



Wiley Rein & Fielding LLP

ORIGINAL

EX PARTE OR LATE FILED

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

Virginia Office
7925 JONES BRANCH DRIVE
SUITE 6200
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wrf.com

Tricia Paoletta
202.719.7532
tpaoletta@wrf.com

Int Bureau

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Front Office

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 28, 2004

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E., Suite 110
Washington, DC 20002

Re: Notice of Oral Ex Parte Presentations
Final Analysis Communication Services, Inc.
Petition for Waiver
File No. SAT-MOD-20020329-00245;
Amendment (File No. SAT-AMD-20030606-00112)

Dear Ms. Dortch:

New York Satellite Industries, LLC ("NYS"), by counsel, hereby supplements its ex parte disclosure, relating to the meeting with the International Bureau, officials from the FCC's Office of General Counsel, and the Chairman's legal advisor on January 23, 2004 on the pending milestone extension request of Final Analysis Communication System, Inc. ("FACS").

This ex parte communication makes the following key points:

- FACS has shown that it was successful in convincing the Trustee to expedite the sale of the FAI assets because of the effect on the FCC license.
- The legal proceedings surrounding the bankruptcy, including government approval processes resulted in delays lasting through today, hindering FACS' progress on the system.
- By noting in FACS' license that it had the first priority to globally allocated spectrum, the FCC itself took the unprecedented step of linking FACS' license with the outcome of WRCs, so FACS' efforts to win and implement a global allocation are rightfully seen as demonstrating that FACS is willing and able to proceed with its system.

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- In addition to its substantial and successful WRC efforts, FACS has spent tens of millions of dollars in the construction of its system.
- Given the threatened loss of international priority and ability to operate at power limits sufficient for hand-held and small terminal services, and the Commission interest in competition, particularly from small and innovative businesses interested in serving rural America and government users, the public interest is served by granting FACS' extension request.

Bankruptcy Proceeding

In response to questions from Commission officials on whether FACS had made known to the Trustee the need to expedite the sale of FAI's assets during the bankruptcy proceedings against its former parent, FAI, FACS responded that it had indeed, as had been indicated on the record. Per the Bureau's request, FACS is hereby supplementing the record with additional material, including correspondence during the bankruptcy proceedings to demonstrate that FACS made tremendous and successful efforts to expedite the sale of FAI's assets, including the controlling stock of FACS.

The attached documents relate to the below timeline:

September 5, 2001 – FAI's creditors file Chapter 7 bankruptcy against FAI.¹

October 16, 2001 – Court approves the appointment of a bankruptcy Trustee.²

October 23, 2001 – FACS meets with Trustee.³

October 24, 2001 – FACS sends copy of its license to Trustee.⁴

November 29, 2001 – New York Satellite submits offer letter for purchase of FACS.

¹ See Application for Authorization to Employ Cheryl E. Rose as Attorney for the Trustee, In re: Financial Analysis, Inc. Debtor, Case No. 01-21039-DK Chapter 7 (Bankr. Md.) (Oct. 18, 2001), attached as Exh. 1.

² See *id.*

³ See Letter from FACS' counsel A. Pisciotto to Trustee C. Rose, Oct. 24, 2001, attached as Exh. 2.

⁴ See *id.*

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December 3, 2001 – FACS’ FCC counsel contacts Trustee’s FCC counsel.⁵

December 17, 2001 – Trustee notes her support of an expedited sale in Opposition to parties who wish to delay the sale.⁶

December 21, 2001 – Hearing held on Motion by one of FAI’s shareholders to Extend Deadline to Submit Bids at which FACS’ counsel explains “the need for an expedited sale.”⁷

January 14, 2002 – NYS acquired the assets of FAI, including the controlling interest in FACS.⁸

January 17, 2002 – FACS meets with International Bureau staff to discuss the sale, assignment and transfer of the assets and properties of FAI.

January 25, 2002 – FACS files transfer of control application.

March 29, 2002 – FACS file for waiver of March and September 2002 milestones.⁹

April 10, 2002 – FACS met with International Bureau staff to discuss waiver request and status of application for transfer of control.

August 19, 2002 – International Bureau grants consent to transfer and FACS registers at State Department for technology transfer authority.¹⁰

⁵ See December 3, 2001 e-mail from FACS’ counsel George Grammas to FACS’ team re FACS’ counsel Ms. Pisciotta contacting the counsel retained by the Trustee to provide the Trustee independent advice on the need to expedite sale and waiver and extension request. Attached as Exh. 3.

⁶ See Opposition to Protolex LLC’s Emergency Motion for Order Enforcing Order Granting Motion for Federal Bankruptcy Rule 2004 Examination of Debtor, Cheryl E. Rose, Trustee for Final Analysis, Inc., Debtor, *In Re Final Analysis, Inc. Debtor*, Case No. 01-21039DK, Chapter 7 (Bankr. Md.) (Dec. 17, 2001) at 2, para. 6-8. Attached as Exh. 4.

⁷ See Excerpt of Hearing, Hearing on Emergency Motion to Compel, Motion for Rule 2004 Examination, Motion to Reconsider and Emergency Motion to Extend Deadline to Submit Bids, *In Re: Final Analysis, Inc., Debtor*, Case No. 01-21039DK, Chapter 7 (Bankr. Md.) (Dec. 21, 2001), at pp. 14, 39-47. (Attached as Exh. 5) (full transcript not provided).

⁸ See Final Analysis Communication Services, Inc. Request for Consent to Transfer of Control, File No. SAT-T/C-20020125-0010 (Jan. 25, 2002).

⁹ See Final Analysis Communication Services, Inc. Petition for Waiver, at 1, File No. SAT-MOD-20020329-00245.

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May 19, 2003 – State Department authorizes FACS to engage in technical discussions with Polyot of Russia, thereby enabling discussions on system construction.

June 6, 2003 – FACS files application to amend pending petition for waiver and to propose milestone schedules.¹¹

The above timeline and corresponding documents demonstrate that FACS successfully educated the Trustee as to the conditional nature of FACS' license, and the concomitant need to expedite the sale of FAI's assets, including the controlling shares of FACS, so that the Trustee advocated during the bankruptcy proceedings for a rapid sale, even in the face of a Motion from opponents to delay the date of the sale. In her Opposition to the delay in sale, the Trustee reiterated concerns raised to her by FACS' FCC counsel – that the license was in jeopardy from a delay in sale.

Public Interest considerations

Prior to the discussion of FACS' action during the bankruptcy proceedings, FACS noted at the January 23, 2004 meeting the progress made since the WRC-03 to implement the 1.4 GHz allocations for feeder links, including a work program agreed to by the Defense Department in which studies would be conducted by DoD's Joint Spectrum Center; studies with positive results recently submitted to ITU working groups by the French Government and by NASA; an ITU working group directive to Russia for certain characteristics related to the feeder link allocations; and a new collaboration with the NSF.

