

STEPTOE & JOHNSON^{LLP}

ATTORNEYS AT LAW

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September 25, 2009

Via ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
12th Street S.W.
Washington, D.C. 20554

Re: Motion for Stay and Petition for Reconsideration filed by AtContact Communications, LLC, of International Bureau Order DA 09-1850, Call Signs S2346, S2680, S2681, S2682, and S2683

Dear Ms. Dortch:

On September 24, 2009, representatives of AtContact Communications, LLC (“AtContact”) met with: (1) Austin Schlick, Dan Harrold, David Horowitz, Paul Cascio, and Grey Pash from the Office of General Counsel; and Roderick Porter, Robert Nelson, and Cassandra Thomas from the International Bureau; (2) Jennifer Schneider, Legal Advisor to Commissioner Copps; (3) Erin McGrath, Legal Advisor for Commissioner Baker; and (4) Angela Giancarlo, Senior Legal Advisor and Chief of Staff for Commissioner McDowell.

AtContact summarized the factual submissions and arguments made in its recently filed Motion for Stay and Petition for Reconsideration of the International Bureau’s *Order* nullifying AtContact’s satellite space station licenses. AtContact emphasized the irreparable injury portended for AtContact itself and AtContact’s current and future customers if the Motion for Stay is not granted: AtContact’s current service to Alaska and other areas would be directly threatened; its two requests for stimulus funds for next-generation satellite broadband service would be frustrated, and so would a private equity commitment of many tens of millions of dollars that is premised on the receipt of stimulus funds. Moreover, on the other side of the ledger, no injury is threatened for anyone if the Bureau grants the

stay. In this respect, AtContact submits a copy of the \$5 million bond securing its license¹ and associated bond reduction riders reducing it to \$3 million, which demonstrate that the Treasury Department's claim will continue to be secured if a stay is granted, as the surety will be "held and firmly bound unto" the United States Treasury.

Irreparable injury is paramount in the Commission's evaluation of the stay factors. The Commission has, for example, granted in part a motion for stay because of the great irreparable harm of divestiture, in spite of the fact that the other three factors weighed against granting the stay. The Commission explained that while a movant's argument "ha[d] little chance of success on appeal and that granting their motion, as filed, would harm both other interested parties and the public interest . . . it [was] possible that Defendants might suffer irreparable injury if divestiture were completed before the unlikely event that they were successful at the Court of Appeals." *In re Comark Cable Fund III*, 104 FCC 2d 451, ¶ 9 (rel. Dec. 9, 1985).

In another decision, the Commission granted a motion for stay based on the "irreparable harm" prong. *In re Dynamic Cablevision of Florida, Ltd.*, 10 FCC Rcd 5156 (rel. Mar. 29, 1995). As the Commission put it, "resolution of this particular stay rests mainly on the strength of Dynamic's argument concerning the second prong [irreparable harm] of this test." The Commission concluded that "a stay of our order is appropriate to prevent Dynamic from being subjected to the irreparable economic harm of implementing a restructuring, with its associated expenses, and issuing refunds to subscribers that it could not later recoup." *Id.* at ¶ 6.

This is not to say that AtContact does not have a significant likelihood of success on the merits – it respectfully submits it does. In this respect, the Commission's rules allow reconsideration on the basis of not previously presented facts where consideration of the facts is required in the public interest. 47 C.F.R. § 1.106(c)(2). The Bureau has taken into account facts not previously presented in reconsidering a license cancellation in circumstances similar to those obtaining here. *See In re EchoStar Satellite Corp.*, 17 FCC Rcd 23489, ¶ 5 (rel. Nov. 8, 2002). In that case, the information EchoStar submitted on reconsideration to show it had met the first milestone "clarifie[d] facts that existed at the time of its milestone deadline." *Id.* Moreover, the "public interest in seeing EchoStar's Ka-band services brought to the public outweighs any harm caused by EchoStar's failure to provide this information as part of its initial milestone compliance demonstration." *Id.*

Finally, AtContact highlights its request for similar treatment with that of a similarly – and indeed worse – situated licensee, Digital Globe.²

¹ The bond was filed with the Commission on May 15, 2006.

