

**FILE**

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

122  
RECEIVED-DOCKETING DIV.  
2005 MAR -3 AM 10:35  
PUCO

In the Matter of the Complaint of  
Communication Options, Inc.,

Complainant,

vs.

ValTech Communications LLC

Respondent

Case No. 04-658-TP-CSS

**Respondent's Motion to Compel Responses to Second Set of Interrogatories  
and Second Request for Production of Documents and Motion for Suspension of  
Cutoff Date for Completion of Discovery with Memorandum in Support**

Now Comes the Respondent, ValTech Communications LLC, and moves pursuant to Ohio Rule 4901-1-23 to compel Complainant, Communications Options, Inc., to respond to Respondent's Second Set of Interrogatories and Second Request for Production of Documents propounded to Complainant on January 21, 2005. Specifically, Respondent moves for more complete answers to Interrogatories II-1 through II-13; for responses to Interrogatories II-14 through II-17 as to which insufficient objections have been lodged; for a complete response to Request for Production II-1; for responses to Requests for Production II-2 through II-5 as to which insufficient objections have been lodged. Respondent also moves that the Attorney Examiner suspend the April 30, 2005 discovery cutoff date established in Finding (5) of her January 19 Entry in this proceeding, based on Complainant's inexcusable intentional refusal to provide requested relevant information and documents to which Respondent is clearly entitled and which precludes it from preparing its defense adequately.

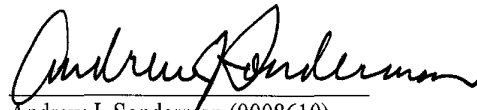
This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business.  
Technician JH Date Processed MAR 3 2005

---

The reasons for these Motions are more fully explained in the Memorandum in Support accompanying this Motion. Also attached is the Affidavit of Counsel for Respondent establishing that Respondent has exhausted all reasonable means of resolving differences with Complainant as to the pending Second Interrogatories and Second Requests for Production, without success.

WHEREFORE, Respondent respectfully request that the Attorney Examiner grant its Motion to Compel Discovery; grant its Motion for Suspension of Cutoff Date for Completion of Discovery; and grant such other relief as the Attorney Examiner may deem appropriate in these circumstances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew J. Sonderrman", written over a horizontal line.

Andrew J. Sonderrman (0008610)  
Cooper & Elliott, LLC  
60 East Broad Street, Suite 400  
Columbus, Ohio 43215  
614.220.0902  
Counsel for ValTech Communications LLC  
asonderman@cooperelliott.com

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Communication Options, Inc.,	)	
	)	
Complainant,	)	
	)	
vs.	)	Case No. 04-658-TP-CSS
	)	
ValTech Communications LLC	)	
	)	
Respondent	)	

---

**Memorandum in Support  
Of Motion to Compel Discovery and Motion for Suspension of Discovery Cutoff Date**

---

**A. Authorities**

Ohio Admin. Code, Rule 4901-1-23 provides in pertinent part:

- (A) Any party, upon reasonable notice to all other parties and any persons affected thereby, may move for an order compelling discovery, with respect to:
  - (1) Any failure of a party to answer an interrogatory served under rule 4901-1-19 of the Administrative Code;
  - (2) Any failure of a party to produce a document or tangible thing or permit entry upon land or other property as requested under rule 4901-1-20 of the Administrative Code;
  - \* \* \*
  - (4) Any other failure to answer or respond to a discovery request made under rules 4901-1-19 to 4901-1-22 of the Administrative Code.
- (B) For purposes of this rule, an evasive or incomplete answer shall be treated as a failure to answer.

It is not proper grounds for objection to an interrogatory that the information sought would be inadmissible at hearing, if the information sought “appears reasonably calculated to lead to the discovery of admissible evidence”. See Ohio Admin. Code, Rule 4901-1-16(B). An interrogatory may “elicit facts, data, or other information known or readily available” to the party served; it is not objectionable merely because it calls for “an opinion, contention, or legal conclusion”. See Ohio

---

Admin. Code, Rule 4901-1-19(B). An answer is proper that refers to public documents on file in Ohio, or information previously submitted to the party submitting the interrogatory within the preceding 12 months, provided the answer identifies the title of the document containing the requested information, its location or the circumstances under which it was furnished to the party serving the interrogatory. See Ohio Admin. Code Rule 4901-1-19(C). The same holds true for a document requested, if it is a public document or has previously been served on the submitting party within 12 months. See Rule 4901-1-20(D).

**B. Procedural Background**

On January 21, 2005 Respondent ValTech Communications (“Respondent” or “ValTech”) served by hand delivery its Second Set of Interrogatories and Second Request for Production of documents on Counsel for Complainant Communications Options, Inc. (“Complainant” or “COI”). Respondent’s Second Set of Interrogatories and its Second Request for Production of Documents is attached hereto as Exhibit A. On February 10, COI submitted its responses. COI’s Responses are attached hereto as Exhibit B.

On February 17, Respondent’s counsel faxed to COI’s Counsel the letter attached hereto as Exhibit C. In it, ValTech expressed its desire to resolve this discovery dispute informally, and listed with particularity the deficiencies in the responses COI provided, and identified the specific reasons why COI’s objections are not sustainable. By letter faxed to the undersigned on February 22, attached hereto as Exhibit D, with minor exceptions, COI stands on its previously submitted answers, objections and the redacted and unattributed “Customer Notes” (subsequently discussed) as “complete and meaningful” responses.

COI’s objections and refusal to respond to Interrogatories II-14 through II-18 and Requests for Production II-2 through II-5 were based on a variety of insufficient grounds, or stated that the requested information was not being provided because it is already in ValTech’s possession. As to



---

these, COI ignores the Commission's Rule 4901-1-19(C), which requires specific information on when and how such documents had already been provided to ValTech.

**C. Discussion of Specific Interrogatories**

The answers to Interrogatories II-1 through II-13, which had sought information related to allegations of misrepresentations as to subscribers identified in COI's amended complaint<sup>1</sup> consisted virtually exclusively of references to a heavily redacted set of "Customer Notes". COI otherwise refuses to identify the "Customer Notes" author or authors, its custodian(s) or indicate when it was originally written or subsequently edited or by whom.<sup>2</sup> Interrogatories II-14 through II-17 were objected to and no answers beyond references to COI's pleadings were submitted.

As to Interrogatory II-14(a), COI objected that ValTech seeks a "purely legal conclusion" in requesting that COI identify the specific subparagraphs of the Local Service Guideline Appendix A, Section XVII(C) it alleges ValTech had failed to comply with in submitted a carrier change request. As to Interrogatory II-14(b), COI interposed the same objection in refusing to identify the subparagraphs of Ohio Admin. Code §4901:1-5-08(A) or (B) that COI contends ValTech failed to comply with in obtaining subscriber service change authorizations and verifications.<sup>3</sup> As noted, the

---

<sup>1</sup> The requested information in Interrogatories II-1 through II-13 included the identity of each individual who communicated with representatives of Complainant for each identified subscriber; the identity of each such Complainant's representative; each material misrepresentation to each such subscriber upon which Complainant bases its allegation of misrepresentation; and the specific means by which Complainant referred each identified subscriber to the PUCO for resolution of its complaint, with date of referral.

<sup>2</sup> COI's unresponsiveness is illuminated by its refusal to comply with Respondent's "Instructions for Answering", which consisted of fourteen general instructions applicable to each of the interrogatories. (See Exhibit A, pages 1-5) These included, for example, definitions of terms such as "identification", "representative", "person" and "document". Instruction 1 noted that all responses must be in writing, and identify the person(s) giving the specific response. This was not done. When Respondent requested this basic and clearly relevant information, the response of Complainant's counsel was: "To begin with, there is no interrogatory asking for the name and position of the individual(s) providing the response. Furthermore, a "general instruction" is not considered an answerable discovery request." (exhibit D, p. 1) Quite the contrary to Counsel for COI's assertions, general instructions are recognized by this Commission and civil courts broadly as a sensible alternative to meaningless repetition in each separate interrogatory or request for production. ValTech has appropriately asked for, and is entitled to, the identity of COI's representative who answers each discovery request. This refusal exemplifies the "delay and avoid" attitude displayed throughout COI's incomplete and evasive answers to interrogatories and responses to request for production of documents.

<sup>3</sup> It did refer to the redacted "Customer Notes" as evidence of "specific actions taken by ValTech in violation of the PUCO's clear purpose behind enacting the anti-slamming statute..." (Exhibit C. p. 12). This evasiveness must not be accepted; COI must put its cards on the table. It has the burden of proof in this §4905.26 complaint proceeding. It

Commission's Rule 4901-1-19(B) does not recognize the validity of an objection to an interrogatory merely because it asks the responding party to state an opinion, contention or legal conclusion.

Although no objection was lodged to Interrogatory II-15(a), wherein Respondent asked COI to identify each ValTech representative COI claims directed ValTech sales agents to engage in the alleged misrepresentations, COI states that this information is in Valtech's possession and custody. This is absurd; the interrogatory asks COI to identify those persons COI *contends* directed this conduct. If Respondent knew the identities of those individuals that COI *contends* directed the alleged conduct, it wouldn't have asked this reasonable and specific question.

In Interrogatory II-15(b), ValTech asked COI to identify subscribers and other individuals (including ValTech's former representatives) that COI's current representatives had communicated with regarding the direction it alleges ValTech representatives gave sales agents. ValTech requested the date of each such communication, the representative who participated for COI, and who initiated the conversation. These are very specific questions. However, COI's objection is that this question is "vague, ambiguous, overly broad and not drafted with specific particularity or clarity" to allow it to respond. In response to ValTech's February 16 letter requesting an answer to this question, and to Interrogatory II-16,<sup>4</sup> after reiterating its vagueness point, COI admits it "has no additional information to supplement at this time." If that is its answer to the interrogatory, it should be answered "none" —not as a vagueness objection! Counsel always has opportunity, indeed the responsibility, to supplement responses. (See Exh. A, p.2).

With respect to the redacted "Customer Notes", COI earlier had provided another version (not, by the way, identical to that provided as responsive to these discovery requests) as to which

---

alleges violations of the outdated Local Service Guideline it relies upon; it must identify the specific requirement of the Commission's currently effective anti-slamming rule it claims ValTech failed to meet.

<sup>4</sup> II-16(a) and (b) asked COI to identify the ValTech representatives it claims provided documents and other information to ValTech sales agents to "prepare them" to engage in the alleged misconduct, and to identify each subscriber and individual COI has communicated with regarding such preparatory documents and information, together with the date of the communication, the COI representative who participated in it, and who initiated it. Again, this is a very specific question.

---

ValTech asked specific questions: who created, edited, modified or maintains it (II-17(a)); when was it initially prepared and the identification of any source documents or communications used in any way to prepare the “Customer Notes”, or subsequently edit modify or maintain it (II-17(b)); and whether the “Customer Notes” were prepared in the ordinary course of business or in connection with this or other litigation (II-17 (c)). In its objections, COI claimed ValTech was seeking “confidential information regarding its customers and business practices”. As to II-17(b) and (c), it also claimed attorney-client privilege and work product protection.