Counsel noted that efforts funded by FACS both to win and implement the global allocation are properly viewed as steps taken to implement its system. The order granting FACS' license noted that FACS had insufficient spectrum, and would receive first priority to apply for additional spectrum if attempts to obtain global allocation of additional Little LEO spectrum were successful. By providing FACS the first priority to additional service links globally allocated, the Commission

(Continued . . .)

¹⁰ See Final Analysis Communication Services, Inc. for Authority to Transfer Control of NVNG License to New York Satellite Industries, L.L.C. Order and Authorization, 17 FCC Rcd 16062, 16066 (2002).

¹¹ See Final Analysis Communication Services, Inc. Amendment to Petition for Waiver and Modification to Extend Milestone, File No. SAT-AMD-20030606-00112 (June 6, 2003).

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linked FACS license and success at WRC. FACS has certainly met the challenge of achieving an international allocation for additional feeder link spectrum. Thus gaining additional spectrum within the ITU/WRC process has been an integral and consistent part of FACS' strategic efforts and resource expenditures to implement its system. The Commission has granted waivers for milestone extensions in the past when licensees demonstrated intent to proceed in implementing their system, including by spending substantial amounts.¹² In addition to significant, and continuing, expenditures to implement the WRC allocation, FACS has spent tens of millions of dollars for construction of its system.

Moreover, with respect to the Commission's waiver standard that extenuating circumstances mitigating in favor of a waiver must be considered, FACS noted that if it withdraws from the ITU Working Group process, the activity will lose its momentum because it will lack an underlying rationale to proceed. No other U.S. system has expressed interest in these bands and has consistently pushed for them, by devoting substantial resources, over the past three WRCs - a point which has not been overlooked by the international regulators who are now, for the first time, collaborating with the U.S. in these activities. This is an extremely important consideration, weighing in favor of grant, that should not be overlooked or discounted by the Bureau.

An additional extenuating circumstance relates to coordination with foreign systems interested in the band. Since FACS last met with the Bureau, the ITU has sent covering letters to the FCC with communications from the Administrations of

¹² See, e.g., NetSat 28 Company, LLC For Authority to Construct, Launch, and Operate a Ka-Band Communications Satellite in the Fixed-Satellite Service in Orbital Location 95°W.L., Memorandum Opinion and Order, 16 FCC Rcd 11025 (2001) (granting milestone extension in part because NetSat had expended over \$10 million in network development); AMSC Subsidiary Corporation Applications to Modify Space Station Authorization in the Mobile Satellite Service, Memorandum Opinion and Order, 8 FCC Rcd 4040 (1993)(granting milestone extension in part because AMSC had committed over \$100 million to satellite construction). The Commission has also granted waivers of milestone extension where if found there were no concerns about the warehousing of spectrum. See e.g., *Application of GE American Communications, Inc., For Orbital Reassignment and for Modification of Authorization to Construct and Launch the Satcom H-1 Domestic Fixed-Satellite*, Memorandum Opinion and Order, 7 FCC Rcd 5169(1992) (granting milestone extension upon finding that the only orbital location that GE Americom could arguably be warehousing was the C-bank portion of its satellite at 85°W.L.); *Earth Watch Incorporated; Modification of Authorization to Construct, Launch and Operate a Remote Sensing Satellite System*, Order and Authorization, 15 FCC Rcd 13594 (2000)(granting milestone extension upon finding no evidence that Earth Watch was warehousing spectrum.

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Brazil and Japan, in addition to the Administration of Argentina, regarding coordination with LEOTELECOM 5.¹³ If FACS is not involved going-forward in the coordination activities with Argentina, Brazil and Japan (and any other country) – there simply is no one else in the industry that has demonstrated it is prepared to work with the FCC to maintain the priority and preserve the spectrum for U.S. interests. For example, FACS is the only industry advocate for the 400 MHz band sought by Argentina. Orbcomm is not licensed in the 400 MHz band for services.

FACS argued that to deny the extension and revoke its license at this point, before the company has had the opportunity to build the functionality to operate with the 1.4 GHz spectrum, an allocation obtained at WRC-03 while its extension request was pending, would be contrary to the public interest.

At the meeting, FACS reiterated its concern about the increased risk for the loss of the globally allocated 137-138 MHz band at an operationally acceptable level posed by a denial of its request and possible revocation of its license. As a new system, FACS could no longer avail itself of certain pfd limits that are grandfathered in the ITU regulations for systems notified before November 1, 1996.¹⁴ If FACS' extension request is denied and it must refile, it would be constrained to operate at -140 db pfd, a level thirty-two times lower than its planned operations at -125 db. This lower power limit would put it at a severe competitive disadvantage to the one other existing, operational Little LEO, which is inconsistent with Commission policy of promoting competitive provision of services. At thirty-two times less the power in that band, service to Alaska and other Northwestern and Western States would be severely impaired. Moreover, internationally, if FACS has to operate in 137 MHz band at thirty-two less the power, it would hamper service provision in Europe, the Middle East, and North Asia.

FACS' engineer noted that at the current "skinny links" – very low link margins – the links are barely sufficient for delivery of hand-held services. With a reduction of 15 dB, the links would not be usable for subscriber services.

Moreover, another unique circumstance mitigating in favor of extension includes the threatened loss of priority in the 400 MHz band. Were FACS required by a denial to file again, it would lose priority to an Argentine satellite that seeks to operate in that band. Given the minimal amounts of spectrum available to FACS in

¹³ See various ITU telefax letters to administering authorities; see Letter from J. Valorio to J. Payton, FCC, Dec. 2003 (translation provided). All documents attached as Exh. 6.

¹⁴ See ITU Radio Reg. AP5-15, Annex 1, para. 1.1 attached as Exh. 7.

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these two bands, use of the 137 MHz band at acceptable power limits and a 400 MHz band critical to its future viability, and to a competitive Little LEO industry.

FACS next noted that if the extension is denied and FACS must file under the new streamlined licensing procedures, those procedures would not lead to an outcome consistent with the public interest. Recognizing that the streamlining order adopts a presumption that there needs to be three licensees to have a competitive market, and given that the Little LEO spectrum is shared and the Commission previously determined that the allocation was insufficient, FACS raised the lack of clarity on how the streamlined procedures would be applied to applicants for Little LEO spectrum.

