

FAX

08-1214-TP-CSS

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2008 DEC 23 AM 10:45

PUCO



Facsimile

To :	Mr. Gary Snowden	From:	Elizabeth Cullen Bray
Fax:	(614) 272-8331	Pages:	5 (Including cover)
Phone:	(610) 272-2300	Date:	12/23/08
Re:	Gary Snowden d/b/a State Farm Insurance v. Cavalier Telephone, Case No. 08-1214-TP-CSS		
Cc:	Ms. Renee J. Jenkins Director of Administration Public Utilities Commission of Ohio 180 East Broad Street Columbus, OH 43215-3793	Fax	(804) 422-4599

Urgent ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☒ **Please Recycle** ☐

Comments:

Dear Mr. Snowden: Attached is a copy of the proposed Settlement Agreement we discussed. Please review and sign if you agree with the terms, and return an endorsed copy. Please also return the original signed document, which upon receipt, will be forwarded to the Public Utilities Commission for their file.

Please call me at (804) 422-4134 if you have any questions about this matter.

Thank you very much for your time and attention and best wishes for a happy holiday.
Elizabeth Cullen Bray.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician 2 Date Processed DEC 23, 2008

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Bray, Elizabeth C.

From: Bray, Elizabeth C.
Sent: Monday, December 22, 2008 5:12 PM
To: 'garysnowden@msn.com'
Subject: PUCO Complaint No. 08-1214-TP-CSS
Sensitivity: Confidential
Attachments: Settlement Agreement-12 22 08.pdf

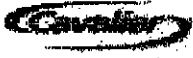
Dear Mr. Snowden: It was a pleasure speaking with you this afternoon.

As we discussed, I have attached a copy of the proposed Settlement Agreement for your review and signature. If you agree with the terms, please return the endorsed copy via email and please return the original signed document via U.S. Mail, which upon receipt, I will forward to the Public Utilities Commission for their file.

You will have twenty (20) days to object to any part of this Settlement Agreement by writing to the Public Utility Commission; if no response is filed, the Commission may dismiss the Complaint.

Please call me at (804) 422-4134 if you have any questions about this matter.

Thank you very much for your time and attention. Best wishes for a happy holiday. Elizabeth Bray.



LET US TURN YOUR ON

Elizabeth Cullen Bray
Legal Coordinator
Cavalier Telephone
2134 W. Laburnum Avenue
Richmond, VA 23227
Tele: 804.422.4134
Fax: 804.422.4599
ecbray@cavtei.com

12/23/2008

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Agreement is effective the 22nd day of December 2008, between **CAVALIER TELEPHONE LLC**, Talk America Inc., and **LDMI Telecommunications, Inc.** (collectively "**Cavalier**"), on the one hand, and **GARY SNOWDEN ("Customer")**, on the other hand (collectively, Cavalier and the Customer may be referred to individually as a "**Party**" or collectively as the "**Parties**").

Recitals

A. The purpose of this Agreement is to resolve all pending issues and complaints between the Parties, including the Formal Complaint, filed as Case No. GSN00826080T, with the Ohio Public Utilities Commission (the "**Complaint**"), and to avoid future litigation.

NOW, THEREFORE, intending to be legally bound, and in consideration of the mutual covenants and other good and valuable consideration set forth herein below, the Parties do hereby agree as follows:

Agreement

(1) Settlement. Cavalier agrees that it will not enforce the remainder of Customer's contract, pursue any early termination fees, or send further bills on the account, and Cavalier will close Customer's account with a zero balance on account within 15 days of execution by all signatories to this Settlement Agreement. In exchange, Customer agrees to dismiss the Complaint. Customer further agrees that it will not initiate, participate in, provide testimony or money for, or otherwise support any action against Cavalier before any court, or federal or state regulatory commission, including any action involving slamming, cramming, billing, or service issues.

