

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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U.S. DIST. CT. COURT

D. MICHAEL JEWETT,

2005 OCT -7 P 1:10
Docket No:

Plaintiff,

-against-

COMPLAINT

05-4865 (JCL)

IDT CORPORATION; HOWARD S. JONAS; MOTTI LICHTENSTEIN; JACK LERER; DAVID SCHROFFER; AVI LAZAR; ROBERT SCHIFF; MICHAEL LEVINE; JONATHAN LEVY; ALEX SCHWARZ; JAMES A. COURTER; JOYCE MASON; JOHN CATE; NADINE DUHAMEL; MOUNT SALEM MANAGEMENT LTD.; AND JOHN DOE numbers one through ten, fictitious names, real names being unknown, representing the entities or individuals who engaged in unlawful racketeering practices; who deprived plaintiff of earnings and who subjected him to unlawful employment discrimination as set forth herein,

Defendants.

Plaintiff, D. MICHAEL JEWETT, by and through his undersigned counsel, William P. Perniciaro, for his Complaint against the defendants IDT CORPORATION; HOWARD S. JONAS; MOTTI LICHTENSTEIN; JACK LERER; DAVID SCHROFFER; AVI LAZAR; ROBERT SCHIFF; MICHAEL LEVINE; JONATHAN LEVY; ALEX SCHWARTZ; JAMES A. COURTER; JOYCE MASON; JOHN CATE; NADINE DUHAMEL; MOUNT SALEM

MANAGEMENT LTD.; AND JOHN DOE, who are alleged to have unlawfully deprived MICHAEL JEWETT of lawful earnings and/or defamed his good name and reputation; who knowingly associated themselves with an unlawful enterprise unlawful enterprise as provided in the New Jersey Anti-Racketeering Statute, and who abused court process for an improper purpose and intentionally caused emotional distress to plaintiff, alleges as follows:

I.

Nature of Action

1. This is an action for compensatory damages, liquidated damages, punitive damages and attorney's fees as a result of the acts of IDT CORPORATION, its agents servants and employees, and MOUNT SALEM MANAGEMENT LTD., its agents servants and employees, for engaging in and intentionally associating themselves with an unlawful enterprise under the New Jersey Anti-Racketeering Statute, for knowing defaming the good name of the plaintiff, for abusing court process, and for intentional infliction of emotional distress.
2. This action concerns alleged acts of the above referenced defendants to defame, intimidate and distress the plaintiff during the prosecution of his civil cause of action docketed as CV 04-1454 in the United States District Court of New Jersey.

3. The plaintiff is bringing this action under the New Jersey Anti-Racketeering Statute, N.J.S.A. 2C: 41-1 et seq.; and various New Jersey Common Law causes of action for alleged material assistance provided by the above referenced defendants, the intent of which was to assist the perpetration of a racketeering crime and to conceal it from the public, the government, and IDT investors; for public acts of certain defendants in defaming the good name of the plaintiff, for abusing the processes of a federal district court, and for intentional infliction of emotional distress.
4. Plaintiff will first recite the facts of his original civil case and then explain the facts of the within case as to how the above referenced defendants proceeded to allegedly mislead the public, the court and counsel as to certain regulatory obligations and to unlawfully obtain sealing of the records on certain federally mandatory public records, how certain defendants publicly defamed the plaintiff, and how the defendants participated in a scheme to intentionally abuse court process to conceal wrongful conduct, and to intimidate and cause mental distress to the plaintiff.

II.

The Parties

6. The plaintiff, D. MICHAEL JEWETT, is currently a resident of Palm Beach County, Florida.

7. The defendant IDT CORPORATION, (hereinafter "IDT"), is a telecommunications company engaged in interstate commerce with more than 15 employees.
8. The defendant IDT Corporation is a Delaware for Profit Corporation with principal offices located at 520 Broad Street Newark, New Jersey.
9. The defendant, HOWARD S. JONAS, upon information and belief, is the Chairman of IDT and a citizen of the State of New York.
10. The defendant, MORRIS LICHTENSTEIN, upon information and belief, is Chief Executive Officer of IDT Telecom, and is a citizen of the state of New York.
11. The defendant, JACK LERER, upon information and belief, is the Executive Vice President for International Business Development for IDT, and is a citizen of the State of New York.
12. The defendant, DAVID SCHROPFER, upon information and belief, is the Executive Vice President for Strategic Management for IDT, and is a citizen of the State of New Jersey.
13. The defendant, AVI LAZAR, upon information and belief, is Senior Vice President of Global Buying for IDT, and is a citizen of the State of New Jersey.
14. The defendant, ROBERT SCHIFF, upon information and belief, is the Senior Director of IDT Telecom Sales, and is a citizen of the State of New York.

15. The defendant, MICHAEL LEVINE, upon information and belief, is the Senior Vice President of Finance for IDT Telecom and is a citizen of the State of New Jersey.
16. The defendant, JONATHAN LEVY, upon information and belief, is the President for IDT Telecom and is a citizen of the State of New York.
17. The defendant, ALEX SCHWARTZ, upon information and belief, is legal counsel for IDT Telecom, and is a citizen of the State of New York.
18. The defendant, JAMES A. COURTER, upon information and belief, is the Co-chairman and Chief Executive Officer for IDT Corp, and is a citizen of the State of New Jersey.
19. The defendant, JOYCE MASON, upon information and belief, is a Senior Vice President and General Counsel for IDT Corp, and is a citizen of the State of New York.
20. The defendant, JOHN CATE, upon information and belief, is Vice President for International Network Development for IDT, and is a citizen of the State of New Jersey.
21. The defendant, NADINE DUHAMEL, upon information and belief, is legal counsel for IDT Telecom, and is a citizen of the State of New Jersey.
22. ADRIAN CORR, upon information and belief, is legal counsel for the President of Haiti Jean Bertrand Aristede and a member of the

law firm of Miller, Simons and O'Sullivan located in the Turks and Caicos Islands, and is a citizen of the Turks and Caicos Islands; and defendant MOUNT SALEM MANAGEMENT LTD., (hereinafter "MOUNT SALEM"), is a holding company existing and organized under the laws of the Turks and Caicos Islands whose principal place of business is located in the Turks and Caicos Islands.¹

23. The defendant, JOHN DOE numbers one through ten, fictitious names, real names being unknown, represent the entities or individuals who unlawfully subjected the plaintiff to the conduct set forth herein.

III.

Jurisdiction and Venue

24. The court has original jurisdiction of this action pursuant to 28 U.S.C. Sec. 1332 (3) in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States in which citizens or subjects of a foreign state are additional parties
25. Venue is predicated on 28 U.S.C. Sec. 1391 (a) and (b), in that several of the defendants reside in this district and a substantial part of the events or omissions giving rise to the claim occurred in this district.

IV.

