

FOX ROTHSCHILD LLP

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*Attorneys for Christine C. Trustee Shubert,
Chapter 7 Trustee for the Estate of
Worley & Obetz, Inc., et al.*

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

In re:

WINDSTREAM HOLDINGS, INC., et al.¹,

Debtors.

Chapter 11
Case No. 19-22312 (RDD)
(Jointly Administered)

**MOTION OF TRUSTEE CHRISTINE C. SHUBERT, PURSUANT TO
11 U.S.C. § 362, FOR RELIEF FROM THE AUTOMATIC STAY
TO SEEK DAMAGES FOR DEBTORS' VIOLATION OF
THE AUTOMATIC STAY**

TO THE HONORABLE ROBERT D. DRAIN,
CHIEF UNITED STATES BANKRUPTCY JUDGE:

¹ The last four digits of Debtor 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 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.



Christine C. Trustee Shubert (“Trustee Shubert”), the Chapter 7 Trustee for the estates of Worley & Obetz, Inc., *et al.*, pending as Case No. 18-13774 (REF) in the Bankruptcy Court for the Eastern District of Pennsylvania, by and through her attorneys, Fox Rothschild LLP, requests the entry of an order, pursuant to 11 U.S.C. § 362(d)(1), granting Trustee Shubert relief from the automatic stay to exercise her right to seek damages for the Debtors’ violation of the W&O Automatic Stay (as defined herein) (the “Motion”). In support of the Motion, Trustee Shubert respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue of this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).
4. The statutory predicate for the relief sought herein is § 362(d)(1) of chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”) and Rule 4001 of the Federal Rules of Bankruptcy Procedure.

STATEMENT OF FACTS

5. On February 25, 2019 (the “Petition Date”), Windstream Services, LLC (“Windstream”) and certain of its affiliates (collectively, the “Debtors”), filed voluntary petitions under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York, White Plains Division (the “Bankruptcy Court”).

6. Prior to the Petition Date, on June 6, 2018 (the “W&O Petition Date”), Worley & Obetz, Inc. (“W&O”) and its affiliates (collectively, the “W&O Debtors”) each filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania.

7. On June 6, 2018, pursuant to § 362 of the Bankruptcy Code, the automatic stay (the “W&O Automatic Stay”) went into effect, thereby prohibiting the commencement or continuance of any action to recover a claim against the W&O Debtors that arose before the W&O Petition Date.

8. On June 6, 2018, the Office of the United States Trustee appointed Trustee Shubert as Chapter 7 trustee for the estates of the W&O Debtors, which appointment remains in effect.

9. By order entered on June 19, 2018, the United States Bankruptcy Court for the Eastern District of Pennsylvania consolidated the W&O Debtors’ cases, for procedural purposes only, and ordered the joint administration of the W&O Debtors’ cases pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1 under *In re Worley & Obetz, Inc., et al.*², Case No. 18-13774 (MDG).

10. Prior to the W&O Petition Date, W&O had twelve (12) accounts (the “Accounts”) with Windstream through which Windstream provided network and internet services to W&O and its affiliates.

11. Soon after the W&O Petition Date, Trustee Shubert, by and through her attorneys, made several attempts to close each of the Accounts and inform Windstream that their collection efforts were in violation of the W&O Automatic Stay.

12. On November 5, 2018, Brown & Joseph, LTD, Windstream’s collection agent, sent collection letters to Trustee Shubert attempting to collect on the Accounts.

² The W&O Debtors, along with the last four digits of their federal tax identification numbers are (i) Worley & Obetz, Inc. (6576) (Case No. 18-13774-REF); (ii) Americomfort, Inc. (7605) (Case No. 18-13775-REF); (iii) RPHAC, Inc. (9625) (Case No. 18-13776-REF); (iv) Amerigreen Energy, Inc. (6284) (Case No. 18-13777-REF); (v) Advance Air, Inc. (8111) (Case No. 18-13778-REF); (vi) Amerigreen Energy Brokers, LLC (2358) (Case No. 18-13779-REF); (vii) Amerigreen Electricity, LLC (8977) (Case No. 18-13780-REF); (viii) Amerigreen Hedging Services, LLC (8549) (Case No. 18-13781-REF); (ix) Amerigreen Lubricants, LLC (7489) (Case No. 18-13782-REF); (x) Amerigreen Natural Gas, LLC (3222) (Case No. 18-13783-REF); and (xi) Amerigreen Propane, LLC (Case No. 18-13784-REF).