As ValTech pointed out in its letter on February 16, one is hard pressed to understand how the identity of the author or authors or editors of this document is a protected secret. If the COI service representatives (apparently referred to in the redacted document) are its authors, then it would seem to be a simple matter to say so, and also to indicate how they assemble the composite “Customer Notes”. If, however, someone other than the identified COI service representatives transcribes, edits or formats the “Customer Notes” that is information to which ValTech should be privy in case it determines the need to conduct further discovery with respect to such individual or individuals. Complainant places such heavy reliance on the “Customer Notes” that fairness demands no less.

In its February 22 Reply to Respondent’s February 16 letter, COI’s counsel states “[t]here are no ‘source documents’ as you imply. COI keeps these Customer notes in the course of their regularly conducted business activities. And, it is COI’s regular practice to make these notes.” (Exhibit D, p. 2). So much for COI’s previously asserted attorney-client privilege and attorney work product protection from disclosure! Since COI admits these are regularly kept records, and since the requested information cannot fairly be seen as containing confidential client information, ValTech has every reason to discover *who* “keeps these customer notes for COI in the course of their regularly conducted business activities” and how this record is maintained.

---

**D. Discussion of Specific Requests For Production of Documents**

Aside from the redacted "Customer Notes" it proffered as a complete and sufficient response to Request for Production II-1, COI also objected to Requests for Production II-2 through II-5.

What is abundantly clear from perusing the Response filed by COI, and the exchange of correspondence in Exhibits C and D, is that COI is stonewalling, delaying and unreasonably failing to respond to specific, detailed and relevant discovery requests.

In Request II-2, ValTech asked for every document in COI's possession that;

refers to, records, discusses, memorializes, summarizes or comments in any manner on Complainant's compliance with the provisions of 47 C.F.R. §64.1150(b), or referring its customers to PUCO for informal resolution of their complaints, or Complainant's "repeated requests to ValTech and counsel asking ValTech to Cease and desist" the conduct alleged in the Amended Complaint.

The reference is to the Federal Communications Commission's regulations dealing with resolution of complaints. In its Amended Complaint, COI has alleged that it complied with these regulations as to each identified subscriber, through referral to the PUCO. (See Amended Complaint, paragraphs 9 through 21).

COI objected, stating that "[t]o the extent this Request seeks information and documents already in respondent ValTech Communications' possession, custody, and control, it is an improper and burdensome use of discovery". In ValTech's February 16 letter, it pointed out that if there are documents in COI's possession documenting when and how the identified subscribers were referred to the PUCO for resolution of their alleged complaints, these must either be provided or COI must comply with the requirements of Rule 4901-1-19(C) by identifying when the document was provided in the last twelve months to ValTech. (Exhibit C, p.4). In its February 22 response, COI irrelevantly states that the federal regulation does not require a referral to be in writing, and that "the previously produced Customer Notes adequately identify when the customer was referred to the PUCO." (Exhibit D, p. 2). COI is not the judge of the "adequacy" of the identification if the

---

redacted "Customer Notes". Nor are the redacted "Customer Notes" a shield preventing disclosure of other relevant documents.

Perhaps the most glaring example of COI's evasiveness and refusal to comply in good faith with the discovery rules is with respect to Request for Production II-3, which asked:

II-3. Provide any and all news releases, banner advertisements, classified advertisements, radio or television advertisements, facsimile transmission, electronic mail transmissions or handbills released, disseminated or otherwise made available by COI's representatives to the general public in any geographical area where Complainant is competing for business with Respondent for subscribers from February 1, 2004 to the date of Complainant's response to this Request, that refers to ValTech Communications representatives or former representatives in any manner, either explicitly or by implication.

To this, the following objection was lodged:

As drafted this Request is vague, ambiguous, overly broad, and not stated with sufficient particularity to allow complainant Communications Option, Inc. to formulate a response. In addition, this request seeks information that is neither relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

ValTech's February 16 letter noted as to this objection:

II-3. This objection is unfounded and evidences evasiveness. We are clearly entitled to the requested information, which is quite specific, and limited to a time frame of just a year. You have asserted that the consent required for an authorized carrier change requires an underlying "harmony or opinion of sentiment". Thus any information affirmatively provided by the very public media identified in this production request is relevant to what information your identified subscribers had when making their decisions to change carrier. You cannot play "hide the ball". We insist on a complete and proper response.

(Exhibit C, p. 5). Complainant's response, after reiterating its contention that this request was vague and overly broad, and denying that if produced would lead to the discovery of admissible evidence went on to add:

ValTech is not permitted to use this litigation as a "fishing expedition" by requesting COI neatly package and produce all of the marketing material it used in 2004 "in geographic areas where [COI] is competing for business with [ValTech]." We are certain the PUCO would find such requests to be an abuse of the discovery process.

(Exhibit D, p. 2-3).

---

So, COI refuses to provide copies of documents its representatives authored, and that its representatives disseminated through public media, U.S. Mail delivery or phone or cable lines, in the form of banner advertisements, news releases, handbills, e-mails, faxes or classifieds during the time period when it claims its subscribers were being switched without their authorization, that refer to current or former ValTech Representatives. The request was very specific as to time frame, description of document type, and information contained therein that would require production.

To take the position, as COI has, that this information if produced will not lead to admissible evidence is ludicrous. COI itself has framed the issue in this proceeding, based on its expansion of a law dictionary definition of “consent”, to be whether consent to the change in carrier could have been voluntary if the customer consenting was operating under a misunderstanding as to corporate ownership, or management control, or corporate affiliation of ValTech’s representatives with COI. While ValTech disputes the validity of this issue definition, (see its Motion to Certify Interlocutory Appeal and Reply to Memo Contra), COI cannot have it both ways. It cannot reasonably contend that if in fact COI provided affirmative notice as to its corporate governance, corporate management or affiliation with other entities to the general public in any of the ways this request identified, it might be information possessed by customers when they authorized a telecommunications carrier switch.

Nor can COI say “go find it yourself”! The Commission’s discovery rules are designed to provide a party with the opportunity to conduct reasonable and relevant discovery before a scheduled hearing. *In the Matter of R.L. Altomare, Complainant v. Columbia Gas Company, Respondent*, Case no. 98-1078-GA-CSS, 1999 Ohio PUC LEXIS 59 (Entry, May 25, 1999).

Request II-4 stated:

Provide any and all advertisements, promotional offers, letters, memoranda, bill inserts or bill messages, releases of information or documents of any kind or medium that Complainant’s representatives released, disseminated or otherwise made available to Complainant’s current subscribers, former subscribers, or subscribers of other telecommunications service providers

---

in geographical areas where Complainant is competing for business with Respondent for subscribers from February 1, 2004 to the date of Complainant's response to this Request, that refers in any manner to ValTech Communications, its representatives or former representatives, either explicitly or by implication.

With respect to Request II-4, COI's objection was the same stated in refusing to respond to Request

II-3. ValTech's February 16 letter noted that the request was specific, that it was limited in time and scope to the relevant geographical area, and that for the same reasons such information might lead to relevant evidence in connection with Request II-3, ValTech is entitled to a fair response. (Exh. C. p. 5). COI's reply in its February 22 letter from counsel has already been set forth above (refusing to respond to both II-3 and II-4).

ValTech has not asked COI to "neatly package and produce all marketing material it used in 2004 'in market areas where [COI] is competing for business with [ValTech]'" as COI contends. Instead, ValTech properly limited its request in II-4 to the specified categories of documents "that refer in any manner to ValTech Communications, its representatives or former representatives, either explicitly or by implication." Once again, COI cannot on the one hand contend that the information allegedly placed before subscribers by ValTech sales representatives was relevant to those subscribers' ability to make a voluntary consent to change telecom carriers, and on the other hand contend that information COI placed before subscribers about ValTech's relationship with COI is irrelevant.

Complainant objects to, and refuses to provide, an unredacted copy of the "Customer Notes" first provided to Respondent in Responses COI submitted on July 14, reflecting any additional prior or subsequent notes of telephone conversations between COI sales representatives and the subscribers COI identified in its Amended Complaint. See Request II-5. COI claims the information isn't relevant, and that the unredacted portion is COI's confidential information regarding its customers and business practices (Exhibit B, p. 19). ValTech pointed out that even if a privilege had ever existed, COI had waived the privilege by providing an unredacted version of its "Customer

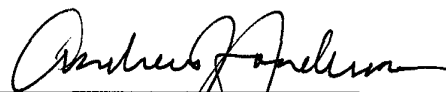
Notes” in recent civil litigation. Nor is ValTech required to accept on faith that the redactions COI has made are no more than necessary to protect its alleged proprietary interests. In any event, a protective order restricting the view of the unredacted log to ValTech’s counsel would adequately address any COI concerns in this regard.

**E. Motion for Suspension of Discovery Cutoff Date**

Respondent did not delay in pursuing discovery once the procedural schedule was established by the Attorney Examiner’s Entry on January 19. This is because there may be additional discovery, including depositions and requests for admissions, based on the responses it receives to its questions and requests to produce documents. The broad refusal to answer by Complainant places ValTech at an unreasonable disadvantage. Hence, at a minimum it is reasonable to suspend the April 30 discovery cutoff for a reasonable period of time while COI responds to the Order granting this Motion to Compel Discovery.

As required by Ohio Admin. Code Rule 4901-1-23(C)(3), the undersigned Counsel submits his Affidavit herewith explaining Respondent’s efforts to resolve its differences with Complainant as to the requested answers and documents.

Respectfully submitted,



Andrew J. Sonderman (0008610)  
Cooper & Elliott, LLC  
60 East Broad Street, Suite 400  
Columbus, Ohio 43215  
614.220.0902  
Counsel for ValTech Communications LLC  
asonderman@cooperelliott.com



AFFIDAVIT

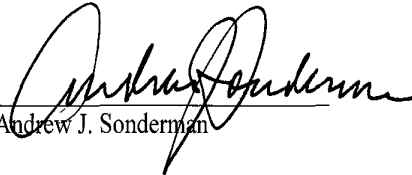
State of Ohio            )  
                                  ) SS:  
County of Franklin    )

The undersigned, Andrew J. Sonderman, being duly cautioned and sworn, states the following:

1. That he is counsel for ValTech Communications, Respondent in PUCO Case No. 04-658-TP-CSS, and that on January 21, he caused the Second Set of Interrogatories and Requests for Admission attached to the foregoing Motion to Compel Discovery to be served by personal service on Counsel for Respondents.
2. That after receipt of the responses submitted by Complainant Communications Options, Inc. on February 10, 2005, Counsel for Respondent expeditiously identified the failures to answer and prepared a letter which was faxed to Complainant's Counsel on February 16, 2005. That correspondence, Exhibit C attached hereto, made clear Respondent's intent and hope that the dispute as to the sufficiency of Complainant's answers could be resolved informally and amicably. It indicated that in the absence of a positive response, Respondent would proceed to file a Motion to Compel on or after March 3.
3. The undersigned received Complainant's reply to this correspondence on February 22, attached as Exhibit D. That response reiterated nearly every failure to answer as described in the accompanying Memorandum in Support. It stated that the February 16 letter demanding additional discovery be produced "is wholly without merit."
4. On February 22, the undersigned sent the attached e-mail to counsel for Complainant, stating that in light of the failure to obtain voluntary cooperation, the undersigned would proceed to prepare these Motions and supporting documents. No response has been received to this e-mail.

