

ORIGINAL



JACK SHREVE  
PUBLIC COUNSEL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature  
111 West Madison St.  
Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

October 22, 1997

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

971403-TI

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Complaint Against LCI International by the Attorney General and the Citizens of Florida.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAJ \_\_\_\_\_
- CMC \_\_\_\_\_
- CTB \_\_\_\_\_
- CSL \_\_\_\_\_
- ESD \_\_\_\_\_
- ETC \_\_\_\_\_
- GA \_\_\_\_\_
- REC \_\_\_\_\_
- WAC \_\_\_\_\_
- OTH \_\_\_\_\_

CJB:bsr

Enclosures

Sincerely,

Charles J. Beck  
Deputy Public Counsel

RECEIVED & FILED  
  
SPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10840 OCT 22 5

SPSC-BUREAU OF RECORDS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Robert A. Butterworth, )  
Attorney General, and the Citizens of the )  
State of Florida, by and through Jack Shreve, )  
Public Counsel, against LCI International )  
for slamming David Howe in violation of Rule )  
25-4.118, F.A.C. )

Docket 971403-TI

Filed: October 22, 1997

COMPLAINT AGAINST LCI INTERNATIONAL BY THE  
ATTORNEY GENERAL AND THE CITIZENS OF FLORIDA

Pursuant to section 25-22.036, Florida Administrative Code, Robert A. Butterworth, Attorney General ("Attorney General"), and the Citizens of the State of Florida, by and through Jack Shreve, Public Counsel ("Citizens"), file this complaint against LCI International for violation of Rule 25-4.118, Florida Administrative Code. In support of this complaint, the Attorney General and the Citizens submit the following

1. The Attorney General is the chief legal officer of the state, pursuant to Art IV, Sec. 4, Fla. Const. The Attorney General's principle place of business and mailing address is as follows:

Robert A. Butterworth, Attorney General  
Michael A. Gross, Assistant Attorney General  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, FL 32399-1050

2. Section 350.0611, Florida Statutes (1995), authorizes the Public Counsel to appear in the name of the state or its citizens in any proceeding or action before the Commission and to urge therein any position which he or she deems to be in the public interest. The Public Counsel's principle place of business and mailing address is as follows:

Jack Shreve, Public Counsel  
Charles J. Beck, Deputy Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, Fl. 32399-1400

3. LCI International is an interexchange carrier certificated by the Florida Public Service Commission. LCI International holds certificate of convenience no. 4417 issued by the Florida Public Service Commission.

4. On or about March 3, 1997, LCI International, through its employees and/or agents, changed the primary interexchange carrier of Mr. David Howe, of 925 Langley Avenue, Pensacola, FL, from MCI to LCI International without the authorization or consent of Mr. Howe, in violation of Rule 25-4.118(1), Florida Administrative Code.

5. LCI International, through its employees and/or agents, accomplished this unauthorized change in Mr. Howe's primary interexchange carrier by forging his signature

on a letter of authorization. A copy of the letter of authorization is attached to this complaint as Exhibit 1.

6. Certain written communications between Mr. Howe and LCI International and its agents are attached to this complaint as Exhibit 2. A copy of the sworn testimony of Mr. Howe, provided before the Florida Public Service Commission in Pensacola, Florida, on October 8, 1997, is attached to this complaint as Exhibit 3.

7. The actions of LCI International adversely affect the substantial interests of the state of Florida, the Citizens of Florida, and Mr. Howe by changing his primary interexchange carrier without authorization. Complainants are unaware of any disputed issues of material fact.

8. Pursuant to Section 364.285(1), Florida Statutes (1995), the Commission should impose a penalty of \$25,000 on LCI International for violation of Rule 25-4.118(1), Florida Administrative Code.

WHEREFORE, the Attorney General and the Citizens request the Commission to impose a penalty of \$25,000 on LCI International for violation of Rule 25-4.118(1), Florida Administrative Code.