13. On November 26, 2018, Trustee Shubert, by and through her attorneys, sent letters responding to Brown & Joseph, LTD, demanding they cease all collection efforts in accordance with the W&O Automatic Stay. Copies of the November 26, 2018 letters are attached hereto as **Exhibit A** and incorporated by reference herein.

14. Despite Trustee Shubert's attempts to close the Accounts and despite assurances from Windstream representatives that Windstream would cease all collection efforts, Windstream continued to mail monthly invoices and collection letters to Trustee Shubert and W&O directly. For example, Windstream sent 58 separate letters to Trustee Shubert demanding payments on the Accounts in a single mailing.

15. On July 22, 2019, Trustee Shubert, by and through her attorneys, sent a letter to Debtors' counsel demanding Windstream cease their collection efforts and close the Accounts. A copy of the July 22, 2019 letter is attached hereto as **Exhibit B** and incorporated by reference herein.

16. Windstream's counsel did not respond to the July 22, 2019 letter, and Windstream continued to send monthly collection letters to Trustee Shubert.

17. On December 23, 2019, Trustee Shubert, by and through her attorneys, sent an email to Debtors' counsel again demanding that Windstream cease their collection efforts and close the Accounts. A copy of the letter dated July 22, 2019 was also sent to Debtors' counsel. *See **Exhibit B***.

18. Windstream and Debtors' counsel have failed to respond to the repeated demands to close the Accounts and cease collection efforts.

19. In the time between the W&O Petition Date and the date of this Motion, Trustee Shubert has continuously received monthly collection letters from Windstream demanding payment

to Windstream, including the most recent invoice dated January 13, 2020, which is attached hereto as **Exhibit C** and incorporated by reference herein.

RELIEF REQUESTED

20. By this Motion, Trustee Shubert seeks the entry of an order, pursuant to 11 U.S.C. § 362(d)(1), terminating the automatic stay as to Trustee Shubert to allow Trustee Shubert to seek damages for Windstream's willful violation of the W&O Automatic Stay under §362(k).

BASIS FOR RELIEF

A. Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d)(1)

21. Section 362(a) of the Bankruptcy Code defines the scope of the automatic stay in relevant part:

[A] petition filed under . . . this title . . . operates as a stay . . . of

(1) The commencement or continuation . . . of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

...

(3) Any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

...

(6) Any act to collect, assess or recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a).

22. Section 362(d) of the Bankruptcy Code provides that "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying or conditioning such stay . . . (1) for cause, including the lack of adequate protection of an interest in property of such

party in interest.” 11 U.S.C. § 362(d)(1). Accordingly, the bankruptcy court “shall” lift the automatic stay for “cause.” Id.

23. The party seeking relief for “cause” must establish a prima facie case that “cause” for relief exists. In re Project Orange Assoc., LLC, 432 B.R. 89, 102-03 (Bankr. S.D.N.Y. 2010). See also Wang v. Kurtz (In re Wang), 2010 WL 6259970, *4 (9th Cir. Nov. 10, 2010) (citing Duvar Apt., Inc. v. FDIC (In re Duvar Apt., Inc.), 205 B.R. 196, 200 (9th Cir. 1996)) (granting the creditor relief from the automatic stay to begin foreclosure proceedings because the creditor established a prima facie case of a bad faith filing, which constituted “cause” for granting relief from the stay under § 362(d)). Once the moving party establishes a prima facie case that “cause” exists, the burden shifts to the debtor to show that stay relief is unwarranted. Project Orange Assoc., LLC, 432 B.R. at 103.

24. However, 11 U.S.C. § 362(d)(1) does not define “cause”, leaving courts to consider the totality of the circumstances in each particular case. See Project Orange Assoc., LLC, 432 B.R. at 103; Baldino v. Wilson (In re Wilson), 116 F.3d 87, (3d Cir. 1997); Izzarelli v. Rexene Products Co. (In re Rexene Products), 141 B.R. 574, 576 (Bankr. D. Del. 1992). See also In re Brown, 311 B.R. 409, 412-13 (E.D. Pa. 2004) (“cause” is an “intentionally broad and flexible concept that must be determined on a case-by-case basis” and permits a bankruptcy court, as a court of equity, to use its discretion to do what is just when examining inherently fact-sensitive situations); In re Texas State Optical, Inc., 188 B.R. 552, 556 (Bankr. E.D. Tex. 1995) (finding that “cause” for modification of the automatic stay is “an intentionally broad and flexible concept that permits the Bankruptcy Court, as a court of equity, to respond to inherently fact-sensitive situations”) (citations omitted). The “legislative history indicates that cause may be established by

a single factor.” In re Rexene Products, 141 B.R. at 576 (citing H.R. Rep. No. 95-595, 95th Cong., 1st Sess. 343-344 (1977) U.S. Code Cong. & Admin. News pp. 5787, 6300).