¹ Mr. Corr is not a defendant in this action. Neither he nor his counsel played a role in the additional acts

Factual Background of Underlying Lawsuit Docket CV-04-1454

26. Upon information and belief, IDT Telecom is a telecommunications company engaged in the business of providing both domestic and international voice and calling card services.
27. With respect to its international voice and calling card services, IDT, upon information and belief, negotiates contracts with foreign phone companies outside the United States that enable IDT customers to make phone calls to those foreign countries from the United States.
28. Plaintiff was employed by IDT from April 15, 2003, through November 11, 2003, the date he was discharged by IDT management.
29. From April 15, 2003 through July 15, 2003 plaintiff worked as a Regional Director – Caribbean on a provisional, probationary basis.
30. On or about July 15, 2003, plaintiff was advised he had satisfactorily fulfilled his employment probation period and was offered a full time executive position with IDT, which he accepted.
31. From July 15, 2003, through the date of his termination, November 11, 2003, plaintiff was employed as an Associate Regional Vice President for the Caribbean, (ARVP).
32. As an ARVP, plaintiff was in charge of business development and strategic relationships that would enable IDT to terminate

alleged in this complaint.

international voice traffic to Post Telegraph and Telephone (PTT) companies, such as Cable & Wireless West Indies Ltd., and other telecommunication service providers in the Caribbean.

33. As an ARVP, plaintiff was required to formulate and negotiate proposals with various local Caribbean Telecommunication Service Providers that would permit IDT to successfully terminate telecommunication traffic in the Caribbean.
34. Upon information and belief, the term "terminate" in the telecommunications industry refers to a process whereby a foreign telecommunications company like TeleCo Haiti receives a phone call originating in a foreign jurisdiction, such as the United States, and transmits it via wire or other means to the ultimate recipient of that phone call in Haiti.
35. Upon information and belief, at all times mentioned herein, IDT Telecom terminated US originating traffic through third parties such as AT&T, MCI and Sprint and other various wholesale carriers to TeleCo Haiti.
36. Upon information and belief, TeleCo Haiti is a State owned and operated Telecommunication Company.
37. Upon information and belief, TeleCo Haiti is the only domestic and international telecommunication company in Haiti.
38. In September 2003, plaintiff was assigned to act as a commercial facilitator between IDT and TeleCo Haiti for purposes of negotiating

a contract that would permit IDT to successfully terminate telecommunication traffic in Haiti.

39. Upon information and belief, under the terms of the proposed contract, IDT was to receive the right for its customers to make telephone calls to Haiti through TeleCo Haiti and TeleCo Haiti was to receive a fixed price of the per minute cost of each phone call.
40. During the course of IDT's negotiations with TeleCo Haiti, defendant Jack Lerer, Executive Vice President of International Business Development, informed plaintiff he had had discussions with TeleCo Haiti to determine how IDT Telecom could establish a direct interconnect and thus negotiate favorable termination rates with TeleCo Haiti.
41. Plaintiff was advised that defendant Jack Lerer had received various proposals, one of which involved IDT's depositing [SEALED BY COURT ORDER] to a US Bank account in the name of the person Jack Lerer was communicating with.
42. Plaintiff learned that defendant Jack Lerer and IDT Telecom felt this would be too high risk for IDT, as the payment of such a fee may disappear without resulting in IDT Telecom completing a direct interconnect with TeleCo Haiti.
43. Upon information and belief, in August of 2003 defendant Jack Lerer traveled to Haiti and was introduced to the President of Haiti, Mr. Jean-Bertrand Aristide, for the express purpose of discussing

with President Aristide how IDT could have a direct interconnect with State owned and operated TeleCo Haiti.

44. In September 2003, defendant Jack Lerer met with plaintiff to explain the "deal" he had negotiated with President Aristide. IDT Telecom would deposit the settlement dollars from terminating traffic in Haiti through TeleCo Haiti to an offshore account set up on behalf of President Aristede by Mount Salem, headquartered in the Turks and Caicos Islands.
45. The rate for each minute of US originating traffic terminating in Haiti was to be a nine cents per minute which is below what IDT would be paying if they had not agreed to divert the settlement payments to Mount Salem. Defendant Jack Lerer further advised plaintiff that IDT had to move quickly in order to avoid losing the deal.
46. Plaintiff asked defendant Jack Lerer what Mount Salem was and he replied it was the private bank account of the President of Haiti, Mr. Jean Bertrand Aristide, that had been created by legal counsel for President Aristede, Adrian Corr, member of the Law Firm Miller, Simons and O'Sullivan.
47. Plaintiff asked defendant Jack Lerer if it was legal for IDT to make monthly settlement deposits into the private offshore bank account of the President of Haiti rather than depositing the settlement proceeds into the bank account of TeleCo Haiti. Defendant Jack

Lerer told plaintiff it did not matter who got the money as long as IDT was protected from TelcCo Haiti alleging that they had not been paid for terminating IDT's telecommunication traffic in Haiti.

48. In or about late September 2003, defendant Jack Lerer met with plaintiff and defendant John Cate, Vice President of International Network Planning, to explain the particulars of the TelcCo Haiti deal and to reveal the contact names for Mount Salem and TeleCo Haiti so that plaintiff and defendant John Cate could begin finalizing negotiations with both of these two entities.

49. In or about late September 2003, defendant Jack Lerer instructed plaintiff and defendant John Cate to not reveal the details of the TeleCo Haiti deal to anyone within IDT. Plaintiff was instructed to work with defendant Alex Schwartz, legal counsel for IDT, in structuring the agreements with both TeleCo Haiti and Mount Salem. Defendant Jack Lerer in addition told plaintiff he was to serve as the "go-between" for all commercial correspondence between TeleCo Haiti and Mount Salem and defendant John Cate was to serve as the technical correspondent with TeleCo Haiti.

50. At the conclusion of this meeting with defendant Jack Lerer, plaintiff and defendant John Cate discussed whether or not it was lawful and/or legal for IDT Telecom to proceed with the TeleCo Haiti deal, as described above. Defendant John Cate indicated that during his 27 years at AT&T, i.e., his prior employer, he had

never once been involved with let alone heard of a telecommunication proposal and/or contract being structured in a manner similar to the TeleCo Haiti agreement.

51. Both plaintiff and defendant John Cate expressed serious misgivings to one another as to the legality of the proposed TeleCo Haiti contract and what the FCC might do to them if the FCC were to learn of the details involving the payment of TeleCo Haiti's settlement proceeds into the private off-shore bank account of President Aristide.
52. In or about late September 2003, defendant David Schropfer, Executive Vice President Strategic Management – one of plaintiff's superiors - met with plaintiff and defendant John Cate to express his support for the TeleCo Haiti deal.
53. When plaintiff and defendant John Cate questioned the legality of the deal defendant David Schropfer told plaintiff the proposed deal would proceed because it was a "Jack deal" and that defendant Jack Lerer had the support of the Chairman of IDT, defendant Howard Jonas.
54. Defendant David Schrofper told plaintiff to work with defendant Alex Schwartz, Esq., in structuring the agreements with TeleCo Haiti and Mount Salem.
55. In or about late September 2003, defendant Jack Lerer provided plaintiff via email the contact names of Mr. Adrian Corr, signing

authority of Mount Salem and Mr. Jean Robert Duperval, a Senior Manager of TeleCo Haiti. Additionally, defendant Jack Lerer instructed plaintiff to only copy "Fred", who purportedly was to act as President Aristede's agent, at the email address of [SEALED BY COURT ORDER] or [SEALED BY COURT ORDER] and himself with any correspondence regarding the TeleCo Haiti deal and no one else.