² *See* Digital Globe, Inc., Request for Determination of Compliance with Satellite Implementation of Milestones, File No. SAT-MOD-200407280-00151 (Oct. 2, 2006).

Marlene H. Dortch
September 25, 2009
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Pursuant to 47 C.F.R. § 1.1206(b), this notice is being filed electronically with a copy emailed to the Commission officials that participated in the meetings.

Respectfully submitted,

/s/

Pantelis Michalopoulos
*Counsel for AtContact Communications,
LLC*

cc:
Paul Cascio
Angela Giancarlo
Dan Harrold
David Horowitz
Erin McGrath
Robert Nelson
Grey Pash
Roderick Porter
Austin Schlick
Jennifer Schneider
Cassandra Thomas

Federal Communications Commission
Ka-band Satellite System License Payment Bond

KNOW ALL PERSONS BY THESE PRESENTS, that contactMEO Communications, LLC (hereinafter called the Principal) and Safeco Insurance Company of America (hereinafter called the Surety), are held and firmly bound unto the United States Treasury (hereinafter called the Obligee), in the maximum penal sum of Five Million U.S. Dollars (\$5,000,000) to the payment of which sum, well and truly be made, the Principal and Surety bind themselves, and each of their heirs, administrators, executors and assigns, jointly and severally, firmly by these presents. Regardless of the number of years this bond may be in force, the aggregate liability of the Surety payable under this bond shall not be cumulative and is limited to the stated maximum penal sum.

WHEREAS, the Principal's application to launch and operate the NGSO Fixed-Satellite System ("Satellite System"), has been granted by the Federal Communications Commission ("FCC") and the Principal is authorized to launch and operate such satellites in the Ka-band frequencies in accordance with the terms and conditions set forth in its FCC authorization which authorization is hereby referred to and made a part hereof.

WHEREAS, in accordance with the conditions of the Satellite System authorization granted by the FCC, the Principal must file a payment bond with the FCC within 30 days of the application being granted.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the Principal shall well and truly perform the obligations in said authorization at the time and in the manner specified during the term of this bond, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, That this bond is subject to the following conditions:

1. Satellite System must be constructed and launched in accordance with the authorization by the following specified time milestones:
 - a. Enter into a binding non-contingent contract to construct the licensed satellite system by April 15, 2007.
 - b. Complete the Critical Design Review of the licensed satellite system by April 15, 2008.
 - c. Begin the physical construction of the first satellite by October 15, 2008.
 - d. Complete construction and launch the first satellite by October 15, 2009.
 - e. Certify the entire system is operational by April 15, 2012.
2. Upon completion of each milestone, confirmation of which will be filed with the FCC by Principal, and issuance of a Public Notice by the FCC confirming same, the maximum penal sum of the bond shall be reduced by 20% (\$1,000,000) via rider to this bond sent to the FCC and the Obligee.
3. In the event of a Notice of Default (i.e., an order or public notice revoking Principal's authorization) issued by the FCC to the Principal and the Surety regarding the performance of the milestones specified above during the term of this bond, the Surety shall be liable only up to the current outstanding maximum

penal sum amount after giving effect to applicable milestone reductions. It is also understood and conditionally agreed that upon receipt of such Notice of Default, the sole remedy under this bond will be the tender of payment of the current outstanding maximum penal sum of the bond (taking into account subsequent riders to the maximum penal sum of the bond described above) within thirty (30) business days of such Notice of Default.

Any such Notice of Default made under this Bond shall be made in writing and shall be given a personal delivery or expedited delivery service, postage pre-paid, addressed to the parties at the addresses specified below:

To the Surety:

Safeco Insurance Company of America
Safeco Plaza
Seattle, Washington 98185

To the Principal:

contactMEO Communications, LLC
Attention: David Drucker, Manager
2539 North Highway 67
Sedalia, CO 80135

With copy to:

James M. Talens, Counsel
6017 Woodley Road
McLean, VA 22101

4. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.
5. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this bond and as described in other documents, statutes or regulations, then the terms of this bond shall prevail.

This bond shall be effective on the 15th day of May, 2006 and shall cease at such time as the FCC confirms that the Principal has satisfied all of the milestones set forth in paragraph 1.