25. The Second Circuit has established twelve factors to be considered when deciding whether “cause” exists to lift an automatic stay to allow litigation to proceed in another forum:

(1) whether relief would result in a partial or complete resolution of the issues; (2) lack of any connection with or interference with the bankruptcy case; (3) whether the other proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action; (5) whether the debtor’s insurer has assumed full responsibility for defending it; (6) whether the action primarily involves third parties; (7) whether litigation in another forum would prejudice the interests of other creditors; (8) whether the judgment claim arising from the other action is subject to equitable subordination; (9) whether movant’s success in the other proceeding would result in a judicial lien avoidable by the debtor; (10) the interests of judicial economy and the expeditious and economical resolution of litigation; (11) whether the parties are ready for trial in the other proceeding; and (12) impact of the stay on the parties and the balance of harms.

Sonnax Indus., Inc. v. Tri Component Prods. Corp. (In re Sonnax Indus., Inc.), 907 F.2d 1280, 1286 (2d Cir.1990). In Sonnax, the Second Circuit explained that not all of the factors need to be relevant in every case, and that when determining the presence of cause, the court should take into account the particular circumstances of the case to ascertain what is just to the claimants, the debtor, and the estate, giving broad discretion to the courts in assessing “cause” for granting relief from the automatic stay. Id.

26. Applying the Sonnax factors, courts in this Circuit have found “cause” to allow third-party litigants to proceed in other forums. In re Taub, 413 B.R. 55, 60 (Bankr. E.D.N.Y. 2009) (applying the Sonnax factors to allow a divorce action pending in state court to proceed to conclusion for enforcement in bankruptcy court); In re Breitburn Energy Partners LP, 571 B.R. 59, (Bankr. S.D.N.Y. 2017) (holding that the automatic stay should be lifted to permit the commencement of a proceeding in state court involving a contract dispute); Sonnax, 907 F.2d at

1286 (citing *Collier on Bankruptcy* ¶ 362.07(3), at 362–65 to 67) (asserting that cases “which involve the rights of third parties often will be permitted to proceed in another forum”, and proceedings “which involve the post-petition activities of the debtor need not be stayed since they bear no real relationship to the purpose of the stay which is to protect the debtor and the estate from creditors”).

27. A debtor’s willful violation of the automatic stay in a bankruptcy proceeding establishes “cause” for relief from the automatic stay under § 362(d)(1). Pursuant to § 362(k) of the Bankruptcy Code, an individual injured by any willful violation of a stay provided by § 362 shall recover actual damages, including costs and attorneys’ fees, and in appropriate circumstances, may recover punitive damages. 11 U.S.C. § 362(k). Therefore, it is well settled that a creditor has an affirmative duty under § 362 to take the necessary steps to discontinue its collection activities against a debtor. In re Henry, 328 B.R. 664, 667 (Bankr. E.D.N.Y. 2005) (citing Sucre v. MIC Leasing Corp. (In re Sucre), 226 B.R. 340, 347 (Bankr. S.D.N.Y. 1998)); See also Crysen/Montenay Energy Co. v. Esselen Assoc., Inc. (In re Crysen/Montenay Energy Co.), 902 F.2d 1098, 1105 (2d. Cir. 1990) (holding that “any deliberate act taken by a creditor in violation of the automatic stay, which the violator knows to be in existence, justifies an award of actual damages”).

28. Here, “cause” exists to lift and terminate the automatic stay as to Trustee Shubert because: (1) the Debtors had notice of the W&O Automatic Stay and bankruptcy proceeding; (2) Debtors willfully violated the W&O Automatic Stay with their persistent collection efforts against Trustee Shubert; (3) Debtors’ willful violations of the W&O Automatic Stay entitles Trustee Shubert to relief under § 362(k); and (4) as a third party seeking enforcement of her rights in

another forum, Trustee Shubert will be unable to seek relief for Windstream's willful violations of the W&O Automatic Stay unless this Bankruptcy Court grants relief from the automatic stay.

29. Based on the facts and circumstances set forth above, Trustee Shubert requests the entry of an order, substantially in the form annexed hereto as **Exhibit D**, granting relief from the automatic stay in order to seek damages for Debtors' violation of the W&O Automatic Stay.

