Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of the Application of **NOVA-Skywire HoldCo, L.P.** Applicant regarding **Xchange Telecom LLC** Licensee For to Place Xchange Telecom LLC Under the Temporary Control of Independent Managers Pursuant to Section 309(c)(2)(B)	)))))))))))))	 WC Docket No. 22-_______ File No. ITC-T/C-2022__________ USL File No. _____________

APPLICATION FOR TEMPORARY AUTHORITY

I. INTRODUCTION

NOVA-Skywire HoldCo, L.P. ("NOVA") is the administrative agent for a Credit Agreement and related agreements addressing an approximate $18.5 million loan to Xchange Telecom LLC ("Xchange Telecom"). The final maturity date for the loan was September 14, 2022, meaning the loan has become due and payable in accordance with the Credit Agreement's terms. Xchange Telecom has failed to make full and timely payment on the loan. NOVA is therefore initiating a foreclosure process against Xchange Telecom and its owners.

NOVA recognizes that Xchange Telecom is a telecommunications carrier that is regulated by the Federal Communications Commission ("FCC" or "Commission"). Pursuant to the Communications Act of 1934 and the Commission's rules, control of Xchange Telecom cannot be transferred to another party without the Commission's prior approval. NOVA, however, is significantly concerned that the existing management of the company may not act in a manner that preserves the company and its assets in a way that ensures its ongoing operations and maximizes its potential value to a new owner and preserves services to Xchange Telecom's customers. Therefore, NOVA is exercising its rights under its related Pledge Agreement with Xchange Telecom to force the resignations of Xchange Telecom's existing two managers and replace them with two independent managers during an interim period while a buyer is identified to assume ownership and control of Xchange Telecom. This application for temporary authority seeks the Commission's consent for the first step in this process, the forced resignation of the existing two managers and the appointment of two independent managers to oversee and preserve Xchange Telecom.

II. IDENTITIES OF THE PARTIES

A. NOVA-Skywire HoldCo, L.P.

NOVA is a Delaware limited partnership that is owned by intervening fund vehicles that were established and are managed by NOVA Infrastructure, which is an infrastructure investment firm based in New York that targets middle market opportunities in transportation, environmental services, energy and energy transition, communications and other infrastructure sectors primarily in North America. NOVA is both the lender and the administrative agent for the loan agreement to Xchange Telecom.

B. Xchange Telecom LLC

Xchange Telecom is a telecommunications carrier and broadband access provider through its brand names Skywire Networks and Xchange Telecom. Xchange is authorized by the FCC and state regulatory authorities to operate in New York, New Jersey and Maryland, with the vast majority of its enterprise and residential customers and operations based in Brooklyn, Bronx, and Queens with additional customers in Manhattan and Jersey City. Xchange Telecom serves its customers primarily using a fixed wireless infrastructure, avoiding the need for an expensive buildout of a fiber-based distribution network.

Xchange Telecom, holds international 214 authority issued by the Commission to Xchange Telecom Corporation, file number ITC-214-20020404-00163. Xchange Telecom also acts as a domestic 214 carrier. Additionally, Xchange holds Commission authorizations for approximately two dozen fixed microwave licenses under FRN 0006831713, the calls signs for which are identified in Exhibit 1 of this application.

Xchange Telecom is owned and controlled by Alan Levy and Alfred West, both co-founders and co-CEOs of the company. Levy and West also act as the two existing managers of the company.

C. Independent Managers

NOVA is seeking Commission consent for the appointment of two individuals as the independent managers of Xchange Telecom. These individuals are Neal Goldman and Anna Phillips. Both have significant experience acting in similar capacities in other situations, including acting as fiduciaries or trustees to preserve the value of organizations and funds on behalf of creditors and beneficiaries. Both of them are United States citizens. Additional information regarding the qualifications and experience of Goldman and Phillips is provided as Exhibit 2 to this application.

III. INDEPENDENCE REQUIREMENTS

NOVA has developed an Independence Acknowledgement addressing the appointment of Goldman and Phillips to act as independent managers of Xchange Telecom. For clarity, this Independence Acknowledgement will constitute the only binding understanding between NOVA and the independent managers. Unlike a situation involving a trustee in a share tender or proxy contest, Goldman and Phillips will have no contractual or fiduciary duty to NOVA. They will only have fiduciary obligations to Xchange Telecom.

Pursuant to Commission precedent, the Independence Acknowledgement includes the following essential terms and obligations that will be applicable both to the independent managers and to NOVA, its officers, directors, members, investors, representatives, and affiliates. These obligations and requirements are drawn primarily from the Commission's 1986 Policy Statement on Tender Offers and Proxy Contests ("Policy Statement").[1] Although the Commission's Policy Statement generally addressed hostile takeovers of publicly traded broadcast licensees, the factual circumstances addressed in the Policy Statement and the Commission's resulting conclusions of public policy are sufficiently analogous to the present situation to provide appropriate guidance.

First, throughout the period in which the independent managers will oversee Xchange Telecom, NOVA will be strictly prohibited from either becoming involved in, or seeking to influence, directly or indirectly, Xchange Telecom's operation or management.[2] Thus, NOVA will not attempt to influence the independent managers in the execution of their duties, including the operation of Xchange Telecom, the management of finances and the hiring and retention of employees.

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[1] *In Re Tender Offers and Proxy Contests*, MM Docket 85-218, Policy Statement, FCC 86-67 (Jan. 30, 1986) ("*Policy Statement*").

[2] *See Policy Statement*, ¶ 60; *L. P. Media and G. William Miller, Trustee*, 58 RR 2d 1527, Memorandum Opinion and Order, FCC 85-477, ¶ 22 (Aug. 27, 1985) ("*L. P. Media*") (imposing a substantively analogous restriction); *One Two Corporation and Eugene McCarthy, Trustee*, 58 RR 2d 924, Memorandum Opinion and Order, FCC 85-375, ¶ 48 (July 17, 1985) ("*McCarthy*") (same).