As FACS understands the order, the new procedures could result in FACS actually only being licensed for one third of the spectrum in the bands that it is currently licensed to use. Thus, ironically, the new procedures, while intended to ensure a competitive market, in application to the Little LEO context, would actually harm competition. At best, if FACS could survive the delay and additional costs caused by a denial of the extension request and subsequent re-filing, the Bureau would have accomplished no more than to delay competition for close to two years, adding tremendous cost for a small business interested in delivering low-cost data services useful for homeland security and rural applications. At worst, the Bureau would have created a monopoly. FACS asked the Bureau, given all of the above, how would the public interest be served in denying its request. In contrast, allowing FACS to proceed, by granting its pending application, is the most effective way to ensure the public interest in a competitive Little LEO industry.

Sincerely,



Patricia J. Paoletta

Attachments

cc: Bryan Tramont
Sheryl Wilkerson
Sam Feder
Jennifer Manner

January 28, 2004

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Paul Margie
Barry Ohlson
Don Abelson
Rod Porter
Jackie Ruff
Tom Tycz
Cassandra Thomas
Mark Young
Stewart Block

EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND

In re:

FINAL ANALYSIS, INC.

Case No.: 01-21039-DK
Chapter 7

Debtor

* * * * *

APPLICATION FOR AUTHORIZATION TO EMPLOY
CHERYL E. ROSE AS ATTORNEY FOR THE TRUSTEE

Cheryl E. Rose, Trustee of the above captioned bankruptcy estate (the "Estate"), respectfully requests that this Court authorize her to employ Cheryl E. Rose as attorney for the Trustee, to the date of filing, and states:

1. That an Involuntary Chapter 7 was filed on September 4, 2001.
2. That applicant was appointed the Chapter 7 Trustee on October 16, 2001 and is fully qualified and is presently acting as such Trustee. This case has already required the services of an attorney and the Trustee has of necessity, acted in that capacity.
3. To perform her duties as Trustee, your applicant requires the service of an attorney for the following purposes:
 - a) To perform contract and/or compromise negotiations or sale of debtor's stock;
 - b) To advise and consult with applicant concerning questions arising in the conduct of the administration of the estate and concerning applicant's rights and remedies with regard to the estate's assets and the claims of secured, preferred and unsecured creditors and other parties in interest;
 - c) To appear for, prosecute, defend and represent applicant's interest in suits arising in or related to this case; to negotiate a settlement of non-exempt assets;

- d) To investigate and prosecute preference and other actions arising under the Trustee's avoiding powers;
- e) To assist in the preparation of such pleadings, motions, notices and orders as are required for the orderly administration of this estate; and to consult with and advise applicant in connection with the operation of or the termination of the operation of the business of the debtor.

4. The Trustee is an attorney at law duly admitted to practice in the State of Maryland and before this Court. The Trustee is employed by the law firm of Rose & Associates, LLC and wishes to employ Cheryl E. Rose as attorney.

5. The said attorney has agreed to represent the Trustee at the rate of \$250.00 per hour for partner; \$175.00 per hour for associate attorney and \$75.00 per hour for paralegal. The Trustee believes this rate is reasonable.

6. That it is necessary for the Trustee to employ an attorney for such professional services.

7. That Cheryl E. Rose has no interest adverse to the Trustee or to the estate in the matters upon which she is to be engaged as attorney for the Trustee, and her employment would be in the best interests of this estate.

8. That Cheryl E. Rose has no connection with the debtor or their creditors or any party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except that Cheryl E. Rose is a Chapter 7 Trustee.

9. That your applicant desires to employ, Cheryl E. Rose as attorney under a general retainer because of the extensive legal services required.

10. The Trustee believes it will be in the best interests of the Estate that Cheryl E. Rose be employed as attorney for the Trustee. The legal matters expected to arise may be complex and said firm has the expertise to handle such matters. Also, possible duplication of effort will be eliminated and certain economies will be achieved if Cheryl E. Rose is employed as attorney for the Trustee.

WHEREFORE, Applicant prays that this Court enter an Order pursuant to 11 U.S.C. Section 327 authorizing her to employ Cheryl E. Rose as attorney for the Trustee and for such other relief as the cause may require.

Respectfully Submitted,

Dated: 10-18-01

Cheryl E. Rose

Cheryl E. Rose, #05934
50 West Edmonston Drive, Suite 600
Rockville, MD 20852
(301) 838-2010
Chapter 7 Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of October 2001, a copy of the foregoing Application for Trustee to Employ Cheryl E. Rose as Attorney for Trustee was mailed, postage prepaid, together with a copy of the Affidavit of Proposed Attorney and the proposed Order to:

Office of the U.S. Trustee
6305 Ivy Lane, Suite 600
Greenbelt, MD 20770

Ann E. Schmitt, Esq.
1301 K Street, NW, Suite 1100
East Tower
Washington, DC 20005

Final Analysis, Inc.
9701-E Philadelphia Court
Lanham, MD 20706

Cheryl E. Rose
Cheryl E. Rose, Chapter 7 Trustee

EXHIBIT 2

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

www.kelleydrye.com

DIRECT LINE (202) 955-9771

E-MAIL: apisciotta@kelleydrye.com

NEW YORK, NY
TYSONS CORNER, VA
LOS ANGELES, CA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM
HONG KONG

AFFILIATE OFFICES
BANGKOK, THAILAND
JAKARTA, INDONESIA
MANILA, THE PHILIPPINES
MUMBAI, INDIA
TOKYO, JAPAN

October 24, 2001

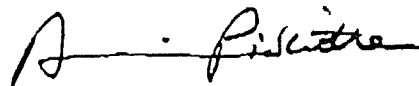
Ms. Cheryl E. Rose
Rose & Associates, LLC
50 W. Edmonston Dr.
Suite 600
Rockville, MD 20852

Dear Cheryl:

Following up on our meeting yesterday, enclosed is a copy of the satellite license issued to Final Analysis Communication Services, Inc. ("FACS"), by the International Bureau of the Federal Communications Commission on April 1, 1998. This license is the subject of a Petition for Clarification and Review, filed by FACS in May 1998. The Petition requests that the full Commission reconsider and clarify certain aspects of the license concerning technical features of the authorized system. As we discussed yesterday, we understand that this Petition may be decided very soon.

It was a pleasure to meet you. Please let me know if I can provide any additional information.

Sincerely yours,



Aileen A. Pisciotto
Counsel to
Final Analysis Communication Services, Inc.