5. The undersigned believes that further attempts on his part to resolve Complainant's unsupportable objections and its refusal to timely respond to ValTech's reasonable and specific discovery requests would be fruitless. Under these circumstances, the undersigned believes he has exhausted reasonable means of obtaining the requested discovery.


Further the Affiant sayeth naught.

  
\_\_\_\_\_  
Andrew J. Sonderman

Sworn and subscribed before me, a Notary Public, this 3<sup>rd</sup> day of March, 2005.



MICHELLE L. LACY  
Notary Public, State of Ohio  
My Commission Expires 06-19-05

  
\_\_\_\_\_

**asonderman**

---

**From:** asonderman [asonderman@cooperelliott.com]  
**Sent:** Tuesday, February 22, 2005 5:30 PM  
**To:** 'bzets@szd.com'  
**Subject:** COI v. ValTech, Case no. 04-658-TP-CSS

Brian M. Zets, Esq.  
Schottenstein Zox & Dunn Co. LPA  
250 West Street  
Columbus, Ohio 43215

Brian, I have received and reviewed your extraordinary fax of this date. Clearly we have a disagreement on the sufficiency of your answers and our right to the production of documents you refuse to produce. Having failed to obtain your voluntary cooperation, we have no choice but to prepare a motion to compel your complete responses. We will do so forthwith.

Andrew J. Sonderman  
Cooper & Elliott, LLC  
60 E. Broad Street, Suite 400  
Columbus, Ohio 43215  
Telephone: 614.220.0902 - Facsimile: 614.464.4463  
E-Mail: [asonderman@cooperelliott.com](mailto:asonderman@cooperelliott.com)

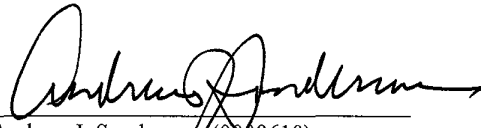
2/28/2005

---

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion to Compel Responses, Motion to Suspend Cutoff Date for Completion of Discovery, and Memorandum in Support and Affidavit were served upon counsel for Respondent on the 3rd day of March via hand delivery:

Christopher L. Miller  
Brian M. Zets  
Gregory J. Dunn  
Schottenstein Zox & Dunn, Co., LPA  
P.O. Box 165020  
Columbus, OH 43216-5020

A handwritten signature in black ink, appearing to read "Andrew J. Sonderman", written over a horizontal line.

Andrew J. Sonderman (0008610)  
Counsel for ValTech Communications LLC

# Exhibit A



Andrew J. Sonderman  
Attorney at Law  
60 E. Broad St., Suite 400  
Columbus, Ohio 43215  
Direct Telephone: 614.220.0902  
Direct Facsimile: 614.464.4463  
asonderman@cooperelliott.com

January 21, 2005

*Via Hand Delivery*

Christopher L. Miller  
Brian M. Zets  
Schottenstein Zox & Dunn, Co., LPA  
P.O. Box 165020  
Columbus, OH 43216-5020

Re: COI vs. ValTech Communications, PUCO Case no. 04-658-TP-CSS

Gentlemen:

Enclosed please find *ValTech Communications LLC's Second Set of Interrogatories and Second Request for Production of Documents* propounded upon Communications Options, Inc. Pursuant to the Commission's rules, please submit your responses within 20 days. As you know, we have a fairly tight time frame for discovery, and I anticipate that the responses to this discovery will be helpful in identifying deponents.

I am providing these documents in hard copy and on compact disk.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Andrew J. Sonderman  
Cooper & Elliott, LLC

Enclosures

---

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of	)	
Communication Options, Inc.,	)	
	)	
Complainant,	)	
	)	
vs.	)	Case No. 04-658-TP-CSS
	)	
ValTech Communications LLC	)	
	)	
Respondent	)	

---

**SECOND SET OF INTERROGATORIES AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED BY VALTECH COMMUNICATIONS LLC TO  
COMMUNICATIONS OPTIONS, INC.**

---

Pursuant to Ohio Admin. Code Rules 4901-1-19, and -20, ValTech Communications LLC ("ValTech"), propounds the following interrogatories and requests for production of documents to be answered by Communications Options, Inc. ("COI") in writing under oath, within twenty (20) days of service hereof. These interrogatories and request for production of documents shall be deemed to be continuing so as to require supplementary answers between the time the answers are served and the time of hearing, in accordance with Ohio Admin. Code Rule 4901-1-16(D).

**INSTRUCTIONS FOR ANSWERING**

- (1) All responses shall be in writing, and each response shall identify the name and position of the person(s) who provided the response. Each interrogatory and request for production of documents shall be answered separately, fully and under

oath. Each response shall first restate the interrogatory or request for production of documents which is being answered.

- (2) All answers to interrogatories and documents produced shall be served upon ValTech at the offices of its attorneys in this proceeding:

Andrew J. Sonderman  
Cooper & Elliott, LLC  
60 E. Broad Street, Suite 400  
Columbus, Ohio 43221  
asonderman@cooperelliott.com

- (3) You are reminded that all answers must be made separately and fully, and that an incomplete or evasive answer is a failure to answer.
- (4) You are under a continuing duty to seasonably to supplement your response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity of any person expected to be called as an expert witness at hearing, and the subject matter of which he is expected to testify, and to correct any response which you know or later learn is incomplete or incorrect.
- (5) All information is to be divulged which is in your possession or control or within the possession and control of your attorneys, investigators, agents, employees, or other representatives of you or your attorney.
- (6) Where an interrogatory calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.
- (7) Where an objection is interposed to any interrogatory, request for production of documents or part thereof, answer the interrogatory, request for production of documents or all parts thereof to the extent not objected to.



- 
- (8) Identification. As used herein, the terms "identification," "identify," or "identity," when used in reference to (a) a natural individual, require you to state his or her full name and residential and business address; (b) a corporation, require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the address of all of its offices in Ohio; (c) a business, require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those businesses, and the identity of the person or persons who own, operate, and control the business; (d) a document, require you to state the number of pages and the nature of the document (e.g., letter of memorandum). Its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication, require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was not written, to identify the person participating in the communication and to state the date, manner, place, and substance of the communication.
- (9) Identification of documents. With respect to each interrogatory, in addition to supplying the information requested, you are requested to identify all documents that support, refer to, or evidence the subject matter of each interrogatory and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody, or control because of destruction, loss, or any other reason, then do the

following with respect to each and every such document: (a) describe the nature of the document (e.g., letter of memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that you are entitled to withhold from production any or all documents identified herein on the basis of the attorney-client privilege, the work-product doctrine, or other ground, then do the following with respect to each and every document: (a) describe the nature of the document (e.g., letter of memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state the subject matter of the document; and (e) state the basis upon which you contend you are entitled to withhold the document from production.

- (10) Representative. As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on behalf of the person in question.
- (11) Person. As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units therein, and shall also include, but not be limited to, a public or private corporation, partnership, limited liability company, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, or department.

- 
- (12) Document. As used herein, the term “document” means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram cable, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, electronic file, electronic mail, computer discs or tapes, or computer-produced interpretations thereof, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody, or control or which was, but is no longer, in your possession, custody, or control.
- (13) Communication. As used herein, the term “communication” means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreement, and other understandings between or among two or more persons.
- (14) Contention Interrogatories. When an interrogatory requires you to “state the basis of” a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

- (15) The Word "Or." As used herein, the word "or" appearing in an interrogatory should not be read so as to eliminate any part of the interrogatory, but, whenever applicable, it should have the same meaning as the word "and." For example, an interrogatory stating "support or refer" should be read as "support and refer" if an answer that does both can be made.

### **INTERROGATORIES**

**II-1.** Referring to Paragraph 8 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Cornell Webb Automotive; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Cornell Webb Automotive upon which Complainant bases this allegation and

identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Cornell Webb Automotive to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-2.** Referring to Paragraph 10 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Sidney Auto Service; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Sidney Auto Service upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Sidney Auto Service to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-3.** Referring to Paragraph 11 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Tim's Automotive Specialties; the date or dates of each of these communications; the content of each of these communications and who

initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Tim's Automotive Specialties upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- d. Disclose the specific means by which Complainant referred Tim's Automotive Specialties to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-4.** Referring to Paragraph 12 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Pro Auto Body; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

Response:

- b. Specify each material misrepresentation to any representative of Pro Auto Body upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Pro Auto Body to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**



**II-5.** Referring to Paragraph 13 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of National Salt Distributors; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of National Salt Distributors upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- 
- c. Disclose the specific means by which Complainant referred National Salt Distributors to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-6.** Referring to Paragraph 14 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of American Boot Outlet; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of American Boot Outlet upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred American Boot Outlet to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-7.** With respect to Paragraph 15 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Shearer Equipment; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Shearer Equipment upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Shearer Equipment to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-8.** Referring to Paragraph 16 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Mansfield Hotel Partnership; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- 
- b. Specify each material misrepresentation to any representative of Mansfield Hotel Partnership upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Mansfield Hotel Partnership to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-9.** Referring to Paragraph 17 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Automotive Supplies of Danville; the date or dates of each of these communications; the content of each of these communications and who

---

initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Automotive Supplies of Danville upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Automotive Supplies of Danville to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

---

**II-10.** Referring to Paragraph 18 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Automotive Supplies of Mount Vernon; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Automotive Supplies of Mount Vernon upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- 
- c. Disclose the specific means by which Complainant referred Automotive Supplies of Mount Vernon to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-11.** Referring to Paragraph 19 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Arbor Creek Gardens; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Arbor Creek Gardens upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.



---

**Response:**

- c. Disclose the specific means by which Complainant referred Arbor Creek Gardens to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-12.** Referring to Paragraph 20 of the Amended Complaint

- a. Identify each individual who communicated with Complainant on behalf of Herald's Appliances; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- 
- b. Specify each material misrepresentation to any representative of Herald's Appliances upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Herald's Appliances to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-13.** Referring to Paragraph 21 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Grand Slam Collectibles; the date or dates of each of these communications; the content of each of these communications and who

---

initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:**

- b. Specify each material misrepresentation to any representative of Grand Slam Collectibles upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:**

- c. Disclose the specific means by which Complainant referred Grand Slam Collectibles to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:**

**II-14.** Referring to Paragraph 27 of the Amended Complaint:

- a. Please specifically identify subparagraphs of Local Service Guideline Appendix A, Section XVII(C) that Complainant alleges Respondent or its representatives have not complied with in connection with the

authorization of service by each of the subscribers identified in the Amended Complaint or verification of that authorization by ValTech, and the specific actions or omissions by ValTech or its representatives that Complainant contends are not consistent with these guidelines.

**Response:**

- b. Please specifically identify subparagraphs of Ohio Admin. Code §4901:1-5-08(A) and/or (B) that Complainant alleges Respondent or its representatives have not complied with in connection with the authorization of service by any of the subscribers identified in the Amended Complaint or verification of that authorization by ValTech, and the specific actions or omissions by ValTech or its representatives that Complainant contends are not consistent with the requirements of this Rule.

**Response:**

- c. Keeping in mind the requirement of Ohio Admin. Code Rule 4901-1-19(B), specify whether Complainant contends that any of the misrepresentations alleged as to each of the subscribers identified in the

Amended Complaint constitute a violation of Ohio Admin. Code §4901:1-5-07(A).