Second, in order to ensure their independence, the independent managers must be independent persons with no familial or business relationship with NOVA or any third party that is considered as a potential purchaser of Xchange Telecom.[3]

Third, during the period when the independent managers are acting as the sole managers of Xchange Telecom, NOVA and the independent managers will be barred from having oral communications regarding the governance, management and operation of Xchange Telecom[4] except to the extent that such conversations involve NOVA in its capacity as administrative agent and senior lender regarding the loan to Xchange, any additional loans by the Lender to Xchange, or any potential sale, restructuring, or foreclosure process. Notwithstanding the forgoing, the independent managers will be permitted to send written information and reports to NOVA on any topic including the governance, management or operations of the company as long as they are in written form.

Fourth, although the independent managers will have flexibility in the exercise of its duties, they must act, whenever possible, and except where necessary to promote the remaining three objectives set forth below, in a manner which preserves the *status quo* of the company and maintains its general character.[5] The independent managers are, therefore, presumptively disallowed from undertaking, initiating or supporting any significant departures from existing corporate operations or practices. In addition, unless it is necessary to further one of the three

[3] To this end, the term "business relationships" shall be interpreted to include, *inter alia*, equity or debt holdings, employment relationships and positional interests held by the independent directors such as directorships. *See Corporate Ownership Reporting and Disclosure by Broadcast Licensees; et al.*, 97 F.C.C.2d 997, 998 & 1024 (1984).

[4] *See Policy Statement*, ¶ 64; *McCarthy*, ¶ 42; *L. P. Media*, ¶ 4.

[5] *See id.*, ¶ 68; *McCarthy*, ¶ 48.

principles addressed below, the independent managers may not discharge key employees where such action may effectuate a significant change in the nature of the business.

Fifth, the independent managers have a general obligation to safeguard the assets of the corporation so that they remain available for transfer to an appropriate prospective purchaser.[6] To this end, the independent managers should act to prevent unwarranted or imprudent actions by the existing management, such as voting themselves overly generous benefits or wasting corporate assets.[7]

Sixth, the independent managers must exercise his or her power in a manner which assures the continuity of the company's operations as a carrier and broadband service provider. In this regard, the independent managers will have the authority to replace officers, directors or employees who have either resigned or whose actions or proposed actions are inconsistent with the proper discharge of the trustee's obligations. Actions of the independent managers that are incompatible with this objective would be inconsistent with the nature and purpose of the interim authority granted to the trustee and would be prohibited. For example, while persons who control communications companies generally possess the power to surrender a license, the independent managers will not have the authority to take that action.

Seventh, the independent managers must act in a manner which facilitates the underlying process of transferring control of the company to a new owner. If the Commission denies an application for consent to transfer control of the company to a prospective buyer, the independent managers will have a responsibility to support efforts to identify an alternative buyer.

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[6] *See id.*, ¶ 69.

[7] *See id.*

Through the implementation of an Independence Acknowledgement that incorporates the above-discussed obligations and restrictions, the parties can best ensure the preservation of Xchange Telecom as a telecommunications carrier and broadband service provider to enterprise and residential customers in the New York area, while simultaneously maximizing the value of the company and thereby facilitate its acquisition by a new owner.

IV. LEGAL AUTHORITY

The Commission has legal authority to grant authority for the temporary appointment of independent managers to oversee Xchange Telecom as a non-substantial transfer of conrol. In a comparable case, Pacific Telesis Group ("Pacific Telesis") proposed to acquire control of Communications Industries, Inc. ("CI") in a two-step process in which the Commission consented to the appointment of a trustee over CI.[8] This was intended to provide sufficient opportunity for Pacific Telesis to seek and secure the formal approval of the Commission for the transfer of control of CI to Pacific Telesis.

The Commission concluded that the appointment and transfer of CI to a trustee could appropriately be characterized as "non-substantial" under section 309(c)(2)(B) because the trustee was provided highly restricted incidences of legal ownership or control.[9] The trustee, for example, was not permitted to exercise the rights and powers of the usual shareholder, nor exercise the usual rights and powers accorded to a director of a corporation. The trustee also represented that he will not participate in day-to-day management decisions, and would change the composition of the board only if a member acts inconsistently with the purpose of the trust. The trustee would act

[8] *See Communications Industries, Inc., James F. Rill, Trustee, and Pacific Telesis Group; for Consent to Transfer of Control of Communications Industries, Inc.*, 1985 FCC Lexis 2329 (1985).

[9] *See id.*, ¶ 16.

independently only if management compels him to do so by taking actions inconsistent with preserving assets or effectuating the transaction. In addition, the trustee cannot take any corporate action which would impair the *status quo*.

Based on these factual circumstances, the Commission concluded that the trustee would not "own" or "control" the stock in the normal sense. Rather, he would act as a mere caretaker, charged with holding the stock for a limited period of time, voting it only in specified ways. Thus, the Commission concluded that the transfer of the stock to the trustee is not a "substantial" transfer as that term is used in Section 309(c)(2)(B).[10]

In a second case involving Multimedia, the Commission granted its consent to the hostile takeover of Multimedia by Jack Kent Cooke using a trustee to conduct the tender offer. The Commission analyzed the transaction under both Sections 309(c)(2)(B) and 309(f) of the Communications Act, and found that the initial transfer to the trustee could be viewed either as a non-substantial transfer of control pursuant to Sections 309(c)(2)(B) or under 309(f) as qualifying for special temporary authority.[11] In that case, the Commission, decided to grant a authority under Section 309(f), but also concluded that the option of treating the situation as a non-substantial transfer of control under Section 309(c)(2)(B) was available as well.

In concluding that the Commission could consent to this situation, it emphasized that the relevance of the "highly restricted incidences of legal ownership or control" vested in the trustee: the trustee would not be permitted to exercise normal shareholders' or directors' rights, and was bound to vote to retain the present operation and management of Multimedia; the trustee was to hold the shares only until the transfer of control application to Cooke was approved or disapproved,

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[10] *See id.*, ¶ 19.

[11] *See* One Two Corp. (Multimedia), 58 RR 2d 924 (1985).

and then to transfer the shares to Cooke or sell them. The Commission conditioned its approval of the trustee arrangement as follows: limits were placed on communications between the trustee and Cooke to enhance the insulation between them; Cooke would not nominate directors or influence the Trustee's selection of directors; Cooke would not seek to influence or involve himself directly or indirectly in the management of Multimedia; Cooke's own stock in Multimedia would be placed in the trust; the trustee would maintain the status quo; the trust instrument and any changes thereto would be filed with the Commission; and if the transfer of control application were disapproved, the trustee would inform the Commission as to his plans for disposing of the stock.