Respectfully submitted,

ROBERT A. BUTTERWORTH  
Attorney General

MICHAEL A. GROSS  
Assistant Attorney General  
Fla. Bar No. 0199461

Office of the Attorney General  
PL-01 The Capitol  
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JACK SHREVE  
Public Counsel

*Charles J. Beck*

Charles J. Beck  
Deputy Public Counsel  
Fla. Bar No. 217281

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111 W. Madison Street  
Room 812  
Tallahassee, FL 32399-1400

(904) 488-9330

**CERTIFICATE OF SERVICE**

Docket No. 970882-TL

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 22nd day of October, 1997.

Michael A. Gross  
Assistant Attorney General  
Department of Legal Affairs  
PL-01, The Capitol  
Tallahassee, FL 32399-1050

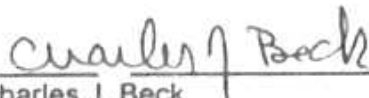
Diana Caldwell, Esq.  
Division of Appeals  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Mr. Scott McMahon  
LCI International Telecom Corp.  
8180 Greensboro Drive  
Suite 800  
McLean, VA 22102

Martha Carter-Brown  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, FL 32399-0850

Joseph A. McGlothlin  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas, P.A.  
117 South Gadsden Street  
Tallahassee, FL 32301

David P. Howe  
925 Langley Avenue  
Pensacola, FL 32504

  
\_\_\_\_\_  
Charles J. Beck

0826283

**AUTHORIZATION TO CHANGE LONG DISTANCE CARRIERS**



ACCOUNT NAME & ADDRESS (Must be EXACTLY as on phone bill)

MR & MRS DAVID LANGLEY AVE  
925 PENSACOLA FL 32504 7063  
ATTN: P

704 476 7188  
RESIDENTIAL  
BUSINESS

DAVID R AOWE  
JUDY E AOWE

By signing on file here, I authorize LCI International to act on my behalf to change my long distance carrier to the carrier of my choice. I understand that my long distance carrier may change as a result of this agreement. I understand that my long distance carrier may change as a result of this agreement. I understand that my long distance carrier may change as a result of this agreement.

CUSTOMER SIGNATURE: *Michael Chambers* DATE: 2/17/96  
ADDRESS: 555 94 3735

Michael Chambers  
704 476 7188

1-800-888-8888  
LCS-1000  
LCS-1000  
LCS-1000

925 Langley Avenue  
Pensacola, Florida  
32504

March 11, 1997

Mr. Lawrence Jones  
Director, Customer Service  
LCI International  
4650 Lakehurst Court  
Dublin, Ohio 43016

Dear Mr. Jones:

I have had an extremely frustrating experience with your organization. Apparently on or about March 3, 1997, I was transferred from MCI long distance to LCI. This was done with neither my knowledge nor consent.

I first found of this "slamming" episode on March 10, 1997, when I arrived home after a fourteen hour workday. Imagine my surprise to find that I was being "welcomed" to a long distance carrier that a mere fifteen minutes before I had never heard of.

When I tried to contact your company, my first contact "Lynn" promptly hung up on me. This after waiting through ten minutes of noise.

My second contact, "Calvin", assured me that "we are an honest company, we would never 'slam' anyone." This assurance came after I reaffirmed that I for one knew the difference between requesting a carrier and slamming.

I have now spent in excess of one hour of my time to correct an error made either by your company or its agents.

I intend to pursue this through the Public Service Commission of Florida as well as the FCC Detroit, Michigan and Washington, D.C. offices.

I await your reply.

Sincerely yours,

David P. Howe



March 25, 1997

David P. Howe  
925 Langley Ave.  
Pensacola, FL 32504

Dear David P. Howe:

LCI International values your business and our goal is complete customer satisfaction.

The Letter of Agency (LOA) you have requested is enclosed.