CONCLUSION

WHEREFORE, for all the foregoing reasons, Trustee Shubert respectfully requests that the Bankruptcy Court grant her relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) to exercise her right as Chapter 7 Trustee for the estates of Worley & Obetz, Inc., *et al.*, to seek relief for Windstream's violations of the W&O Automatic Stay, and grant Trustee Shubert such other and further relief that the Bankruptcy Court deems just and appropriate.

Date: February 4, 2020

FOX ROTHSCHILD LLP

By: /s/ Kathleen M. Aiello

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*Attorneys for Christine C. Trustee Shubert,
Chapter 7 Trustee for the Estate of
Worley & Obetz, Inc., et al.*

EXHIBIT A



Fox Rothschild LLP
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MICHAEL G. MENKOWITZ
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Email Address: MMenkowitz@Foxrothschild.com

November 26, 2018

VIA CERTIFIED MAIL

Sandra Edwards
Brown & Joseph, LTD
PO Box 59838
Schaumburg, IL 60159-0838

Re: In re Worley & Obetz, Inc., et al., Case No. 18-13774-REF (Jointly Administered)
Your File No.: 0010513180

Dear Ms. Edwards,

This firm is counsel to Christine C. Shubert, the Chapter 7 Trustee in the above referenced bankruptcy case. I write in response to your letter dated November 5, 2018, attempting to collect a debt in connection with the above referenced accounts. Please be advised that Worley & Obetz, Inc. and each of its affiliates (the "Debtors") filed for Chapter 7 bankruptcy relief on June 6, 2018. Enclosed are notices of bankruptcy for your records. Accordingly, pursuant to Section 363 of the Bankruptcy Code, please cease taking any further action to collect any debts, including but not limited to, the above referenced account.

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

Respectfully,

Michael G. Menkowitz

Cc: Christine C. Shubert

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Illinois
Minnesota Nevada New Jersey New York Pennsylvania Texas Washington

ACTIVE\79231213.v1-11/25/18

7/12/2018

Live Database Area

United States Bankruptcy Court
Eastern District of Pennsylvania

Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 7 of the United States Bankruptcy Code, entered on 06/06/2018 at 5:29 PM and filed on 06/06/2018.

Worley & Obetz, Inc.
85 White Oak Road
Manheim, PA 17545
Tax ID / EIN: 23-1726576



The case was filed by the debtor's attorney: The bankruptcy trustee is:

WILLIAM J. BURNETT
Flaster/Greenberg P.C.
1835 Market Street
Suite 1050
Philadelphia, PA 19103
(215) 279-9383

CHRISTINE C. SHUBERT
821 Wesley Avenue
Ocean City, NJ 08226
(609) 938-4191

The case was assigned case number 18-13774-ref to Judge Richard E. Fehling.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.paeb.uscourts.gov> or at the Clerk's Office, 400 Washington Street, Suite 300, Reading, PA 19601.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Timothy B McGrath
Clerk, U.S. Bankruptcy Court

PACER Service Center

**U.S. Postal Service
CERTIFIED MAIL**

package id
00433196

ship date
Mon, Nov 26 2018

to
Sandra Edwards
Brown & Joseph LTD
PO Box 59838
Schaumburg, IL 60159-0838
US
215-299-2864

residential address
No

return label
No

from
Jesse M. Harris (4603)
Fox Rothschild LLP
2000 Market Street
FL 20
Philadelphia, PA 19103 US
801-2864

billing
SHUBERT, CHRISTINE
C..WORLEY & OBETZ, INC.
(081999.00024)
JMH-4603 -081999-024 -LTR re
Collecting a Debt

operator
Michi Lockner
215-299-2039
mlockner@foxrothschild.com

create time
11/26/18, 12:10PM

vendor
Certified Mail
tracking number
CERT00433196
service
USPS Certified Mail™

options
Return Receipt
reference note
JMH-4603 -081999-024 -LTR
CollectingADebt

courtesy quote
.00 USD
*There is no value to display until a
cost is entered in the mailroom
The courtesy quote does not reflect
fuel surcharge and does not
necessarily reflect all accessorial
charges.*

Sandra Edwards
Brown & Joseph LTD
PO Box 59838
Schaumburg, IL 60159-0838
US

3.45

2.75

Sandra Edwards
Brown & Joseph LTD
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Schaumburg, IL 60159-0838
US

