10/31/02 Count	11	
11/01/02	C01429	Tisha Christle
11/01/02	C01432	Tisha Christle; Linda Trickey
11/01/02	CX05169	Tisha Christle
11/01/02	CX05945	Tisha Christle; Linda Trickey
11/01/02	CX05952	Tisha Christle; Linda Trickey
11/01/02	CX11385	Tisha Christle
11/01/02	CX11390	Tisha Christle
11/01/02	CX11395	Tisha Christle
11/01/02	CX11399	Tisha Christle
11/01/02 Count	9	
11/06/02	C01425	Linda Trickey
11/06/02	C01427	Linda Trickey
11/06/02	C01428	Linda Trickey
11/06/02	C01431	Linda Trickey; Jennifer Hightower
11/06/02	CX05171	Linda Trickey
11/06/02	CX05172	Linda Trickey
11/06/02	CX05944	Linda Trickey to Hightower
11/06/02	CX05948	Tisha Christle; Linda Trickey
11/06/02	CX05951	Linda Trickey
11/06/02	CX11382	Tisha Christle to Jennifer Hightower
11/06/02	CX11383	Tisha Christle to Jennifer Hightower

EXHIBIT "A"

11/06/02	CX11384	Tisha Christle; Linda Trickey
11/06/02	CX11388	Linda Trickey
11/06/02	CX11389	Tisha Christle; Linda Trickey
11/06/02	CX11393	Tisha Christel to Jennifer Hightower
11/06/02	CX11394	Tisha Christle; Linda Trickey
11/06/02	CX11398	Tisha Christle; Linda Trickey
11/06/02	17	
Count		
11/11/02	C01462	Meeting invitation from Debby Dunn
11/11/02	CX09080	Tisha Christle
11/11/02	CX11401	Meeting from Debby Dunn
11/11/02	3	
Count		
11/12/02	CX05166	Tisha Christle
11/12/02	1	
Count		
11/21/02	C01530	Linda Trickey
11/21/02	C01554	Linda Trickey
11/21/02	C01579	Linda Trickey
11/21/02	C01607	Linda Trickey
11/21/02	C03193	Tisha Christle; Linda Trickey
11/21/02	CX04194	Linda Trickey
11/21/02	CX04243	Tisha Christle; Linda Trickey
11/21/02	CX05219	Linda Trickey
11/21/02	CX05220	Tisha Christle; Linda Trickey
11/21/02	CX07544	Linda Trickey
11/21/02	CX08295	Tisha Christle; Linda Trickey
11/21/02	CX10929	Linda Trickey
11/21/02	12	
Count		
11/22/02	C01634	Linda Trickey to Denise Johnson-Davis
11/22/02	1	
Count		
12/02/02	CX05187	Linda Trickey
12/02/02	1	
Count		
12/09/02	C01644	Linda Trickey to/from Jennifer Hightower; Tisha Christle to Jennifer Hightower
12/09/02	C01645	Tisha Christle to Jennifer Hightower
12/09/02	C01646	Tisha Christle to/from Jennifer Hightower
12/09/02	C01647	Tisha Christle to Jennifer Hightower; Linda Trickey from Jennifer Hightower
12/09/02	CX05850	Jennifer Hightower to Linda Trickey; Tisha Christle to Jennifer Hightower
12/09/02	CX06681	Jennifer Hightower to Tisha Christle
12/09/02	CX11380	Tisha Christel to Jennifer Hightower
12/09/02	CX11381	Tisha Christle
12/09/02	8	
Count		
01/08/03	C01767	Tisha Christle; included are Linda Trickey, Joe Montel, Joe Muldoon, Mike Farmer
01/08/03	CX05543	Tisha Christle; Linda Trickey

EXHIBIT "A"

EXHIBIT "A"

