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Counsel to the Debtors and Debtors in Possession

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

)	
In re:)	Chapter 11
)	
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 19-22312 (RDD)
)	
Debtors.)	(Jointly Administered)
)	

**NOTICE OF PRESENTMENT OF
STIPULATION, AGREEMENT, AND PROPOSED ORDER
AUTHORIZING LIMITED RELIEF FROM THE AUTOMATIC STAY**

PLEASE TAKE NOTICE that on July 17, 2019, Windstream Holdings, Inc. and its debtor affiliates (collectively, the “Debtors”) filed the *Stipulation, Agreement, and Proposed Order Authorizing Limited Relief from the Automatic Stay* (the “Stipulation”) attached hereto as **Exhibit A**, which resolves negotiations with 800 Phone Numbers, LLC pursuant to 11 U.S.C. § 362(d) authorizing 800 Phone Numbers, LLC’s relief from the automatic stay to continue pending arbitration against debtor, Broadview Networks, Inc.

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

PLEASE TAKE FURTHER NOTICE that the undersigned will present the Stipulation to the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601 for approval and signature on **July 26, 2019, at 10:00 a.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that copies of all documents filed in these chapter 11 cases may be obtained free of charge by visiting the website of Kurtzman Carson Consultants LLC at <http://www.kccllc.net/windstream>. You may also obtain copies of any pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Dated: July 17, 2019
White Plains, New York

/s/ Stephen E. Hessler

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Attorneys for the Debtors and Debtors-in-Possession

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

In re:

WINDSTREAM HOLDINGS, INC., *et al.*,¹

Debtors.

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)
)
)

Chapter 11

Case No. 19-22312 (RDD)

(Jointly Administered)

**STIPULATION, AGREEMENT, AND PROPOSED ORDER PURSUANT TO 11 U.S.C.
§ 362(D) AUTHORIZING 800 PHONE NUMBERS, LLC LIMITED RELIEF FROM THE
AUTOMATIC STAY TO PERMIT PENDING ARBITRATION AGAINST THE
DEBTOR, BROADVIEW NETWORKS, INC. TO PROCEED TO DECISION.**

¹ The last four digits of Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website for the Debtors' proposed claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

RECITALS

A. On February 25, 2019 (the “Petition Date”), Windstream Holdings, Inc. and its debtor affiliates (collectively, the “Debtors”), including Broadview Networks, Inc. (the “Broadview Debtor”), filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

B. The Debtors, including the Broadview Debtor, have continued in possession of their property and have continued to manage and operate their businesses as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

C. The Debtors’ cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of the Chapter 11 Cases* entered by this Court on February 28, 2019 [Docket No. 56].

D. Prior to the Petition Date, a dispute arose between the Broadview Debtor and 800 Nos. concerning 800 Nos.’ payment for the unencumbered use of two vanity/gold local numbers ((212) 200-0000 and (646) 222-2222, collectively referred to herein as the “Numbers”). 800 Nos. alleges the Broadview Debtor surreptitiously and unlawfully took the Numbers from 800 Nos., and its new carrier, causing irreparable harm to 800 Nos.’ business.

E. On October 20, 2017, 800 Nos. served the Broadview Debtor with a demand for private arbitration pursuant to an arbitration provision contained in the Broadview Debtor’s Master Terms and Conditions (the “Arbitration Agreement”) wherein New York State law controls. The arbitration action is styled as *800 Phone Numbers, LLC v. Broadview Networks, Inc., Case No.: 01-17-0006-2117* (the “Arbitration”) and the Arbitration is managed by the American Arbitration Association.

F. On November 28-29, 2018, a two-day arbitration hearing was held before the assigned arbitrator wherein testimony and exhibits were presented by 800 Nos. and the Broadview Debtor with respect to their positions.

G. Per agreement of 800 Nos., the Broadview Debtor, and the assigned arbitrator, post-hearing briefs were due on March 5, 2019, with any supplemental teleconference on the post-hearing briefs conducted within a month of their filing. On February 25, 2019, the Debtors each filed with the United States Bankruptcy Court for the Southern District of New York a voluntary petition for relief under title 11 of the United States Code, which automatically stayed the Arbitration.