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PO Box 59838
Schaumburg, IL 60159-0838
US

Jesse M. Harris
Fox Rothschild LLP
2000 Market Street
FL 20
Philadelphia, PA 19103
US

081999.00024-4603



PS|Ship Tracking Label
(affix to back of envelope)



CERT00433196

Sandra Edwards
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Schaumburg, IL 60159-0838
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081999.00024-4603 - JMH-4603
-081999-024 -LTR CollectingAdebt





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November 26, 2018

VIA CERTIFIED MAIL

John Barna
Brown & Joseph, LTD
PO Box 59838
Schaumburg, IL 60159-0838

Re: In re Worley & Obetz, Inc., et al., Case No. 18-13774-REF (Jointly Administered)
Account Nos.: 011795088/021393316
Your File No.: 0010531614/0010531672

Dear Mr. Barna,

This firm is counsel to Christine C. Shubert, the Chapter 7 Trustee in the above referenced bankruptcy case. I write in response to your letters dated November 5, 2018, attempting to collect a debt in connection with the above referenced accounts. Please be advised that Worley & Obetz, Inc. and each of its affiliates (the "Debtors") filed for Chapter 7 bankruptcy relief on June 6, 2018. Enclosed are notices of bankruptcy for your records. Accordingly, pursuant to Section 363 of the Bankruptcy Code, please cease taking any further action to collect any debts, including but not limited to, the above referenced accounts.

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

Respectfully,

Michael G. Menkowitz

Cc: Christine C. Shubert

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Illinois
Minnesota Nevada New Jersey New York Pennsylvania Texas Washington

7/12/2018

Live Database Area

United States Bankruptcy Court
Eastern District of Pennsylvania

Notice of Bankruptcy Case Filing

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Worley & Obetz, Inc.
85 White Oak Road
Manheim, PA 17545
Tax ID / EIN: 23-1726576



The case was filed by the debtor's attorney: The bankruptcy trustee is:

WILLIAM J. BURNETT
Flaster/Greenberg P.C.
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Suite 1050
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(215) 279-9383

CHRISTINE C. SHUBERT
821 Wesley Avenue
Ocean City, NJ 08226
(609) 938-4191

The case was assigned case number 18-13774-ref to Judge Richard E. Fehling.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.paeb.uscourts.gov> or at the Clerk's Office, 400 Washington Street, Suite 300, Reading, PA 19601.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Timothy B McGrath
Clerk, U.S. Bankruptcy Court

PACER Service Center

**U.S. Postal Service
CERTIFIED MAIL***package id*

00433190

ship date

Mon, Nov 26 2018

to

John Barna
Brown & Joseph LTD
PO Box 59838
Schaumburg , IL 60159-0838
US
215-299-2864

residential address

No

return label

No

from

Jesse M. Harris (4603)
Fox Rothschild LLP
2000 Market Street
FL 20
Philadelphia , PA 19103 US
801-2864

billing

SHUBERT, CHRISTINE
C..WORLEY & OBETZ, INC.
(081999.00024)
JMH-4603 -081999-024 -LTR re
Collecting a Debt

operator

Michi Lockner
215-299-2039
mlockner@foxrothschild.com

create time

11/26/18, 11:36AM

vendor

Certified Mail

tracking number

CERT00433190

service

USPS Certified Mail™

options

Return Receipt

reference note

JMH-4603 -081999-024 -LTR
CollectingADebt

courtesy quote

.00 USD

*There is no value to display until a
cost is entered in the mailroom
The courtesy quote does not reflect
fuel surcharge and does not
necessarily reflect all accessorial
charges.*

John Barna
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PO Box 59838
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3.45
2.75

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081999.00024-4603



PS|Ship Tracking Label
(affix to back of envelope)



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Schaumburg, IL 60159-0838
US

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-081999-024 -LTR CollectingAdDeb



If you are a subscriber of Bundled Services or a Multi-product Discount Package, nonpayment may result in disconnection of all or part of these services, unless otherwise noted, as well as loss of applicable discounts. You may retain your dial tone by payment of amounts associated with basic local service.

If you are a subscriber to Unlimited Long Distance or other Long Distance packages, nonpayment of long distance charges may result in disconnection of those packages and subsequent restoration of long distance service may be made to Windstream's long distance service with Windstream 10, and will be charged at \$.10 per minute with a monthly recurring charge of \$5.95.