In a third, more recent case, the Commission authorized through a short form application for HLT Corporation, a subsidiary of Hilton Hotels Corporation ("Hilton"), to nominate a replacement board of directors for ITT Corporation ("ITT") as a part of Hilton's proxy contest to assume control of ITT.[12] The Commission concluded that the submission of a replacement slate of board members would not constitute a substantial transfer of control even though the Commission acknowledged that the replacement board members would not be independent and would be "committed to supporting the tender offer and merger of ITT with Hilton or HLT."[13] The Commission explained that the submission of the competing slate constituted a non-substantial change of control because it would not involve any change in the shareholders' ownership or voting rights and was limited to the composition of the board of directors.[14] The Commission also noted in that case that any change in the composition of the board would result

[12] *See Application of HLT Corporation and Hilton Hotels Corporation*, FCC 97-381, Memorandum Opinion and Order, 13 FCC Rcd. 9667 (1997).

[13] *Id.*, ¶ 6.

[14] *See id.*, ¶ 9.

in "from the shareholders' exercise of their substantial control, not a transfer of the same."[15] Although this fact is distinguishable from the present situation (in which the existing owners of Xchange Telecom are not selecting the independent managers), it is balanced by the fact that the two independent managers that would be appointed in this case will be independent from NOVA and would have a fiduciary obligation to preserve the assets and operations of Xchange Telecom.

Thus, as detailed above, the relevant prior cases are legally analogous to the present situation, but with certain important factual distinctions. First, unlike certain of the prior cases, NOVA is only seeking to appoint independent managers and is not proposing any changes to the *de jure* ownership of Xchange Telecom, at least not until a prospective purchaser is identified. Instead, the membership interests in Xchange Telecom will remain with its two current owners, Levy and West. The fact that the ownership interests will remain with Levy and West provides additional justification for the appointment of independent managers to oversee Xchange Telecom rather than formal trustees since the independent managers will not hold or be responsible for the disposition of the formal membership interests in the company.

A second distinguishing fact is that the two independent managers would have a fiduciary duty to Xchange Telecom and not to NOVA. Thus, the independent managers will be obligated to serve the best interests of the company to further its existing purpose. In contrast, in prior cases in which the Commission permitted the use of trustees to take temporary control of FCC licensed entities or their stock interests, the Commission acknowledged that the trustees may have fiduciary

[15] *Id.*

obligations to the hostile bidder.[16] The Commission was therefore forced to weigh these competing interests in its public interest analysis, a step that is not required in this case.

Finally, in requesting the Commission's consent in this case, NOVA acknowledges that two different legal theories have been endorsed by the Commission to support its approval of such arrangements, one covered by Section 309(c)(2)(B) of the Communications Act and a second covered by Section 309(f). The Commission has employed both of these statutory provisions to permit the temporary appointment of an independent trustee or managerial arrangement. This is appropriate because each of these two approaches is necessary to cover different circumstances that cannot be addressed by the other approach.

Specifically, the Section 309(f) approach can only be employed following the filing of a full transfer of control application addressing the second step in a two-step transaction.[17] NOVA obviously cannot employ the Section 309(f) approach in this circumstance because the potential purchaser of Xchange Telecom has not been identified. Therefore, NOVA must seek the Commission's approval for the temporary appointment of two independent managers pursuant to authority granted under Section 309(c)(2)(B) of the Communications Act. Fortunately, the Commission has previously concluded that this provision is available and appropriate for use in situations that are legally analogous.

[16] *See Policy Statement*, ¶ 69 (observing that "[a]s a fiduciary of the offeror, the trustee has the responsibility to assure that the assets remain available for transfer to the offeror if the long form application is approved").

[17] *See* 47 U.S.C. § 309(f) (providing the option for the grant of an STA "[w]hen an application subject to subsection (b) of this section has been filed . . .").

V. PUBLIC INTEREST STATEMENT

The temporary appointment of independent managers over Xchange Telecom would greatly benefit the public interest. Xchange Telecom serves a critical role in the New York area telecommunications services industry providing a competitive alternative to incumbent wireline service providers using an innovative wireless point-to-multipoint infrastructure. This approach has permitted Xchange Telecom to serve heavily urban areas (such as Brooklyn and Queens) where it would be exceedingly expensive and challenging to deploy terrestrial fiber or coaxial infrastructure.

Xchange Telecom's customer base is also reflective of these dense urban conditions. Many of its customers are low income and qualify for subsidies provided by the Commission's Lifeline program or through other government supported mechanisms. Many of these customers would have no competitive options with respect to their access to broadband internet and communications services absent Xchange Telecom's attractive offerings.

Given the important benefits that Xchange Telecom provides its customers, it is critically important that its ongoing operations be preserved, its employees provided with stable management, and its access to financial resources protected. NOVA's proposal for the appointment of two independent managers to oversee and maintain Xchange Telecom in its present form serves each of these goals and therefore should be authorized as highly beneficial to the public interest.

VI. INFORMATION REQUIRED BY SECTION 63.24(E)

Pursuant to Section 63.24(e)(2) of the Commission's Rules, the NOVA submits the following information requested in Section 63.18 (a)-(d) and (h)-(p) in support of this application:

63.18 (a) Name, address and telephone number of each Applicant:

Applicant

NOVA-Skywire HoldCo L.P.
400 Madison Avenue
Suite 11B
New York, NY 10017
(646) 889-8100

Licensee
Xchange Telecom LLC
3611 14th Avenue
Brooklyn, NY 11218
legal@xchangetele.com
(646) 722-7200

Independent Managers
Neal P. Goldman
22 Jackson Road
Bedford, New York 10506
(917) 699-6077
Neal.p.goldman@gmail.com

Anna Phillips
(678) 438-2264
Annaphillips@yahoo.com

63.18 (b) Jurisdiction of Organizations:

