

Exhibit 55

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

CASE NO.: TC 09-098

IN THE MATTER OF THE COMPLAINT OF
SOUTH DAKOTA NETWORK, LLC, AGAINST
SPRINT COMMUNICATIONS COMPANY LP

IN THE MATTER OF THE THIRD PARTY
COMPLAINT OF SPRINT COMMUNICATIONS
COMPANY LP AGAINST SPLITROCK
PROPERTIES, INC., NORTHERN VALLEY
COMMUNICATIONS, INC., SANCOM, INC.,
AND CAPITAL TELEPHONE COMPANY.

* * * * *

DEPOSITION OF: ALAN ALPERT

DATE TAKEN: JULY 21, 2011

TIME: 12:16 P.M.

PLACE: RESIDENCE INN ORLANDO AIRPORT
7024 AUGUSTA NATIONAL DRIVE
ORLANDO, FLORIDA

REPORTED BY: CINDY CONNER, CSR, RPR AND
NOTARY PUBLIC

* * * * *



1 Q When you went to -- do you have a title, a
2 management role with Smart Office Solutions?

3 A I'm the CEO.

4 Q Okay. And are there -- is there anyone at
5 Smart Office Solutions that would have communicated with
6 Northern Valley?

7 A Outside of the people from Sang, no.

8 Q Okay. So you indicated that Smart Office
9 Solutions sells the conferencing services, and Sang owns
10 the equipment?

11 A Yes, sir.

12 Q Is there an agreement in place between those
13 two companies?

14 A No, there is not.

15 Q Is there an oral agreement or an
16 understanding?

17 A No, there's not.

18 Q Okay. So let me just see if I understand
19 this. Sang has numbers, telephone numbers, that have
20 been assigned to it by Northern Valley; is that correct?

21 A Correct.

22 Q Smart Office Solutions is utilizing those
23 numbers in some way that would generate calls into those
24 numbers?

25 MR. BOWSER: Objection. Form.

1 You can answer.

2 A It markets -- it markets that service.

3 Q (By Mr. Schenkenberg) Okay. Meaning the
4 activities that it engages in causes numbers to be --
5 calls to be dialed to those numbers?

6 A Well, yes.

7 MR. BOWSER: Objection. Form. Foundation.

8 Q (By Mr. Schenkenberg) And the calls get
9 delivered through to Northern Valley and then to Sang's
10 equipment; is that correct?

11 A That would be correct.

12 Q And the calls complete or are conferenced
13 together in Sang's equipment?

14 A Yes.

15 Q Compensation -- to the extent compensation is
16 paid by Northern Valley to Sang --

17 A Right.

18 Q -- does Sang then pay some compensation to
19 Total Office Solutions?

20 A No, it does not.

21 Q Is this -- do you consider this arrangement
22 between -- I said Total Office, and I meant Smart
23 Office, did I not?

24 A Yes.

25 Q This relationship between Smart Office

1 Solutions and Sang, is this a -- is this what you
2 consider an arm's-length agreement or is this more of an
3 agreement between common companies?

4 MR. BOWSER: Objection. Form. Calls for a
5 legal conclusion.

6 A It's the same ownership group. Sang strictly
7 owns the equipment.

8 Q (By Mr. Schenkenberg) Sang doesn't own Smart
9 Office Solutions?

10 A No, it does not.

11 Q They separately pay -- they pay their own
12 taxes?

13 A Yes, sir.

14 Q And does Smart Office Solutions have both free
15 and for-pay conference services?

16 A No, it does not.

17 Q Just free?

18 A No, it's just pay.

19 Q Just pay.

20 A There is no free service. Just pay.

21 Q Okay.

22 A We are a pay-for service, sir.

23 Q Okay. Why don't -- why don't you tell me,
24 then, how Smart Office Solutions utilizes the numbers
25 that are assigned by Northern Valley in its business

1 operations.

2 A The majority of our clients are from the
3 direct sales industry. We have one industry that we
4 focus on primarily. Those clients come to us for a
5 variety of communication-oriented services, and Smart
6 Office Solutions fulfills their requirements.