H. Pursuant to Section 362(d) of the Bankruptcy Code, Rule 4001 of the Federal Rules of Bankruptcy Procedure, and Rule 4001-1 of the Local Rules of Procedure for the Bankruptcy Court for the Southern District of New York, 800 Nos. now seeks, and the Debtors, including the Broadview Debtor, are willing to stipulate and consent to entry of an order (the “Proposed Order”), substantially in the form submitted herewith, attached hereto as **Exhibit 1**, granting limited relief from the automatic stay to continue the pending Arbitration against the Debtor, Broadview Networks, Inc. (the “Broadview Debtor”), solely to permit the arbitrator in the arbitration to reach a decision. The pending Arbitration is nearly complete; all that remains is for the parties to file their post-hearing briefs, hold any teleconference necessary to elucidate issues contained in the post-hearing briefs, and for the arbitrator to render a decision and any award related thereto. 800 Nos. will not seek to satisfy any award or judgment issued by the arbitrator from the bankruptcy estate during the pendency of the bankruptcy action without further order from this Honorable Court.

STIPULATION AND AGREEMENT

1. *Lifting of the Automatic Stay.* Upon approval of this Stipulation by the Court, the automatic stay shall be lifted solely to the extent of permitting 800 Nos. and the Broadview Debtor to complete the Arbitration by: (a) allowing the 800 Nos. and the Broadview Debtor to submit their post-hearing briefs to the assigned arbitrator; (b) allowing any supplemental teleconference on the post-hearing briefs to be conducted within a month of their filing; and (c) allowing the assigned arbitrator to render his decision and any appropriate award or judgment related thereto. 800 Nos. and the Broadview Debtor agree to continue with the Arbitration, expressly preserving all rights and remedies under applicable New York State law.

2. *Scope of Stay Relief.* Except to the extent set forth in Paragraph 1 hereof, the provisions of Section 362 of the Bankruptcy Code, including, without limitation, those provisions prohibiting the execution, enforcement, or collection of any award or judgment obtained against the Broadview Debtor in the Arbitration from, and against, any assets or properties of the Debtors' estates (as defined in Section 541 of the Bankruptcy Code), shall remain in full force and effect, and neither 800 Nos. nor any of its agents, attorneys, or representatives shall take any action to collect all or any portion of any such award or judgment obtained in the Arbitration from the assets or properties of the Debtors' estates, including the Broadview Debtor's estate during the pendency of this bankruptcy action, without prejudice to 800 Nos.' recovery, if any, without further order of this Honorable Court. Nothing contained herein shall constitute or operate as a waiver or modification of the automatic stay so as to permit the prosecution against any of the Debtors of any claims by any person or entity other than 800 Nos. with respect to the Arbitration.

3. *Authority.* The attorneys for 800 Nos. and the Debtors, including the Broadview Debtor, represent and warrant that 800 Nos. and the Debtors, including the Broadview Debtor, have full knowledge of, and have consented to, this Stipulation and that the attorneys for 800 Nos.

and the Debtors, including the Broadview Debtor, have full authority to execute this Stipulation on behalf of 800 Nos. and the Debtors, including the Broadview Debtor.

4. *Bankruptcy Court Approval.* This Stipulation is subject to the approval of the Court and shall be of no force and effect unless and until an order approving the same is entered. 800 Nos. and the Debtors, including the Broadview Debtor, hereby acknowledge and agree to waive their rights to a hearing on this Stipulation unless Objections are filed and the Court deems a hearing necessary. If this Stipulation and Agreement is not approved by the Court, it shall be null and void and shall not be referred to, or used for any purpose, by any of the parties hereto or any parties to the Arbitration except as to this Paragraph 4.

5. *Reservation of Rights, Claims, and Defenses.* Except as expressly provided herein, 800 Nos. and the Debtors, including the Broadview Debtor, reserve all of their respective rights, claims, and defenses. Specifically, this Stipulation, Agreement, Proposed Order, and any subsequent appearance, pleading, claim, or suit made or filed by 800 Nos. does not, shall not, and shall not be deemed to:

- a. Constitute consent by 800 Nos. to entry by the Bankruptcy Court of any final order in any non-core proceeding, which consent is hereby withheld unless, and solely to the extent, expressly granted in the future with respect to a specific proceeding;
- b. Waive any substantive or procedural rights of 800 Nos., including but not limited to: (a) challenge the constitutionality of the Bankruptcy Court to enter a final order or judgment on any matter; (b) the right to have final orders in non-core matters entered only after a de novo review by a United States District Court judge; (c) the right to trial by jury in any proceedings so triable herein, in the Chapter 11 Cases, including all adversary proceedings and other related cases and proceedings