Applicant: NOVA-Skywire HoldCo L.P. is a Delaware limited partnership

Licensee: Xchange Telecom is a is a Delaware limited liability company

Independent Managers: The independent managers are U.S. citizens

63.18 (c) (Answer to Question 10) Correspondence concerning this Application should be sent to:

Bruce A. Olcott
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 2001-2113
Tel: (202) 879-3630
bolcott@jonesday.com

63.18 (d) (Answer to Question 10) Section 214 Authorizations

Applicant: NOVA-Skywire HoldCo L.P. does not hold any Section 214 authorizations

Licensee: Xchange Telecom holds a Section 214 authorization for Global or Limited Global Facilities-Based services, file number ITC-214-20020404-00163

Independent Managers: The proposed independent managers do not hold any Section 214 authorizations

63.18 (h) (Answer to Questions 11 and 12) Ownership

The following persons or entities hold or will hold, directly or indirectly, a 10% or greater interest in Licensees as calculated pursuant to the Commission's ownership attribution rules for wireline and international telecommunications carriers:[18]

Pre-Transaction Ownership

Xchange Telecom is owned by:

Alan Levy
3611 14th Avenue
Brooklyn, NY 11218
(646) 722-7200

Alfred West
3611 14th Avenue
Brooklyn, NY 11218
(646) 722-7200

[18] While the Commission's rules for combined domestic and international applications requires this information only for the transferee, see 47 C.F.R. §§ 63.04(b), 63.24(e)(2), Applicants are providing ownership information for all parties.

No other person or entity is expected to hold a 10% or greater ownership interest in Xchange Telecom pursuant to the Commission's attribution rules either prior to or following the appointment of the trustee. To the best of the applicant's knowledge, Xchange Telecom does not have any interlocking directorates with a foreign carrier.

Post-Transaction Ownership

Upon effectuation of the independence arrangement requested by this application, the ownership of Xchange Telecom will not be changed, but the existing two managers will be replaced with two independent managers.

63.18 (i) (Answer to Question 14)

Applicant certifies that neither it nor the candidate independent managers are foreign carriers or affiliated with a foreign carriers. To the best of applicant's knowledge, Xchange Telecom is also not a foreign carrier or affiliated with a foreign carrier.

63.18 (j) (Answer to Question 15)

Applicant certifies that neither it nor the candidate independent managers seek to provide international telecommunications services to any destination country where:

(1) any Applicant is a foreign carrier in that country;

(2) any Applicant controls a foreign carrier in that country;

(3) any entity that owns more than 25 percent of an Applicant, or that controls an Applicant, controls a foreign carrier in that country; and

(4) two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of an Applicant and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States.

63.18 (k) Not applicable.

63.18 (l) Not applicable.

63.18 (m) Not applicable.

63.18 (n)

Applicant certifies that neither it nor the candidate independent managers have agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

63.18 (o)

Applicant certifies that it is not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. *See* 21 U.S.C. § 853a; *see also* 47 C.F.R. §§ 1.2001-1.2003.

63.18 (p) Not applicable.

VII. INFORMATION REQUIRED BY SECTION 63.04

The following information is being provided to address the requirements set forth in Commission Rule 63.04(a)(6)-(12) in support of this request:

63.04(a)(6): Description of the Transaction

A description of the proposed Transaction is set forth in **Section I** above.

63.04(a)(7): Geographic Areas Served

Applicant: NOVA-Skywire HoldCo LLC does not provide telecommunications services

Licensee: Xchange Telecom provides telecommunications services in portions of New York and New Jersey and is authorized to provide services in Maryland

Independent Managers: The proposed independent managers do not provide telecommunications services

63.04(a)(8): Streamlining Categorization

No applicable.

63.04(a)(9): Additional FCC Applications

This application is being filed simultaneously with the Wireline Competition Bureau using the non-docketed portion of ECFS to address the 214 authorization, with the International Bureau using IBFS to address the international 214 authorization, and with the Wireless Telecommunications Bureau in ULS to address the microwave licenses.

63.04(a)(10): Special Consideration Requests

We request expedited treatment of this application so that the trustee can assume their duties as expeditiously as possible to preserve Xchange Telecom as a provider of telecommunications services and broadband access to its enterprise and residential customers and to protect the underlying value of the company.

63.04(a)(11): Waiver Requests

No waiver requests are being filed in conjunction with this application.

63.04(a)(12): Public Interest Statement

A statement showing how grant of the Application will serve the public interest, convenience, and necessity is provided in **Section V** above.

VIII. CONCLUSION

Based on the foregoing, the Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by grant of this application.

Respectfully submitted,

Bruce A. Olcott
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 2001-2113
Tel: (202) 879-3630
bolcott@jonesday.com

Counsel for NOVA-Skywire HoldCo L.P.

Date: September 15, 2022

Exhibit 1

Wireless Licenses Held by Xchange Telecom LLC

	Call Sign	Name	FRN	Service	Expiration Date
1	WQQC440	Xchange Telecom Corporation	0006831713	MG	10/24/2022
2	WQQC444	Xchange Telecom Corporation	0006831713	MG	10/24/2022
3	WQQC527	Xchange Telecom Corporation	0006831713	MG	10/25/2022
4	WQTB415	Xchange Telecom Corp.	0006831713	MM	12/24/2023
5	WQTW794	Xchange Telecom Corporation	0006831713	MG	04/28/2024
6	WQTW799	Xchange Telecom Corporation	0006831713	MG	04/28/2024
7	WQTW801	Xchange Telecom Corporation	0006831713	MG	04/28/2024
8	WQTW802	Xchange Telecom Corporation	0006831713	MG	04/28/2024
9	WQTW804	Xchange Telecom Corporation	0006831713	MG	04/28/2024
10	WQUS537	Xchange Telecom Corp.	0006831713	MG	09/29/2024
11	WQVR469	Xchange Telecom Corporation	0006831713	MG	04/21/2025
12	WQVY229	Xchange Telecom Corporation	0006831713	MG	06/12/2025
13	WQYV969	Xchange Telecom Corp.	0006831713	MG	02/07/2027
14	WQZP882	Xchange Telecom Corp.	0006831713	MG	06/30/2027
15	WRAI250	Xchange Telecom Corp.	0006831713	MG	11/23/2027
16	WRAL982	Xchange Telecom Corp.	0006831713	MG	01/03/2028
17	WRAW416	Xchange Telecom Corp.	0006831713	MG	03/23/2028
18	WRAW417	Xchange Telecom Corp.	0006831713	MG	03/23/2028
19	WRBV353	Xchange Telecom Corp.	0006831713	MG	06/28/2028
20	WRBV354	Xchange Telecom Corp.	0006831713	MG	06/28/2028
21	WRFL900	Xchange Telecom Corp.	0006831713	MG	03/26/2030
22	WRFL901	Xchange Telecom Corp.	0006831713	MG	03/26/2030
23	WRFL902	Xchange Telecom Corp.	0006831713	MG	03/26/2030