7 Q Can you give me a for instance, a way that a
8 Northern Valley number would be used or is used by Sang?

9 A Can you repeat the question? I'm not really
10 understanding. I'm not comprehending where you're
11 trying to go with that.

12 Q Give me an example of how Sang -- I'm sorry --
13 how Smart Office would use a Northern Valley telephone
14 number as it sells conference services.

15

16

17

18 Solutions has been marketing that service well before it
19 even owned any conferencing equipment or had access to
20 any conferencing equipment through Sang through a
21 variety of entities that had conferencing hardware. And
22 it would sell for those entities that and be able to
23 keep the revenues that it received.

24

25

1 Nothing to do with Northern Valley, nothing with
2 conferencing, nothing to do with South Dakota, sir.

3 Q And Total Number -- does Total Number use IP
4 communications? Voice IP?

5 A It does some, yes.

6 Q Total Number is -- if you turn a couple of
7 pages, it shows it is a separate LLC.

8 A That's correct.

9 Q And I thought you told me it was just a -- My
10 Web is just a tradename?

11 A That's correct.

12 Q Okay. Are you involved in any chat?

13 A No chat, sir.

14 Q And do you have -- does --

15 MR. BOWSER: Objection. Form.

16 Q (By Mr. Schenkenberg) Does Smart Office
17 Solutions have just business customers?

18 A I believe that's business customers. I
19 believe there are also some -- well, business customers,
20 yes, which are either companies. They could be coaches.
21 And I know we've got some prayer groups.

22 Q Okay.

23 A Okay? I know we -- we do give our service
24 away to church groups and prayer groups as they give
25 back to the community, sir.

1 Q Okay. And let me just ask about that because
2 I think you said it's all for for-pay. And you
3 described how the pay --

4 A Correct.

5 Q -- relationships worked.

6 A Correct.

7 Q There are some -- are you saying now there are
8 some groups that do not pay?

9 A I have a couple of church groups, a couple of
10 people associated with religious affiliations. And if
11 they show us their religious affiliation and that's what
12 it's for, our giveback is we zero out that invoice for
13 them.

14 Q Okay. Is there anyone who uses these services
15 who is paid by Smart Office Solutions?

16 A I don't understand the question. I apologize.

17 Q There are some situations that -- that I have
18 seen come across not involving you in which folks who
19 are -- who have relationships with local exchange
20 carriers or generating traffic in have a second
21 down-the-line relationship with another company who is
22 generating traffic and taking part of the commissions so
23 that there is a payment stream from LEC to conference
24 call company to somebody else who is then generating
25 traffic.

1 Q What do you remember about that phone call?

2 What did you ask him? What did you tell him?

3 A I told him that I was purchasing some new
4 conferencing equipment and I was looking for a place
5 that I could possibly place some of that equipment. And
6 I was looking for an affordable place to place some of
7 that equipment because it can get very expensive to
8 place it in a normal setting. So I was trying to get a
9 price check of what it would cost to place my equipment.

10 Q And when you say "affordable," what are the
11 charges that you might see? Not the amount of the
12 charges, but what kind of charges --

13 A Rent space, connectivity space, the ID costs,
14 just all the costs -- the costs to hang equipment in any
15 facility. Okay?

16 Q Okay. And so what did he tell you?

17 A He said he could possibly help me. He had
18 some space. This is a recollection, sir; that he had
19 some space, and he could possibly help me. I asked him
20 what costs would be, and he said we can go over that
21 because he has a way of netting out some of those costs.
22 And I said, If we can net some of those out, that would
23 work very well for me as I am fairly new, I'm somewhat
24 of a startup, and I've got some pretty extensive
25 equipment costs to get started.

1 number is assigned and the PIN codes. And then it
2 routes it when the call comes in there, and it takes it
3 to the appropriate piece of equipment and allows them to
4 get it.

5 Q And I'm not --

6 A That's my belief.

7 Q I'm not an engineer either, but it would make
8 sense to have that happen before the bridge so that --

9 A That's kind of what I'm -- yeah.

10 Q -- so that the PIN functions. And you can use
11 the PIN function to make sure you're going in the right
12 place?

13 A I believe that's correct.

14 Q Okay. Let's look at your contract, the first
15 contract.

16 (Exhibit 8 was marked.)