**Response:**

**II-15.** Referring to Paragraph 28 of the Amended Complaint:

- a. Specifically identify each representative of ValTech that Complainant contends directed ValTech's agents to engage in the conduct complained of. Specifically identify the date on which the conduct complained of occurred.

**Response:**

- b. Specifically identify each subscriber or other individual, including any representative or former representative of Complainant, that Complainant has communicated with regarding the direction provided by each identified representative of ValTech; indicate the date of each communication, Complainant's representative who participated in the

---

communication, and identify the individual who initiated the communication.

**Response:**

- c. Specify the content of each communication identified in response to (b), immediately preceding.

**Response:**

**II-16.** Referring to Paragraph 29 of the Amended Complaint:

- a. Specifically identify each representative of ValTech that Complainant contends provided documents and other information to ValTech's agents to "prepare them" to engage in the conduct complained of.

**Response:**

- b. Specifically identify each subscriber or other individual, including any representative or former representative of ValTech, that Complainant has communicated with regarding the documents and information allegedly

---

provided to any identified representative of ValTech to “prepare them” to engage in the conduct complained of; indicate the date of each communication, Complainant’s representative who participated in the communication, and identify the individual who initiated the communication.

**Response:**

- c. Specify the content of each communication identified in response to (b), immediately preceding.

**Response:**

**II-17.** Refer to the document produced in response to Respondent’s Request for Production of Documents by Complainant on July 14, 2004.

- a. Identify the COI representative or representatives that created, edited, modified or maintains the log of contacts provided to Respondent.

**Response:**

- 
- b. As to the log of contacts, state when it was initially prepared and identify any source documents or communications used in any way to prepare the document or subsequently to edit, modify or maintain it.

**Response:**

- c. State whether the log of contacts is maintained in the ordinary course of business or whether it was prepared in connection with this PUCO Complaint proceeding or any other litigation.

**Response:**

## **SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

- II-1.** Provide every document, as defined in the instructions, that refers to, records, discusses, memorializes or comments on, each and every specific communication identified in response to subparagraph (a) of Interrogatories II-1 through II-13.

**Response:**



---

**II-2.** Referring to Paragraph 23 and 24 of the Amended Complaint, provide every document that refers to, records, discusses, memorializes, summarizes or comments in any manner on Complainant's compliance with the provisions of 47 C.F.R. §64.1150(b), or referring its customers to PUCO for informal resolution of their complaints, or Complainant's "repeated requests to ValTech and counsel asking ValTech to Cease and desist" the conduct alleged in the Amended Complaint.

**Response:**

**II-3.** Provide any and all news releases, banner advertisements, classified advertisements, radio or television advertisements, facsimile transmissions, electronic mail transmissions or handbills released, disseminated or otherwise made available by Complainant's representatives to the general public in any geographical area where Complainant is competing for business with Respondent for subscribers from February 1, 2004 to the date of Complainant's response to this Request, that refers to ValTech Communications its representatives or former representatives in any manner, either explicitly or by implication.

**Response:**

**II-4.** Provide any and all advertisements, promotional offers, letters, memoranda, bill inserts or bill messages, releases of information or documents of any kind or medium that Complainant's representatives released, disseminated or otherwise made available to Complainant's current subscribers, former subscribers, or subscribers of other telecommunications service providers in geographical areas where Complainant is competing for business with Respondent for subscribers from February 1, 2004 to the date of Complainant's response to this Request, that refers in any manner to ValTech Communications, its representatives or former representatives, either explicitly or by implication.

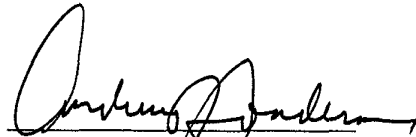
**Response:**

**II-5.** Refer to Complainant's Response to Request for Production of Documents mailed to Counsel for Respondent on July 14, 2004, Numbers 1-5. Provide the unredacted document, updated to reflect any and all prior or subsequent telephone conversations or other communications between representatives of COI and any and all of the subscribers identified in the Amended Complaint.

**Response:**

---

Submitted to Counsel for Complainant via hand delivery, this 21<sup>st</sup> day of January, 2005,  
in hard copy and compact disk format.



Andrew J. Sonderman (0008610)  
Cooper & Elliott, LLC  
60 East Broad Street, Suite 400  
Columbus, Ohio 43215  
[asonderman@cooperelliott.com](mailto:asonderman@cooperelliott.com)  
614.220.0902  
614.464.4463 (fax)

---

# Exhibit B



RECEIVED

FEB 14 2005

BRIAN M. ZETS  
T: 614/462-2244  
F: 614/222-3693  
E-MAIL: BZETS@SZD.COM

February 10, 2005

Andrew J. Sonderman  
Cooper & Elliot, LLC  
2175 Riverside Drive  
Columbus, Ohio 43221

RE: Communication Options Inc. v. ValTech Communications, LLC  
Case No. 04-658-TP-CSS

Dear Mr. Sonderman:

Enclosed please find Complainant Communication Options, Inc.'s Responses to Respondent ValTech Communications's Second Set of Interrogatories and Second Request for Production of Documents.

Sincerely,

Brian M. Zets

BMZ/nrp  
Enclosure

www.SZD.com

Columbus  
Cleveland  
Cincinnati

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of	)	
Communication Options, Inc.,	)	
	)	
Complainant,	)	
	)	
vs.	)	Case No. 04-658-TP-CSS
	)	
ValTech Communications LLC	)	
	)	
Respondent	)	

**COMPLAINANT COMMUNICATION OPTIONS, INC.'S RESPONSES TO  
RESPONDENT VALTECH COMMUNICATIONS'S  
SECOND SET OF INTERROGATORIES AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

NOW COMES COMPLAINANT COMMUNICATION OPTIONS, INC. and provides the following answers and objections to respondent ValTech Communications second set of interrogatories and second request for the production of documents. In answering this discovery, Communication Options, Inc. is not waiving or failing to claim any objection available to it, including but not limited to, any privileges available by statute, rule, or common law.

**INTERROGATORIES**

**II-1.** Referring to Paragraph 8 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Cornell Webb Automotive; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

---

**Response:** See documents attached hereto as COI0001 to COI0003.

- b. Specify each material misrepresentation to any representative of Cornell Webb Automotive upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-1.a. above.

- c. Disclose the specific means by which Complainant referred Cornell Webb Automotive to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-1.a. above.

**II-2.** Referring to Paragraph 10 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Sidney Auto Service; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See document attached hereto as COI0004.

- b. Specify each material misrepresentation to any representative of Sidney Auto Service upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-2.a. above.

- c. Disclose the specific means by which Complainant referred Sidney Auto Service to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-2.a. above.

---

**II-3.** Referring to Paragraph 11 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Tim's Automotive Specialties; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0005 to COI0007.

- b. Specify each material misrepresentation to any representative of Tim's Automotive Specialties upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-3.a. above.

- d. Disclose the specific means by which Complainant referred Tim's Automotive Specialties to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-3.a. above.

**II-4.** Referring to Paragraph 12 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Pro Auto Body; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See document attached hereto as COI0008.



- 
- b. Specify each material misrepresentation to any representative of Pro Auto Body upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-4.a. above.

- c. Disclose the specific means by which Complainant referred Pro Auto Body to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-4.a. above.

**II-5.** Referring to Paragraph 13 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of National Salt Distributors; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0009 to COI0011.

- b. Specify each material misrepresentation to any representative of National Salt Distributors upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-5.a. above.

- c. Disclose the specific means by which Complainant referred National Salt Distributors to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-5.a. above.

---

**II-6.** Referring to Paragraph 14 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of American Boot Outlet; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0012 to COI0016.

- b. Specify each material misrepresentation to any representative of American Boot Outlet upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-6.a. above.

- c. Disclose the specific means by which Complainant referred American Boot Outlet to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-6.a. above.

**II-7.** With respect to Paragraph 15 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Shearer Equipment; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0017 to COI0020.

- 
- b. Specify each material misrepresentation to any representative of Shearer Equipment upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-7.a. above.

- c. Disclose the specific means by which Complainant referred Shearer Equipment to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-7.a. above.

**II-8.** Referring to Paragraph 16 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Mansfield Hotel Partnership; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0021 to COI0022.

- b. Specify each material misrepresentation to any representative of Mansfield Hotel Partnership upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-8.a. above.

- 
- c. Disclose the specific means by which Complainant referred Mansfield Hotel Partnership to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-8.a. above.

**II-9.** Referring to Paragraph 17 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Automotive Supplies of Danville; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0023 to COI0026.

- b. Specify each material misrepresentation to any representative of Automotive Supplies of Danville upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-9.a. above.

- c. Disclose the specific means by which Complainant referred Automotive Supplies of Danville to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-9.a. above.

**II-10.** Referring to Paragraph 18 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Automotive Supplies of Mount Vernon; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0027 to COI0030.

- b. Specify each material misrepresentation to any representative of Automotive Supplies of Mount Vernon upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-10.a. above.

- c. Disclose the specific means by which Complainant referred Automotive Supplies of Mount Vernon to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-10.a. above.

**II-11.** Referring to Paragraph 19 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Arbor Creek Gardens; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See document attached hereto as COI0031.

- b. Specify each material misrepresentation to any representative of Arbor Creek Gardens upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-11.a. above.

- c. Disclose the specific means by which Complainant referred Arbor Creek Gardens to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-11.a. above.

**II-12.** Referring to Paragraph 20 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Herald's Appliances; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0032 to COI0038.

- b. Specify each material misrepresentation to any representative of Herald's Appliances upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-12.a. above.

- 
- c. Disclose the specific means by which Complainant referred Herald's Appliances to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-12.a. above.

**II-13.** Referring to Paragraph 21 of the Amended Complaint:

- a. Identify each individual who communicated with Complainant on behalf of Grand Slam Collectibles; the date or dates of each of these communications; the content of each of these communications and who initiated each of these communications; the representative of Complainant who participated in these communications.

**Response:** See documents attached hereto as COI0039 to COI0042.

- b. Specify each material misrepresentation to any representative of Grand Slam Collectibles upon which Complainant bases this allegation and identify the representative of ValTech who allegedly made each specified misrepresentation.

**Response:** See Complainant's response to Interrogatory II-13.a. above.

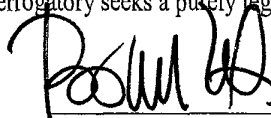
- c. Disclose the specific means by which Complainant referred Grand Slam Collectibles to the PUCO for resolution of its complaint and the date on which this referral took place.

**Response:** See Complainant's response to Interrogatory II-13.a. above.

**II-14.** Referring to Paragraph 27 of the Amended Complaint:

- a. Please specifically identify subparagraphs of Local Service Guideline Appendix A, Section XVII(C) that Complainant alleges Respondent or its representatives have not complied with in connection with the authorization of service by each of the subscribers identified in the Amended Complaint or verification of that authorization by ValTech, and the specific actions or omissions by ValTech or its representatives that Complainant contends are not consistent with these guidelines.