Exhibit 2

Additional Information Regarding Proposed Independent Managers

NEAL P. GOLDMAN
22 JACKSON ROAD
BEDFORD, NEW YORK 10506
917-699-6077
NEAL.P.GOLDMAN@GMAIL.COM

WORK EXPERIENCE:

SAGE Capital Investments, LLC – Chief Executive Officer **2016 – Present**

- Consulting firm specializing in independent board of director work, litigation trustee, liquidating trustee and other creditor representative services.
- Other services include proxy contest advising, strategic planning, CRO, and examiner.
- Clients include private equity sponsors, companies, board of directors, mutual funds and alternative asset managers.

Och Ziff Capital Management, LP – Managing Director **2014 – 2016**

- Responsible for helping to manage $10 Billion fixed-income portfolio.
- Analyzed and managed investment opportunities with a process-intense or legal strategy to help maximize return.
- Primarily focused on distressed and special situation investments.

Brigade Capital Management, LLC – Founding Partner **2007 – 2012**

- Helped build company to $12 billion in assets under management with 80 employees; offices in New York and Zurich; specializing in opportunistic credit investing.
- Expertise: Special situation and distressed investing; responsible for all restructuring and activist investments in public and private deals.
- Represented Brigade on official and unofficial creditor committees both in and out of court.
- Led negotiations with various creditor classes, banks, trade vendors, mutual funds, hedge funds, management, unions, trustees, regulators and municipalities to maximize value of distressed and special situation investments.
- Worked with management teams and boards of directors on capital structures, timing and sources of capital, union negotiations, management incentive plans, acquisitions and divestitures, business plans, and strategic alliances with municipalities to maximize value on investments across multiple industries.

Mackay Shields, LLC – Managing Director **2001 – 2006**

- Portfolio Manager/Analyst for $16 billion portfolio of high yield bonds and bank debt.
- Head of distressed investing and led all restructuring negotiations.
- Responsibilities included sourcing investments, detailed due diligence and industry analysis, valuation analysis, credit analysis, and modeling.
- Accounts consistently performed in top third percentile of relative peers.
- Industry Coverage: Retail, Automotive, Paper & Packaging, and Industrials.

Banc of America Securities, LLC – Principal, Special Situations Group **1999 – 2000**

- Responsible for research and analysis on troubled/stressed companies.
- Invested proprietary capital into distressed companies via bonds, bank debt, rescue loans, DIPs, and new money plans.

Salomon Smith Barney, Inc. – Vice President, High Yield Trading **1995 – 1999**

- Responsible for investing proprietary capital into distressed companies, researching troubled companies, and negotiating restructurings.
- Focus on consumer products, restaurants, gaming, oil and gas, supermarkets, retail, paper, autos, telecom, and emerging markets.

Salomon Brothers Inc – Analyst, Mergers & Acquisitions

- Worked on M&A and restructuring deals with primary focus on buying and selling distressed assets.
- Advised creditors on maximizing recovery in bankruptcy on their claims.
- Worked with debtor companies to restructure balance sheets, reduce costs structures, and renegotiate uneconomical contracts.

Arthur Andersen LLP – Senior Consultant, Corporate Recovery Services **1993 – 1995**

- Consulted to companies and creditors on financial restructurings, bankruptcies, mergers and acquisitions.
- Developed plans for reorganizations, performed detailed analysis of financial statements and valuations of businesses.

REPRESENTATIVE DEALS:

- Control/Influence Investments: Accuride Corporation (ACW); Algoma Steel, Inc.; NII Holdings, Inc. (NIHD); Neenah Foundry, Inc.; Protection One, Inc.; Indiana Toll Road
- Activist Investments: Auction Rate Preferred Stocks (Invesco, Blackrock, and Pimco); Greektown Casino Inc.; Fontainebleau Hotel; Foxwoods Casino; Mohegan Sun Casino; Pimco Income Strategy Fund I & II; Excite@Home; General Motors, Adelphia.
- Creditor Committees: Delta Airlines, Majestic Star Casino, Buffalo Thunder Casino.
- Rescue Loans: Goodyear Tire & Rubber Company, Inc.; Navistar Inc.; Foster Wheeler, Inc.

EDUCATION:

University of Michigan – Bachelor of Arts, English Literature **1987 – 1991**
University of Illinois – Master of Business Administration **1991 – 1993**

GAMING LICENSE:

Found suitable and qualified for licensure in the State of Michigan for Greektown Casino **2012**
Found suitable and qualified for licensure in the State of Massachusetts **2013**

SPEAKING ENGAGEMENTS:

"Distressed Dealmaking", Wharton School of Business; Guest Speaker re *Lightsquared* **2016**
"Distressed Dealmaking", Wharton School of Business; Guest Speaker re *Indiana Toll Road* **2015**

REPRESENTATIVE BOARD OF DIRECTOR EXPERIENCE:

Talos Energy, Inc. – Chairman of the Board 2018 - Present
- Company is a NYSE listed oil and gas business engaged primarily in exploration, development and production from the Gulf of Mexico.

Magic Leap – Independent Member of the Board of Directors 2020 - 2021
- Company is a leading spatial computing and augmented-reality products business backed by Google and Alibaba.

Weatherford International – Independent Member of the Board of Directors 2019-Present
- Company is a large multinational oil and gas services company for drilling, evaluation, completion and production.
- Chairman of the Compensation Committee and member of the Nominating & Governance Committee.