EXHIBIT B



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Email Address: jessieharris@foxrothschild.com

July 22, 2019

VIA FIRST-CLASS MAIL

Windstream Holdings, Inc.
4001 North Rodney Parham Road
Little Rock, AR 72212

Stephen Hessler
Kirkland & Ellis, LLP
601 Lexington Avenue
New York, NY 10022

Marc Kieselstein
Kirkland & Ellis, LLP
300 North LaSalle Street
Chicago, IL 60654

Steven J. Reisman
Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022-2585

Cristine Pirro
Kirkland & Ellis Llp
601 Lexington Avenue
New York, NY 10022

Re: In re Worley & Obetz, Inc., *et al.*, Case No. 18-13774 (Jointly Administered)
Windstream Account Nos.: 021403105; 011795088; 21420632; 11804112; 11787354;
21381501; 21387773; 11788305; 12133232; 11809202; 21393316; 11487508

Dear Counsel:

This firm is counsel to Christine C. Shubert, the Chapter 7 Trustee in the above referenced bankruptcy cases. Please be advised that Worley & Obetz, Inc. and each of its affiliates (the "Debtors") filed for Chapter 7 bankruptcy on June 6, 2018. I write to finally resolve ongoing violations of the automatic stay by your client and Debtor, Windstream Holdings, Inc. ("Windstream"). Specifically, Windstream has continued its efforts to collect on outstanding

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Illinois
Minnesota Nevada New Jersey New York Ohio Pennsylvania Texas Washington



Fox Rothschild ^{LLP}
ATTORNEYS AT LAW

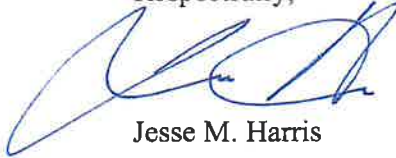
July 22, 2019
Page 2

invoices regarding the above referenced accounts despite our various written and verbal requests to cease such efforts. Indeed, the Trustee recently received 58 letters demanding payments on the accounts.

As you are aware, such collection efforts are a clear violation of the automatic stay under Section 362 of the Bankruptcy Code. Accordingly, please accept this letter as our final demand to cease any and all collection efforts related to the above referenced accounts.

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

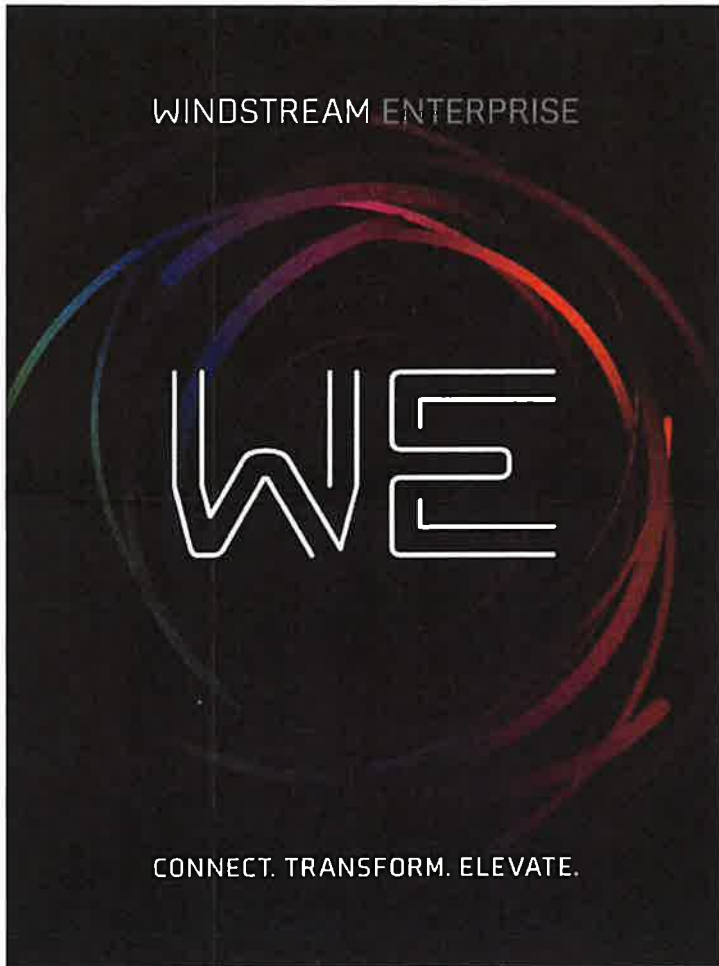
Respectfully,



Jesse M. Harris

cc: Christine C. Shubert, Esq. (via e-mail)

EXHIBIT C



If you are paying multiple Windstream accounts with one check, please include the remittance slip for each account and note the account numbers on the memo line of your check. Thank you.

