

## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of William Steven Gandee,	)	
D.C., and	)	
	)	
In the Matter of Brian Longworth, D.C.,	)	Case No. 09-51-TP-CSS
	)	
Complainants,	)	Case No. 09-52-TP-CSS
	)	
v.	)	
	)	
Choice One Communications, Inc. dba One	)	
Communications,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On January 22, 2009, counsel for William Steven Gandee, D.C. (Dr. Gandee) filed a complaint against Choice One Communications dba One Communications (Choice One). According to Dr. Gandee's counsel, Dr. Gandee had the same telephone number for nearly twenty-seven years prior to April 2006, and during that time AT&T provided his telephone service. Dr. Gandee eventually asked AT&T to forward his telephone number to a new address where he shared office space with another chiropractor, Dr. Keith Ungar, D.C. (Mr. Ungar). Choice One was Dr. Ungar's telephone service provider at that time.

Counsel for Dr. Gandee asserts that in September 2006, Dr. Ungar contacted Choice One and, without receiving Dr. Gandee's permission, asked to be placed on Dr. Gandee's account. Also without receiving Dr. Gandee's permission, Choice One "changed the contact information and removed Dr. Gandee's name from the account." Dr. Gandee discontinued sharing the office in March 2008 and requested that his original telephone number be returned to him, but Dr. Ungar and Choice One refused to do so. Counsel for Dr. Gandee contends that Dr. Gandee has lost and is still losing numerous patients because of Choice One's unauthorized change of the account name and its subsequent

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refusal to release the telephone number that was formerly Dr. Gandee's.

- (2) Also on January 22, 2009, counsel for Brian Longworth, D.C. (Dr. Longworth) filed a complaint against Choice One that is identical to the complaint filed on behalf of Dr. Gandee, with the exception that the longtime telephone number for Dr. Longworth differed from Dr. Gandee's longtime number and had been utilized for approximately ten years instead of twenty-seven years.
- (3) Choice One answered both complaints on February 11, 2009. Choice One contends that its records identify Dr. Ungar as the only account representative with authority to make changes to the telephone numbers that Drs. Gandee and Longworth allege had been theirs. As proof of this, Choice One attached Exhibit A to its answer. Exhibit A is a letter of agency signed by Dr. Ungar, in which Dr. Ungar (a) states that he had authority to direct a preferred carrier change for the longtime telephone numbers of Drs. Gandee and Longworth and (b) directs Choice One to pursue a preferred carrier change for the telephone numbers of Drs. Gandee and Longworth. Choice One asserts that without Dr. Ungar's authorization, it cannot comply with the requests by Drs. Gandee and Longworth to release their former telephone numbers. Choice One admits that it was and is the telephone service provider for Dr. Ungar. All other allegations made by Drs. Gandee and Longworth are denied by Choice One.
- (4) Having reviewed the complaints of Drs. Gandee and Longworth, as well as the answers filed by Choice One regarding each of the respective complaints, the attorney examiner concludes that this matter should be scheduled for a prehearing conference on February 24, 2009, at 11:00 A.M. in Room 11-A of the Commission offices, 180 East Broad Street, Columbus, Ohio 43215-3793. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. The parties should bring all relevant documents with them to the conference. In accordance with Rule 4901-1-26, Ohio Administrative Code, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible in future proceedings in this case or be admissible to prove liability or invalidity of a claim.

It is, therefore,

ORDERED, That a prehearing conference is scheduled as described in Finding (4).  
It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

By: James M. Lynn  
James M. Lynn  
Attorney Examiner

grg/ct

Entered in the Journal

FEB 13 2009

Reneé J. Jenkins

Reneé J. Jenkins  
Secretary