56. In or about late September 2003, Alex Schwartz prepared, upon information and belief, Non-Disclosure Agreements that were forwarded by plaintiff on behalf of defendant Jack Lerer to both TeleCo Haiti and Mount Salem.
57. Throughout October 2003, plaintiff worked with defendants Alex Schwartz, Jack Lerer and David Schropfer to structure agreements for TeleCo Haiti and Mount Salem. Defendants Jack Lerer, Alex Schwartz, Esq., and David Schropfer wanted to ensure that the agreements tied TeleCo Haiti and Mount Salem together so that if something happened to President Aristede, TeleCo Haiti could not sue IDT Telecom for non-payment of settlements.
58. Throughout October 2003, plaintiff repeatedly expressed his reservations to all of the above referenced defendants of the legality and/or propriety of the manner and of the terms and conditions of the contract that was being negotiated with TeleCo Haiti and Mount Salem.

59. Throughout the month of October the agreements with TeleCo Haiti and Mount Salem were negotiated and agreed to. Upon information and belief, numerous emails were sent between IDT Telecom and TeleCo Haiti and IDT Telecom and Mount Salem.
60. In October 2003, during numerous conversations with defendants Alex Schwartz, Esq., and David Schropfer, plaintiff repeatedly expressed his concern that what IDT Telecom was doing was not legal. The defendants repeatedly assured plaintiff that “[SEALED BY COURT ORDER]”. During this same period, defendant John Cate negotiated the technical architecture for the interconnect and the associated cost to TeleCo Haiti.
61. Defendant Jack Lerer negotiated with “Fred” for a portion of the cost of the equipment to be installed in Haiti to be taken out of the monthly settlements with Mount Salem. Defendant Jack Lerer also negotiated the per minute settlement rate downward. It was determined that Fred would receive a certain amount of the settlement payments as an agent’s fee.
62. By the end of October 2003, plaintiff had developed the deal profile at the direction of defendant David Schropfer, which was thereafter signed off on by defendants Robert Schiff, Senior Director of IDT Telecom Sales, Avi Lazar, Senior Vice President of Global Buying, David Schropfer and Michael Levine, Senior Vice President Finance

IDT Telecom. Defendant Jonathan Levy President, IDT Telecom, signed final approval of the TeleCo Haiti deal.

63. All the above referenced IDT defendants expressed their extreme satisfaction with the TeleCo Haiti deal, it was going to save the company money.
64. By the first week of November 2003, the agreements between IDT Telecom and Mount Salem and IDT Telecom and TeleCo Haiti had been signed and agreed to by all parties with defendant Jonathan Levy signing on behalf of IDT Telecom, Mr. Adrian Corr, signing on behalf of Mount Salem and Mr. Jean Robert Duperval, signing on behalf of TeleCo Haiti.
65. The agreement called for IDT to indefinitely make monthly payments to Mount Salem Management in return for the right to terminate minutes in Haiti through Teleco Haiti.
66. The contract is specifically governed by the law of the State of New Jersey.
67. Plaintiff was terminated within one week of IDT Telecom receiving the signed contracts from TeleCo Haiti and Mount Salem Management Ltd.
68. During the entire course of his employment, plaintiff was never once reprimanded, censured, disciplined, suspended or cited for violating any company policy, nor was he ever charged with

misconduct, nor was the quality of his work performance criticized or characterized as “unsatisfactory”. On the contrary, management at IDT asked plaintiff to remain as a permanent employee upon the expiration of his three-month probationary period.

69. IDT management personnel expressed their unqualified satisfaction and appreciation of plaintiff’s work performance on numerous occasions during the entire course of his employment with IDT.
70. On November 11, 2003, the date plaintiff was discharged, IDT management advised plaintiff for the first time during the entire course of his employment that his work performance was “unsatisfactory”.
71. On or about November 12, 2003, after being advised by IDT management that he was being discharged, plaintiff was asked to execute a Separation Agreement, Waiver and Release prepared by IDT which sought, amongst other things, plaintiff’s waiver of his right to prosecute any local, state or federal anti-discrimination claim against IDT.
72. On or about November 12, 2003, plaintiff advised defendant David Schropfer he would not sign IDT’s Separation Agreement, Waiver and Release.
73. On November 13, 2003, plaintiff forwarded correspondence to his Supervisor defendant David Schropfer, via Federal Express,

memorializing defendant David Schropfer's verbal communication to plaintiff on November 11, 2003, and, furthermore, requested a written explanation setting forth each and every ground supporting IDT's decision to terminate plaintiff's employment.

74. In this same correspondence, plaintiff requested he be provided with a copy of his personnel file and for IDT to preserve all of the data on the hard drive of the computer he used while in the employ of IDT.
75. Plaintiff also requested he be provided with an accounting of all of the recorded data on that hard drive.
76. Federal Express confirmed delivery on November 14, 2003 of plaintiff's correspondence dated November 13, 2003 to IDT.
77. To date, IDT has completely failed to respond to plaintiff's
78. correspondence dated November 13, 2003.
79. Plaintiff's discharge was predicated upon plaintiff's objections to IDT's unlawful business practices and the civil and/or potential criminal liability IDT management faced if the details of their unlawful, unethical and corrupt business practices were to be exposed.
80. The true grounds underpinning plaintiff's discharge turn on the facts and circumstances described above, not the disingenuous, unsupported and uncorroborated contrivances manufactured by IDT management.

V.

Factual Background of the Within Filed Action

81. IDT is subject to mandatory regulation from the Federal Communications Commission (hereinafter "FCC") as a condition of its license to engage in international communications pursuant to section 214 of the Communications Act of 1934.²

82. IDT acknowledges this regulation in its 2003 and 2004 annual 10-K filings with the Securities and Exchange Commission as follows:

"In addition, as a condition of our Section 214 authorization, we are subject to various reporting and filing requirements. Failure to comply with the FCC's rules could result in fines, penalties, forfeitures or revocation of our FCC authorization, each of which could have a material adverse effect on our business, financial condition, and results of operation."

"We must conduct our U.S.-originated international business in compliance with the FCC's International Settlements Policy, the rules that establish the parameters by which U.S.-based carriers and their foreign correspondents settle the cost of terminating each other's traffic over their respective networks. Under the FCC's International Settlements Policy, absent approval from the FCC, international telecommunications service agreements with dominant foreign carriers must be non-discriminatory, provide for settlement rates usually equal to one-half of the accounting rate, and require proportionate share of return traffic."

"The FCC could find that we do not meet certain International Settlements Policy requirements with respect to certain of our foreign carrier agreements. Although the FCC generally has not issued penalties in this area, it has issued

² This complaint makes extensive reference to FCC regulations. Counsel and the court are respectfully referred to the extensive motion practice dealing with these regulations which resulted in the unsealing of the pricing information in the complaint for docket CV-1454-04.

a Notice of Apparent Liability to a U.S. company for violations of the International Settlements Policy and it could, among other things, issue a cease and desist order, impose fines or allow the collection of damages if it finds that we are not in compliance with the International Settlements Policy. Any of these events could have a material adverse effect on our business, financial condition, or results of operation.”