Account number	Telephone number	Invoice date
011804112	717-687-5391	January 13, 2020

Please call Windstream Enterprise toll free or visit our website.
For Sales/Billing/Account Changes: 1-800-600-5050
For Repair/Technical Support: 1-800-600-5050
Website: www.windstreamenterprise.com

WORLEY & OBETZ INC
821 WESLEY AVE
OCEAN CITY NJ 08226-3622

Service At-A-Glance

Previous Bill	\$820.52
Payments/Adjustments thru 01/09	\$0.00
Amount Previously Due - DUE IMMEDIATELY	\$820.52
Current Charges Due - 02/03/20	\$54.41
Total Amount Due	\$874.93

Use of the Services constitutes your agreement to Windstream's Terms and Conditions maintained at www.windstream.com/terms, or you may request a copy by calling the number at the top of the bill. See "Windstream Customer Message" section on this bill for any recent changes to Windstream's Terms and Conditions. If you are a business customer with an existing contract, those contract terms will control.

Pay My Bill

On-line: For easy payments 24 hours a day, visit www.windstreamenterprise.com/login.
In person: To find a retail store location near you, visit www.windstreamenterprise.com/login.
By Mail: Send your check and payment slip to the address below.
By Phone: For automated payments or to speak to a representative, call the number above.

Detach and return this payment slip with your check payable to WINDSTREAM D&E SYSTEMS, INC.

WINDSTREAM
ENTERPRISE

ATTN: SUPPORT SERVICES
1720 GALLERIA BLVD
CHARLOTTE, NC 28270

Address Service Requested



7516000614 PRESORT PBPS002 <



WORLEY & OBETZ INC
821 WESLEY AVE
OCEAN CITY NJ 08226-3622

Account number	Telephone number	Due date
011804112	717-687-5391	February 03, 2020
Amount Due		\$874.93
Payment enclosed	\$	

123 011804112 4

Your credit card will be charged on 02/03/20 for \$874.93

WINDSTREAM
PO BOX 9001908
LOUISVILLE, KY 40290-1908



☐ Check here for address changes noted on reverse side.

7000123000000001180411282001100000008749319

WINDSTREAM ENTERPRISE

Go Paperless Today!

Why go Paperless?

1. **Convenience** - Windstream offers the convenience of online bill pay and auto draft through Windstream Online
2. **Accessibility** - Receiving your bills via the Internet allows you to check your statements instantly from anywhere. So, no more worrying about the ability to make your payments on time if you are out of town!
3. **Environment** - Reduce your footprint by eliminating your paper bills. By signing up for paperless billing, you will be contributing to the reduction of paper usage, saving millions of trees, reduction of greenhouse gases, decrease in wastewater production, and saving gasoline due to less delivery of paper bills.

Make your life easier while helping to save the Earth by signing up for paperless billing today!

Go to www.windstreamenterprise.com/login to register today!

SPEND LESS TIME PAYING YOUR BILL!

Windstream offers automatic payment options to make paying your bill easier. Setup AUTOPAY using your bank account. This allows your Windstream payments to be drawn directly from your preferred bank account.

- No more stamps
- No more checks to write
- No more worrying about late payments

It's free and you can still receive your paper bill or go green with paperless billing. Register today at www.windstreamenterprise.com/login or call Windstream Customer Service.

Important Information for Customers Paying by Check

Windstream may convert your payments by check to an electronic Automated Clearinghouse (ACH) debit transaction. The debit transaction will appear on your bank statement, although your check will not be presented to your financial institution or returned to you. This ACH debit transaction will not enroll you in any Windstream automatic debit process and will only occur each time a check is received. Any resubmissions due to insufficient funds may also occur electronically.

Please be aware that all checking transactions will remain secure, and payment by check constitutes acceptance of these terms.

We value your business and appreciate you selecting Windstream as your telecommunications provider.

Información importante para los clientes que pagan por cheque

Windstream puede convertir sus pagos por cheque a una transacción electrónica automática de débito (ACH en inglés). La transacción del débito aparecerá en su estado de cuenta del banco, aunque no se presentará su cheque a su institución financiera ni se le devolverá a usted. Esta transacción electrónica automática de débito no le inscribirá a usted en ningún proceso de débito automático de Windstream y solamente ocurrirá cada vez que se reciba un cheque. Cualquier reentrega debida a fondos insuficientes también podrá ocurrir electrónicamente.

