

subject to a protective order. Concerned that Sprint's production may inadvertently be in violation of the FCC protective order, I immediately made contact with Sprint's counsel to gain clarification regarding his intent to produce Qwest's materials. *See* Ex. D to Mr. Schenkenberg's Affidavit.

4. Shortly thereafter, Mr. Schenkenberg and I engaged in a telephone conversation. During that conversation Mr. Schenkenberg indicated that he intended to produce the confidential version of the Qwest complaint and legal analysis. He articulated his belief that he had obtained those materials pursuant to an informal discovery request that he had made to Sancom's local counsel, Mr. Larson. He further indicated that he felt obligated to produce the materials in response to a discovery request from SDN. Based on my concern that producing the materials may be a violation of the FCC Protective Order, I requested that Mr. Schenkenberg refrain from producing the materials until such time as I had the opportunity to investigate the situation. I also asked him to forward to me any communications he believed to be relevant to the situation.

5. I followed up my conversation with Mr. Schenkenberg with an email to him immediately thereafter. *See id.*

6. On July 8, 2011, Mr. Buntrock, a partner at Arent Fox that also represents Sancom, Mr. Schenkenberg, and I had a follow up call in an effort to resolve the issue. During that call, we discussed the fact that all of the underlying evidence in the Qwest case had already been produced to Sprint, such that the disagreement seemed to relate only to Qwest's written complaint and legal analysis. We asked Mr. Schenkenberg whether he had any basis to anticipate that these materials would be relevant evidence in this case. He was unable to articulate any such basis and stated that, at the time, he could see no way in which Sprint would

offer Qwest's complaint and legal analysis in the record. Based on this discussion, we asked Mr. Schenkenberg if we would simply execute the FCC protective order and hold the materials pursuant to that order. At that time, he indicated that he was not sure that he would qualify to hold the materials subject to the FCC protective order and declined our request.

7. During the July 8, 2011 call, it also became clear to me that Mr. Schenkenberg had not, in fact, obtained the confidential materials from Mr. Larson, but rather had actually obtained those materials from an in-house attorney at Sprint. Despite our request, Mr. Schenkenberg declined to inform us who, specifically, had turned the materials over to him. We also discussed our belief that it was improper for Mr. Schenkenberg to have requested the materials from Mr. Larson, who he knew was not representing Sancom at the FCC and, as such, was not a party to the FCC's protective order.

8. Despite Mr. Schenkenberg's refusal to sign the FCC protective order, I nevertheless continued to try to seek an amicable resolution of this dispute without the need to engage the Commission. Indeed, I communicated with Darla Rogers, counsel for SDN, and was able to obtain consent to represent to Sprint that SDN has no need or interest in reviewing Qwest's complaint and legal analysis in light of the fact that all of the underlying evidence has already been produced by Sancom in this case. Through this agreement, I intended to eliminate the obligation that Sprint apparently felt it had to produce these materials in violation of the FCC protective order.

9. During a call on August 2, 2011, I informed Mr. Schenkenberg that no other parties in this case desired to obtain Qwest's complaint and legal analysis and again asked Mr. Schenkenberg to reconsider his refusal to execute the FCC protective order. He declined. I also indicated that we would give him through the remainder of that week to reconsider the request

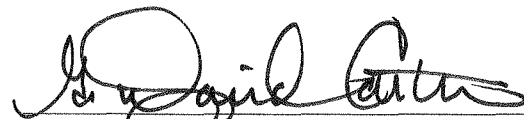
and/or to provide any alternative recommendation for resolving this issue. He did not make any such recommendation or initiate any further communication with us.

10. Nevertheless, Sancom's responses to Sprints' discovery requests propose that if Sprint "obtains consent from Qwest (as the author of the materials), and executes the FCC Protective Order. . . Sancom will not object to Sprint holding the documents subject jointly to the FCC Protective Order and the protective order in this case." At present, Sprint has not responded to that proposal.

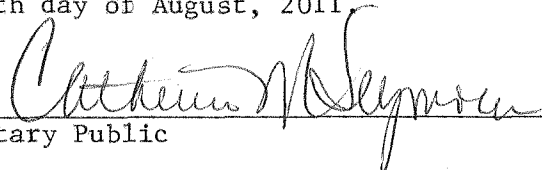
11. Currently, therefore, Sancom has exhausted available avenues to achieve an amicable resolution and, short of violating its duties under the FCC protective order, sees no way to resolve this dispute without the Commission's intervention.

I declare under the penalty of perjury that the foregoing is true to the best of my knowledge, information, and belief.

Dated: August 19, 2011


G. David Carter

Subscribed and sworn to before me this
19th day of August, 2011


Notary Public

CATHERINE M. SEYMOUR
Notary Public District of Columbia
My Commission Expires June 14, 2015