17 Q And I apologize. These are not stapled.

18 These are marked as Sang 8.

19 A Would you like me to go to the front desk and
20 see if I can get us a stapler?

21 Q Maybe at a break I will grab one.

22 A Okay.

23 Q Is this the first contract that Sang entered
24 into with Northern Valley?

25 A I believe that's correct.

1 Q This was produced by you, and it's marked Sang
2 38 through 45. Can you just leaf through it and make
3 sure you think it's complete?

4 A I think so.

5 Q Okay. Is this -- up at the top, the first
6 page -- actually, before we do that, do you want to look
7 through this and tell me where you think the equipment
8 was --

9 A Sure.

10 Q -- is, was, and is located?

11 A It's in Aberdeen, South Carolina -- or South
12 Dakota. Not South Carolina. Aberdeen, South Dakota.

13 Q So Aberdeen is the --

14 A That would be my knowledge, yes.

15 Q Okay. Page 4 of this document has a notice
16 clause --

17 A Correct.

18 Q -- that directs notices to Northern Valley
19 Communications in Aberdeen.

20 And it would make sense -- are you saying it
21 would make sense that the equipment was shipped to that
22 location?

23 A That's what I would believe, yes, sir.

24 Q What happened from there, though, you don't
25 know?

1 contract attachment e-mail. But that's what my belief
2 would be and that I signed it and sent it back --

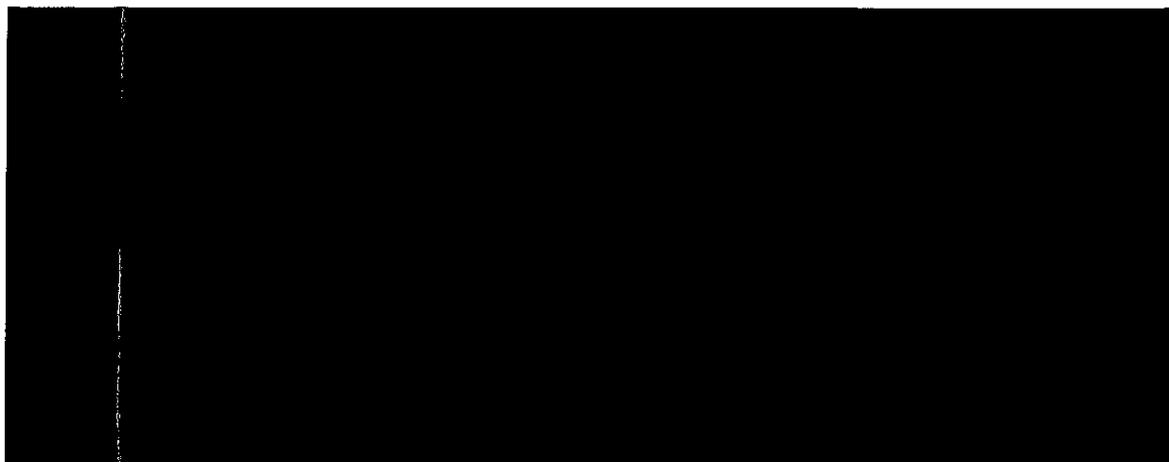
3 Q Okay.

4 A -- to Mr. Groft.

5 Q And that's the day on which -- you signed it
6 on or about that day, May 4th of '09?

7 A Correct.

8 Q Was there negotiation back and forth on this?



16 Q Okay. Did you read the contract before you
17 signed it?

18 A Oh, sure.

19 Q And you had an understanding of -- you had
20 your own understanding of what it meant when you did?

21 A Yeah. I mean, to the best my ability.

22 Q Sure.

23 A Again, I did not have an attorney review the
24 contract or anybody else look at the contract with the
25 exception of possibly my partners. And outside of that,

1 Q How do you come up with your estimate of a
2 million minutes a bridge a month?

3 A My guesstimate on that is based on a formula
4 that we have kind of internally. As I told you, my

5

6 And I can give you some other names, but I
7 really don't want to put my client base out here --

8 Q No.

9 A -- so please understand.

10 Most of these calls are actually generated in
11 the evening. And they're evening-generated calls
12 primarily because these are second income opportunities.