**Response: Objection.** This interrogatory seeks a purely legal conclusion.

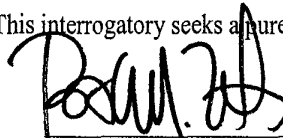


Brian M. Zets (0066544)

Notwithstanding and without waiving the above-made objection, complainant Communication Options, Inc. refers respondent ValTech Communications to the extensive legal and factual arguments contained in: COI's amended complaint; COI's memorandum contra respondent's motion to dismiss; COI's surreply; and COI's memorandum contra respondent's motion to certify an interlocutory appeal.

- b. Please specifically identify subparagraphs of Ohio Admin. Code §4901:1-5-08(A) and/or (B) that Complainant alleges Respondent or its representatives have not complied with in connection with the authorization of service by any of the subscribers identified in the Amended Complaint or verification of that authorization by ValTech, and the specific actions or omissions by ValTech or its representatives that Complainant contends are not consistent with the requirements of this Rule.

**Response: Objection.** This interrogatory seeks a purely legal conclusion.



Brian M. Zets (0066544)

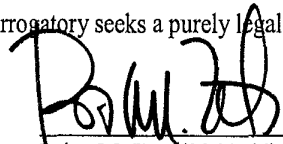


---

Notwithstanding and without waiving the above-made objection, complainant Communication Options, Inc. refers respondent ValTech Communications to the extensive legal and factual arguments contained in: COI's amended complaint; memorandum contra respondent's motion to dismiss; COI's surreply; and COI's memorandum contra respondent's motion to certify an interlocutory appeal. As to the specific actions taken by Respondent in violation of the PUCO's clear purpose behind enacting the anti-slamming statute (i.e. to prevent an unauthorized change of the carrier whether it is done by deception or by an unauthorized person), see documents attached hereto as COI0001 to COI0042.

- c. Keeping in mind the requirement of Ohio Admin. Code Rule 4901-1-19(B), specify whether Complainant contends that any of the misrepresentations alleged as to each of the subscribers identified in the Amended Complaint constitute a violation of Ohio Admin. Code §4901:1-5-07(A).

**Response: Objection.** This interrogatory seeks a purely legal conclusion.

  
Brian M. Zets (0066544)

Notwithstanding and without waiving the above-made objection, complainant Communication Options, Inc. submits that it cannot answer this interrogatory at this time. Further discovery may demonstrate Respondent's conduct violated Ohio Adm. Code § 4901:1-1-07 in addition to Ohio Adm. Code § 4901:1-1-08. If additional information demonstrates Respondent's conduct also amounts to unfair, deceptive, or unconscionable

marketing practices prohibited by Ohio Adm. Code § 4901:1-5-07, a second amended complaint may be filed.

**II-15.** Referring to Paragraph 28 of the Amended Complaint:

- a. Specifically identify each representative of ValTech that Complainant contends directed ValTech's agents to engage in the conduct complained of. Specifically identify the date on which the conduct complained of occurred.

**Response:** This information is within the possession, custody, and control of respondent ValTech Communications. Further discovery is need before complainant Communication Options, Inc. can answer this interrogatory.

- b. Specifically identify each subscriber or other individual, including any representative or former representative of Complainant, that Complainant has communicated with regarding the direction provided by each identified representative of ValTech; indicate the date of each communication, Complainant's representative who participated in the communication, and identify the individual who initiated the communication.

**Response:** **Objection.** As drafted this interrogatory is vague, ambiguous, overly broad, and not drafted with specific particularity or clarity to allow complainant Communication Options, Inc. to formulate a response.

  
Brian M. Zets (0066544)

- 
- c. Specify the content of each communication identified in response to (b), immediately preceding.

**Response:** See response to previous interrogatory subpart.


**II-16.** Referring to Paragraph 29 of the Amended Complaint:

- a. Specifically identify each representative of ValTech that Complainant contends provided documents and other information to ValTech's agents to "prepare them" to engage in the conduct complained of.

**Response:** This information is within the possession, custody, and control of respondent ValTech Communications. Further discovery is need before complainant Communication Options, Inc. can answer this interrogatory.

- b. Specifically identify each subscriber or other individual, including any representative or former representative of ValTech, that Complainant has communicated with regarding the documents and information allegedly provided to any identified representative of ValTech to "prepare them" to engage in the conduct complained of; indicate the date of each communication, Complainant's representative who participated in the communication, and identify the individual who initiated the communication.

**Response:** **Objection.** As drafted this interrogatory is vague, ambiguous, overly broad, and not drafted with specific particularity or clarity to allow complainant Communication Options, Inc. to formulate a response.



Brian M. Zets (0066544)

- c. Specify the content of each communication identified in response to (b), immediately preceding.

**Response:** See response to previous interrogatory subpart.

**II-17.** Refer to the document produced in response to Respondent's Request for Production of Documents by Complainant on July 14, 2004.

- a. Identify the COI representative or representatives that created, edited, modified or maintains the log of contacts provided to Respondent.

**Response:** **Objection.** This interrogatory seeks COI's confidential information regarding its customers and business practices.

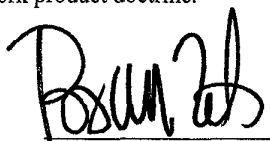


Brian M. Zets (0066544)

Notwithstanding and without waiving the above-made objection, complainant Communication Options Inc. submits the name of the COI Service Representative associated with each telephone call is located at the top of each page.

- b. As to the log of contacts, state when it was initially prepared and identify any source documents or communications used in any way to prepare the document or subsequently to edit, modify or maintain it.

**Response:** **Objection.** This interrogatory seeks COI's confidential information regarding its customers and business practices. In addition, this interrogatory seeks information protected by the attorney-client privilege and work product doctrine.



Brian M. Zets (0066544)

- 
- c. State whether the log of contacts is maintained in the ordinary course of business or whether it was prepared in connection with this PUCO Complaint proceeding or any other litigation.

**Response:** **Objection.** This interrogatory seeks COI's confidential information regarding its customers and business practices. In addition, this interrogatory seeks information protected by the attorney-client privilege and work product doctrine.

  
Brian M. Zets (0066544)

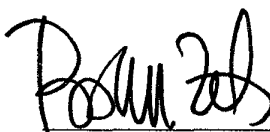
## SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

**II-1.** Provide every document, as defined in the instructions, that refers to, records, discusses, memorializes or comments on, each and every specific communication identified in response to subparagraph (a) of Interrogatories II-1 through II-13.

**Response:** See documents attached hereto as COI0001 to COI0042.

**II-2.** Referring to Paragraph 23 and 24 of the Amended Complaint, provide every document that refers to, records, discusses, memorializes, summarizes or comments in any manner on Complainant's compliance with the provisions of 47 C.F.R. §64.1150(b), or referring its customers to PUCO for informal resolution of their complaints, or Complainant's "repeated requests to ValTech and counsel asking ValTech to Cease and desist" the conduct alleged in the Amended Complaint.

**Response: Objection.** To the extent this Request seeks information and documents already in respondent ValTech Communications's possession, custody, and control, it is an improper and burdensome use of discovery.



Brian M. Zets (0066544)

Notwithstanding and without waiving the above-made objection, complainant Communication Options, Inc. refers respondent ValTech Communications to the previous response. As for the remaining documents, these will be supplemented.

**II-3.** Provide any and all news releases, banner advertisements, classified advertisements, radio or television advertisements, facsimile transmissions, electronic mail transmissions or handbills released, disseminated or otherwise made available by Complainant's representatives to the general public in any geographical area where Complainant is competing for business with Respondent for subscribers from February 1, 2004 to the

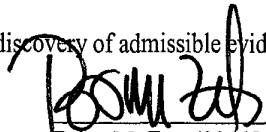
date of Complainant's response to this Request, that refers to ValTech Communications its representatives or former representatives in any manner, either explicitly or by implication.

**Response: Objection.** As drafted this Request is vague, ambiguous, overly broad, and not stated with sufficient particularity to allow complainant Communication Options, Inc. to formulate a response. In addition, this request seeks information that is neither relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

  
Brian M. Zets (0066544)

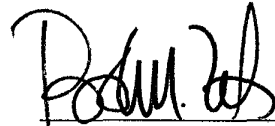
**II-4.** Provide any and all advertisements, promotional offers, letters, memoranda, bill inserts or bill messages, releases of information or documents of any kind or medium that Complainant's representatives released, disseminated or otherwise made available to Complainant's current subscribers, former subscribers, or subscribers of other telecommunications service providers in geographical areas where Complainant is competing for business with Respondent for subscribers from February 1, 2004 to the date of Complainant's response to this Request, that refers in any manner to ValTech Communications, its representatives or former representatives, either explicitly or by implication.

**Response: Objection.** As drafted this Request is vague, ambiguous, overly broad, and not stated with sufficient particularity to allow complainant Communication Options, Inc. to formulate a response. In addition, this request seeks information that is neither relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

  
Brian M. Zets (0066544)

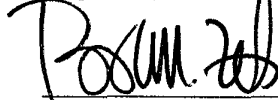
**II-5.** Refer to Complainant's Response to Request for Production of Documents mailed to Counsel for Respondent on July 14, 2004, Numbers 1-5. Provide the unredacted document, updated to reflect any and all prior or subsequent telephone conversations or other communications between representatives of COI and any and all of the subscribers identified in the Amended Complaint.

**Response: Objection.** This request seeks information that is neither relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. The redacted information was not related to his litigation and is COI's confidential information regarding its customers and business practices.



Brian M. Zets (0066544)

Respectfully submitted,



Gregory J. Dunn (0007353)

Christopher L. Miller (0063259)

Brian M. Zets (0066544)

SCHOTTENSTEIN, ZOX & DUNN

A Legal Professional Association

250 West Street

P.O. Box 165020

Columbus, Ohio 43216

(614) 462-2700

*Attorneys for Complainant Communications*

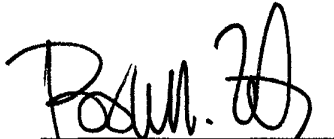
*Options Inc.*



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Communications Options Inc.'s Memorandum Contra ValTech Communications LLC's Motion for Certification of an Interlocutory Appeals* was sent via regular United States Mail, postage prepaid, this the 10<sup>th</sup> day of February 2005.

Andrew J. Sonderman  
Cooper & Elliott, LLC  
2175 Riverside Drive  
Columbus, Ohio 43221  
*Attorney for Respondent*

  
\_\_\_\_\_  
Brian M. Zets

## Customer Notes

### CORNELL WEBB AUTOMOTIVE

Date Entered	Service Rep	Note
03/25/2004 10:57	Jessicar	I received loss notification from Sprint for 419-589-3013 & 419-589-8313, I called and spoke with Cornell and he thought that we had changed to Valtech, I explained that we are a different company and that the sales rep does not work for us he works for Valtech. Cornell was very mad, he said Darren Boatwright is a customer of his and he felt like he was tricked. I gave him the number to the puco and told him the order was not due to cut untill tomorrow so that if he called valtech they could probably stop it. He said he would call me back regardless to let me know because he liked our service.

## Customer Notes

### CORNELL WEBB AUTOMOTIVE

Date Entered	Service Rep	Note
03/26/2004 13:30	Missy	spoke with cornell and they were unable to stop order he does want to come back to us and wants us to send him something next week to get him back over to us

## Customer Notes

### CORNELL WEBB AUTOMOTIVE

Date Entered	Service Rep	Note
03/29/2004 09:34	Jessicar	I called Cornell to get his fax his number to send him loa and addendum to sign to convert back to us, he said it would probably be a few days,,,I faxed over the paper work.