Encl.

cc: Nader Modanlo
Jan Friis
Patricia A. Mahoney
Ann Schmitt

EXHIBIT 3

Jan Friis

From: "Grammas, George N." <GGrammas@dcsntp1.gcd.com>
To: <Modanlo@aol.com>; <ASchmitt@reedsmith.com>; "Grammas, George N." <GGrammas@dcsntp1.gcd.com>; <APisciotta@kelleydrye.com>
Cc: <friis@finalanalysis.com>
Sent: Monday, December 03, 2001 2:34 PM
Subject: RE: Conversation with Cheryl Rose

Aileen is calling the Trustee's FCC counsel. I suggest we have a telecon after we have the benefit of that discussion.

George N. Grammas
GARDNER, CARTON & DOUGLAS
1301 K Street, N.W., Suite 900 East Tower
Washington, D.C. 20005
Telephone: (202) 408-7112
Facsimile: (202) 289-1504
E-Mail: ggrammas@gcd.com

EXHIBIT 4

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Southern Division)

IN RE:

FINAL ANALYSIS, INC.

Debtor

Case No. 01-21039DK
Chapter 7

OPPOSITION TO PROTOLEX LLC'S EMERGENCY MOTION
FOR ORDER ENFORCING ORDER GRANTING MOTION FOR
FEDERAL BANKRUPTCY RULE 2004 EXAMINATION OF DEBTOR

COMES NOW Cheryl E. Rose, Trustee for Final Analysis, Inc. ("Debtor"), by and through counsel, hereby files this opposition to Protalex LLC's Emergency Motion for Order Enforcing Order Granting Motion for Federal Bankruptcy Rule 2004 Examination of Debtor (the "Motion"). In support of this Opposition, the Trustee states as follows:

1. This case commenced with the filing of an involuntary proceeding on September 4, 2001.
2. On October 16, 2001, Cheryl E. Rose was appointed Chapter 7 Trustee.
3. Since that time, the Trustee has conducted a 341 examination and conducted a continuation of the Rule 341 examination. The Meeting of Creditors has not concluded.
4. The Debtor owns a controlling interest in an entity known as Final Analysis Communications Services, Inc. ("FACS").
5. This is a complex case surrounded by allegations of serious wrongdoing by and between the Debtor's two equal owners, Mr. Modanlo and Mr. Ahan, who are clearly in the middle of a "business divorce." Mr. Modanlo is the chief executive officer and director of FACS, while Mr. Ahan is no longer directly involved in FACS's operation. In this business divorce scenario, FACS is the minor child caught in the dispute between Mr. Modanlo and Mr. Ahan.

6. FACS has various assets, including a license ("License") issued by the Federal Communications Commission ("FCC") to construct and launch low earth orbit satellites ("LEOs").

7. The continuation of the License is in jeopardy due to the upcoming expiration of an FCC milestone under such License.

8. The Trustee has filed a notice of bid to encourage parties interested in purchasing FAI's stock interest in FACS to make a bid in the immediate future so that such intended or actual acquisition can be identified for the FCC in the application to extend or waive the FCC milestone. It is also hoped that the identification of a bidder may increase the likelihood of the FCC extending the milestone.

9. Counsel for the Trustee and the Trustee have had several discussions with James Greenan, Esq., Counsel to Protolex LLC ("Protolex"), David Baker, Esq., Counsel to Mr. Ahan, Bobby Lee, Esq., Counsel to a number of creditors of FACS (that have filed a separate motion for a Rule 2004 examination), Ann Schmitt, Esq., Counsel to FAI, and George Grammas, Esq., Counsel to FACS about document disclosure.

10. The Trustee has been procuring documents from FAI and FACS and preserving those documents for interested parties who will use such documents to determine whether they will bid on the purchase of FAI's interest in FACS's stock.

11. At this time, The Trustee's principal concern over the Debtor's records are two-fold:

A. Interested parties must have access to documentation, including confidential and proprietary information, necessary to determine whether they desire to bid on the acquisition of FAI's stock in FACS; and

B. Interested parties do not use the confidential and proprietary information and documentation they acquire from FAI in order to hinder the bid process or to reduce the price bid for the FACS stock.

12. A separate desire of Protalex is to further its, and Mr. Ahan's, personal agenda of proceeding through discovery in this proceeding to advance their interests in subsequent litigation against Mr. Modonalo, an owner, director and officer of FAI, and a director and officer of FACS.

13. While the Trustee does not oppose the idea of disclosing FACS records to interested parties for purposes of preserving such documents in later litigation, the Trustee is strongly opposed to the unrestricted release of such documentation and/or the misuse of such information which may interfere with the bidding process on the FACS stock.

14. For these reasons, the Trustee has offered significant FAI and FACS documentation to parties interested in bidding on the FACS stock; provided, they execute a generic agreement restricting disclosure and the preservation of confidential information ("NonDisclosure Agreement") on behalf of FAI and FACS. See Exhibit 1.

15. While the disclosure of information relating to FACS is in the best interests of the Estate in order to encourage good faith purchasers to bid on the acquisition of the FACS stock, it is also true that the disclosure of confidential information of FACS may be detrimental to the bidding process as prospective competitors of FACS acquire information they would not otherwise have been able to receive.

16. Out of a sense of fairness to all prospective bidders, the Trustee does not want to engage in revising the NonDisclosure Agreement on behalf of each interested party.

17. Despite the foregoing means to review and receive FAI and FACS documentation, Protalex has filed the "Emergency" Motion, which wastes the assets of the Estate (virtually none at this time if the License has no sale value), the resources of this Court and the resources of other interested parties.

18. Specifically, the Trustee has available to any interested party that will sign the NonDisclosure Agreement the documents identified on Exhibit B. (The documents are too numerous to easily identify in this Motion.)

19. The Trustee has seen additional documentation located at FACS in various filing cabinets and boxes. These filing cabinets and boxes are cumbersome and expensive to move to a different location and to maintain in that FACS has represented the documents are necessary for their day to day operations.

20. In the event an interested party wants to review additional FAI and FACS materials, the Trustee is not opposed to an inspection of one interested person at a time (except Mr. Ahan, whose presence would be too disruptive) who may review and copy documentation at FACS's premises for the purpose of evaluating in good faith whether to make a bid and to make a bid. An employee of FACS would accompany such person the entire time to prevent the destruction or removal of documents. This approach has been discussed with Counsel for FAI and FACS, and Counsel for the Trustee does not anticipate problems implementing this inspection process.

21. For these reasons, Protolex's Motion is not an emergency and the relief sought is not appropriate.

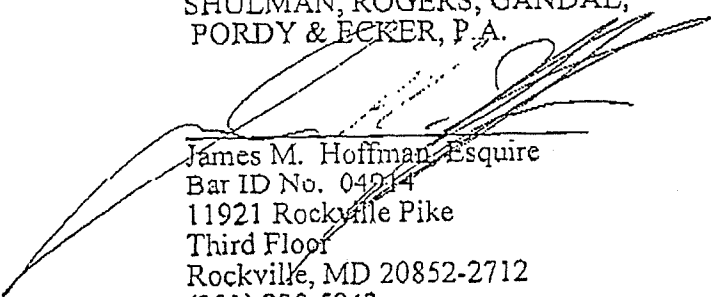
22. The Trustee does not oppose the deposition of Mr. Modanlo provided he is not asked questions about confidential information and documentation that would be detrimental to the bid process.