13 It's
14 kind of like an Herbalife or an Amway, and most of their
15 representatives have day jobs. And in the evenings,
16 they go out for these secondary incomes. And that's
17 when they know they can really reach their audiences is
18 mostly in the evenings.

19 O from 7:00 to 10:00, we know our equipment --
20 that's the busiest hours. And when you only know you
21 have a couple of busy hours a day and so many things,
22 it's a guesstimate. It's not a true formula because
23 it's just not true. But that's kind of how we figured
24 out where we'd be.

25 Q Okay. And then --

1 A How many hours a day the equipment would be
2 accessed and if we could get to the maximum number of
3 people hitting that equipment, which we never did
4 either.

5 Q The maximum being 9 --

6 A 900. And we never hit that either.

7 Q So in that example you just gave me, you said
8 their audience would be able in the evening?

9 A Those coaches have a tendency to have more --
10 a lot more evening traffic than day traffic because
11 people cannot call into a conference call while they're
12 on their primary job. These are secondary income
13 opportunities, so most of the access for those people is
14 the evening.

15 Q Okay.

16 A So I would say 80 percent of our traffic was
17 probably generated in a two- to three-hour span in the
18 evenings.

19 Q So you have heavy usage relative -- heavy
20 usage from your standpoint. Maybe not at bridge
21 capacity, but heavy usage in those couple of hours, and
22 then less heavy at other times?

23 A Yes. What happens is if the ports are not
24 available, people can't access. And if they can't
25 access, then -- again, I have paying customers that get

1 paid because they paid for access for so many. And if
2 they paid for access for 500 and only 200 can get in,
3 it's not a good business model and they will take their
4 business elsewhere.

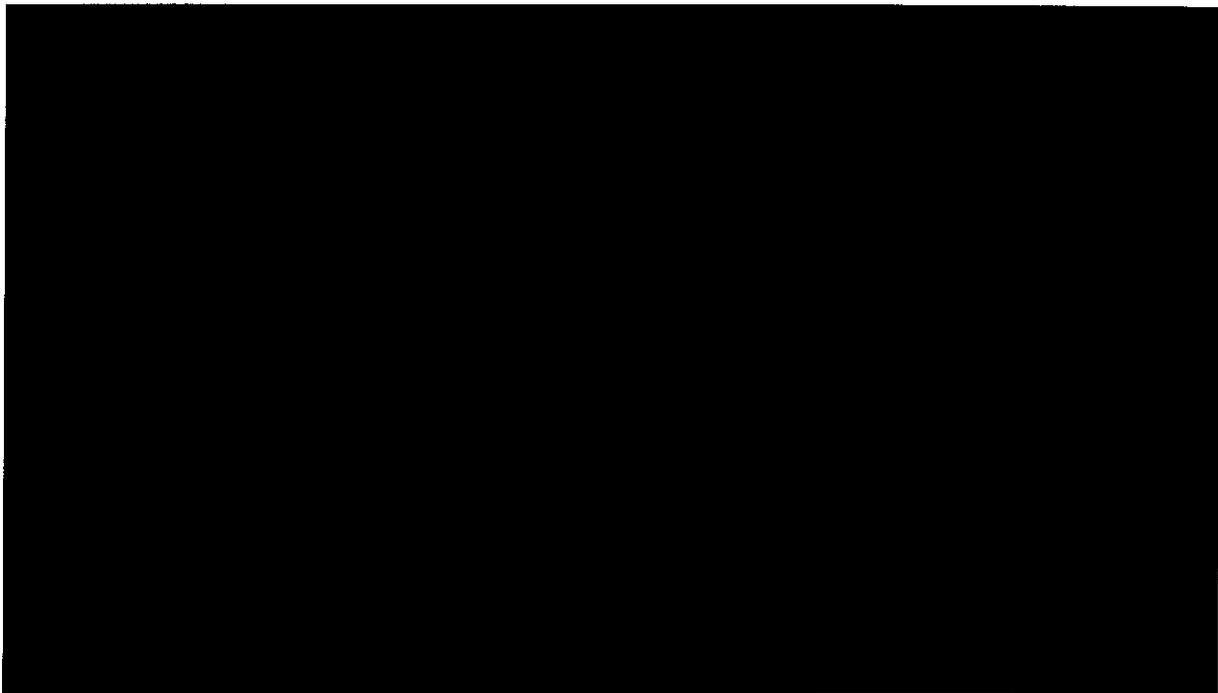
5 Q Are you -- are there situations you can recall
6 in the last year where you have maxed out your ports?