If you have any questions regarding this matter, please call 1-800-860-2255.

Sincerely,

Sandra Steele  
Customer Service Manager

Michael H. Chambers

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5722 ½ S. Condon Ave.  
Los Angeles, CA 90056  
(213) 292-2977

July 17, 1997

David Howe  
904-476-7188

Dear Mr. Howe,

My name is Michael Chambers, I am an Independent Representative from American Communications Network. Recently I received information that your long distance services was inadvertently switched without your consent or knowledge.

First of all, I would like to apologize for the confusion that has taken place. Through a referral your name was given out as someone who would be interested in trying out the long distance service in an effort to assist me in my new business venture. I had no idea that you were unaware of such action.

To clear this matter up, if you could be so kind as to sign this letter acknowledging that we have discussed this matter it would be well appreciated.

Again, I apologize for this misunderstanding that this may have caused you. If I can be of any more assistance to you please do not hesitate to contact me at 213-292-2977.

Sincerely,

*Michael Chambers*

Michael H. Chambers

I have read the above information and acknowledge that Michael Chambers contacted me regarding the switched of my long distance service.

Hollis Hancock

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DAVID HOWE

appeared as a witness and, swearing to tell the truth,  
testified as follows:

DIRECT STATEMENT

WITNESS HOWE: David Howe, 925 Langley  
Avenue, Pensacola.

My complaint involves LCI International. In  
March of this past year I received a notification from  
them welcoming me to the worldwide firm of LCI. This  
was the first I had ever heard of the company, much  
less having signed up for their long distance.

As Mr. Barber mentioned, I had spent  
numerous hours on the telephone trying to communicate  
with people from LCI, the first 20 minutes on hold. I  
was finally connected with an operator who promptly  
hung up on me. The next hour or so I was told  
repeatedly by a young man at LCI that they were an  
honorable company and they do not slam people.

And so I asked for their LOA authorizing --  
what authorization they had to change my long distance  
carrier. They supplied that within several days, and  
as Mr. Barber and Ms. Warren both had, I have a  
forgery of my name, someone who has never contacted  
me, obviously, because at the time they had my long  
distance carrier as AT&T, which I had not had AT&T as

1 a long distance carrier for well over 10 years.

2 My average bill was \$35, which I haven't had  
3 a \$35 telephone bill since I was in college and  
4 calling home collect. So it's told me, obviously,  
5 that there is rampant problems in the industry, and I  
6 think a lot of that comes from the fact that it is a  
7 very fast and widely growing field and there's a lot  
8 of competition out there.

9 I did receive a letter from a gentleman who  
10 is an independent representative who represents LCI  
11 and told me basically he heard I had been slammed and  
12 wanted to clear things up and please sign this so that  
13 I can clear my name.

14 Part of the problem, too, with that is LCI  
15 is based in Virginia. Their billing and customer  
16 service is out of Ohio. The company that is their  
17 representative for soliciting long distance carriers  
18 is in Detroit, and the gentleman who slammed me lives  
19 in Los Angeles. And so it is an extremely difficult  
20 time, I know, for the consumer to go about the  
21 business of trying to track down and spend the time  
22 and effort that's necessary to find where these folks  
23 are, how they go about doing things.

24 Now, the rules changes that have been  
25 mentioned roughly parallel what the Federal

1 Communications Commission's current rules are. One of  
2 the things that was mentioned was the fact that I  
3 would receive a card, or I should. Current rules  
4 apparently say that I should receive a card within 14  
5 days that let me know that I have changed.

6 I, for one, received nothing from LCI  
7 letting me know that my long distance carrier had been  
8 changed. I was fortunate in that I found out about  
9 the change far quicker than apparently most have. In  
10 changing the rules, and speaking with Kate Smith at  
11 the PSC Staff who was very helpful to me in helping me  
12 go through this maze of conflicting information, the  
13 idea that I get from PSC Staff is that if enough  
14 people complain, if enough complaints are filed  
15 against a certain company, then their certificate of  
16 occupancy -- certificate of whatever is pulled and  
17 they cannot operate in the state of Florida.