Garrett Motion Inc. (Assasco) – Independent Member of the Board of Directors 2020-2021
- Company is the global technology leader in highly engineered turbocharger and electric-boosting technologies.

NPC Restaurant Holdings, LLC – Independent Member of the Board of Directors 2019-2020
- Company is one of the largest Pizza Hut and Wendy's franchisors in world.

Healogics Holdings Corporation – Independent Member of the Board of Directors 2019-2021
- Company is the nation's largest provider of advanced wound care services.

Gavilan Resources – Independent Member of the Board of Directors 2019- 2020
- Company explores and produces oil and gas in the Eagle Ford Shale play in South Texas.

PGX Holdings, Inc. – Independent Member of the Board of Directors 2019-2020
- Progrexion is the largest credit repair company in the U.S.
- Member of the Audit and Special Committee.

4L Technologies Inc. – Independent Member of the Board of Directors 2019 - 2020
- Company reclaims value by innovating new solutions for retired assets in the laser and inkjet cartridge and printer parts market and in cellular mobile devices.

Fusion Connect, Inc. – Independent Member of the Board of Directors 2019
- Company is a provider of cloud software and services primarily to mid-market businesses.

CTI (Chef Holdings) – Independent Member of the Board of Directors 2018 - 2019
- Company is one of largest suppliers of custom protein and soup solutions in food industry.

Vari-Form Group LLC – Independent Member of the Board of Directors 2018
- Company is a Tier 2 supplier of structural automotive hydroforming.

LBI Media – Independent Member of the Board of Directors **2018 - 2019**

- Company owns and operates Spanish speaking television and radio stations throughout the United States. It also owns television production facilities that are used to produce programming for its owned and affiliated TV stations.

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David's Bridal – Independent Member of the Board of Directors **2018**

- Company owns over 300 stores in 45 states, Canada, the United Kingdom and Puerto Rico that specialize in selling wedding dresses, prom gowns, and other formal wear.

Everest Holdings, LLC (Eddie Bauer/Pac Sun) – Board of Directors **2017 - 2019**

- Company is a specialty retailer of young men and women's clothing, sportswear and outdoor gear.
- Independent member brought in to help with turnaround process.

Toys R Us – Independent Member of the Board of Directors **2017 - 2018**

- Company is one of largest toy retailers in the world with 1,694 stores and 65,000 employees.
- Independent member brought in to help with turnaround process.

Southeastern Grocers, LLC – Board of Directors **2017 - 2020**

- Company is fifth largest grocery chain in the United States with 704 stores primarily in the southeast operating under the Winn Dixie, BI LO, Harvey's and Fresco y Mas banners.
- Independent member brought in to help with turnaround process.

Walter Investment Management Corporation – Board of Directors **2017**

- Company is a diversified mortgage banking firm focused on servicing and originating residential loans.
- Chairman of Compensation Committee, and member of Audit, Finance and Compliance Committees.
- Independent member brought in to help with turnaround process.

Ultra Petroleum Corporation – Board of Directors **2017 - 2020**

- Company is an independent energy company engaged in domestic natural gas and oil exploration, development and production.
- Independent member brought in to help with turnaround process.

Roust Corporation – Independent Member of the Board of Directors **2017**

- Company is one of the largest producers of vodka in the world with primary operations in Poland, Russia, Ukraine and Hungry.
- Brands include *Russian Standard Vodka, Green Mark, Talka, Parliament, Zhuravli, Absolwent, Zubrowka, Soplica,* and *Bols.*
- Independent Member of the Board brought in to protect minority shareholder rights.

Stone Energy, Inc. – Chairman of the Board **2017 - 2018**

- Company is an independent oil and gas company engaged primarily in Gulf of Mexico natural gas and oil exploration, development and production.

Rue 21 Inc. – Independent Member of the Board of Directors **2017**

- Company is a specialty retailer of young men and women's casual apparel and accessories.
- Independent member brought in to help with restructuring process.

J. Crew Domestic Brand, LLC – Independent Member of the Board of Directors **2016 - 2020**

- Company is a multi-branded apparel and accessories retailer that operates through the J. Crew, J. Crew Factory and Madewell brands with over 500 stores.
- Independent member of the Board brought in to help with the turnaround process.

Midstates Petroleum Co., Inc. – Independent Member of the Board of Directors **2016 - 2019**

- Independent exploration and production company focused on oil fields in the Mississippian Lime play in Oklahoma and the Anadarko Basin in Texas and Oklahoma.
- Chairman of Compensation Committee.

Answers Holdings, Inc. – Independent Member of the Board of Directors **2016 - 2017**

- Company operates three technology businesses (Multiply, ForeSee, and Webcollage) supported by shared services functions, focused on empowering consumers and brands by connecting them with information to optimize decision making.
- Independent Member of Board brought in to help oversee reorganization process.

UCI Holdings Limited – Independent Member of the Board of Directors **2016**

- Company manufactures filtration, fuel delivery and cooling systems products in the automotive, trucking, marine, agriculture, and mining markets.
- Member of the Special Committee which is overseeing the reorganization process in Chapter 11.

Lightsquared, Inc. – Independent Member of the Board of Directors **2013 – 2015**

- Company owns significant wireless and satellite spectrum through a license granted by FCC.
- Member of the Special Committee which oversaw auction and reorganization process during a complex and litigious Chapter 11.
- Leader in the process to help maximize recovery to all stakeholders and to allow company to emerge from bankruptcy.

Pimco Income Strategy Fund I & II – Independent Member of Board of Directors **2012 – 2014**

- Closed-end fund seeking current income and capital preservation through investments in fixed and floating rate debt instruments.
- Appointed by preferred shareholders in a proxy contest.
- Recommended by ISS to be elected to the board of directors.
- Helped the company to work with disgruntled shareholders and helped bring compromise to financing options for a closed-end fund.
- Resolved conflicts which resulted in positive settlement for all.
- Member of Compensation, Finance and Audit committees.

Jacuzzi Brands – Member of the Board of Directors **2010 – 2011**

- Consumer products company that produces whirlpool bathtubs, hot tubs, showers, and toilets.
- Appointed by large shareholder to the board of directors.
- Worked with management to make strategic decisions regarding plant closures, cost cuts and product development.
- Member of Compensation, Finance and Audit Committees.