Signed and sealed this 12th day of May, 2006.

contactMEO Communications, LLC
(Principal)

By: _____

[Signature]

(Witness)

[Signature]

Safeco Insurance Company of America
(Surety)

By: _____

[Signature]
Shelley Czajkowski, Attorney-in-Fact

By: _____

[Signature]

(Witness)

Mona D. Weaver, Denver, CO.



LOCKTON

LOCKTON COMPANIES OF COLORADO, INC.
5110 East Union Avenue, Suite 700, Denver, CO 80231-2941
(303)414-6000 FAX: (303)414-6000

STATE OF COLORADO

COUNTY OF DENVER

} SS.

On May 12th, 2006

before me, Celeste T. Helms

PERSONALLY APPEARED Shelley Czajkowski

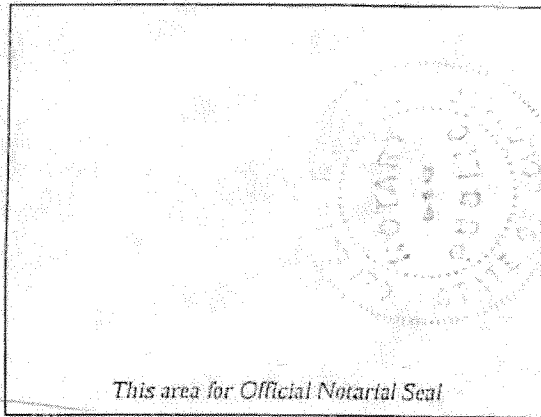
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]

My Commission Expires
02/14/2009



This area for Official Notarial Seal

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- INDIVIDUAL
- CORPORATE OFFICER

TITLE OF TYPE OF DOCUMENT

TITLE(S)

- PARTNER(S) LIMITED
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

NUMBER OF PAGES

ATTORNEY-IN-FACT

TRUSTEE(S)

GUARDIAN/CONSERVATOR

OTHER: _____

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

SIGNER(S) OTHER THAN NAMED ABOVE



POWER OF ATTORNEY

SAFECO INSURANCE COMPANY OF AMERICA
GENERAL INSURANCE COMPANY OF AMERICA
HOME OFFICE SAFECO PLAZA
SEATTLE WASHINGTON 98185

No. 6613

KNOW ALL BY THESE PRESENTS:

That: SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****WILLIAM M. O'CONNELL, JR., SHELLEY CZAJKOWSKI, CELESTE T. HELMS, GARRY L. WESSELINK, KAREN A. FEGGESTAD, AMY WICKETT
DEANNA M. ROBICHAUD, MONA D. WEAVER, Denver, Colorado*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 4th day of June, 2004

CB Mead

CHRISTINE MEAD, SECRETARY

Mike McGavick

MIKE MCGAVICK, P. PRESIDENT

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA
and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

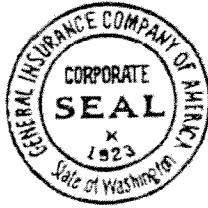
Extract from: a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA
and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out:
(i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,
the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Christine Mead, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 12th day of May, 2006



CB Mead

CHRISTINE MEAD, SECRETARY

RIDER

To be attached to and form a part of License Bond, No. 6321647 dated the 12th day of May, 2006 issued by the SAFECO INSURANCE COMPANY OF AMERICA, as Surety, on behalf of contactMEO Communications, LLC as Principal, in the maximum penal sum of FIVE MILLION DOLLARS (\$5,000,000.00), and in favor of United States Treasury, as Obligee.

In consideration of the premium charged for the attached bond, and in accordance with revised rules governing bonds for NGSO Fixed-Satellite System ("Satellite System") in the Ka-band frequencies and in the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies, *First Order of Reconsideration and Fifth Report and Order*, FCC 04-147, 2004 FCC LEXIS 3782, which became effective on September 20, 2004, 69 Fed. Reg. 51586 (Aug 20, 2004), it is hereby agreed that the attached bond be amended as follows:

1. The maximum penal sum of the bond is hereby decreased from FIVE MILLION DOLLARS (\$5,000,000.00) TO FOUR MILLION DOLLARS (\$4,000,000.00)
2. Upon completion of each milestone, confirmation of which will be filed with the FCC by the Principal, and issuance of a Public Notice confirming same, the maximum penal sum of the bond shall be reduced by \$1,000,000.00 via a rider to this bond sent to the Federal Communications Commission and the Obligee.