83. Under FCC regulations in effect in 2003 and 2004 the FCC’s

International Settlements Policy (hereinafter “ISP”) required:

U.S. carriers all must be offered the same effective rate and same effective date (nondiscrimination). This means that if a foreign carrier offers a U.S. carrier a reduced settlement rate starting on a given date, it must offer that same rate to all U.S. carriers beginning on the same date.

U.S. carriers are entitled to a proportionate share of return U.S.-inbound traffic based upon their proportion of U.S.-outbound traffic. This means, for example, that if U.S. carrier traffic on the U.S.-France route accounts for 15% of the U.S. carrier’s traffic to a French carrier, that French carrier must send 15% of its calls to the U.S. through the U.S. carrier.

Settlement rates for U.S. inbound and outbound traffic are symmetrical (i.e., the accounting rate is divided 50-50 between the U.S. carrier and the foreign carrier).

84. Under FCC regulations in effect in 2003 and 2004 the FCC’s No

Special Concessions Rules prohibited:

a. Any exclusive arrangement with a foreign carrier like Teleco Haiti involving operating agreements, interconnection arrangements, and pricing where the arrangement is not offered to similarly situated U.S.-licensed carriers.

85. The FCC enforced the above regulatory scheme by means of requiring U.S. carriers to file all agreements with foreign carriers on routes subject to the ISP.

86. In 2003 and up to November 4, 2004, the U.S. Haiti route was subject to the dictates of the FCC's ISP and No Special Concessions Rules.
87. In 2003 and up to November 4, 2004, the FCC required that all U.S. carriers pay 23 cents per minute for phone calls being sent to Haiti.
88. In 2003 and up to November 4, 2004, the FCC required any U.S. carrier which negotiated a rate below 23 cents per minute to publicly notify the FCC and all U.S. competitors of the new lower rate.
89. In 2003 and up to November 4, 2004, the FCC required any U.S. carrier which negotiated a rate below 23 cents per minute to publicly notify the FCC and all U.S. competitors of the new lower rate.
90. On or about November of 2003, IDT negotiated a rate of nine (9) cents per minute with Mount Salem Management and Teleco Haiti.
91. The payments for the minutes were to be made on a monthly basis to Mount Salem Management under a contract which was to run for a minimum of one year.
92. At the time IDT's competitors on the Haiti route were paying 23 cents per minute.

93. IDT failed to report their transaction to its competitors and the FCC despite its mandatory obligation to do so under the FCC's ISP and No Special Concessions Rules.

94. IDT also failed to seek regulatory approval of this discounted rate.

95. By motion dated May 3, 2004 IDT and all the individual IDT defendants moved to seal, on trade secret grounds, the portions of the complaint and amended complaint in this matter containing:

The name of the customer with whom IDT has negotiated the business agreement, Teleco Haiti.

The dollar amounts of the deposit, per minute rate for terminating traffic in Haiti, per minute settlement rate, per minute agent's fee, and cost savings to IDT.

The specific terms and negotiations of the agreement.

96. By affidavit dated May 3, 2004, defendant Nadine Duhamel, an attorney in the in house legal department for IDT, filed an affidavit in support of IDT's motion to the seal portions of the complaint and amended complaint.

97. In that affidavit, defendant Duhamel portrayed the U.S./Haiti telecommunications market as competitive by stating:

"IDT conducts business both domestically and internationally. The success of IDT is based on favorable negotiations of business deals, which it does by underbidding competitors and targeting customers that are simultaneously the targets of IDT competitors. Thus, the amount of harm caused by the disclosure of confidential and proprietary information contained in plaintiff's complaint is enormous."

“IDT will lose its competitive advantage once its competitors learn how it structures and negotiates its contracts, especially the rate structure.”

98. In reality the Haiti route was highly regulated by the Federal Communications Commission (hereinafter “FCC”) in that there was no competition since all carriers were required to pay the same rate per minute for phone calls being transmitted to Haiti.

99. In that same affidavit, defendant Duhamel stated that IDT keeps secret the companies with which it is doing business by stating:

“IDT maintains confidentiality with respect to details of business arrangements with certain companies in terminating telecommunication traffic and, in some cases, the companies themselves with whom IDT is conducting business. IDT does so because it considers such information to be proprietary and to maintain a competitive advantage within the industry.”

100. In reality under mandatory FCC ISP regulations in existence in 2003 and 2004 IDT was required to publicly file their contract information with respect to the applicable international service, the name of the foreign telecommunications administration, the present per minute rate (including any surcharges), the new rate (including any surcharges), the effective date, and the division of any accounting rates.

101. In that same affidavit defendant Duhamel stated:

“IDT does not disclose the fact that it does business with Teleco Haiti including in any of its required filings.”

102. In reality FCC International Settlements Policy (ISP) contract filing regulations required IDT to notify the FCC of it's agreement with Mount Salem Management and Teleco Haiti.
103. Further FCC ISP regulations required IDT to notify all competitors of the agreement since the price fell below the 2003 FCC sanctioned settlement rate of 23 cents per minute for phone calls being transmitted into Haiti.
104. Ms. Duhamel's affidavit was designed to mislead the court and the plaintiff into agreeing to seal portions of the complaint and conceal that information from the public.
105. Ms. Duhamel wrote and swore to the contents of her affidavit, knowing of the false nature of her claims, with an intent to deceive the court and the plaintiff and to conceal and suppress unlawful conduct of IDT, and the individual defendants herein, from the government, the public, and IDT investors.
106. Ms. Duhamel wrote and swore to the contents of her affidavit, knowing of the false nature of her claims, with an intent to hinder the prosecution of plaintiff's civil case herein.
107. Ms. Duhamel wrote and swore to the contents of her affidavit, knowing of the false nature of her claims, with an intent to assist

IDT, and all IDT individual defendants herein, in the pursuit of court sanctions against plaintiff and his counsel.

108. In offering the allegedly false information to the court and counsel, Ms. Duhamel associated herself with the unlawful conduct of the defendants and knowingly engaged in activities to help effectuate their goals as set forth above.
109. By motion dated June 1, 2004, IDT and all the IDT individual defendants, prior to a decision on the sealing motion, filed a motion to sanction plaintiff and his counsel for refusing to agree to the sealing of the complaint.
110. By order dated August 6, 2004, in reliance on the representations of Ms. Duhamel, the court sealed all pricing information in the complaint and amended complaint as well as the alleged deposit to be paid and the monthly cost savings to IDT.
111. In an article appearing in the Wall Street Journal dated October 9, 2004 IDT stated:

IDT "takes any kind of complaint seriously" but that this one is a "baseless claim by a former disgruntled employee."

"There has already been "a complete review by the internal audit committee and by outside counsel."

IDT "intend[s] to file a counter-claim and a motion to dismiss" and that it has "filed sanctions against the plaintiff's counsel."