23. A memorandum of points and authorities is not attached hereto.

WHEREFORE, the Trustee respectfully requests that the Court deny the Motion and for such other relief as this Honorable Court may deem just and proper.

Respectfully submitted,

SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.



James M. Hoffman, Esquire
Bar ID No. 04214
11921 Rockville Pike
Third Floor
Rockville, MD 20852-2712
(301) 230-5243
Counsel for the Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of December, 2001, I mailed a copy of the foregoing Opposition and proposed Order via first-class mail, postage prepaid, and via facsimile transmission to the following:

Ann E. Schmitt, Esq. ✓
Reed, Smith
1301 K Street, N.W.
Suite 1100 - East Tower
Washington, DC 20005

Bobby Y. Lee, Esq.
416 Hungerford Drive
Suite 440
Rockville, MD 20850

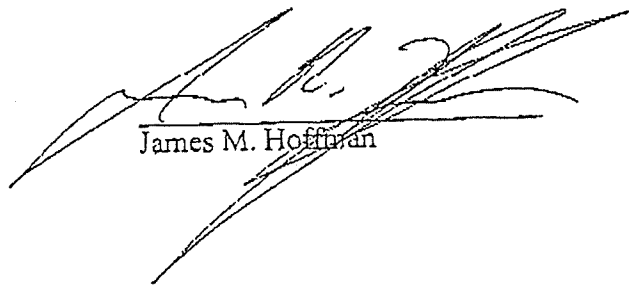
Richard Mirsky, Esq.
4550 Montgomery Avenue
Suite 900 N
Bethesda, MD 20814

Cheryl Rose, Esq.
50 West Edmonston Drive
Suite 600
Rockville, MD 20852

Joseph Suntum, Esq.
Miller, Miller & Canby
200-B Monroe Street
Rockville, MD 20850

James M. Greenan, Esq.
Greenan, Walker & Billman, LLP
6411 Ivy Lane
Suite 706
Greenbelt, MD 20770

Office of the U.S. Trustee
6305 Ivy Lane
Suite 600
Greenbelt, MD 20770



James M. Hoffran

EXHIBIT 5

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND

----- -X
IN RE: :
FINAL ANALYSIS, INC., : Case No. 01-21039DK
Debtor. : Chapter 7
----- -X

Greenbelt, Maryland
December 21, 2001

EXCERPT OF HEARING

Hearing on Emergency Motion to Compel,
Motion for Rule 2004 Examination, Motion to Reconsider,
and Emergency Motion to Extend Deadline to Submit Bids

BEFORE THE HONORABLE DUNCAN W. KEIR,
U.S. BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: ANN E. SCHMITT, ESQ.
East Tower, Suite 1100
1301 K Street, N.W.
Washington, D.C. 20005
(202) 414-9200

For Protolex, L.L.C.: Greenan, Walker & Billman, L.L.P.
BY: JAMES M. GREENAN, ESQ.
6411 Ivy Lane, Suite 706
Greenbelt, Maryland 20770-1402
(301) 982-1003

For Chapter 7 Trustee: Shulman, Rogers, Gandall, Pordy
& Ecker, P.A.
BY: JAMES M. HOFFMAN, ESQ.
11921 Rockville Pike, 3rd Floor
Rockville, Maryland 20852
(301) 230-5200

Proceedings Recorded by Electronic Sound Recording

Transcriber: MALLOY TRANSCRIPTION SERVICE
(202) 362-6622

Recording Operator: KAREN HERB

APPEARANCES: (continued)

For Chapter 7 Trustee: Rose and Associates
BY: CHERYL E. ROSE, ESQ.
50 West Edmonston Drive, Suite 600
Rockville, Maryland 20852
(301) 838-2010

For Raymond Schettino,
et al.: BOBBY Y. LEE, ESQ.
416 Hungerford Drive, Suite 440
Rockville, Maryland 20850
(202) 610-0400

JOSEPH P. SUNTUM, ESQ.
200-B Monroe Street
Rockville, Maryland 20850
(301) 762-5212

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1 The other piece of this is the 2004 exam which
2 predated the trustee's motion to sell, and that seeks to
3 examine the debtor, examine FACS, and examine Mr. Modanlo for
4 alleged wrongdoings and possible causes of action.

5 The concerns that these parties had is that this is
6 clearly taking place one step removed now from litigation
7 because it has been stayed, but, nonetheless, the broad powers
8 of 2004 will likely be used in the context of the litigation.

9 There has also been an ongoing concern that the
10 documents and information contained in those documents will be
11 used in a way that will be detrimental to FACS, the subsidiary
12 company, which continues to operate. It is in the business of
13 putting up these satellites, and we do have FCC counsel here
14 today to sort of explain the business of FACS and the need for
15 an expedited sale.

16 But we have strategic partners, General Dynamics --
17 there is a company called Polyod [ph] that is in Russia. We
18 have contracts with other parties. We don't want those people
19 contacted and the business relationships between FACS and
20 those parties jeopardized because, if that happens, the
21 business of FACS is at best jeopardized and may well be
22 destroyed, and the value of that subsidiary is the primary
23 value of this estate. So that was the heart of the objection
24 to the 2004 exam.

25 We don't have any problem turning over any documents

1 Anything further?

2 MS. SCHMITT: Yes, Your Honor, and I was just handed
3 a note. One of the things that has been requested in terms of
4 document production and I am sure is something they will be
5 asking for is all correspondence and bills between FACS and
6 FAI and its counsel, the counsel of the group's litigation
7 counsel, and we would just like to sort of go on record as
8 saying we believe it is privileged, particularly since the
9 litigation is ongoing.

10 MR. GREENAN: May I be heard on that issue, Your
11 Honor?

12 THE COURT: It's not necessary.

13 (Whereupon, the Court rendered a decision.)

14 THE CLERK: Raise your right hand, please.

15 Whereupon,

16 AILEEN PISCIOTTA

17 was called as a witness and, after having been first duly
18 sworn by the Court Clerk, was examined and testified as
19 follows:

20 THE CLERK: Please be seated. For the record,
21 please state your full name and address, including spelling
22 your name.