Provided, However, that the attached bond shall be subject to all its agreements, limitations and conditions except as herein expressly modified, and further that the liability of the Surety under the attached bond and the attached bond as amended by this rider shall not be cumulative.

This rider shall become effective the 6th day of July, 2007.

Signed and sealed this 10th day of July, 2007.

WITNESS: contactMEO Communications, LLC

By: _____
Principal

ACCEPTED: SAFECO INSURANCE COMPANY OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

BY: _____
By: Mona D. Weaver
Mona D. Weaver, Attorney-in-Fact



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 6613

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****KATALIN CHURCH; SHELLEY CZAJKOWSKI; CELESTE T. HELMS; ANUJ JAIN; SHEILA J. MONTOYA; WILLIAM M. O'CONNELL, JR.; MONA D. WEAVER; AMY WICKETT; Denver, Colorado*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 28th day of July 2006

[Handwritten signature of Stephanie Daley-Watson]

[Handwritten signature of Tim Mikolajewski]

STEPHANIE DALEY-WATSON, SECRETARY

TIM MIKOLAJEWSKI, SENIOR VICE-PRESIDENT, SURETY

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business...

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Stephanie Daley-Watson, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 10th day of July 2007



[Handwritten signature of Stephanie Daley-Watson]

STEPHANIE DALEY-WATSON, SECRETARY

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RIDER

To be attached to and form a part of License Bond, No. 6321647 dated the 12th day of May, 2006 issued by the SAFECO INSURANCE COMPANY OF AMERICA, as Surety, on behalf of contactMEO Communications, LLC as Principal, in the maximum penal sum of FOUR MILLION DOLLARS (\$4,000,000.00), and in favor of United States Treasury, as Obligee.

In consideration of the premium charged for the attached bond, and in accordance with revised rules governing bonds for NGSO Fixed-Satellite System ("Satellite System") in the Ka-band frequencies and in the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies, *First Order of Reconsideration and Fifth Report and Order*, FCC 04-147, 2004 FCC LEXIS 3782, which became effective on September 20, 2004, 69 Fed. Reg. 51586 (Aug 20, 2004), it is hereby agreed that the attached bond be amended as follows:

1. The maximum penal sum of the bond is hereby decreased from FOUR MILLION DOLLARS (\$4,000,000.00) TO THREE MILLION DOLLARS (\$3,000,000.00)
2. Upon completion of each milestone, confirmation of which will be filed with the FCC by the Principal, and issuance of a Public Notice confirming same, the maximum penal sum of the bond shall be reduced by \$1,000,000.00 via a rider to this bond sent to the Federal Communications Commission and the Obligee.

Provided, However, that the attached bond shall be subject to all its agreements, limitations and conditions except as herein expressly modified, and further that the liability of the Surety under the attached bond and the attached bond as amended by this rider shall not be cumulative.

This rider shall become effective the 5th day of September, 2008.

Signed and sealed this 9th day of September, 2008.

WITNESS:

By: Mandi Allmy

contactMEO Communications, LLC
[Signature]
Principal

ACCEPTED:
FEDERAL COMMUNICATIONS COMMISSION

BY: _____

SAFECO INSURANCE COMPANY OF AMERICA
By: Angela M. Tindol
Angela M. Tindol, Attorney-in-Fact



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 6613

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****SHELLEY CZAJKOWSKI; CELESTE T. HELMS; ANUJ JAIN; SHEILA J. MONTOYA; MONA D. WEAVER; AMY WICKETT; ANGELA M. TINDOL; CHARLES M. MCDANIEL; Denver, Colorado*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 14th day of April 2008

Handwritten signature of Stephanie Daley-Watson

Handwritten signature of Tim Mikolajewski

STEPHANIE DALEY-WATSON, SECRETARY

TIM MIKOLAJEWSKI, SENIOR VICE-PRESIDENT, SURETY

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13 - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
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the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Stephanie Daley-Watson, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 9th day of September 2008



Handwritten signature of Stephanie Daley-Watson

STEPHANIE DALEY-WATSON, SECRETARY

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