NII Holdings, Inc. – Member of the Board of Directors **2002 – 2008**

- Large mobile communications company with operations in Mexico, Brazil, Argentina and Chile.
- Appointed to the board of directors by plan sponsor as part of a recapitalization and restructuring.
- Led the restructuring and worked with management on strategic initiatives to help create over $10 billion of equity value for shareholders.
- Member of Strategy, Compensation, Finance, and Nominating Committees.

Catalyst Paper Corporation – Independent Member of the Board of Directors **2006 – 2008**

- Manufacturer of specialty printing paper, newsprint and pulp.
- Led a cost reduction effort to eliminate several hundred million dollars of expense in business.
- Helped develop strategy with union negotiations in order to reduce costs and future liabilities.
- Member of Compensation, Finance, Strategy and Nominating Committees.

Excite @Home Bondholders Litigation Trust – Chairman **2001 - 2005**

- Led litigation strategy against several defendants, including, AT&T, Cox, and Comcast, to recover several hundred million dollars in damages from various litigation claims.

Sun Edison Litigation Trust – Board Member **2017**

- Overseeing litigation strategy in order to maximize recover for creditors.

Fusion Litigation Trust – Trustee **2020**

- Overseeing litigation strategy in order to maximize recover for creditors.

PERSONAL:

University of Michigan President's Club
University of Michigan John Monteith Legacy Society
University of Michigan English Advisory Board
Northwestern University Leadership Circle

Anna Phillips
Independent Director

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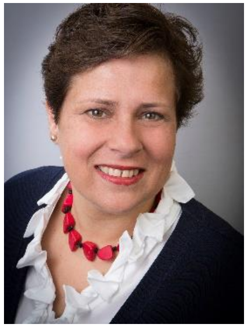

EXPERTISE

Corporate Finance

Corporate Governance

Executive Compensation

Expert Testimony

Financial Restructuring

Financial Reporting

Liquidating Trusts

Mergers & Acquisitions

Value Creation & Maximization

Wind down & Dissolution

Anna Phillips has more than 35 years of international business experience in many capacities - as a board member, trustee, principal investor, and financial and investment banking advisory roles on behalf of companies and creditors, and as a lender.

Leveraging her extensive expertise, she is sought after for independent director roles in companies undertaking mergers, acquisitions, divestments or undergoing operational and capital structure transition where a restructuring, recapitalization and/or a wind down is required.

Her responsibilities as an Independent Director have also included Chairmanship and/or membership of Audit, Compensation and Special Transaction or Restructuring Board Committees. Her experience in navigating a board from within, throughout a complex and multifaceted recapitalization or transaction process through to developing and executing long term strategic plans focused on delivering value, is widely sought after. She is expert at building productive working relationships with current and prospective external capital providers and their professional advisors (both lenders and other creditors) and in testament to this, has been placed on boards by lenders and industry regulators most recently, the US Department of Energy.

Evidencing her deep and varied technical skills, and using her knowledge of the situation as a director, Ms Phillips' is regularly selected as liquidating trustee of residual estates of a Chapter 11. In this role, and working with the trust professionals, she has successfully navigated complex litigation, asset realizations and resolution of claims, as well as the administrative aspects of the trust. Her focus is resolutely on maximizing value and distributions to creditors, and timely finalization of the estate. She has also successfully supervised the orderly wind down and dissolution of companies.

During her career she has guided and delivered to businesses creative and effective advice across a broad range of industries including: retail, energy, healthcare, manufacturing and distribution, communications, hospitality, financial services, service providers, energy, information technology, transportation, engineering and construction and real estate. Her global experience encompasses the Far East, United Kingdom and Europe, as well as North and South America with many cross border deals. Businesses advised have ranged from start ups to the creditors of General Motors with over $50Billion in debt.

Ms Phillips has provided supporting testimony both previously as an expert advisor and more recently in her capacity as an Independent Director in Courts, both in the United States and other international jurisdictions. Ms Phillips was previously a Senior Managing Director in the US based corporate finance (restructuring) practice of FTI Consulting, and a Senior Managing Director in the Investment Banking group at Macquarie Group and its predecessor organizations, including Ernst & Young. She holds a B.Commerce from the University of Tasmania (Australia) and is a past member of the Australian Institute of Chartered Accountants and the American Bankruptcy Institute.

ANNA PHILLIPS - <u>Selection of Roles</u>

678 438 2264 cell annaphillips30350@yahoo.com

Name (if public), and/ or Description *Brief description of situation dynamics*
Energy/Utilities/Power Generation and related
Tonopah Solar Energy, LLC, a Solar Energy Generation Plant in Nevada *Independent Manager (due to existing corporate structure) (nominated by US Department of Energy), subject plant had significant cross border litigation and ongoing operational issues that had to be addressed within a complex regulatory environment with $300MM+ debt*
Black Elk Energy Offshore Operations LLC, Operator of Offshore Oil drilling platforms *Independent Director bought in to direct execution of restructuring proceedings including financing and sale of Assets after a catastrophic oil rig explosion 2 years earlier*
Dakota Plains Holding Inc, Transportation Services Manager for fracking sand operations *Independent Director of public company bought in to direct execution of restructuring related to $80MM of secured debt (refer below for successor trustee role in litigation trust)*
Entrust Energy East, Inc, Retail Energy Company delivering electricity primarily to homes in Texas *Independent Director bought in to effect restructuring after catastrophic winter weather in February 2021 caused systemic failure of the electric power grid in Texas*
Manufacturing
Shiloh Industries, Inc *Independent Director of publicly listed Tier 1 automotive supplier with circa$1BN revenue identifying and actioning strategic alternatives*
International manufacturer and lessor of mobile office and classrooms *Advisor to lenders restructuring of $500MM loan agreement, analysis of projections and strategic alternatives*
American Color Graphics, Inc, Manufacturer of printing inserts *Authored fairness opinion regarding then proposed $70MM transaction for Board Special Committee*
Congoleum, Inc, Chemical Producer *Advisor during restructuring to deal with $1BN+ asbestos liability and related insurer issues*
Dan River, Inc, Manufacturer of textiles *Advisor during bankruptcy proceedings, circa $1BN revenue*
International engineering and construction of large-scale energy producing plant *Advisor to lenders on recapitalization of $4BN cross border business with multi-tiered capital structure*
General Motors Corporation, International motor vehicle manufacturer *Advisor to unsecured creditors during bankruptcy proceedings to deal with $60BN debt*
Manufacturer of waste disposal related products *Advisor to lenders on recapitalization of $250MM business to address underperformance and reposition for longer term profitable growth*
Manufacturer of industrial products *Advisor regarding recapitalization of $100MM business to improve cash flow*
Borden Chemical & Plastics OLP, Chemical Manufacturer *Advisor before and during bankruptcy proceedings to deal with $500MM debt load and ongoing viability issues*
Manufacturer of heavy equipment *Advisor regarding recapitalization of $100MM business to address further growth opportunities*
Mobile housing manufacturer, retailer & financier *Advisor to lenders on recapitalization of $2BN debt business to address underperformance and reposition for longer term profitable growth*