## Customer Notes

### SIDNEY AUTO SERVICE

Date Entered	Service Rep	Note
03/30/2004 08:48	Jessicar	I called in and spoke with Jeff and Miriam Noble was out there and told him that Coi was changing over to Val Tech, I explained that the information she gave him was incorrect and that we were not bought out by Valtech. He said that he thought we should try to get word out to our customers, I explained that we were with Courtsey calls and advertisements in the local papers. He said that he is very busy and so he will just stay with Valtech and if it does not work out he has our number and he will call because he likes our service, I offered to match the proposal but he said he just doesn't have the time.

## Customer Notes

### TIMS AUTOMOTIVE SPECIALTIES

Date Entered	Service Rep	Note
03/31/2004 11:31	Jessicar	I received loss notification on 419-529-3020, I called and left a message for tim that I needed to speak with him before I could close out his account

## Customer Notes

### TIMS AUTOMOTIVE SPECIALTIES

Date Entered	Service Rep	Note
04/01/2004 10:49	Jessicar	I called back and got a hold of Tim regarding the LN, Darren Boatwright was out there and told him that Co's upper mangement is now with Valtech, I explained that our Company is not in any way affiliated with Valtech nor is any of the upper mangament. I gave him the corporate number to valtech and he is going to call and get some questions answered and call me back.

## Customer Notes

### TIMS AUTOMOTIVE SPECIALTIES

Date Entered	Service Rep	Note
04/02/2004 13:42	Jessicar	I called tim back because i had not heard anything, and i got his machine so i left a message letting him know that the order to switch the line completed yesterday and that i would be disc it from our billing system but if he wanted to stay with us we could do that for him at no charge. Just for him to call in and we could get the addendum out to him



## Customer Notes

### PRO AUTO BODY

Date Entered	Service Rep	Note
04/09/2004 10:03	patsy	Received Loss Notification-talked to Debbie, she was not aware of the lines leaving COI, did sign paperwork but was told the COI was changing their name to ValTech, she is going to talk to her husband. Issued Loss Notification

## Customer Notes

### NATIONAL SALT DISTRIBUTORS

Date Entered	Service Rep	Note
04/01/2004 13:29	Jessicar	I received loss notification from sprint that customer is taking 937-592-8773/593-6864/593-6876/593-6990/592-333 to valtech. I called and left a message for steve.

## Customer Notes

### NATIONAL SALT DISTRIBUTORS

Date Entered	Service Rep	Note
04/02/2004 13:27	Jessicar	Recieved loss notification from sprint that customer is taking 937-593-5327 & 937-593-7258 to Valtech, I called and tried to speak with Steve but he went on vacation untill the 12th, I did leave him a message yesterday before he left but I have not heard back. I spoke with Larry and he does not know anything.

## Customer Notes

### NATIONAL SALT DISTRIBUTORS

Date Entered	Service Rep	Note
04/12/2004 16:19	Jessicar	I called and spoke with Steve regarding the loss notification, he did not understand that Valtech was a different company, he said the women who came in misrepresented herself and then he saw our ad in the paper and he is very upset that he was lied to . I apologized for the inconvenience and explained that we valued him as a customer and would match valtech prices and switch him back at no charge. He said he would keep that in mind but he wanted to wait and see what his bill with them would be. Doing disconnect

## Customer Notes

### AMERICAN BOOT OUTLET

Date Entered	Service Rep	Note
04/09/2004 14:24	patsy	Received Loss Notification for 419 529-8088 (res) and 419 747-2668 (bus)-called and left a message for Cindy to CB

## Customer Notes

### AMERICAN BOOT OUTLET

Date Entered      Service Rep  
04/13/2004 14:48      Jessicar

#### Note

I called and spoke with Cindy regarding her loss notification, she had been out of town. She did not understand that we were not Valtech. The agent told her the name just changed. I explained that the info he gave her is incorrect. I told her we would match there price

she is very busy because she was out of town, she wants to look everyting over and I will call her back on friday and we will discuss more

## Customer Notes

### AMERICAN BOOT OUTLET

Date Entered	Service Rep	Note
04/16/2004 14:09	Jessicar	I called Cindy back but she was out of the office, so I left a message for her to call me. If I don't hear from her by the end of the day I will put through the disconnect

## Customer Notes

### AMERICAN BOOT OUTLET

Date Entered	Service Rep	Note
05/27/2004 10:03	linda	<p>received email from ValTech (Mark C) in regard to this account. We have a customer who ValTech converted from COI on May 4, 2004. Cindy said that she did not signed a second LOA from COI, but she has been switched from ValTech to COI. I am hoping COI and ValTech can work together to resolve this issue. Can you please forward me a copy of the customer's first and/or second LOA?</p> <p>Customer: Cindy Price, 419-529-8088</p> <p>I called the NEAC and spoke with Angie who verified that both lines are with Valtech and not COI follow up email ....We received a loss notification from Sprint on 4/19/04 for 419-529-8088 and 419-747-2668. We did not send an order to move those lines back to COI and you can be assured we would not do so without an LOA dated after the date on the loss notification. I called the NEAC and spoke with Angie and she verified that those lines are with ValTech as of 4/12/04. You may want to call the NEAC and verify this information for yourself.</p>



## Customer Notes

### AMERICAN BOOT OUTLET

Date Entered	Service Rep	Note
06/14/2004 11:54	joyces	spk/Cindy who ? bill, per notes lines went to ValTech 4/20/2004 but never removed from billing, sent e-mail to Krista to advs

## Customer Notes

### SHEARER EQUIPMENT

Date Entered	Service Rep	Note
04/16/2004 08:56	Jessicar	Recieved loss notification that customer is taking lines to valtech, I called and spoke with tammy and she said i need to speak to Brian who is out untill Monday, I will call back on Monday.

## Customer Notes

### SHEARER EQUIPMENT

Date Entered	Service Rep	Note
04/19/2004 16:09	Jessicar	I called and spoke with Brian Giaque regarding loss notification, I explained that I received notification that they were taking 330-345/9002/3023/6406/9416/9417/9282/9348 to Valtech. He was very upset because he said that Doug lied to him in the beginning and told him he owned Coi and promised him things he didn't deliver on. He wants to take his lines back to sprint. Gave info to Linda

## Customer Notes

### SHEARER EQUIPMENT

Date Entered	Service Rep	Note
04/23/2004 17:04	cheryl/g	DAVID WATKINS CALLED IN SAID COMPETITOR INTO TT HIM - GAVE LETTER SAYING WE ARE GOING BANKRUPT -- NEEDS TO HAVE A LETTER FROM US FAXED TO HIS ATTN SAYING WE ARE NOT -- SAID THAT HE NEEDS PROOF TO SHOW TO HIS BOSS -- I ASKED DAVID IF HE WOULD FAX TO ME A COPY OF THE LETTER HE HAS THAT REG BANKRUPT- GAVE MY FAX NUMB -- LET DAVID KNOW I WILL GIVE HIS INFO TO MY SUPERVISOR

## Customer Notes

### SHEARER EQUIPMENT

Date Entered	Service Rep	Note
04/26/2004 12:29	cherylg	folllup and tt dave in electrical at shearers - let him know the conversation i had on friday and asked if anyone work there by name of david watkins -- no one there by that name -- thanked for time -- will not be faxing letter --

## Customer Notes

### MANSFIELD HOTEL PARTNERSHIP

Date Entered	Service Rep	Note
04/20/2004 09:28	Jessicar	received loss notification from sprint that customer is taking all lines to valtech, I called and left a message for anna to call me back about our new promotions and the ln

## Customer Notes

### MANSFIELD HOTEL PARTNERSHIP

Date Entered	Service Rep	Note
04/21/2004 11:38	Jessicar	I called Sandy again regarding loss notification and was talking about the new promotion and her going to valtech and she said that she had a contract with us and she is right, she does and it doesn't expire until 09/04, She was very upset because she said the agent told her we sold our buisness to valtech and she needed to sign new paperwork. The order is due to cut today. I advised her to call Valtech and ask for a manager and tell them what happened and to have them try to cancel the order.

---

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
04/15/2004 08:48	Jessicar	recieved loss notification on 740-599-6820/9971/9971 that customer is switching to another local carrier, I called and left a message for Harold to call me back.



---

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
04/19/2004 10:16	Jessicar	I have left several messages regarding loss notification, I have not heard anything back, issuing disconnect

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
04/29/2004 17:26	Missy	HAROLD CALLED LINES WENT TO VALTECH HE WANTS US BACK DOING PROPOSAL AND SOA TO HIM

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
06/02/2004 12:10	cheryl g	harold called to find out the status of this acct and a couple of others - - said that he was misrepresented by bill cody with valtech and he is looking at a bill right now from valtech for 622.79 and he does not believe that he should have to pay due to the fact he was misrepresented - he asked if there was anything we could recommend to him -- i let harold know that i will check and follow up with him --

---

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
04/16/2004 09:11	Jessicar	Rec'd loss notification from sprint that customer is taking lines to valtech, this customer has several accounts and I called on a different one yesterday, I called back and left another message for Harold to call me.

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
04/19/2004 10:33	Jessicar	I have left several message for the customer to call me back regarding loss notification, I have not heard back from him and am issuing disconnect

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
04/29/2004 17:26	Missv	HAROLD CALLED LINES WENT TO VALTECH HE WANTS US BACK DOING PROPOSAL AND SOA TO HIM

## Customer Notes

### OHIO VALLEY AUTOMOTIVE

Date Entered	Service Rep	Note
06/02/2004 12:11	cheryl g	harold caled into check the staus of this acct wanted to make sure still with coi

## Customer Notes

### ARBOR CREEK GARDENS

Date Entered	Service Rep	Note
05/05/2004 14:56	Jessicar	Molly called in because they thought that they were Valtech but got a bill from us, Darren Boat was her agent and he told them that Valtech bought us out, I explained that the info he gave her is wrong and told her about the press release and all of that. She is not the one who makes the decisions. I called Neac and the lines are not with us they left us on 04/11/04 with 419-529-6900/8286, I am issuing disconnect per loss notification. I called Molly and explained there would be a disc credit but they would still have their bill for 5 days of service that they were with us.



## Customer Notes

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/04/2004 16:21	Jessicar	I received loss notification from sprint that customer is taking 740-397-0006 & 740-393-2037 to valtech, I called to speak with Phil and he said there was nothing wrong with our service so I offered him the new promotions and he said he doesn't want to be switching back and forth and he was annoyed. He said he wanted someone to come out tomorrow to see him in person. I gave all the info to Mandy and she said is going to have Steve or Scott or someone go out to see him tomorrow.