112. Defendant James Courter made similar defamatory statements in an article appearing in the New York Times on October 1, 2005.
113. The purpose of the statements was to discredit the claims of the plaintiff and make it appear to the public and to IDT's investors that they have no merit.
114. The purpose of the statements was also to discredit the plaintiff with the goal of assisting the defense of the civil case docketed at CV-1454-04.
115. On October 14, 2004 IDT released its 2004 Annual 10-K filing with the SEC stating:

"On March 29, 2004, D. Michael Jewett ("Jewett"), a former employee whose employment we terminated less than seven months after he was first hired, filed a complaint against us in the United States District Court, District of New Jersey following his termination. The complaint alleges (i) violations of the New Jersey Anti-Racketeering Statute; (ii) violations of the New

"Jersey Conscientious Employee Protection Act; (iii) violations of the New Jersey Law Against Discrimination; (iv) Common Law Defamation; and (v) New Jersey Common Law Intentional Infliction of Emotional Distress. Jewett is seeking damages of \$31 million, plus attorneys' fees. We deny the allegations contained in the complaint. We intend to contest it vigorously and we have already moved to dismiss the complaint. We have also sought sanctions against Jewett's attorney. Jewett sent a copy of his complaint to the United States Attorney's Office because in his complaint, Jewett alleged, among other things, that improper payments were made to foreign officials in connection with an IDT Telecom contract. As a result, the Department of Justice, the Securities and Exchange Commission and the United States Attorney in Newark, New Jersey have initiated investigations

with respect to this matter. The Company and the Audit Committee of our Board of Directors also initiated independent investigations, conducted by outside counsel, regarding certain of the matters raised in the Jewett complaint and in these investigations. Neither the Company's nor the Audit Committee's investigation has found any evidence that we made any such improper payments to foreign officials.

116. The purpose of this statement was to discredit the claims of the plaintiff and make it appear to the public and to IDT's investors that they had no merit.

117. The purpose of this statement was also to mischaracterize plaintiff's claims and make them appear baseless in several respects:

- a. The 10-K statement incorrectly portrays the lawsuit as one requiring proof of payment to a foreign official when in reality the whistleblower aspects of the case require no such proof.
- b. The 10-K statement fails to inform investors that the NJ RICO action merely requires an agreement to make payments to a foreign official (a racketeering conspiracy) along with an act in furtherance of that conspiracy (such as the termination of Jewett or other overt acts). No actual payments are required.
- c. The 10-K statement fails to disclose that violations of FCC regulation embedded in the contract which plaintiff objected to which create an independent basis of liability under the NJ RICO and NJ CEPA causes of action.
- d. The 10-K statement fails to disclose the other aspects of plaintiff's lawsuit alleging religious discrimination and practice at IDT.

118. On December 1, 2005, counsel for Mount Salem Management represented to the court that his client, Mount Salem Management, has nothing to do with this case.
119. That representation was designed to mislead the court and counsel into dismissing or consenting to the dismissal of this case against Mount Salem Management.
120. Upon information and belief, Mount Salem Management received payments from IDT under its contract with Mount Salem Management and Teleco Haiti from February 2004 through July of 2004.
121. Upon information and belief, Mount Salem Management, with the assistance of defendant Adrian Corr, paid Teleco Haiti only six cents per minute and not the nine cents per minute set forth in the agreements between IDT and Mount Salem Management and Teleco Haiti.
122. By letter dated February 4, 2005 plaintiff confronted defense counsel for IDT with a claim that IDT and all the individual IDT defendants obtained sealing of the complaint by fraudulently and knowingly concealing their regulatory obligations to publicly disclose the per minute price negotiated with Mount Salem Management and Teleco Haiti on the Haiti route under FCC ISP and No Special Concessions Rules.

123. By letter dated March 1, 2005 counsel for IDT responded:

“Regardless of your position as to what IDT should or should not have done under some FCC regulation, IDT has always kept these rates confidential and has always treated them as confidential. As such, IDT was completely forthcoming with the Court when it stated that the information was, and continues to be, confidential proprietary information.”

124. On March 2, 2005, plaintiff moved under FRCP Rule 60 for relief from the order of the court sealing from the public the price of 9 cents per minute.

125. On March 23, 2005, in opposition to plaintiff's application, defendant Alex Schwarz filed an affidavit offering his opinion that the contract between IDT and Mount Salem Management and Teleco Haiti, being a deal for one way transmission of telephone traffic, was not subject to mandatory FCC public disclosure regulation and hence should remain sealed:

“My understanding is that the FCC regulations at issue in Mr. Jewett's motion to unseal is the FCC filing regulations which relate to and discuss reciprocal agreements. A reciprocal agreement is one where a telecommunication carrier is both sending and receiving traffic to a carrier as well [as] receiving back traffic from such carrier.”

“The Teleco Haiti deal did not entail IDT sending traffic as well as receiving traffic back from Teleco Haiti.”

126. In reality IDT was required to accept a proportionate share of return traffic under the FCC's International Settlements Policy, and, one-way deals, such as the one negotiated by IDT, violated FCC regulations prohibiting the acceptance by IDT of special

concessions or exclusive arrangements from Mount Salem Management and Teleco Haiti.

127. The opinion offered by defendant Schwarz and the written statements of defendant Duhamel were made in violation of their professional obligation to investigate and consisted of an intentional participation in the scheme to obtain and retain an unlawful market advantage, to mislead the court, plaintiff and counsel, and to conceal the unlawful conduct of the IDT defendants.

128. In a further effort to keep the pricing information sealed, the Vice Chairman and President of Carrier Services for IDT Telecom, defendant Jonathan Levy, filed an affidavit, dated March 24, 2005, in which he swore under oath, that:

“IDT will be at a disadvantage relative to its competitors whose rate information is not disclosed to the public and thus not readily available to IDT.”

“Like IDT, its competitors do not publish their rate information.”

“It is for this very reason that IDT’s competitors do not publish their rate information.”

“They are not made available to the public or the press. They are not filed with the FCC and they are not given to IDT’s competitors.”

129. In reality IDT’s competitors, under mandatory FCC ISP guidelines, publish their rates each time they negotiate a new contract or a new rate below that being paid by other carriers.

130. Mr. Levy wrote and swore to the contents of his affidavit, knowing of the false nature of his claims, with an intent to hinder the prosecution of plaintiff's civil case herein.
131. Mr. Levy wrote and swore to the contents of his affidavit, knowing of the false nature of his claims, with an intent to assist IDT, and all IDT individual defendants herein, to deceive the court and the plaintiff and to conceal and suppress unlawful conduct of IDT, and the individual defendants herein, from the government, the public, and IDT investors.
132. By motion dated April 27, 2005, IDT and all the IDT individual defendants filed a motion for a protective order seeking sanctions against plaintiff and his counsel for speaking to the press, for asserting that IDT is unlawfully concealing and had moved to seal the discounted price it paid to Mount Salem Management and Teleco Haiti, and for a gag order preventing plaintiff and his counsel from speaking to the government and the media about this case.
133. Mount Salem Management joined in that motion by letter.
134. On July 6, 2005, special counsel for IDT, a former Judge of this court, repeatedly re-assured the court that no misleading conduct had occurred when IDT asserted the price paid was a trade secret by stating:

“Judge, I’m satisfied, you’ve litigated long enough, you’ve been on the bench long enough, you understand what fraud is and if there was any fraud being committed on you, you would yell at counsel.”