Continued over…

ANNA PHILLIPS - <u>Selection of Roles continued.</u>

Name (if public), and/ or Description
Spansion, Inc, Global semi-conductor manufacturer *Advisor to unsecured creditors during bankruptcy proceedings, circa $1BN revenue*
Taurus Aerospace, Inc – Purchase and recapitalization of 3 operating companies as principal *Supervising shareholder and board director tasked with leading development and execution of strategic plan for roll up* *Purchase of ATS Inc in public company divestment – circa $500MM revenue* *Purchase of Brek Technologies from founder of company – circa $60MM revenue* *Purchase of start-up from founders Tank Tigers, Inc – circa $5MM revenue* *Recapitalization of business repaying equity investment by raising $125MM term and revolver facility*
WestPoint Stevens, Inc Manufacturer of textiles *Advisor for restructuring to deal with $2BN debt load and ongoing viability issues*
Retail
Large independent electronics retailer *Advising on recalibration of $100MM capital structure to support co-developed business plan for accelerated growth and increased profitability*
Kitchen Collection, Inc, Specialty kitchen retailer *Orderly wind down of national specialty retailer* *Independent director tasked with overseeing process and chair of Restructuring Special Committee*
Oriental Trading, Inc, Mail order and internet sales *Advisor to unsecured creditors during bankruptcy proceedings, circa $5BN revenue, to reduce overleveraged balance sheet*
Rhodes Furniture, Inc, Furniture retailer *Advisor to unsecured creditors relating to $200MM debt load and ongoing viability issues, sale of selected stores and liquidation of balance of outlets*
Wolf Camera, Inc, Retailer of photographic goods *Advisor to unsecured creditors relating to $100MM debt load and ongoing viability issues including sale of retail business*
Flooring America, Retailer of flooring materials *Advisor during bankruptcy proceedings, circa $1BN revenue to address viability issues, sale of certain stores and liquidation of balance of outlets*
Financial Services
United Companies Financial Corporation, Subprime finance originator and servicer *Advisor during bankruptcy proceedings to deal with $3BN debt load and ongoing viability issues*
Services
Peak Performance for Men, leading ED treatment provider *Independent Director nominated by financial sponsor to drive a rapid restructuring in the face of declining performance and liquidity*
Owner and operator of correctional facilities *Representing lenders in the Restructuring of $500MM loan agreement and associated recapitalization, analysis of projections and strategic alternatives*
Privately held Marketing Firm, leading sales and marketing advisor to International CPG companies *Advisor to board on profitable international growth and operational initiatives*
Transportation
Delta Air Lines, International airline *Advisor before and during bankruptcy proceedings to deal with $16BN debt load and ongoing viability issues*
Wholesale distributor of air travel *Preparation of analysis of projections and strategic alternatives for equity holder in $5BN revenue business*

Continued over…

ANNA PHILLIPS - <u>Selection of Roles continued.</u>

Name (if public), and/ or Description
Media & Communications
Journal Register, Inc, Regional newspapers *Advisor to unsecured creditors during bankruptcy proceedings to deal with $250MM debt load and ongoing viability issues*
Pagenet do Brasil, Telecommunications *Advisor on successful cross border exchange of $150MM of public SEC debt by a Brazilian company with no US operations*
Healthcare
CCS Medical, Inc, Distributor of Diabetes management equipment *Independent Director addressing ongoing operational rationalization, growth (including driving successful recapitalization of $350MM+ debt)*
Mariner Healthcare, Inc, Long term medical care provider *Advisor during restructuring proceedings to deal with $1BN debt load and ongoing viability issues*
Technology
Keypoint Intelligence Holdings, Inc *Independent Director nominated by financial sponsor to drive a rapid restructuring in the face of declining liquidity, of a highly leveraged company with significant international operations*
Estate wind down, Dissolution and Liquidating Trustee roles
Shiloh Industries, Inc *Following Independent Director role in restructuring, selected by creditors to be sole Trustee of debtor liquidating trust charged with wind down of estate and distributions to trust beneficiaries*
MLC GUC Trust and MLC Avoidance Action Trust, Successor entities to the General Motors Chapter 11 *Following from advising the unsecured creditors committee in the Chapter 11 of General Motors, Leader of the financial advisory team tasked with providing supervision, governance and guidance to the Trust Monitor on successful prosecution of litigation and wind down of the debtor estate with over $50B in liabilities*
Dakota Plains Holding, Inc *Following Independent Director role in restructuring, selected by creditors to be sole Trustee of liquidating trust charged with prosecution and ongoing recovery from successful litigation, distribution to trust beneficiaries and estate finalization*
Entrust Energy, Inc *Following Independent Director role in restructuring, selected by creditors to be sole Trustee of liquidating trust charged with prosecution and ongoing recovery from successful litigation, distribution to trust beneficiaries and estate finalization*
Keypoint Intelligence Holdings, Inc *Following Independent Director role in restructuring, selected by creditors to be supervisor of wind down, distributions to trust beneficiaries and estate finalization*
Kitchen Collection, Inc *Following Independent Director role in restructuring, supervised the wind down and subsequent dissolution*
Peak Performance for Men, Inc *Following Independent Director role in restructuring, supervised the wind down and subsequent dissolution*