Por favor tenga en cuenta que todas las transacciones de la cuenta corriente serán seguras y el pago por cheque constituye la aceptación de estas condiciones.

Agradecemos que sea nuestro cliente y apreciamos que haya elegido a Windstream como su proveedor de telecomunicaciones.

eCheck authorization: By entering the 5-digit zip code from my bill when paying by phone, I hereby authorize Windstream and the financial institution designated by me to charge the account I have specified for payment of my Windstream services. I understand that a fee will be charged to my Windstream account for each request returned unpaid. If two requests are returned unpaid, I will be excluded from this option. In addition, I understand that Windstream and the financial institution reserve the right to terminate this payment option. This authorization can be revoked by notifying Windstream at the customer service number listed on my bill prior to 4:00 P.M. EST on my specified payment date.

For a complete description of fees and taxes included on your bill, please visit www.windstream.com/billinfo

Keep this portion for your records.

Return this portion with your payment.

Change of Address Effective Date ____ / ____ / ____

Name _____

Attention _____

New Address _____ Apt/Suite# _____

City _____ State _____ Zip _____

Business Phone _____ Home Phone _____

Windstream representatives are happy to answer your questions or concerns related to billing or service. To contact us, please call the number located at the top of page one. To view customer service hours by state and answers to FAQs, visit www.windstream.com/support.

Account number
011804112Telephone number
717-687-5391Invoice date
January 13, 2020**SUMMARY OF CURRENT CHARGES BY SERVICE PROVIDER**

WINDSTREAM	54.41
CURRENT CHARGES DUE 02/03/20	54.41

WINDSTREAM DETAIL OF CURRENT CHARGESService from 01/10/20 to 02/09/20
Toll charge inquiries call 1-800-600-5050**SERVICES**

1	BILLED NUMBER SCREENING NO CHG	.00
1	BUSINESS LINE	33.78
	TOTAL SERVICES	33.78

SURCHARGES AND OTHER FEES

	LATE PAYMENT CHARGE	10.82
	ACCESS RECOVERY CHARGE SLC	2.00
	911 SERVICE	1.65
	STATE GROSS RECEIPTS TAX	1.79
	FEDERAL UNIVERSAL SERVICE FEE	.42
	REGULATORY ASSESSMENT SURCHRG	.11
	PA RELAY SURCHARGE	.08
	TOTAL SURCHARGES AND OTHER FEES	16.87

TAXES

	FEDERAL TAX	1.47
	STATE TAX	2.29
	TOTAL TAXES	3.76

TOTAL WINDSTREAM CHARGES	54.41
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SERVICE PROVIDER(S)

Your Local carrier is*:

WINDSTREAM D&E SYSTEMS, INC 1-800-600-5050

* If you have multiple telephone numbers, further information concerning long distance carrier assignments for those additional lines are on record with your local business office.

WINDSTREAM CUSTOMER MESSAGE

If not paid on time, a late payment collection fee of \$12.00 will apply to any past due Internet balance.

Online payments must be made by 4:00 pm eastern time in order to post for the current day.

WINDSTREAM ENTERPRISE

Account number 011804112	Telephone number 717-687-5391	Invoice date January 13, 2020
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EXHIBIT D

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

In re:

WINDSTREAM HOLDINGS, INC., et al.,

Debtors.

Chapter 11

Case No. 19-22312 (RDD)

(Jointly Administered)

**PROPOSED ORDER PURSUANT TO 11 U.S.C. § 362(d)
MODIFYING THE AUTOMATIC STAY IMPOSED BY 11 U.S.C. § 362(a)**

This matter is before the Court on the *Motion* (the “Motion”)² of *Trustee Christine C. Shubert*, Pursuant to 11 U.S.C. § 362, for Relief from the Automatic Stay to Seek Damages for Debtors’ Violation of the Automatic Stay. The Court having found that sufficient notice of the Motion has been provided; and it appearing that no other or further notice need be provided; and the Court having determined the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The relief requested in the Motion is **GRANTED**.
2. The automatic stay imposed in this case by section 363(a) of the Bankruptcy Code is vacated under section 362(d) of the Bankruptcy Code to allow Trustee Shubert to seek damages for Debtors’ violation of the W&O Automatic Stay.
3. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

White Plains, New York
February __, 2020

The Honorable Robert D. Drain
Chief United States Bankruptcy Judge

² Terms not otherwise defined herein shall have their meaning ascribed to them in the Motion.