“Judge, I submit any lawyer who stands before you and is foolish enough to attempt to dupe you to issue an order based on false statements or fraud on this court, knows that their license is at risk. It didn’t occur.”

135. By letter to the court dated July 15, 2005, in derogation of the claims of defendant Levy, counsel for IDT sent correspondence to the court containing publicly filed Haiti route rate information for two of IDT’s competitors, ATT and Sprint.
136. In that correspondence counsel for IDT argued that, although Haiti route rate information is publicly filed, sometimes the contracts are filed late and not all contracts are filed.
137. By letter dated July 19, 2005, counsel for plaintiff responded to counsel’s claims by explaining the ATT and Sprint filings as proper FCC approved retroactive filings of rate reductions on the Haiti route and supplying all the other publicly filed contracts on the Haiti route that counsel represented to the court as not being part of the public record.
138. On July 20, 2005 IDT withdrew all opposition to the unsealing of the per minute price of 9 cents per minute negotiated with Mount Salem Management and Teleco Haiti and any further claim that the price negotiated with those entities constituted a “trade secret.”

139. By order dated July 29, 2005 the court unsealed the previously sealed final negotiated price of 9 cents per minute.

COUNT I

The New Jersey Anti-Racketeering Statute N.J.S.A. 2C:41-1

140. Plaintiff repeats and realleges paragraphs 1 through 139.
141. Plaintiff hereby incorporates by reference all the factual and legal allegations of his amended complaint filed under docket number CV-1454-04 on May 14, 2004.
142. Upon information and belief, IDT and the all named defendants, engaged in a conspiracy to make or offer to make monthly payments in money or other valuable things to Mount Salem in order to secure a telecommunications business relationship with TeleCo Haiti.
143. The agreement to make monthly payments was to run indefinitely with a minimum time of one year.
144. Upon information and belief, IDT and all named defendants participated in an agreement and scheme to make such monthly payments to Mount Salem for the purpose of obtaining or retaining telecommunications business relationship with TeleCo Haiti.
145. Upon information and belief, IDT and all named defendants herein participated in a conspiracy to obtain a price for

telecommunications services which is below the rate permitted by federal law.

146. Upon information and belief, IDT and all named defendants herein participated in a conspiracy to obtain a price for telecommunications services which served to give IDT an unlawful market advantage.
147. The defendants herein are a group of persons associated in fact.
148. The purpose of the association in the within lawsuit was to discredit the plaintiff's wrongful dismissal suit, to intimidate him, damage his reputation in the eyes of the court and the public, and to conceal unlawful activity.
149. The acts of IDT, Nadine Duhamel, Alex Schwarz and Jonathan Levy are related in that they share a common purpose to discredit the plaintiff's case, to intimidate him, damage his reputation, and to conceal unlawful activity.
150. The common purpose was to intentionally conceal IDT's regulatory obligations, utter a pattern of false and misleading written statements, and engage in motion practice to mislead the court and the plaintiff into sealing and keeping sealed federally mandated public records, damage plaintiff's reputation in the eyes of the public and the court, to intimidate the plaintiff, and conceal unlawful activity.

151. The written statements of the defendants set out above were uttered in violation of N.J.S.A. 2C:21-4 (Falsifying or tampering with records) in that the defendants made the statements while knowing that they contained a false statement or information, with purpose to deceive or injure anyone or to conceal any wrongdoing.
152. The written statements of the defendants set out above were uttered in violation of N.J.S.A. 2C:21-4 (Falsifying or tampering with records) in that the defendants made the statements to mislead the court and counsel as to the true nature of IDT's FCC regulatory burden.
153. The written statements of the defendants set out above were uttered in violation of N.J.S.A. 2C:21-4 (Falsifying or tampering with records) in that the defendants made the statements to mislead the government, the court, the public, and IDT's investors as to the true nature of plaintiff's claims.
154. That actions taken by the defendants Duhamel, Schwarz and Levy violated N.J.S.A. 2C:21-9 (Misconduct by Corporate Official) in that they constitute a use, control and/or operation of a corporation for the furtherance or promotion of any criminal object, to wit: the concealment of the criminal activity in making unlawful payments to Mount Salem Management and the obtaining, concealment and maintenance of an unlawful market

advantage in the form of an unauthorized discounted per minute price with Mount Salem Management and Teleco Haiti.

155. The statements of defendants Nadine Duhamel and Alex Schwarz constitute violations of their professional obligations under N.J.S.A. 2C:21-10(a)(Commercial bribery and breach of duty to act disinterestedly) in that they solicited, accepted or agreed to accept any benefit (employment with IDT) as consideration to to violate a duty of fidelity as an attorney.
156. The statements of defendants Nadine Duhamel and Alex Schwarz constitute violations of their professional obligations under NJ RPC 3.3 in that these individuals intentionally:
 - a. Made a false statement of material fact or law to a tribunal;
 - b. Failed to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting an illegal, criminal or fraudulent act by the client;
 - c. Failed to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;
157. The conduct of defendants Duhamel, Schwarz and Levy, herein, constitute mail and wire fraud under 18 U.S.C. 1341 and 1343 in that they communicated their statements by means of mail and wire with an intent to maintain and conceal a scheme to defraud and/or for obtaining money or property by means of false pretenses, representations or promises in that they intended to

mislead the court and counsel concerning the unlawful nature of the per minute rate negotiated with Mount Salem Management and Teleco Haiti, the unlawful nature of the payments to Mount Salem Management, the fact that IDT had misled the court and counsel as to their mandatory FCC regulatory burden, and the fact that the true nature of IDT's strategy in this matter is to conceal their unlawful conduct from the public, the government and IDT's investors.

158. The actions of IDT, and all the IDT individual defendants herein, in seeking a protective order by motion dated April 27, 2005 constitutes Tampering with a Witness, Victim, or an Informant in violation of 18 U.S.C. 1512 in that those defendants corruptly utilized court process to prevent the plaintiff and his counsel from speaking with the government in an official proceeding against IDT, to cause the plaintiff to withhold testimony, or withhold a record, document, or other object, from an official proceeding, to prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense.

159. The actions of IDT and all the IDT individual defendants in seeking to seal the complaint, sanction plaintiff and his counsel and for a protective order, constitute violations of N.J.S.A. 2C:29-3 (Hindering Apprehension or Prosecution) in that those defendants

with purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another or themselves suppressed, by way of concealment, and tampered with a witness, informant, document or other source of information, regardless of its admissibility in evidence, which might aid in the discovery or apprehension of such person or in the lodging of a charge against him.

160. The actions of IDT and all the IDT individual defendants in seeking to seal the complaint, sanction plaintiff and his counsel and for a protective order, constitute violations of N.J.S.A. 2C:29-3 (Hindering Apprehension or Prosecution) in that those defendants with purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another or themselves suppressed by way of intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a charge against them.