(collectively, “Related Proceedings”), or in any other case, controversy, or proceeding related to or arising from the Broadview Debtor, its parent companies or subsidiaries, the Chapter 11 cases, or any Related Proceedings; (d) the right to seek withdrawal of the bankruptcy reference by a United States District Court in any matter subject to mandatory or discretionary withdrawal; or (e) all other rights, claims, actions, arguments, counterarguments, defenses, setoffs, or recoupments to which 800 Nos. may be entitled under agreements, at law, in equity, or otherwise, all of which rights, claims, actions, arguments, counterarguments, defenses, setoffs, and recoupments are expressly reserved.

6. *Modification of Stipulation.* This Stipulation and Agreement may not be amended orally.

[Remainder of page intentionally left blank.]

Dated: July 17, 2019
New York, New York

Respectfully submitted,

KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP

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*Attorneys for the Debtors and Debtors-in-
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Attorneys for 800 Phone Numbers, LLC

Exhibit 1

Proposed Order

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

In re:)	
)	Chapter 11
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , ¹)	
)	Case No. 19-22312 (RDD)
)	
Debtors.)	(Jointly Administered)
)	

**ORDER PURSUANT TO 11 U.S.C. § 362(D) APPROVING STIPULATION GRANTING
800 PHONE NUMBERS, LLC LIMITED RELIEF FROM THE AUTOMATIC STAY
IMPOSED BY 11 U.S.C § 362(A) SOLELY TO PERMIT PENDING ARBITRATION
AGAINST THE DEBTOR, BROADVIEW NETWORKS, INC. TO PROCEED TO
DECISION.**

Upon the stipulation, dated July 17, 2019 (the “Stipulation”), by and between 800 Phone Numbers, LLC (“800 Nos.”) and Windstream Holdings, Inc. and its debtor affiliates (collectively, the “Debtors”), including Broadview Networks, Inc. (the “Broadview Debtor”), for entry an order, pursuant to Section 362(d) of title 11 of the United State Code (the “Bankruptcy Code”), providing limited relief from the automatic stay imposed in this case by Section 362(a) of the Bankruptcy Code to permit the arbitrator in the arbitration styled as *800 Phone Numbers, LLC v. Broadview Networks, Inc.*, Case No.: 01 - 17 - 0006-2117 (the “Arbitration”), managed by the American Arbitration Association, to reach a decision by allowing the 800 Nos. and the Broadview Debtor to submit their post-hearing briefs, along with participation in any supplemental teleconference concerning the post-hearing briefs within a month of the filing of the post-hearing briefs, and to permit the assigned arbitrator to render his decision, and due and proper notice of the Stipulation

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having been made on all necessary parties; and 800 Nos. and the Debtors, including the Broadview Debtor, having waived a hearing on the Stipulation; and after due deliberation and sufficient cause appearing, it is hereby

ORDERED that the Stipulation is approved as provided herein; and it is further

ORDERED that the automatic stay imposed in this case by Section 362(a) of the Bankruptcy Code is vacated under Section 362(d) of the Bankruptcy Code solely to allow the Arbitration to continue by permitting 800 Nos. and the Broadview Debtor to submit post-hearing briefs, along with permitting participation in any supplemental teleconference concerning the post-hearing briefs within a month of filing of the post-hearing briefs, and by permitting the assigned arbitrator to render his decision and any award or judgment related thereto; and it is further

ORDERED that nothing herein or in the Stipulation shall permit any collection effort or any other action against the Debtors beyond the issuance of a decision with respect to the Arbitration without further order from this Honorable Court. The provisions of section 362 of the Bankruptcy Code prohibiting the execution, enforcement, or collection of any award or judgment obtained against the Broadview Debtor in the Arbitration from, and against, any assets or properties of the Debtors' estates (as defined in Section 541 of the Bankruptcy Code) shall remain in full force and effect during the pendency of the Debtors bankruptcy proceedings, and neither 800 Nos. nor any of its agents, attorneys, or representatives shall collect any portion of any such award or judgment obtained in the Arbitration, including the Broadview Debtor's estate during the pendency of this bankruptcy action without further order from this Honorable Court, and it is further

ORDERED that this Court retains jurisdiction to resolve any disputes with respect to the implementation and interpretation of this Order and related Stipulation.

Dated: July _____, 2019
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE