

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re :
 : **Chapter 11 Cases**
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ADELPHIA COMMUNICATIONS CORP., et. al : **Case No. 02-41729 (REG)**
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Debtors. : **(Jointly Administered)**
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**FOURTH SUPPLEMENTAL DISCLOSURE AFFIDAVIT
OF BOIES, SCHILLER & FLEXNER LLP AS
SPECIAL COUNSEL TO DEBTORS-IN-POSSESSION
UNDER FED. R. BANKR. P. 2014(a)**

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

PHILIP C. KOROLOGOS, being duly sworn, deposes and says:

1. I am a member of Boies, Schiller & Flexner LLP (which together with its predecessors is referred to herein as "BSF"), which maintains offices for the practice of law at 333 Main Street, Armonk, New York 10504 and 570 Lexington Avenue, New York, NY 10022, among other locations throughout the country. I am an attorney-at-law, duly admitted and in good standing to practice in the State of New York, the United States District Court for the Southern District of New York and the United States Court of Appeals for the Second Circuit. Based on my personal knowledge and my review of certain documents and communications with BSF partners and others, I submit this affidavit to supplement my affidavits, sworn to June 20, 2002, August 7, 2002, August 11, 2005, and August 15, 2005 submitted on behalf of BSF in connection with Adelphia's application to retain BSF as special counsel to Adelphia Communications Corporation ("ACC"), debtor-in-possession. We

continue to look into the facts set forth below, and will supplement this affidavit if appropriate.

2. At a chambers conference with the Court on August 11, 2005, attended by representatives of Adelphia, the official committees, the US Trustee and the Fee Committee and at which I informed the Court of the decision of BSF to resign as special counsel for Adelphia as requested by the Company, the Court inquired (i) whether the prices charged to Adelphia for the work performed by Amici and by Echelon were at market rates and (ii) as to any possible prejudice to the estate in connection with the Adelphia v. Deloitte action related to BSF's resignation at Adelphia's request.

3. I submit this affidavit in response to the Court's inquiries. As set forth in greater detail below:

a. The prices charged Adelphia by Amici were at or below market pricing at all times. Moreover, since nearly the inception of the use of Amici for Adelphia work, the prices charged were based on discounted prices that were negotiated by Adelphia and that I understood the US Trustee and the Fee Committee had indicated were reasonable expense levels based on their investigation of comparable pricing and services including by comparisons they undertook to similar services being rendered in the Enron and WorldCom bankruptcies.

b. The prices charged by Echelon for Adelphia copy and scanning work were billed (for the approximately \$660,000 over three years billed through BSF) at the same prices that are billed for the firm's other clients that use Echelon's on-site BSF facility; appear to be generally at or below market prices for comparable work to be performed by an in-house copy vendor; and were generally equal to or less than the

prices obtainable by BSF from outside vendors other than Echelon for work similar to the work performed by Echelon's in-house BSF facility

c. BSF respectfully submits that it is not the appropriate party to evaluate any potential impact on the estate with respect to the Deloitte case because that would require an evaluation of its own contributions. BSF notes that it is cooperating in transition efforts aimed at minimizing the impact on the estate.

Market Prices

A. Amici LLC ("Amici")

i. Background on the Amici Database

4. Amici is an electronic document database management service that permits one to electronically store and access through the internet very large volumes of documents. Millions of pages of documents have been produced by Adelphia and produced to Adelphia in the several litigations to which Adelphia is a party arising out of the conduct of the Rigases connection with investigations and litigation concerning the Rigases' conduct while they were officers and directors of Adelphia. These document productions include (i) several millions of pages of documents produced by Adelphia to the United States Attorney's Office for the Southern District of New York ("USAO") and the Securities and Exchange Commission ("SEC") in connection with their respective investigations of Adelphia and the Rigases; (ii) over two million pages of documents produced by Deloitte & Touche to Adelphia in connection with Adelphia's litigation against Deloitte for professional negligence, fraud and other claims; (iii) nearly two million pages of documents produced out of the files of Buchanan Ingersoll, Adelphia's former outside counsel that Buchanan Ingersoll and Adelphia provided to the USAO and the SEC as well as to other parties in various litigations including

Deloitte and the Rigases; and (iv) a variety of other documents produced by third parties that are relevant to one or more of the actions that BSF handled as part of its retention as special counsel to Adelphia.

5. In total, the Amici database for Adelphia contains electronic images of over 24.6 million pages of documents. Because of this vast number of documents, it would be far more costly to store documents in hard copy requiring lawyers or paralegals to search for and/or sort documents by hand in order to utilize them for the various litigations and investigations involving Adelphia.

6. Because the documents on the Amici database were processed through a program that allows for optical character recognition (“OCR”), the documents (at least nearly all of the typed documents) are searchable by words or phrases that are contained in the document. For example, when preparing for a deposition, a user can search for the deponent’s name in the database (or within a subset of the database) to identify all documents that bear that person’s name. Similar searches can be made to identify documents that contain key phrases that relate to particular issues in a case. Similarly, a user can search documents combining different search terms so that a user can search, as one example, for all documents that have Tim Rigas’s name and that concern a particular related party transaction, *e.g.*, “golf course”. The database also allows a user to add coding data that becomes associated with the document image allowing the user to categorize a document by issue or by witness, to identify it as a potential trial exhibit, to identify it as a hot document, or to identify any other manner of coding that the user chooses to establish. Because the system is web-based, users can access the database from any computer with broadband access to the internet. This allows

users to access and work in the database from different offices, or while traveling, for example, for a deposition.

7. The Amici database has been utilized by BSF in connection with its evaluation and pursuit of claims against the Rigases, Deloitte, Buchanan Ingersoll and others. The use of Amici was also central to Adelphia's substantial efforts to cooperate on a real-time basis with requests from the USAO for assistance and information in preparation for and during the criminal trial against the Rigases, including requests made while witnesses were on the stand that required us to track down documents relating to topics that had arisen from the witness's testimony that day. The database also was used in connection with an investigation of the Rigases conducted by the United States Attorney's Office for the Central District of Pennsylvania and the Internal Revenue Service.

8. BSF and Dechert, BSF's co-counsel in the Deloitte action, have widely used the Amici database to organize documents for depositions and trial preparation for the Adelphia v. Deloitte case in which the damages claims could well be in the billions of dollars. BSF's use and familiarity with the Amici Database has also been a useful tool for other litigation and issues related to Adelphia but that are not being handled directly by BSF, including for example the ML Media litigation before this Court, the Devon Mobile bankruptcy and claims, and certain franchise issues and discussions. Amici has also been used on occasion for business purposes, including for example supplying information to Adelphia's management relating to the Rigas Managed Entities.

9. Amici has been used directly by the United States Attorney's Office for the Southern District of New York in connection with the successful prosecution of John and Tim Rigas. Amici has been used by Cravath, Swaine and Moore, counsel for Deloitte, in defense

of the Deloitte action and in the investigation and settlement of Deloitte's issues with the government. (Indeed, many of Adelphia's document productions to Deloitte have been done by having Amici make documents that are available to Adelphia in Adelphia's Amici database available to Deloitte in Deloitte's Amici database.) Amici has also been used by the Rigases in their defense in the civil cases in which they are involved. Each of these non-Adelphia uses of Amici were databases established for the use of those particular entities including to prevent these adversaries of Adelphia accessing Adelphia's own document database.

ii. Amici Pricing for Adelphia

10. Amici's fee structure for Adelphia was negotiated primarily between the management of Adelphia (specifically Jeff Lawton, Vice President-Restructuring, and Mark Spiecker, Director-Restructuring) and representatives of Amici (specifically Mike Lindburg a Managing Director of Amici at that time and continuing to today and Bill Duker, a Managing Director at that time and until Mr. Duker left Amici at the end of 2003). These negotiated prices applied for all invoices for Adelphia work other than a small number of early invoices when the Adelphia database was just being formulated.¹ The negotiations between Adelphia and Amici took place during the fall of 2003 but related to all then outstanding invoices (which dated back to May 2003) and for all invoices going forward. I at times during those

¹ The invoices that were submitted by Amici and paid by Adelphia prior to the negotiations discussed herein were for approximately the first 8 months of the use of Amici by BSF and Adelphia while the use of Amici was just getting started. These invoices amounted to less than 10% of the total amounts billed by Amici, were at rates less than Amici's standard rates, and notably did not include any hosting charge, the largest recurring charge each month that is based on the number of pages accessible on the site which by the second quarter of 2003 had grown to nearly 20 million pages.

negotiations played an intermediary role of communicating the fee proposals between Adelphia management and Amici. I was never asked to nor did I negotiate the Amici fee arrangement on behalf of either Adelphia or Amici.

11. During the negotiations between Adelphia and Amici, I was told by Adelphia's management that the US Trustee and the Adelphia Fee Committee had reviewed Amici's fees and that the US Trustee and the Fee Committee had investigated comparable fees in other cases through the fee auditor, Legal Cost Control, and the US Trustee's office. I was further informed that the US Trustee was aware that Legal Cost Control was performing similar functions in both the WorldCom and Enron bankruptcies and therefore had a good sense of what market prices are for document management systems and of what solutions the debtors in those other major cases were utilizing for organizing and storing documents.

12. I was also told by Adelphia that the US Trustee and the Fee Committee had indicated that a reasonable expense level for Amici would include a 10% reduction for all outstanding and future invoices for document scanning, extraction, and other services (including software licensing) and a 20% reduction for document storage (again for outstanding and future invoices). The US Trustee and the Fee Committee indicated to Adelphia their belief that this would be a reasonable expense level both for Adelphia's use of Amici as well as for the work performed by KPMG (which included the conversion of electronic files such as emails and documents found on hard drives to pdf's searchable in the Amici system that KPMG performed at Amici's request). Finally, I also understood from Adelphia that the US Trustee and the Fee Committee had indicated that they would object to any expense other than the reductions outlined above.

13. Amici's invoices for Adelphia since at least May of 2003 (shortly after Amici started to be utilized by Adelphia), have been paid based on the fee structure that was proposed by Adelphia and that the US Trustee and the Fee Committee have indicated is a reasonable expense level after their investigation of comparable fees in other cases.²

14. I have reviewed certain pricing information concerning Amici's fees for Adelphia and compared that to information I received from Amici for representative Amici clients on matters where BSF is not involved and where thus the pricing terms negotiated could not have been impacted by any interest in Amici held by anyone affiliated with BSF. Based on the information received from Amici, I found that Adelphia's rates for hosting the database (typically the largest recurring cost for such a database) were (i) 20% below the rates that had been charged for hosting on invoices issued prior to the negotiations mentioned above, just as Adelphia had negotiated and the US Trustee and the Fee Committee had indicated was a reasonable expense level; (ii) even before the 20% discount was applied, were below Amici's standard pricing; (iii) were 22% - 41% lower than the published prices of a leading competitor of Amici; and (iv) were approximately 20% lower than the average of four representative Amici clients that are not BSF clients. Similarly, the prices paid by Adelphia for other services were 10% below the rates contained on the invoices prior to the negotiations in the fall of 2003, in accordance with the fees negotiated by Adelphia and indicated to be reasonable by the US Trustee and the Fee Committee, were at or below the published prices for such services from an Amici leading competitor, and were at or below the prices Amici charged to representative Amici clients that are not BSF clients.

² See also footnote 1, above.

15. As an example of comparison prices, I attach as Exhibit A a declaration and chart prepared by Amici of rates charged to Adelphia prior to the negotiated discount discussed above and afterward as well as comparisons to four representative clients of Amici that are not also BSF clients. In addition, the chart shows that the rates charged to Adelphia are below the published rates of a leading competitor of Amici's (particularly for the hosting charge which is the largest recurring charge). At Amici's request based on the commercially sensitive pricing information contained in the chart, I have not attached the Exhibit A to my declaration in the public file and will instead shortly make a request that a version of my declaration together with its Exhibit A be filed under seal.

16. In sum, the prices charged Adelphia by Amici were at or below market pricing at all times. Moreover, for the vast majority of the fees charged for Adelphia work, Amici's prices were based on discounted prices that Adelphia negotiated and that the US Trustee and the Fee Committee indicated were a reasonable expense level based on their investigation of comparable pricing and services including by comparisons they undertook to similar services being rendered in the Enron and WorldCom bankruptcies.