161. Defendant IDT, all the individual IDT defendants, Mount Salem Management, and Adrian Corr were aware that money paid to Mount Salem Management constituted bribe payments to Mr. Aristide and his agents and was designed to obtain or retain business in violation of N.J.S.A. 2C:21-10(a)(Commercial bribery

and breach of duty to act disinterestedly) and the United States Foreign Corrupt Practices Act.

162. The transfer and receipt of funds by IDT to Mount Salem Management constitutes Money Laundering under 18 U.S.C. 1956 in that IDT, and all the individual IDT defendants herein, with the intent to promote the carrying on of specified unlawful activity:

- a. IDT, and all the individual IDT defendants herein, concealed and disguised the nature, location, source, ownership, or control of property they knew to be proceeds of unlawful activity; and
- b. IDT, and all the individual IDT defendants herein, transferred funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States.

163. The transfer of funds by Mount Salem Management to Teleco Haiti constitutes Money Laundering under 18 U.S.C. 1956 in that:

- a. Mount Salem Management and Adrian Corr, with the intent to promote the carrying on of specified unlawful activity concealed and disguised the nature, location, source, ownership, or control of property they knew to be proceeds of unlawful activity.

164. The alleged bribe payments to President Jean Bertrande Aristide, and their attendant benefits, financial and otherwise, constitute taxable income to IDT pursuant Titles 54 and 54A of the New Jersey Statutes and equivalent laws of the United States.
165. The rate of 9 cents per minute paid to Mount Salem Management constitutes a 14 cent discount below the FCC official settlement rate of 23 cents per minute.
166. The 14 cent discount constitutes taxable income to IDT pursuant Titles 54 and 54A of the New Jersey Statutes and equivalent laws of the United States.
167. The alleged bribe payments to President Jean Bertrande Aristide, constitute unlawful deductions against income pursuant Titles 54 and 54A of the New Jersey Statutes and equivalent laws of the United States.
168. The attempt to conceal these payments by attempting to make them appear as legitimate "trade secrets" constitute an attempt and conspiracy to violate Titles 54 and 54A of the New Jersey Statutes and equivalent laws of the United States by concealing and failing to report the benefit of such unlawful payments as income.
169. The attempt to conceal these payments by attempting to make them appear as legitimate "trade secrets" constitute an attempt and conspiracy to violate Titles 54 and 54A of the New Jersey

Statutes and equivalent laws of the United States by falsely reporting them as deductions against income.

170. The attempt to punish and intimidate the plaintiff and his counsel for including these payments in his original complaint constitute acts in furtherance of a conspiracy to masquerade the unlawful payments as legitimate business expenses.
171. The attempt to punish and intimidate the plaintiff and his counsel for including these payments in the complaint constitute acts in furtherance of a conspiracy to conceal the full economic value of such payments as taxable income.
172. The attempt to punish and intimidate the plaintiff and his counsel for including these payments in the complaint constitute acts in furtherance of a conspiracy to conceal the benefit of the discount below FCC official rates as taxable income.
173. The attempt to punish and intimidate the plaintiff and his counsel for including these payments in the complaint constitute acts in furtherance of a conspiracy to conceal income taxable under Titles 54 and 54A of the New Jersey Statutes and equivalent laws of the United States.
174. The attempt to punish and intimidate the plaintiff and his counsel for including these payments in the complaint constitute acts in furtherance of a conspiracy to conceal a monthly theft of telephone services in violation of N.J.S.A. 2C:20-8(j).

175. All the defendants committed, as part of the same pattern of racketeering alleged in the amended complaint, the acts set forth in this pleading.

176. The actions and statements of defendants Duhamel, Schwarz and Levy, herein, constitute knowing association with the unlawful enterprise set forth herein by engaging in activities which help to effectuate its goals, to wit: to obtain an unlawful market advantage by obtaining a discounted per minute rate with Teleco Haiti by making monthly payments to Mount Salem Management intended to occur indefinitely, unlawfully concealing the rate from the FCC and IDT's competitors, by terminating the services of the plaintiff and discrediting and unlawfully concealing his claims from the government, the public and IDT's investors, and by intimidating plaintiff and his counsel with court ordered sanctions to force them to agree to conceal the price paid to Mount Salem Management and Teleco Haiti from the government, the public and IDT's investors.

177. The actions of IDT and all the IDT individual defendants herein constitute acts evincing their adopted goal of furthering the scheme to illegally obtain and keep an unlawful market advantage in the form of discounted pricing from Teleco Haiti in return for bribe payments to Mount Salem Management and President

Aristide and to conceal the discounted price from competitors, the government, the public, the press and IDT's investors.

COUNT II

New Jersey Common Law Defamation

178. Plaintiff repeats and re-alleges paragraphs 1 through 177.
179. IDT stated, through a spokesperson, on October 8, 2004, that:
- IDT "takes any kind of complaint seriously" but that this one is a "baseless claim by a former disgruntled employee."
- there has already been "a complete review by the internal audit committee and by outside counsel."
- IDT "intend[s] to file a counter-claim and a motion to dismiss" and that it has "filed sanctions against the plaintiff's counsel."
180. IDT made similar defamatory statements in its SEC 10-K filing dated October 14, 2004.
181. Defendant James Courter made similar defamatory statements in an article appearing in the New York Times on October 1, 2005.
182. The defamatory statements concerned plaintiff.
183. The defamatory statements were false.
184. The purpose of the statements was to discredit the plaintiff and harm his reputation with the purpose of assisting with the defense of the within civil case.
185. The purpose of the statements was to intimidate the plaintiff.
186. The purpose of the statements was to mislead the public and IDT's investors:

- a. By mis-characterizing the nature of plaintiff's claims by indication that actual payments to foreign officials were required when the law has no such requirement.
 - b. By telling the public that IDT has a valid claim to sanction counsel.
 - c. By failing to reveal that IDT unlawfully concealed its contract information with Mount Salem Management and Teleco Haiti and failed to seek FCC approval of Upon information and belief, IDT and all named defendants were aware that all or a portion of the payments to Mount Salem would be offered, given, or promised, directly or indirectly, to a foreign official, foreign political party, candidate, or official for the purposes of assisting IDT in obtaining or retaining a telecommunications business relationship with TeleCo Haiti.
187. The defamatory statements were communicated to someone other than plaintiff, to wit: the general public reading the Wall Street Journal and the New York Times, newspapers of general circulation in the United States; and the general public reading SEC filings.
188. The above named defendants made the defamatory statements (1) with actual knowledge that the statements were false, or (2) with reckless disregard of the statement's truth or falsity, or (3) with negligence.
189. The statements injured the reputation of plaintiff or exposed him to hatred, contempt or ridicule.
190. The statements caused plaintiff to lose the goodwill and confidence of others.

191. The statements were designed to discredit the plaintiff in an effort to conceal an unlawful transaction from the government, the public and from IDT's investors.
192. The statements were designed to mischaracterize plaintiff's accusations to make them appear baseless.
193. The statements injured plaintiff in his trade or business.