23 THE WITNESS: Aileen Pisciotta. A-i-l-e-e-n.
24 Pisciotta is P-i-s-c-i-o-t-t-a. I am with the law firm of
25 Kelly, Dryer & Warren at 1200 19th Street, Northwest,

1 Washington, D.C.

2 THE COURT: Your witness.

3 DIRECT EXAMINATION

4 BY MS. SCHMITT:

5 Q. Ms. Pisciotta, what is your legal specialty?

6 A. Telecommunications regulatory law.

7 Q. And have you been the telecommunications counsel for
8 FACS?

9 A. Yes, I have.

10 Q. For how long?

11 A. For -- since 1996.

12 Q. FACS has a license which is something that is sometimes
13 referred to as "the little Leo band of satellites." Could you
14 explain what that is.

15 A. Little Leos are -- is a service identified by the FCC
16 operating in a particular band of frequency spectrum, below 1
17 gigahertz, and consists of a constellation of satellites, one
18 or more satellites in elliptical or circular orbit around the
19 earth and are low altitude.

20 Q. And what was the process by which FACS acquired the
21 license?

22 A. There is a process used by the FCC called "processing
23 rounds" which involves the identification of a cutoff period
24 by the FCC following its submission of an application by one
25 party, an invitation for other parties to submit applications

1 competing with that initial application.

2 In 1994, the FCC issued a processing round through a
3 cutoff date for a second processing round in which Final
4 Analysis participated. They submitted their application, I
5 believe, in November '94, and the processing round was not
6 concluded until 1997, October of '97, having taken several
7 years to conclude a rulemaking proceeding and ultimately
8 resulting in an industry compromise for the divvying up of the
9 available spectrum.

10 In this particular case, there was very little
11 spectrum available for all of the applicants that wanted
12 licenses for systems and with great difficulty and with some
13 dropouts among the initial group of applicants. The industry
14 finally was able to come to a compromise agreement whereby
15 there is a significant amount of sharing of a very small
16 amount of spectrum, and the industry agreement that was
17 achieved is a very interdependent complex agreement among the
18 parties that were licensed in that second processing round.

19 Q. And could you describe the current status of the FAC
20 license, the FACS license?

21 A. Yes. The license was granted in April of 1998, and it
22 contained construction progress milestones. The first
23 milestone was March of 1999 at which time the company was
24 obliged to demonstrate that it had entered into a
25 non-contingent contract with the initial commencement of

1 construction of two satellites.

2 The next milestone was March of 2001 at which time
3 the company was obliged to have entered into a non-contingent
4 contract for the commencement of construction, the remainder
5 of the constellation. In fact, Final Analysis -- FACS had
6 entered into a contract with FAI, its parent company, to be
7 the prime contractor, and through that contract and subsequent
8 vendor contracts, FAI -- FACS met those first two milestones.

9 The next milestone to occur is March 2002 at which
10 time FACS is to have completed construction of the first two
11 satellites. Following that, the launch of the first two
12 satellites is supposed to occur by September 2002.

13 The remainder of the constellation is to be
14 completed construction and launched and in operation by March
15 2004.

16 Q. What happens if FACS doesn't meet its March deadline?

17 A. By the terms of the license, the license becomes null and
18 void. It is a conditional license. It is an automatic
19 nullification of the license on that date.

20 Q. And as counsel for FACS, what recommendations have you
21 made in terms of avoiding that termination?

22 A. We have recommended, because the effort to obtain a
23 waiver or an extension of time is very difficult, that the
24 company should go to the commission with a petition for
25 modification of their license to extend the milestones or, in

1 the alternative, request a waiver by the FCC of the rule
2 requiring compliance with the milestones.

3 We have advised them that they need to do that as
4 soon as possible because even delaying asking for such an
5 extension has been held against companies in the past who have
6 sought them, and we have advised them that the commission's
7 policies, which is set forth in a variety of decisions and
8 commission case law, is very clear that it is very difficult
9 to get such an extension or waiver.

10 Q. Is there any reason FACS couldn't simply file that
11 extension now with its current shareholder situation?

12 A. The factors that the FCC will look at in acting on a
13 request for extension of waiver include for an extension
14 request, demonstration of unforeseen circumstances and -- or a
15 significant public-interest reason why an extension should be
16 granted.

17 In the case of a waiver, asking the commission to
18 waive the rule on its own motion has to be good cause shown.
19 The case law is very clear that the commission will take into
20 consideration the capabilities of the company and a
21 demonstration of its intent to proceed.

22 When the commission granted FACS its license and it
23 was granting its license in the context of granting licenses
24 to everyone in that processing round, the Commission declined
25 to impose strict financial qualification standards. Their

1 public policy objective was to approve a number of licenses so
2 as to achieve a competitive industry in the little Leo
3 industry.

4 They said at the time that they would require in
5 lieu of the imposition up front of strict financial
6 qualification standards, strict compliance with these
7 construction milestones.

8 In order to convince the commission that they should
9 grant an extension at this time, which is very late as it is
10 in the process, we need to make a very clear demonstration
11 that the company not only has accomplished an awful lot in the
12 past up to this point and is in the process of constructing a
13 system, but that it is capable of carrying forward even a very
14 precise extension period. The commission will require that
15 they identify an exact period, that would be held to an exact
16 period of an extension, and that we have a demonstration of
17 exactly how we are going to meet that extended period of time.

18 So we need to go to the commission with a very clear business
19 plan with core credentials for moving forward and with a
20 demonstration, probably, of contracts in place that will be
21 required to implement the construction and launch over that
22 time table.

23 The process for obtaining an extension requires,
24 first, that we go and talk to the commission and make them
25 aware that we need the extension and then submitting formal

1 papers with our best case put forward. We can't submit an
2 intention to seek a waiver. We need to submit a fully
3 justified request at the outset. The commission has to
4 deliberate. They might ask for information. They might ask
5 to see contracts. We would have meetings with them. Then we
6 have to write an order. And all of this has to take place
7 before the end of March 2002.

8 So the time is getting extremely short for us to be
9 in a position where we could go to the commission with a
10 resolution of the financial and corporate qualifications of
11 the licensee and a business plan that clearly sets out a plan
12 to meet an extended construction schedule in a precise time
13 frame. And I think the commission would need to see that the
14 company is basically hitting the ground running.

15 Q. And just to make clear, if the licensee under any
16 scenario continued to be FACS, does the identity and financial
17 wherewithal of the controlling party of FACS impact on that
18 decision?

19 A. Absolutely. Absolutely.

20 I think the commission is going to have to see that
21 all of the resources of the company, and particularly because
22 FAI is the prime contractor, they are the entity that the
23 commission is relying upon to actually implement this revised
24 construction schedule. So both parties have to be before the
25 commission in one way or the other to make a convincing case

1 that a revised construction milestone can be -- can be
2 granted.