7 A Never.

8 Excuse me. Never at Northern Valley.

9 Q That's what I thought you meant.

10 Let's go to Exhibit B. You've talked about
11 this. This is the last page of that document, Exhibit
12 B. You talked about this, I think, a little bit. First



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23 That's what you talked about being netted out?

24 MR. BOWSER: Objection. Form.

25 A I believe that was part of how he was showing

1 how it was netting out, yes.

2 Q (By Mr. Schenkenberg) What's the other part?

3 A I guess through some of that termination was
4 part of the netting out. This, and possibly that. I
5 was never overly concerned about the termination. I was
6 more concerned about service, which was my number one
7 concern. My number two concern was the fact of the cost
8 of my equipment and what it cost me to have my equipment
9 there.

10 So my concerns kind of followed that pattern.
11 And naturally, the third thing was I guess if I could
12 make some extra money, I certainly wasn't going to turn
13 down some extra income in the process of doing this as
14 long as service was there and in that order, service and
15 available use.

16 Q Okay. I just want to understand a little more
17 when you say the termination is part of that.

18 A Well, I think there is a termination fee that
19 is received which is part of my -- of what you have
20 looked at there.

21

22

23 A Yes, sir.

24 Q Okay.

25 A I'm talking about that; that this whole

1 A Yes, sir. That's pretty close.

2

3

4 A At this point, no, I don't.

5 Q Okay.

6 MR. SCHENKENBERG: Do you want to take five?

7 THE WITNESS: Sure.

8 (A recess was taken.)

9 Q (By Mr. Schenkenberg) Just one last question
10 on that Exhibit B to that contract. That monthly-based
11 marketing fee, that's something you were going to earn
12 whether there were any minutes generated?

13 A I really don't know.

14 Q Okay.

15 A I don't know.

16 Q All right. Let's -- let's -- any other
17 conversations about that contract that you had with
18 Mr. Groft that you haven't told me about?

19 A No, sir.

20 Q Okay. Let's mark Exhibit 9.

21 (Exhibit 9 was marked.)

22 Q This is the first addendum to the agreement we
23 were just looking at from May 31st of 2010; is that
24 correct?

25 A I guess so.

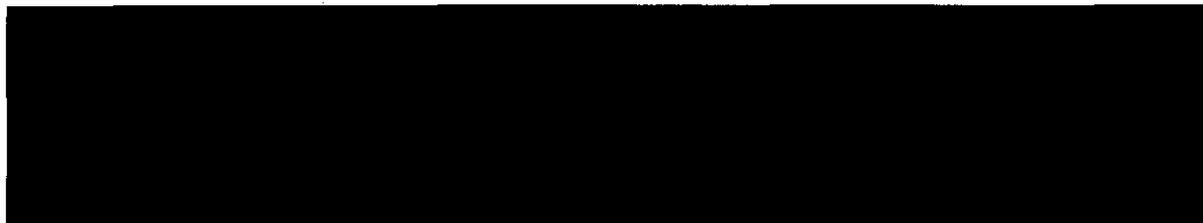
1 Q Does this not look familiar?