18 In the meantime, they pay fines. It's a  
19 slap on the wrist. It's a cost of doing business. I  
20 think part of the problem could be cured if the people  
21 that are forging my name as well as others' names on  
22 documentation -- as Ms. Warren said, we would be in  
23 jail for that kind of thing -- I think they need to be  
24 prosecuted and handle it like it is, which is a  
25 felony, and let these people go to jail. Let them --

1 instead of writing me a letter and telling me they  
2 heard I had a problem, let them call me from the jail  
3 somewhere while they're doing their time for forging  
4 my name.

5 All of these dear people that are here --  
6 and I feel like it's a very small tip of the iceberg,  
7 because I don't think this meeting was very well  
8 publicized. Most of us are here because we are  
9 concerned. I think it's a wide-going problem.

10 I pulled things off the Internet the other  
11 night just to do a little research. There are 17,400  
12 and some odd hits regarding the word "slamming" on the  
13 Internet, and so obviously it's a big problem out  
14 there that needs to be addressed.

15 Instead of slapping people on the wrist,  
16 let's give them a hefty fine, put them in jail for  
17 forging documentation. I think that's the only way  
18 we're going to see a stop to this type of behavior.

19 Thank you.

20 COMMISSIONER DEASON: Let me ask you a  
21 question. You indicated that there should be some  
22 type of criminal prosecution.

23 WITNESS HOWE: Yes, sir.

24 COMMISSIONER DEASON: That's something that  
25 is probably going to be discussed during this

1 rulemaking process, but perhaps on the periphery,  
2 because the Public Service Commission does not have  
3 any type of criminal jurisdiction. It's just not part  
4 of what we were created by the legislature to do.

5 WITNESS HOWE: I understand.

6 COMMISSIONER DEASON: But I think that the  
7 Attorney General perhaps is interested in that. Part  
8 of the problem is, is that there -- as I understand  
9 it, is that there is -- currently in the law there's  
10 an exemption for regulated utilities being subject to  
11 an agency like the Public Service Commission that  
12 exempts them from some of the prosecution that  
13 normally could take place by the Attorney General  
14 folks.

15 I think that we're going to try to work with  
16 the Attorney General to try to see if some changes  
17 need to be made in that law so that those exemptions  
18 perhaps could be reworked or eliminated so that in  
19 flagrant situations that you just indicated, such as  
20 forgeries and things of that nature, if it's indicated  
21 there needs to be some type of prosecution of that  
22 sort, that the avenue would at least be available to  
23 pursue that. I assume you would be in favor --

24 WITNESS HOWE: Absolutely, sir. These  
25 people are working as independent contractors. I have



1 not spoken with the gentleman from Los Angeles. My  
2 wife has. His summation of the thing is that two  
3 people who were working for him -- it goes farther and  
4 farther afield and it's trying to put a finger on a  
5 snail almost, the slime trail you can't follow -- but  
6 two people working for him who -- he is working for an  
7 independent contractor who is again working for  
8 another independent contractor -- apparently went down  
9 through the telephone book and just copied people's  
10 names and took it upon themselves to forge LOAs so  
11 they could get their things switched.

12           Like I said, I have not spoken with the  
13 gentleman. That's what my wife has told me that she  
14 has. But, no, I would be far in favor of that  
15 because -- and if regulated utilities do not -- the  
16 PSC or the Attorney General does not have that  
17 authorization, these people are independent  
18 contractors; they are not regulated utilities. They  
19 answer to no one basically, and I think they need to  
20 answer to someone.

21           **CHAIRMAN JOHNSON:** Thank you very much. Any  
22 other questions for Mr. Howe? Thank you.

23           **MR. BECK:** Charles Rehwinkel.  
24  
25