(2) Mutual Releases. Upon receipt of a fully executed Agreement and the successful negotiation of the Settlement Amount, Cavalier and its respective predecessors, successors, assigns, affiliates, legal representatives, agents, employees, servants, attorneys, officers, and directors, on the one hand, and the Customer, on the other hand, hereby mutually release each other from any and all legal, equitable or other claims, counterclaims, demands, rights of contribution obligations or liabilities to the date hereof, which arise out of, or which may, can or shall arise out of the facts alleged in the Formal Complaint. Notwithstanding the foregoing, this Agreement does not apply to any of the Parties' obligations, claims or rights arising out of this Agreement.

(3) Compromise. This Agreement and the mutual general release contained herein effect the compromise and settlement of the Claim, including any disputed and contested claims arising thereof, and nothing contained herein shall be construed as an admission by Cavalier or the Customer of any liability of any kind to each other.

(4) Benefit and Burden. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, executors, administrators, representatives, successors and assigns.

(5) Entire Agreement. All agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties concerning the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, expressed or implied, oral or written, have been made by any Party to any other Party concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein. The Parties agree that this Agreement can only be amended by a writing signed by both Parties.

(6) Voluntary Agreement. The Parties further represent and declare that they have carefully read this Agreement and know the contents thereof and that they sign the same freely and voluntarily.

(7) Severability. If any provisions of this Agreement or any part of any provision of this Agreement is determined to be unenforceable or invalid for any reason whatsoever, it shall be severable from the rest of this Agreement and shall not invalidate or affect the other portions or parts of the Agreement, which shall remain in full force and effect and be enforceable according to their own terms.

(8) Waiver. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

(9) Confidentiality and Non-Disclosure. The Parties agree that the terms of this Agreement shall be kept confidential and shall not be disclosed to any third party at any time unless otherwise required by process of law, excluding the attorneys, financial advisors, tax consultants and accountants for each of the Parties. Moreover, this Agreement and its terms shall not be used or disclosed in any court, arbitration, or other legal proceeding except to enforce the provisions of this Agreement.

(10) Past Attorneys' Fees and Costs. Cavalier shall bear all attorneys' fees, costs, and expenses incurred by it in connection with the disputes settled by this Agreement. The Customer shall bear all attorneys' fees, costs, and expenses incurred by it in connection with the disputes settled by this Agreement.

(11) Counterparts. This Agreement is executed in counterparts, each of which shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on all of the Parties, notwithstanding that all of the Parties are not signatory to the same counterpart.

(12) Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made as of the earlier of the date delivered or mailed if delivered personally, by overnight courier or mailed by express, registered or certified mail (postage prepaid, return receipt requested) or by facsimile transmittal, confirmed by express, certified or registered mail, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice, except that notices of changes of address shall be effective upon receipt):

If to Cavalier:

Noah M. Bason
Cavalier Telephone LLC
200 Fairbrook Drive
Suite 202
Herndon, VA 20170
Telephone: 571.323.4032
Fax: 571.323.4500

If to Customer:


Gary Snowden
4083 W. Broad Street
Columbus, OH 43228
Telephone: 614.272.2300
Fax: 614.272.8331

Signatures. The Parties hereby signify their agreement to the above terms by their signatures below. The authorized representative of Cavalier represents that he is authorized to execute this Agreement on behalf of Cavalier. Electronic signatures (including but not limited to facsimiles, and other forms of electronic mediums of conveying that this Agreement was signed by the Parties) of this Agreement shall be binding on the parties, as if such copy and electronic signature was signed in original by the respective Parties executing such signature.

IN WITNESS WHEREOF, the Parties either personally or through their duly authorized officers or agents, have executed this Agreement, on the date first written above.

CAVALIER TELEPHONE, LLC

CUSTOMER

By: 
(Signature)

By: _____
(Signature)

Name: Noah M. Bason
(Printed)

Name: _____
(Printed)

Title: Counsel
(Printed)

Title: _____
(Printed)

Date: December 22, 2008
(Printed)

Date: _____
(Printed)