---

## Customer Notes

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/05/2004 08:38	mandyw	Scott called customer and we are sending Laura to customer site with DataTel proposal

## Customer Notes

0

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/05/2004 11:51	mandyw	Luara went to customer site and was able to save customer by giving promo rates for MB and Key lines. we are lower LD to .04/minute and customer is getting 1st and 13 month free. Adding local line freeze to all lines. no charge to customer. Sending addendum to prov and billing

---

## Customer Notes

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/05/2004 14:52	patsy	Phil called about coming back to COI/transferred to Jessica

## Customer Notes

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/06/2004 11:12	Jessicar	Phil called in first thing this morning to report that he had no dial tone on 740-393-1806, He had called Valtech several times to have them cancel the order to move his lines from us to them and they would not give him a straight answer. I called trouble to see if I could place a trouble ticket and spoke with Katie and she could not put in a ticket because the number was showing no active account. She called Neac and they said the order to move that line 740-393-1806 from us to valtech had not been done yet. I told Katie that someone had to have done something with the order for the dialtone to have gone out. She told me to call Neac. I called Neac and spoke with Carol who looked at all the c-orders and then transferred me to Bonnie who said that the D-order was done and the C-order was due for today. I asked her if she could please work the C-order to get this customer back in and she said she can't do anything because they are now with Valtech on this line. I called Phil and explained the situation and we called Valtech together and Kim answered and I told her who I was and that I was with Coi and had Phil with Herald's Appliance on the line and that they placed an order to convert his lines and he had no dial tone and I needed a Manager. She put us on hold and then came back and said someone would call him back and before I could say anything Phil said "no if we had to wait he would be calling his attorney. She said hold on and then she transferred us to conti...

## Customer Notes

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/06/2004 11:20	Jessicar	Doug Miller. I told him this was Jessica with Coi and I had a customer on the line with no dial tone on his main line and they converted him yesterday from us to Valtech. He told the customer he could get a trouble ticket placed and I explained that it would not work that someone needed to call the Neac and get them to work the c-order on 740-393-1806. I said I tried but they would not help me because I am not Valtech. THEN Phil asked Doug who he was and Doug said that he was Doug Miller the Owner of Valtech and that he used to be a manager or part owner (not sure which on) of the Mansfield office of Communication Options and he left because we did fulfill financial responsibility to him, we didn't pay him and we lied,,,at that point I said Doug I am still on the line and he said he did care and that I was a liar. I said what have I lied about. The customer had no dial tone, the order moved them from us to you and I can't fix it per the Neac Valtech has to fix. Again I said what have I lied about. He then said that I was a liar and we are in bankruptcy and I said no, that is not true, we are not in bankruptcy. Then I said how unprofessional he was acting and that all that matters was that we get this customers dialtone back. He said to me something like "great job jessica of acting like you really care". At that point I said okay Doug I can't hang up because I transferred Phil to Valtech with me on the line and if I hang up I will disconnect him. Phil chimed in and conti.

## Customer Notes

### HERALD'S APPLIANCES

Date Entered	Service Rep	Note
05/06/2004 11:41	Jessicar	don't let her hang up and then there was a click and Doug was gone. Phil asked me if we were in Bankruptcy and I said no we are not and that there is a press release out and I could send him this press release and papers showing that we are not in bankruptcy. He said that it was okay and he was going to call Doug back. Linda called Mark at Valtech and explained about the no dialtone and that the d-order was worked before the c-order and that someone there needed to call Neac and he said he would. I waited about an hour and called Phil back and he has dialtone. I apologized for him being put in the middle like that and that as a company we would never want that to happen to our customers. We left it that we are going to let the lines switch over to valtech and make sure everything is working okay and that we would be in touch with him later on.

## Customer Notes

### GRAND SLAM COLLECTIBLES

Date Entered	Service Rep	Note
06/30/2004 16:31	Jessicar	I recieved loss notification from sprint that customer is taking 419-529-3344 to Valtech, I could not get any answer. I am issuing perm disc per loss notification.



## Customer Notes

### GRAND SLAM COLLECTIBLES

Date Entered	Service Rep	Note
07/09/2004 12:45	cheryl/g	troy called into report his call waiting and caller id are not working -- i expl to troy that his serv is no longer with coi -- he began yelling - very upset - then apolg - said that he did not sign anything - then went onto expl to me that doug miller was in his office and he wanted no part of him -- then went onto say that his girlfriend was in one day by herself and dougs son came in went through the story of valtech was in trouble with our co and he needed her to sign of on paperwork to cancel serv w/ them -- in n talking with the lady at valtech reg his features not working he said that the paperwork was signed back on 03-31-04 and never switched over until june 30 -04 ... troy said that he would have his girlfriend call me when she gets in -- and let me know what happened and what was signed --

## Customer Notes

### GRAND SLAM COLLECTIBLES

Date Entered	Service Rep	Note
07/09/2004 15:51	cherylq	kelly called me and expl to me that doug came into the office one day when she was there and troy was out - kelly said that the paperwork she saw said letter of autohorization at the top and was not filled out it was blank -- doug had said to that they were in the midst of some legalities with coi and needed her to sign the paperwork to cancel the service - kelly went onto expl that she was not autorized to do this that the owner is troy and she has no authority -- kelly said that he was very pesistant and she signed --- back in march and then find out they were taken from us in june -- why so long -

## Customer Notes

### GRAND SLAM COLLECTIBLES

Date Entered	Service Rep	Note
07/15/2004 12:18	cheryl g	it troy reg pperwork to being over to coi -- troy asked if i could fax to him tomorrow --he knocked his fax mach of of his counter and will not have it back until tomorrow -- i am to call him before faxing

---

# Exhibit C



60 E. Broad Street, Suite 400  
Columbus OH 43215  
Facsimile: 614.464.4463

Andrew J. Sonderman  
Attorney at Law  
Direct Line: 614.220.0902  
asonderman@cooperelliott.com

**FAX COVER SHEET**

Date: February 17, 2005

Recipient: Brian Zets

Telecopy Number: 614-222-3693

Company: Schottenstein Zox & Dunn Co. LPA

Copies To: Gregory J. Dunn  
Christopher L. Miller

Reference: Communications Options, Inc. v. ValTech Communications, LLC  
PUCO Case No. 04-658-TP-CSS

Total Pages (Including Cover Sheet): 6 File No.: \_\_\_\_\_

**FOR CONFIRMATION OR IF YOU DO NOT RECEIVE LEGIBLE COPIES  
OF ALL PAGES, PLEASE CALL 614.220.0902 AS SOON AS POSSIBLE**

Message:

Please see the attached. Note that it is time sensitive. Thank you for your prompt attention to this matter.

AJS

**CONFIDENTIALITY NOTICE**

The documents accompanying this telecopy transmission contain confidential or legally privileged information. The information is intended only for the use of the person(s) named above. If you are not the intended recipient, any disclosure, copying, distribution or taking any action on the contents of the attached information is strictly prohibited. If you received this telecopy in error, please immediately notify us by telephone at the number listed above to arrange for the immediate return of this information.



Andrew J. Sonderman  
Attorney at Law  
60 E. Broad St., Suite 400  
Columbus, Ohio 43215  
Direct Telephone: 614.220.0902  
Direct Facsimile: 614.464.4463  
asonderman@cooperelliott.com

February 17, 2005

*Via Facsimile Delivery and Regular Mail*

Brian M. Zets  
Gregory J. Dunn  
Christopher L. Miller  
Schottenstein Zox & Dunn Co. LPA  
250 West Street  
Columbus, Ohio 43215-2538

RE: **Communications Options, Inc. v. ValTech Communications, LLC**  
**Case No. 04-658-TP-CSS/Responses to ValTech's Second Set of**  
**Interrogatories and Second Request for Production of Documents**

Gentlemen:

I am in receipt of COI's responses and objections to ValTech's Second Set of Interrogatories and Second Request for Production of Documents which were hand-delivered to your office on January 21, 2005. As an initial matter, I previously have provided you with my current office address, set forth in the letterhead, in the above-referenced discovery and in transmittals of at least two other pleadings. Please use it instead of the 2175 Riverside Drive address in the future to avoid delay in receipt.

Before I resort to the filing of a motion to compel discovery, I am attempting through this correspondence to obtain your voluntary cooperation in providing responsive answers to the clear and unambiguous interrogatories and production requests we submitted on January 21. If this complaint is allowed to proceed to hearing, the discovery schedule is very aggressive. As you know the discovery cutoff is April 30. The discovery requests we have submitted are intended to permit us to structure further discovery, including depositions and requests for admissions. If you persist in refusing to respond we will have no choice but to seek an order compelling discovery, which will result in a delay in the procedural schedule.

Before addressing the insufficiency of COI's responses to specific interrogatories and production requests, the following deficiencies are applicable to all purported responses:

1. You have failed to identify the name and position of the individual(s) providing each response.
2. You have failed to comply with Instruction for Answering no. 8 ("Identification") without explanation. requires identification of natural persons and business entities, and with respect to documents produced, each document's title, date, author(s), recipient(s), current location and custodian. With respect to objections to production

of documents on the basis of attorney-client privilege, attorney work product or other ground, you have failed to provide a privileged document log which identifies each separate document as to which privilege is claimed; each such document's date; the sender and recipient of the original document, the document's subject matter, and the specific basis for objection to produce each such document as to which the privilege is asserted. In providing us with a privileged document log you should make a good faith determination whether the claimed privilege relates to the entire document or merely portions of the document so as to require production with the materials subject to the claim of privilege redacted.

We call on you to provide the requested information, to which we are entitled, without further delay.

**With respect to specific Interrogatories:**

II-1 through II-13: In addition to failing utterly to identify the author of these responses, the incomplete, redacted "Customer Notes" submitted as documents COI0001 – COI0042:

- (a) do not comply with general instruction 9 ("with respect to each interrogatory, in addition to supplying the information requested, you are requested to identify all documents that support, refer to, or evidence the subject matter of each interrogatory and your answer thereto.") I call upon you to comply with this request; if I must, I will frame a request for admissions that no other documents exist to respond to subsection (b) of each question beyond the incomplete, redacted "Customer Notes" you have provided;
- (b) do not respond in any way to subsection (c) of each question regarding the date and specific means the identified subscriber was referred by COI to the PUCO for resolution of the subscriber's complaint. If there is no documentation of each such referral, we expect COI to answer truthfully to that effect.

II-14(a). Under Ohio Admin. Code Rule 4901-1-19(B), an otherwise proper interrogatory is not objectionable "merely because it calls for an opinion, contention, or legal conclusion..." Because you have stated no other basis for objection, we require an answer to the very specific question asked: which specific subparagraphs of the Local Service Guideline on which you base your complaint do you allege ValTech has failed to comply with? Contrary to your assertion, COI's pleadings do not in any way respond to this question.

II-14(b). Your objection is similarly unavailing under Ohio Admin. Code Rule 4901-1-19(B) as to this non-response. We require an answer to the very specific question asked: which subparagraphs of Ohio Admin. Code §4901:1-5-08 is COI alleging that ValTech failed to comply with? Again, your pleadings do not respond in any way to this question.

II-14(c). Your objection is deficient. You are under a continuing duty to respond to this question.

II-15(a). You are under a continuing duty to respond to this question. Although no objection has been interposed, you are reminded that Rule 4901-1-19(C) and (D) govern the two specific instances in which the party responding can refer the questioner to information in its possession; your purported basis does not cite either of them.

II-15(b). Your objection is absurd. Either you or your client have communicated with subscribers or individuals regarding direction provided to ValTech agents relating to your allegations, or you or your client have not so communicated. This is a very specific question. If the answer is "none", say so. But if your client interviewed COI sales representatives, current or former subscribers or other individuals regarding ValTech direction provided to ValTech agents relating to your allegations of wrongful conduct, you must provide the dates, the COI representatives involved in the communication and who initiated the conversation.