3 There are considerations that weigh both in favor
4 and against the company under the best of circumstances in
5 their request for a waiver, but among the circumstances that
6 we are concerned about is that the ultimate decision that the
7 commission will have to reach is, is a public interest better
8 served by granting the waiver or not, and the fundamental
9 issue in the commission's mind is the warehousing of spectrum.

10 They don't want to grant a waiver to a company that isn't
11 going to do anything with the spectrum. They must have a
12 rationale to overcome the significant case law that is there
13 and that will not put them in a bad situation for future
14 cases. They must have a very clear rationale for granting a
15 waiver to a company at this -- under these kinds of
16 circumstances.

17 Q. And is it your opinion if you waited 45 or 60 days to
18 file this application that the probability of success would be
19 reduced?

20 A. I think it would be virtually null.

21 MR. GREENAN: Objection, Your Honor.

22 THE WITNESS: I think that the -- the commission --

23 THE COURT: Just a moment. Just a moment.

24 THE WITNESS: I'm sorry.

25 THE COURT: There has been an objection posed.

1 MR. GREENAN: Your Honor, I'm not sure. She says
2 she's a -- she practices -- she has a specialty in
3 telecommunications regulation, but we don't have any -- any
4 background on whether she -- how much she -- she's been before
5 this board or whether she has any experiences to render a
6 decision as to whether, in fact, they would or would not.

7 THE COURT: I don't think she was stating that she
8 was going to render a decision.

9 MR. GREENAN: The opinion was whether --

10 THE COURT: She was expressing an opinion, I would
11 agree, and has not been qualified as an expert. The objection
12 is sustained.

13 MS. SCHMITT: I can lay the foundation, Your Honor.

14 THE COURT: If you must.

15 MS. SCHMITT: I think her testimony probably reaches
16 this point already. I don't have any more questions.

17 THE COURT: Any questions by other counsel?

18 MR. SUNTUM: Your Honor, may it please the Court.
19 If I might enter my appearance. I apologize for appearing
20 late. I was in Circuit Court for Montgomery County this
21 morning. I am Joseph Suntum, counsel for the -- Mr. Lee's
22 clients, the investors from Atlanta, Dr. Schettino, et al.

23 If I may conduct an examination?

24 THE COURT: Mr. Lee, are you surrendering this
25 witness to your colleague?

EXHIBIT 6

INTERNATIONAL TELECOMMUNICATION UNION



Radiocommunication Bureau

TELEFAX

Place des Nations
CH-1211 Geneva 20
Switzerland

Telephone +41 22 730 51 11
Telefax Gr3: +41 22 733 72 56
Gr4: +41 22 730 65 00

24152

Date: 18 December 2003

Time:

Page 1/2

Ref: 9C(SC)/0.3143/03

Fax: +5581 912 2244

V180

To: Agência Nacional de Telecomunicações - ANATEL
Presidência / Assessoria Internacional
Brasília, DF
70913-900
Brazil

Fax: +1 202 418 1208
8398

Copy to: Federal Communications Commission
International Bureau
Washington, D.C. 20554
United States of America

From: Avram Sion, Head, SSC

For your reply:

E-Mail: @itu.int

Fax: +41 22 730 5785 Tel: +41 22 730 5931

Subject: LEOTELCOM-5 Satellite Network

Ref.: a) Special Sections AR14/C/1030 (IFIC 2459/11.12.2001) and AR14/D/386 (IFIC 2496/17.06.2003)
b) Your telefax CT No. 268 /PVSSR/AIN-PR received on 8 October 2003

Dear Madam/Sir,

According to your request and after we have re-examined our records, the Radiocommunication Bureau wishes to inform you that the Administration of Brazil will be included in the Summary of Coordination Requirements under the provision RR 9.21 corresponding to the LEOTELCOM-5 Satellite Network published in the AR14/D/386 Special Section.

A copy of your comments is being sent to the Administration of the United States.

Yours faithfully,

Avram Sion
Head, Space Systems Coordination Division

Annex: 1 page



CT. N° 064 IPVSSR/AIN-PR

Federal Communications Commission
 International Bureau
 Attention: Mr. Richard B. Engelman
 2000 M Street
 Room 868, Stop Code #0800C
 Washington, D.C. 20554
 UNITED STATES OF AMERICA
 Fax: + 1 202 418 1208 OR 0398

Subject: LEOTELCOM-5 satellite network
 Ref.: Special section AR14/C/1030 annexed to BR IFIC 2458 of 11.12.2001

SS.21
4

Dear Sir,

Regarding the above referred special section, we inform that the Brazilian Administration has planned and existing terrestrial systems in the 148,0-149,80 MHz frequency band proposed to be used by LEOTELCOM-5.

In this regard, the coordination between these systems is necessary.

Furthermore, as soon as possible we are sending the updated characteristics of our above mentioned terrestrial systems.

Sincerely,

Hélio de Lima Leal
 HÉLIO DE LIMA LEAL
 Head, Office of International Affairs

c.c. The Director
 Radiocommunication Bureau
 International Telecommunication Union
 Place des Nations
 CH-1211 - Geneva, 20
 Fax: + 41 22 730 5785

ANATEL - Agência Nacional de Telecomunicações
 SCS Q.E. - Bl. H - 4º ANDAR - Brasília - Brasil Tel.: + 55 61 312 2083 - 212 2228 - Fax: + 55 61 312 2244/2011
 email: helioleal@anatel.gov.br

SFR	✓		regist.

Brasília, March 28th, 2002

B.R. 01 APR 2002	
09C (SSD) / 3808 / 02	

INTERNATIONAL TELECOMMUNICATION UNION



Radiocommunication Bureau

TELEFAX

Place des Nations
CH-1211 Geneva 20
Switzerland

Telephone +41 22 730 51 11
Telefax Gr3: +41 22 733 72 56
Gr4: +41 22 730 65 00

Date: 18 December 2008

Time:

Page 1/2

Ref: 9C(SC)/0.3145/09

To: International Frequency Policy Office
Telecommunications Bureau
Ministry of Public Management, Home Affairs, Posts
and Telecommunications
Japan

Fax: +81 3 5253 5883 ✓
1728 - 24155

Copy to: Federal Communications Commission
International Bureau
Washington, D.C. 20554

Fax: +1 202 418 1208

From: Avram Sion, Head, SSC

For your reply:

E-Mail: avram.sion@itu.int
Fax: +41 22 730 5785 Tel: +41 22 730 5931

Subject: LEOTELCOM-5 Satellite Network

- Ref.: a) Special Sections AR14/C/1030 (IFIC 2458/11.12.2001) and AR14/D/S86
(IFIC 2496/17.06.2003)
b) Your telefax No. MPHPT/TB416-2 of 17 October 2009

Dear Madam/Sir,

According to your request and after we have re-examined our records, the Radiocommunication Bureau wishes to inform you that the Administration of Japan will be included in the Summary of Coordination Requirements under the provision RR 9.21 corresponding to the LEOTELCOM-5 satellite network published in the AR14/D/386 Special Section.