01/08/03	2	
Count		
01/22/03	C01844	Tisha Christle; Linda Trickey
01/22/03	C01851	Tisha Christle; Linda Trickey
01/22/03	CX05852	Tisha Christle; Linda Trickey
01/22/03	CX08885	Tisha Christle
01/22/03	4	
Count		
01/28/03	C01845	Tisha Christle; Linda Trickey
01/28/03	C01846	Tisha Christle; Linda Trickey
01/28/03	C01847	Tisha Christle; Linda Trickey
01/28/03	C01848	Tisha Christle; Linda Trickey
01/28/03	CX05938	Tisha Christle; Linda Trickey
01/28/03	CX05939	Tisha Christle; Linda Trickey
01/28/03	CX05941	Tisha Christle; Linda Trickey
01/28/03	CX05942	Tisha Christle; Linda Trickey
01/28/03	8	
Count		
01/29/03	C01850	Tisha Christle; Linda Trickey
01/29/03	CX08884	Tisha Christle; Linda Trickey
01/29/03	2	
Count		
03/11/03	C01958	Tisha Christle; Linda Trickey
03/11/03	CX05888	Tisha Christle; Linda Trickey
03/11/03	2	
Count		
03/12/03	C01953	Tisha Christle; Linda Trickey
03/12/03	C01960	Tisha Christle; Linda Trickey
03/12/03	CX05889	Tisha Christle; Linda Trickey
03/12/03	CX05897	Tisha Christle; Linda Trickey
03/12/03	4	
Count		
03/13/03	C01955	Tisha Christle; Linda Trickey
03/13/03	CX07887	Tisha Christle; Linda Trickey
03/13/03	2	
Count		
03/14/03	C01957	Tisha Christle; Linda Trickey
03/14/03	C01959	Tisha Christle; Linda Trickey
03/14/03	CX05887	Tisha Christle; Linda Trickey
03/14/03	CX05896	Tisha Christle; Linda Trickey
03/14/03	4	
Count		
03/17/03	CX05956	Linda Trickey to Tisha Christle
03/17/03	CX07175	Tisha Christle to Linda Trickey
03/17/03	2	
Count		
03/18/03	CX04551	Linda Trickey
03/18/03	CX05072	Linda Trickey
03/18/03	CX05106	Linda Trickey
03/18/03	CX05108	Linda Trickey
03/18/03	CX05110	Linda Trickey
03/18/03	CX09078	Linda Trickey

EXHIBIT "A"

EXHIBIT "A"

03/18/03 Count	6	
03/31/03	CX05501	Tisha Christle & Linda Trickey
03/31/03	CX07177	Tisha Christle to Linda Trickey
03/31/03 Count	2	
04/06/03	C02094	Tisha Christle; Linda Trickey
04/06/03	CX08770	Tisha Christle; Linda Trickey
04/06/03 Count	2	
05/29/03	CX05631	Linda Trickey to Denise.Johnson-Davis.com
05/29/03 Count	1	
08/15/03	CX06952	Tisha Christle
08/15/03	CX07236	Tisha Christle
08/15/03 Count	2	
08/27/03	CX06951	Tisha Christle; Linda Trickey
08/27/03 Count	1	
09/23/03	CX05488	Tisha Christle to Linda Trickey
09/23/03 Count	1	
10/03/03	C02266	Tisha Christle
10/03/03	CX05900	Tisha Christle
10/03/03 Count	2	
10/09/03	CX05881	Tisha Christle; Linda Trickey
10/09/03 Count	1	
10/10/03	CX07181	Tisha Christle to Linda Trickey
10/10/03 Count	1	
10/22/03	C02260	Tisha Christle; Linda Trickey
10/22/03	C02261	Tisha Christle; Linda Trickey
10/22/03	C02263	Tisha Christle; Linda Trickey
10/22/03	C02264	Tisha Christle; Linda Trickey
10/22/03	CX05629	Tisha Christle; Linda Trickey
10/22/03	CX06677	Tisha Christle; Linda Trickey
10/22/03	CX06679	Tisha Christle; Linda Trickey
10/22/03	CX07284	Tisha Christle; Linda Trickey
10/22/03	CX07286	Tisha Christle; Linda Trickey
10/22/03 Count	9	
10/23/03	C02265	Tisha Christle; Linda Trickey
10/23/03	CX05899	Linda Trickey
10/23/03 Count	2	
10/24/03	CX05045	Tisha Christle; Linda Trickey
10/24/03 Count	1	
10/29/03	C02267	Tisha Christle; Linda Trickey

EXHIBIT "A"

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10/29/03	CX11135	Tisha Christle; Linda Trickey
10/29/03 Count	2	
12/01/03	C02275	Tisha Christle; Linda Trickey
12/01/03	CX05043	Tisha Christle; Linda Trickey
12/01/03	CX05765	Tisha Christle; Linda Trickey
12/01/03	CX06656	Tisha Christle; Linda Trickey
12/01/03 Count	4	
03/02/04	C02289	Tisha Christle; Linda Trickey
03/02/04	CX05575	Tisha Christle; Linda Trickey
03/02/04 Count	2	
03/18/04	C02291	Tisha Christle; Linda Trickey
03/18/04	CX05602	Tisha Christle; Linda Trickey
03/18/04 Count	2	
02/08/05	C02308	Tisha Christle; Linda Trickey
02/08/05	CX06268	Tisha Christle; Linda Trickey
02/08/05 Count	2	
02/14/05	CX11061	Mark DiNunzio to Cox Leadership
02/14/05 Count	1	

**Grand
Count** 145