II-15(c). No objection has been interposed to this question; no response was made to the preceding question. Answers are required to this very specific question.

II-16(a). You are under a continuing obligation to respond to this question. Although no objection has been interposed, you are reminded that Rule 4901-1-19(C) and (D) govern the two specific instances in which the party responding can refer the questioner to information in its possession; your purported basis cites neither of them. Furthermore, we will require a complete list of all such initials/abbreviations on the "Customer Notes" log excerpts with corresponding names, addresses, place of employment and current position of each such person so that positive identification can be made.

II-16(b). We emphatically reject your claim that this question is vague or overly broad. To the contrary, Complainant either has or has not communicated with subscribers, or individuals including current or former representatives of ValTech regarding your allegation that ValTech provided its representatives with documents or information to prepare them for the misconduct you allege. If the answer is "none", say so. Otherwise, if your client conducted such communications regarding preparatory documents or information, we are entitled to the requested information as to such communications.

II-16(c). You have neither objected nor responded to this question. For the same reasons set forth immediately above, we expect and are entitled to an answer. The information requested is quite specific.

II-17(a). The identity of the COI representative or representatives who created the "Customer Notes" log is clearly not confidential. We are just as clearly entitled to know who created, edited and maintains this log for purposes of determining whether to direct further discovery to COI and/or that individual or individuals. It is to be noted that your statement is not



correct that the name of the service representative involved in each contact is listed at the top of the page; there are typically abbreviations. And, unless these abbreviations refer to the individuals who authored, edited or maintain this log, it is still unresponsive to the question posed.

II-17(b). We are not requesting confidential information here simply by asking when the log you have provided in incomplete and redacted form was prepared, and the source documents or communications used to prepare, edit or maintain it. To the extent you are seeking to invoke privilege, you have not stated the basis for it. If this document was prepared at the direction of counsel, say so. Such a statement will not necessarily assure any privilege, however. If the produced set of excerpts was created in the ordinary course of business, or was created by your client without direction of counsel, it cannot possibly qualify either as your work product or as a privileged attorney-client communication. Finally, to the extent any privilege possibly existed in the past, it has been waived by producing the document.

II-17(c). See the immediately preceding discussion: We are absolutely entitled to know whether the customer log, which you have produced in incomplete and redacted form, was a business record, a record prepared in anticipation of litigation, or a document prepared at counsel's request. Again, no privilege or work product protection currently exists, since the customer log has already been produced, waiving any possible claim of privilege.

**With Respect to the Second Request for Production of Documents:**

II-1. We are entitled to the unredacted Customer Notes log. You should know that portions of this log, in unredacted form, have been provided by counsel for COI in civil litigation. Thus even though there is no applicable privilege or work product protection, in any event it has clearly been waived.

II-2. The objection to this request treads dangerously close to bad faith. The clear reach of this request is documents in COI's possession that relate to (a) its own compliance with applicable federal requirements, incorporated by reference by the PUCO in its own regulations; and (b) Complainant's "repeated requests to ValTech and counsel asking ValTech to Cease and desist" the alleged unauthorized carrier changes. If you have previously provided this documentation to ValTech, Rule 4901-1-19(C) states that you may refer to any such document provided to the requesting party in the preceding 12 months. Just follow the rule and identify it by title, location or circumstances under which it was provided and the page or pages from which the data can be derived or ascertained. Your reference to the incomplete, redacted "Customer Notes" does not respond to this question—unless you mean to respond that there is no documentation in COI's files of its compliance with 47 CFR §64.1150(b), in which case, so state. If you intend to provide additional documents, please indicate when we may expect your supplemental response.

---

Brian M. Zets, Esq.  
February 16, 2005  
Page 5 of 5

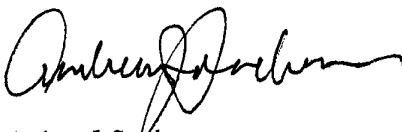
II-3. This objection is unfounded and evidences evasiveness. We are clearly entitled to the requested information, which is quite specific, and limited to a time frame of just a year. You have asserted that the consent required for an authorized carrier change requires an underlying "harmony or opinion of sentiment". Thus any information affirmatively provided by the very public media identified in this production request is relevant to what information your identified subscribers had when making their decisions to change carrier. You cannot play "hide the ball". We insist on a complete and proper response.

II-4. For all the reasons stated with respect to your unfounded objection to the preceding requests, we are entitled to the requested information which your client has released in the stream of commerce. The request is reasonably limited in time, geographic scope and specified documents. We require a complete and proper response.

Please consider the Code provisions to which I have referred as well as your responsibility to provide proper discovery responses under the Commission's rules. For the reasons stated, your "shotgun" objections are unfounded and your responses are abysmally deficient. We are entitled to responses that fairly meet the discovery requests in all respects and will pursue our right to complete and proper responses formally unless you are willing to provide complete, truthful responses on or before the close of business on **Thursday, March 3, 2005**. We request that you call me no later than noon next **Tuesday, February 22** and inform me whether you intend to accept this proposal to properly revise and supplement your responses within the two weeks ending March 3. If we do not have an understanding on this matter by close of business next Tuesday, we intend to seek an order compelling discovery together with sanctions for intentional delay.

Thank you for your prompt attention this matter.

Very truly yours,



Andrew J. Sonderman  
Cooper & Elliott, LLC

cc: Tom Duckworth  
Rex Elliott

---

# Exhibit D

RECEIVED  
FEB 24 2005

SCHOTTENSTEIN  
ZOX & DUNN CO., LPA

BY:.....

BRIAN M. ZETS  
614/462-2244  
614/222-3693  
E-MAIL: BZETS@SZD.COM

February 22, 2005

**Via facsimile 614.464.4463**

[REGULAR MAIL TO FOLLOW]

Andrew J. Sonderman, Esq.  
60 East Broad Street, Suite 400  
Columbus, Ohio 43215

RE: *Communications Options, Inc. v. Valetch Communications, LLC*  
Case No. 04-658-TP-CSS  
**Discovery responses**

Dear Mr. Sonderman:

I write in response to your February 17, 2005 correspondence in which you take issue with many of COI's answers and objections to ValTech's second set of interrogatories and request for the production of documents. You claim our "objections are unfounded and [our] responses are abysmally deficient." I respectfully disagree. COI's objections are appropriate, and its answers are complete and meaningful. The fact that your client may not like the responses, fails to make them actionable under Ohio Adm. Code § 4901-1-23. Nevertheless, I will address each concern individually.

To begin, there is no interrogatory asking for the name and position of the individual(s) providing each response. Furthermore, a "general instruction" is not considered an answerable discovery request. Your suggestion that COI has not identified all documents that support, refer to or evidence the subject matter of each interrogatory answer is simply not correct. COI has produced all documents in its possession relevant to its answers.

Next, you complain that COI "has not responded in any way to subsection (c) of each question." This too is incorrect. Rather than draft a written answer, COI referred ValTech to specific documents produced with its answers. Even a cursory review of these documents shows "the date and specific means the identified subscriber was referred by COI to the PUCO for resolution of the subscriber's complaint." As such, COI's answers to interrogatories II-1 through II-13 comply fully with Ohio Adm. Code § 4901-1-19(C).

Interrogatory II-14(a)(b) and (c) asks COI to identify the particular subparagraphs of the Local Service Guideline Appendix A, Ohio Adm. Code § 4901:1-5-08(A), and Ohio Adm. Code § 4901:1-5-07(A) that it believes ValTech has violated. This is not a proper interrogatory. As laymen, COI representatives cannot answer these questions. They seek purely legal conclusions,

www.SZD.com  
Columbus  
Cleveland  
Cincinnati

answerable only by COI's attorney. The numerous pleadings already filed in this matter, including COI's amended complaint sufficiently put ValTech on notice of the allegations against them.

Turning now to interrogatories II-15 and II-16. These interrogatories are confusing and vague. COI, however, understands its continuing obligation to supplement its discovery responses. As stated in its answers, COI believes further discovery is needed before it can respond fully to these interrogatories. It is unlikely that all of ValTech's agents and employees independently incorporated such a false and misleading sales agenda. Because paragraphs 28 and 29 of COI's amended complaint makes allegations based upon "information and belief," COI has no additional information to supplement at this time.

Despite ValTech's urging, the COI Customer Notes already produced identify the exact date and time its customer service representative contacted the customer. The full names of the COI customer service representatives identified on the Customer Notes are as follows: Jessica Rathkopt; Missy Cochenour; Linda Smith; Joyce Schultz; Cheryl Griffith; and Patsy Bowser. There are no "source documents" as you imply. COI keeps these Customer Notes in the course of their regularly conducted business activities. And, it is COI's regular practice to make these notes. Therefore, with this additional information, COI's answer to interrogatory II-17 is complete.

Contrary to ValTech's bald assertions, it is not entitled to an unredacted copy of COI's Customer Notes. The redacted portions do not "refer to, record, discuss, memorialize, or comment on the specific communications identified" in COI's responses to interrogatories II-1 through II-13. The redacted portions refer to other customer's not related to this litigation. This information, therefore, is neither relevant nor likely to lead to the discovery of admissible evidence. All responsive documents were produced. As such, COI's response to document request II-1 is complete and meaningful.

COI's response to document request II-2 also is proper. 47 C.F.R. §64.1150(b) does not require COI to send its customers written communication directing them to the PUCO every time a ValTech agent slams the customer's service. The previously produced Customer Notes adequately identify when the customer was referred to the PUCO. As for the remaining documents sent to ValTech asking it to cease and desist its unlawful conduct, these documents should be in ValTech's possession. Nevertheless, as indicated, COI will supplement its response soon.

Finally, COI's objections to document requests II-3 and II-4 do not evidence evasiveness. These requests are vague, ambiguous, and overly broad. In addition, they are neither relevant nor likely to lead to the discovery of admissible evidence. ValTech is not permitted to use this litigation as a "fishing expedition" by requesting COI neatly package and produce all of the marketing material it used in 2004 "in geographic areas where [COI] is competing for business

www.SZD.com  
Columbus  
Cleveland  
Cincinnati

Andrew J. Sonderman, Esq.  
February 22, 2005  
Page 3

with [ValTech]." We are certain the PUCO would find such requests to be an abuse of the discovery process.

I hope this information is helpful. As shown, COI took great care to fully answer ValTech's second set of interrogatories and request for the production of documents. ValTech's obscurant letter demanding additional discovery be produced is wholly without merit. While COI cannot stop ValTech from seeking and Order compelling discovery, please be mindful that if ValTech files a motion to compel and its is denied, in whole or part, COI will seek the sanction of attorney fees. Should you have any addition questions or concerns about this matter, please do not hesitate to contact me.

Sincerely,



Brian M. Zets

cc: Steve Vogelmeier (via facsimile only)

www.SZD.com  
Columbus  
Cleveland  
Cincinnati

{H0519279.1}

250 West Street, Columbus, Ohio 43215-2538 | P.O. Box 165020, Columbus, Ohio 43216-5020 | Voice: 614-462-2700 | Fax: 614-462-5135