

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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In re

STARVOX COMMUNICATIONS, INC.,
a California corporation,
STARVOX COMMUNICATIONS, INC.,
a Delaware corporation,
CAPITAL TELECOMMUNICATIONS, INC.,
a Pennsylvania corporation,
EASTERN TELEPHONE SYSTEMS, INC.,
a Delaware corporation,
CAPITAL TELECOMMUNICATIONS OF
ERIE, INC., a Pennsylvania corporation,
STAR TEL OF VICTORIA, INC.,
a Texas corporation,
STAR TEL TRANSMISSION CO., INC.,
a Texas corporation,

Debtors.

**Chapter 7 Cases Jointly Administered
Under Case No. 08-51447 RLE**

- Case No. 08-51447-RLE-7
- Case No. 08-51450-RLE-7
- Case No. 08-51451-RLE-7
- Case No. 08-51452-RLE-7
- Case No. 08-51453-RLE-7
- Case No. 08-51454-RLE-7
- Case No. 08-51455-RLE-7

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**NOTICE OF TRUSTEE'S INTENT TO COMPROMISE CONTROVERSY;
AND OPPORTUNITY FOR HEARING**
(DKR Soundshore)

TO ALL CREDITORS AND PARTIES IN INTEREST:

PLEASE TAKE NOTICE that Carol Wu, Trustee in Bankruptcy of the estate of the above named Debtors ("Trustee"), intends to compromise and settle disputes that have arisen between the estate and DKR Soundshore Oasis Holding Fund Ltd., for itself and as agent for Trinidad Capital Master Fund Ltd. and SMH Capital, Inc. (collectively, "DKR Agent").

Background

DKR Agent was the agent for holders of certain Senior Secured Debentures. As a result, DKR Agent asserts an unavoidable and perfected lien against essentially all of the pre-March 26, 2008 assets of Starvox Communications, Inc., a California corporation, including accounts receivable for services provided before March 26, 2008 ("Petition Date") to secure a debt of roughly \$15 million.

The Trustee asserts that DKR Agent has no lien on or rights in assets of Debtors that arose after the Petition Date, including accounts receivable for services provided after the petition date. She also asserts the right to surcharge DKR Agent for pre-Petition Date accounts that she may have collected, pursuant to Bankruptcy Code Section 506(c).

After filing of the petition, the Trustee collected many dozens of small payments ("Payments"), some of which indicated that they were paying invoices for pre-petition telephone services provided, and some of which referred to post-petition invoices. Some of the Payments referred to other matters, and it was difficult to tell what

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each of them was for. To the best of the knowledge of the parties, the Payments potentially in dispute total \$122,318.68.

The Trustee and DKR reviewed the Payments and contacted some of the larger payees to try to determine who had what rights in the Payments. To the best of Trustee's knowledge, Debtor did not send out post-petition invoices.

Settlement

DKR and the Trustee have agreed to settle their disputes as follows:

The Trustee will pay to DKR the sum of \$77,921,88, in full satisfaction of any and all rights of DKR Agent or liens of DKR Agent in or against any of the Payments collected by the Trustee through January 15, 2010. In addition, the Trustee will retain, and the parties do not dispute that DKR Agent has no lien on or similar rights in, the \$171,836.02 that the Trustee collected from a few large customers that continued to use Debtor's "services" during the "cool-down" phase immediately following the Petition Date.

The Trustee and DKR will grant to each other mutual releases with respect to the collections by the Trustee.

DKR will assert no rights in future collections by the Trustee, unless such collections exceed \$5,000. In that case, DKR retains its rights to assert a lien against the additional amounts.

The Trustee believes that the foregoing settlement is fair and reasonable and is in the best interests of these bankruptcy estates. The Trustee further believes that the settlement meets the standards of *Martin v. Kane (In re A & C Properties, Inc.)*, 784 F.2d 1377, 1381 (9th Cir. 1986); *cert. denied sub nom Martin v. Robinson*, 479 U.S. 854 (1986); *see also Fireman's Fund Ins. Co. v. Woodson (In re Woodson)*, 839 F.2d 610, 620 (9th Cir. 1988).

In considering the approval of a proposed compromise, the court must take into account the following factors:

- (1) The probability of success in the litigation;
- (2) The difficulty, if any, to be encountered in collection;
- (3) The complexity of the litigation involved and the expense, inconvenience, and delay necessarily attending it;
- (4) The paramount interest of creditors and a proper deference to their reasonable views.

If the matter were litigated, the probability of success would be uncertain. It is difficult to identify the sources of the collections. On the one hand, the Trustee is not aware of any post-petition invoices that were issued. However, some of the collections on which the Trustee followed up arose from matters that did not appear to be subject to the DKR Agent lien. Moreover, DKR Agent would have to prove that the collections were subject to its lien.

To the extent that the Trustee was successful in the litigation, there would be no difficulty in collection, as she would be in possession of the monies at issue. Nonetheless, the litigation would involve many dozens of transactions and there would be inconvenience and delay necessarily attending it. The Trustee believes that the proposed settlement is in the paramount interests of creditors.

The Trustee will request that the order approving this proposal state: "This Order is effective upon entry, and the stay otherwise imposed by Rule 62(a) of the Federal Rules of Civil Procedure and/or Bankruptcy Rule 6004(h) shall not apply."

Objections or Requests for Hearing

PLEASE TAKE FURTHER NOTICE THAT Local Rule 9014-1 of the United States Bankruptcy Court for the Northern District of California prescribes the procedures to be followed with respect to any objection to the proposed compromise or any request for hearing thereon. Any objection to the proposed compromise or request for hearing must be filed with the United States Bankruptcy Court, U.S. Bankruptcy Court, San Jose Division, Third

Floor, Room 3035, 280 South First Street, San Jose, CA 95113-3099, and served on counsel for the Trustee at the address noted below within 21 days from the mailing of this notice. Any request for hearing or objection to the proposed compromise must be accompanied by any declarations or memoranda of law that the party objecting or requesting wishes to present in support of its objection. If no party in interest timely objects to the requested relief or requests a hearing, the Trustee will seek entry of an order approving the compromise by default, without further notice and in the absence of an actual hearing. If a timely objection or request for a hearing is made, counsel for the Trustee will give at least 7 days' written notice of the hearing to the objecting or requesting party.

PLEASE TAKE FURTHER NOTICE THAT as of January 1, 2005, the United States Bankruptcy Court for the Northern District of California has adopted mandatory electronic filing. If you are not currently qualified to file papers with the Court electronically, you should consult the Court's website (www.canb.uscourts.gov).

DATED: May 21, 2010

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By:


BARRY MILGROM

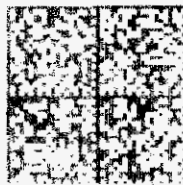
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