A copy of your comments is being sent to the Administration of the United States.

Yours faithfully,


Avram Sion

Head, Space Systems Coordination Division

Annex: 1 page

SPR	SSC	SNP	Regist.
- ITU-EE			02

Ministry of Public Management, Home Affairs
 Posts and Telecommunications, JAPAN
 Telecommunications Bureau

2-1-2 Kasumigaseki, Chiyoda-ku, Tokyo 100-8926 JAPAN
 Tel: +81-3-5255-5878 Fax: +81-3-5253-5863 Email: sat-fpd@soumu.go.jp

MPHPT/TB122-2
 9 April 2002

The Director of Radiocommunication Bureau, ITU

Subject: Coordination of the LEOTELCOM-3/-5 satellite networks

References: 1) IFIC Special Section, AR14/C/1030 (2459/11.12.2001)
 2) IFIC Special Section, AR14/C/1054 (2459/11.12.2001)

①		
B.R. 09 APR 2002		
09C (SSD)	4174	02

Dear Sir,

With regard to the coordination referred to in the above references, the Administration of Japan would like to make a comment, pursuant to RR1617, that there is a potentiality of harmful interference with our terrestrial networks.

Therefore, we would like to request US Administration that Japanese territory be excluded from the service area of the LEOTELCOM-3/-5 satellite networks.

We appreciate your appropriate treatment on this matter.

Sincerely yours,

2. 22 12

UEHARA Hiroshi
 Director of International Frequency Policy Office
 for Director General of Telecommunications Bureau

SS 21
 3

NOTCNCGI 50 3/2002

Buenos Aires, 29 DIC 2003

Sra. Jeree Payton
International Bureau
Cross Border Negotiations and Treaty Compliance Branch
Strategic Analysis and Negotiations Division
FCC

Fax: +1 202 418 1208 / 0398

De mi consideración:

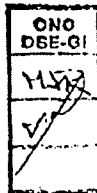
Me dirijo a usted, con relación a la coordinación bajo el numeral 9.11 A del Reglamento de Radiocomunicaciones de la UIT del sistema de satélites LATINSAT notificado por esta Administración.

Le informo que el sistema de satélites LATINSAT fue puesto en servicio el 1º de marzo del 2003, de acuerdo a la información publicada por la UIT en su Sección Especial N° RES49/726 en la BR IFIC 2487/11.02.2003.

A fin de completar la coordinación bajo el numeral 9.11A con esa Administración lo antes posible, para las bandas de frecuencias de usuario en el enlace ascendente de 399,90 - 400,05 MHz y en el enlace descendente de 400,50 - 400,65 MHz, le solicito nos remita un listado con las redes y/o sistemas de satélites cuya compatibilidad deba ser evaluada.

Asimismo consideramos conveniente que el operador del sistema de satélites Latinsat se contacte con los operadores de las redes y/o sistemas de satélites involucrados de esa Administración, con el objeto de evaluar la compatibilidad entre sistemas, para lo cual le agradeceré que nos indique los operadores y sus respectivos puntos de contacto.

Saludo a Ud. atentamente.



Juan José Valerio
ING. JUAN JOSE VALERIO
INGENIERO DE INGENIERIA (II)
COMISION NACIONAL DE COMUNICACIONES

Coordinación operador a operar con los EE.UU.
Área Servicios Espaciales - Gerencia de Ingeniería

Of my consideration:

I direct myself you, with relation to the coordination under the numeral 9.11A of the Regulation of radiocomunicaciones of the UIT of the system of satellite LATINSAT notified by this Administration.

It infermo that the system of satellite LATINSAT went position in service March 1, the 2003, according to the information published by the UIT in its special section RES49/726 in the br ific 2487/11.02.2003.

In order to complete the coordination under the numeral 9.11A with that administration it before possible, for the bands of frequencies of usario in the ascending link of 399,90 - 400,05 MHz and in the descending link of 400,50 - 400,65 MHz, I request remit it us a listing with the networks and/or systems of satellites whose compatibility should be evaluated.

Likewise we consider conviene that the user of the system of satellite Latinsat be contacted with the users of the networks and/or systems of satellites involved of that administration, with the purpose to evaluate the compatibility among systems, for which it I will thank that indicate us the users and its respective points of contact.

Greeting to you attentively.

EXHIBIT 7

ANNEX 1

Coordination thresholds for sharing between MSS (space-to-Earth) and terrestrial services in the same frequency bands and between non-GSO MSS feeder links (space-to-Earth) and terrestrial services in the same frequency bands

1.1 Below 1 GHz*

1.1.1 In the bands 137-138 MHz and 400.15-401 MHz, coordination of a space station of the MSS (space-to-Earth) with respect to terrestrial services (except aeronautical mobile (OR) service networks operated by the administrations listed in Nos. 5.204 and 5.206 as of 1 November 1996) is required only if the pfd produced by this space station exceeds $-125 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ at the Earth's surface.

1.1.2 In the band 137-138 MHz, coordination of a space station of the MSS (space-to-Earth) with respect to the aeronautical mobile (OR) service is required only if the pfd produced by this space station at the Earth's surface exceeds:

- $-125 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for networks for which complete Appendix 3** coordination information has been received by the Bureau prior to 1 November 1996;
- $-140 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for networks for which complete Appendix 4/S4/3** coordination information has been received by the Bureau after 1 November 1996 for the administrations referred to in § 1.1.1 above.

1.1.3 In the band 137-138 MHz, coordination is also required for a space station on a replacement satellite of a MSS network for which complete Appendix 3** coordination information has been received by the Bureau prior to 1 November 1996 and the pfd exceeds $-125 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ at the Earth's surface for the administrations referred to in § 1.1.1 above.

1.2 Between 1 and 3 GHz

1.2.1 Objectives

Generally, pfd thresholds were used to determine the need for coordination between space stations of the MSS (space-to-Earth) and terrestrial services. However, to facilitate sharing between digital fixed service stations and non-GSO MSS space stations, the concept of fractional degradation in performance (FDP) was adopted. This concept involves new methods described in this Annex.

* These provisions apply only to the MSS.

** Note by the Secretariat: Edition of 1990, revised in 1994.