B. The Echelon Group LLC ("Echelon")

17. Echelon is a copy service provider that has a contractual relationship with BSF to provide "in-house" copy services for both BSF's Armonk and New York City offices. Unlike many other firms, BSF does not have its own copy center that performs copy services. Prior to having such in-house services, BSF utilized outside vendors to provide anything beyond what was capable of being performed by a paralegal or other staff person at one of the copy machines within the firm.

18. While BSF still utilizes other vendors for certain projects, including projects that are particularly large, time consuming, or permit the delays and inefficiencies of having to transfer the documents off-site, many of the routine and some of the medium to large copying projects for matters handled in BSF's Armonk and NYC offices are handled by Echelon. This included certain copying and imaging tasks performed for the different Adelphia matters handled by BSF. Having an in-house copy service is more convenient than utilizing an outside vendor including because the documents remain within BSF's offices making them accessible even during a job, do not require transport other than from one floor to another within our offices, have a lower risk of loss since the documents do not leave the building, and generally allow for quicker turn around and a greater ability to monitor jobs.

19. The pricing for Echelon's services vary depending upon the type of work to be done and the amount of the work that can be performed automatically by a machine as opposed to being labor intensive. Thus, for example, imaging a stack of standard sized unstapled pages that can automatically be fed into a copier is priced cheaper than short documents that need to have staples removed which is still cheaper than the price for work that cannot automatically be fed into the copier, but instead must be held on the copier's glass by hand.

20. During the approximately three years BSF was special counsel to Adelphia, Echelon performed some work that was billed directly to Adelphia (approximately \$210,000 and for which Adelphia at times received price reductions directly) while other work was performed by Echelon and the cost was passed through to Adelphia on BSF's billing statements as copying charges (approximately \$660,000 over three years). At all times, the charges passed through were passed through without a markup by BSF and were priced at the

same prices for similar work performed by Echelon's BSF on-sight office for other BSF clients.

21. A review of other vendors that have on occasion been used by the firm or its clients for copy projects indicates that Echelon's Adelphia pricing was generally at or below the prices available to BSF from such outside copy vendors.

22. Impact on the Estate

23. The Court inquired to those attending the chambers conference on August 11, 2005 regarding any potential impact to the estate in connection with the Adelphia v. Deloitte action in which BSF has acted as lead counsel. I believe there are two aspects to this question. First, whether there is any impact to the estate in the Adelphia v. Deloitte case as a result of the resignation of BSF requested by Adelphia; and second, whether the necessary steps are being taken by BSF, Adelphia and others to ensure that a transition period will keep any disruption to the estate's interests in that action to a minimum.

24. With respect to the potential for any impact as a result of BSF's requested departure as Adelphia's lead counsel in the Deloitte action, BSF respectfully notes that it does not believe that it is an appropriate party to perform such an analysis because any analysis of such an impact would necessarily involve judgments concerning the contributions BSF has provided in its representation of Adelphia in the Deloitte litigation. Prior to Adelphia's request that BSF resign as special counsel to the estate, we noted to management that it may not be in the best interests of the estate for BSF to resign and suggested that this be discussed among the US Trustee, the Creditors' Committee and the Court. BSF will of course cooperate in connection with any reasonable inquiries concerning such topics should this be an issue on which the Court wishes to be further informed.

25. As to the second issue—avoiding prejudice during the transition, BSF has already proceeded expeditiously with any and all requests by Adelphia or its counsel for the transfer of files and information concerning the Adelphia v. Deloitte action as well as the other matters handled by BSF for Adelphia. BSF is committed to fulfilling its obligations to its former client in connection with an orderly transition of the files and work of BSF to co-counsel or to such other counsel as the estate directs. Because the estate has asked us to transfer our files and information concerning the Deloitte matter to Dechert—a first rate firm in litigation that has acted as co-counsel with BSF in the Deloitte matter since at least November 2002, I believe such a transition will not be nearly as difficult or long a process as it would be to transition the matter to a firm without Dechert’s existing knowledge and involvement in the Deloitte action.

/s/ Philip C. Korologos

Philip C. Korologos

Executed on August ____, 2005
New York, NY

Sworn to and subscribed before me, a notary public for the state of New York, County of New York, this ____ of August, 2005.