2 A I haven't seen this one in a while, so I
3 apologize. I was reading it for the first time. It's
4 my signature on there, so I'm sure it's familiar. But I
5 don't remember seeing this one in a while, so --

6 Q Do you want to take a read through it?

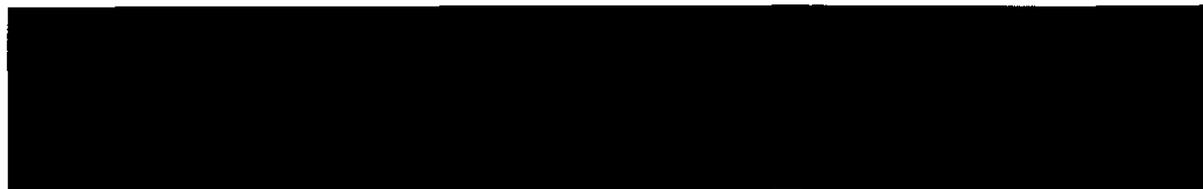
7 A I'm okay with it.

8 Q What -- what prompted this amendment or
9 addendum? Do you recall?



13 they needed me to agree to whatever that compensation
14 was. And, again, I just signed off and said that was
15 fine.

16 Q Did you have discussions with anyone at
17 Northern Valley about why the numbers were what they
18 were?



22 And this was the portion that I guess was what he
23 allocated that was figured for us.

24 Q Okay. Was this calculated on a per -- a
25 percentage of the .007 that you would have been entitled

1 importance, it was probably at a 2.

2 Q So he re-sent it on January 7th. Was it any
3 higher lever to you at that point?

4 A No. Everything was still working.

5 Q Did he contact you after that January e-mail
6 and say, Why haven't you responded?

7 A He might have. And, again, if he contacted
8 me, it would have probably been by e-mail. You have
9 that e-mail, so I would have to say refer back to the
10 e-mail to let you know if that did or did not take
11 place. And I'm sure probably he did after a couple of
12 more months went by, wondering why I didn't execute.
13 And, again, it wasn't overly important to me. I was in
14 the process of building some new technology that was
15 really taking all of my energies.

16 (Exhibit 11 was marked.)

17 Q So Sang 11 is a marketing agreement dated June
18 9, 2011. So this is what you are referring to -- you
19 were referring to when you said you didn't really sign
20 anything until about a month ago?

21 A Yeah, this was pretty much it.

22 Q And what prompted you to finally sign this?

23 A I think he talked about more formalized
24 billing and wanted to get a more formalized billing
25 structure to be billing me directly where I'd get a

1 split into two agreements?

2 MR. BOWSER: Objection. Form. Foundation.

3 A I guess it's more defined this way of what the
4 relationship is and what the relationship needs to be.

5 Q (By Mr. Schenkenberg) Did you talk at all
6 about -- well, let's go ahead and mark that second
7 agreement.

8 A I'll say one more thing. It also had a new
9 legal address which I had been at for a year, which was
10 not on the other agreement.

11 (Exhibit 12 was marked.)

12 Q Sang 12. Is that the telecommunications
13 service agreement that you signed in conjunction with
14 the marketing agreement?

15 A Yes, sir. That's what it says right on the
16 top.

17 Q Now, do you know what the effective date of
18 these agreements are?

19 A I assume, like all agreements, they're
20 effective on the day they get signed.

21 Q Did you read these before you signed them?

22 A I'm sure I went through them.

23 Q Why don't you turn to Page 2 of Exhibit 12.

24 A Okay.

25 Q And look at Section 2.

1 A Buying, no.

2 Q You don't think --

3 A Provided, I don't think so.

4 Q Do you know if they bought any equipment to
5 accommodate you being there?

6 A I don't know. I did not get a bill for any
7 equipment, so that's good.

8 Q All right. We may be able to zip through this
9 next section fairly quickly. Let me tell you what I
10 wanted to go through is just find out what services over
11 time have been received by Sang from Northern Valley.
12 Okay?

13 We've talked about numbers. You've had
14 numbers throughout this whole period.

15 A Yes.

16

17

18 A Yes.

19 Q -- which you've already described kind of what
20 you believe that means.

21 A Uh-huh.

22 Q You've had access to the -- to the network so
23 that you can receive calls.

24 A Yes.

25 Q You had installation services.