COUNT III

Intentional Infliction of Emotional Distress

194. Plaintiff repeats and re-alleges paragraphs 1 through 193.
195. IDT and all the IDT individual defendants engaged in a course of conduct which involved publishing statements on October 8, 2004 in the Wall Street Journal, on October 1, 2005 in the New York Times, and on October 14, 2004 in IDT's SEC 10-K filing, which are injurious to the reputation and character of the plaintiff.
196. The statements collectively and individually characterize plaintiff's claims and baseless and false.
197. The defendants are aware that they obtained the price from Mount Salem Management and Teleco Haiti by unlawful means by violating FCC regulation and Federal and New Jersey State Criminal Law.
198. The defendants knew their statements were false.
199. The defendants made the statements intentionally and to produce emotional distress.

200. The statements were extreme and outrageous in that they were made in public filings and newspapers of general worldwide circulation knowing of their falsity and crushing impact on plaintiff.
201. The conduct was so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.
202. The defendants statements were the proximate cause of plaintiff's emotional distress.
203. The emotional distress suffered by plaintiff was so severe that no reasonable person could or should be expected to endure such distress.
204. The conduct of the defendants was sufficiently severe to cause genuine and substantial emotional distress or mental harm to the average person.

COUNT IV

Abuse of Process

205. Plaintiff repeats and re-alleges paragraphs 1 through 204.
206. IDT and all the IDT individual defendants asserted by motion to seal dated May 6, 2004 that the following items appearing in the original and amended complaints were "trade secrets" subject to protection from this court:

- a. The name of the foreign administration, Mount Salem Management and Teleco Haiti, with which they were doing business.
 - b. The price negotiated with Mount Salem Management and Teleco Haiti of 9 cents per minute.
 - c. The specific terms of the agreement relating to allocation of return traffic.
207. IDT and all the individual IDT defendants threatened and sought the imposition of sanctions against plaintiff and his counsel for filing and failing to remove the above referenced items from the complaint and amended complaints filed in this action.
208. That sanctions motion was filed prior to any court action on the defendants' underlying motion to seal the complaint.
209. IDT and all the individual IDT defendants sought sanctions for failing to consent to the dismissal of the NJ RICO case against defendant John Cate.
210. That sanctions motion was filed prior to any court action on Mr. Cate's motion to dismiss the NJ RICO case against him.
211. IDT and all the individual IDT defendants filed a motion for a protective order to sanction plaintiff and his counsel for speaking to the press, to sanction counsel for objecting to IDT's alleged unlawful concealment and misrepresentation of their FCC regulatory burdens, and for a gag order preventing plaintiff and his counsel from speaking with the government or the press about the facts of this matter.

212. Mount Salem Management joined in IDT's motion for a protective order.
213. In reality the items for which IDT, and all the individual IDT defendants, sought removal from the complaints, were not trade secrets.
214. The items for which IDT and all the individual IDT defendants sought removal from the complaints were statutorily designated public records under Congressional legislation and Federal Communications Commission regulations in effect in 2003 and 2004.
215. IDT, all the individual IDT defendants, were aware of, or should have been aware of, the regulations.
216. IDT, all the individual IDT defendants, and Mount Salem Management, made an improper, illegal and perverted use of the legal procedure.
217. The legal procedure was neither warranted nor authorized by law.
218. IDT and all the individual IDT defendants had an ulterior motive in initiating the legal process.
219. IDT and all the individual IDT defendants invoked the legal process to accomplish some unlawful end, namely, to:
 - a. Compel the plaintiff to seal and conceal something he could not legally be compelled to do, to wit: federally mandated public records under a long standing and comprehensive regulatory program promulgated by the Federal Communications Commission.

- b. Compel the plaintiff to agree that the underlying transaction was lawful in terms of the price paid to Mount Salem Management and Teleco Haiti, the diversion of payments to President Aristide, and administration of payments to Mount Salem Management.
- c. Conceal from the public, the press, the government and IDT's investors, the unlawful nature of the transaction and the per minute rate secured by IDT.
- d. Intimidate with financial sanctions plaintiff and his counsel for acting within their rights in refusing to agree to concealment of IDT's pricing information which is statutorily designated a public record under FCC regulations.
- e. Intimidate plaintiff and his counsel into concealment of IDT's unlawful actions and ongoing fraudulent activity set out above.
- f. To compel the plaintiff to remain silent about statutorily designated public records.

220. The conduct of IDT, and all the individual IDT defendants, consists of an abuse and perversion of the legal process in a manner not protected by the judicial privilege for the following reasons:

- a. IDT is a Fortune 1000 telecommunications Corporation experienced in International Communications.
- b. The individual defendants are all experienced telecommunications executives or regulatory counsel for IDT.
- c. IDT, and all the individual IDT defendants, knew or should have known that mandatory FCC regulation prevented them from concealing their unlawfully discounted price negotiated with Mount Salem Management and Teleco Haiti.

- d. Defendants IDT, Joyce Mason, James Courter, and Howard Jonas signed IDT's SEC 10-K statement acknowledging this mandatory regulation.
- e. IDT, and all the individual IDT defendants, initiated and persisted in a course of conduct, to discredit and intimidate the plaintiff even after their misdeeds were exposed.
- f. IDT, and all the individual IDT defendants, filed a motion to seal their unlawfully discounted price and to sanction plaintiff and counsel for doing do.
- g. IDT, and all the individual IDT defendants, caused the court, by successfully filing a motion to seal, to violate its constitutional mandate to maintain all court filings as public records.
- h. IDT, and all the individual IDT defendants, knowing the government had initiated an investigation, filed a motion to compel plaintiff to not communicate his allegations to the public, the press, the court, and the government.
- i. IDT, and all the individual IDT defendants, knowing they had violated mandatory FCC guidelines, sought the imposition of sanctions against counsel on three occasions by the filing of a motion.
- j. IDT purposely concealed their mandatory FCC regulatory burden from the court and counsel for the purpose of furthering their motion to seal the complaint and conceal it's misconduct.
- k. During the period of time that IDT was successful in sealing the complaint, the plaintiff was under unlawful court restraint to remain silent about the price of 9 cents per minute.
- l. IDT, and all the individual IDT defendants, filed a court order sealing the court's records knowing that it obtained such an order by the fraudulent means set out above.

- m. IDT, and all the individual IDT defendants, persisted in its fraudulent conduct after same was called to its attention in writing.
- n. IDT, and all the individual IDT defendants, only agreed to the unsealing of the record, after it exhausted all avenues of opposition.
- o. IDT, and all the individual IDT defendants, proffered numerous false and misleading court papers and legal positions prior to its ultimate consent to the unsealing of the record.

221. As a result of the conduct of IDT, all the IDT individual defendants, and Mount Salem Management plaintiff suffered undue legal and personal expenses, mental anguish and, as such, he demands compensation for same along with punitive damages.

Judgment and Damages

WHEREFORE, plaintiff demands judgement in his favor on the above referenced causes of action along with monetary damages including attorney's fees. Punitive damages are also specifically demanded along with any other and further relief the court deems appropriate including an injunction against all the defendants prohibiting further damage to the good name of the plaintiff.

Dated: Staten Island, New York
October 7, 2005

TRIAL BY JURY

Plaintiff hereby demands trial by jury on all issues.



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