

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
HOWARD C. FEDER)
 -vs-) No. 06-0695
ACCESS ONE, INC.)
)
complaint as to billing/charges)
in Chicago, Illinois)

Chicago, Illinois
December 12, 2006

BEFORE:

MS. CLAUDIA SAINSOT, Administrative Law Judge

APPEARANCES:

MR. HOWARD C. FEDER
4333 West Division Street
Chicago, Illinois
appearing pro se;

MR. JOE MILLER (via telephone)
appearing for Access One

SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
License No. 084-002170

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	EXMNR
HOWARD C FEDER					14

E X H I B I T S

COMPLAINANT'S	FOR IDENTIFICATION	IN EVIDENCE
Nos. 1		13
2		13
3		13

1 JUDGE SAINSOT: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 06-0695.
3 This is Howard C. Feder vs. Access One. It is a
4 complaint for services, and I will ask for the
5 appearances for the record.

6 Please state your name, address, and
7 telephone number.

8 MR. FEDER: Howard C. Feder, 4333 West Division
9 Street, Chicago, Illinois, 60651; 312-829-0100.

10 JUDGE SAINSOT: Thank you.

11 This status hearing was scheduled for
12 10 o'clock today. It is now 10:20 and we have no
13 one here representing the respondent, Access One. I
14 went to my office and checked e-docket for this case
15 and there has been no appearance entered for the
16 respondent, nor have I received any call indicating
17 why someone is not appearing today on the complaint.

18 That said, in reviewing the complaint,
19 I see that Mr. Feder has not contacted the Consumer
20 Services Division of the Commission to file an
21 informal complaint.

22 MR. FEDER: I did everything, been to the ICC.

1 JUDGE SAINSOT: Okay. When did you first
2 initiate something on this situation?

3 MR. FEDER: I believe September I filed -- I
4 called up the ICC.

5 JUDGE SAINSOT: Right.

6 MR. FEDER: -- and I talked to Ms. Barbara
7 Langford I believe her name was. This would have
8 been Barbara Langford looks like 9-20 of '06.

9 JUDGE SAINSOT: And what did she, in fact, tell
10 you?

11 MR. FEDER: That Access One is closing the
12 case -- closing the informal charge based on
13 whatever.

14 JUDGE SAINSOT: Okay. So, in fact, you did file
15 an informal complaint?

16 MR. FEDER: Yes, I did.

17 JUDGE SAINSOT: Okay. Then there's an error on
18 your complaint because it says have you ever
19 contacted the Consumer Services Division, and that's
20 really --

21 MR. FEDER: I don't know -- what's Consumer
22 Services?

1 JUDGE SAINSOT: Those are the people that assist
2 with the informal complaint.

3 MR. FEDER: Okay. So that was just a
4 misinterpretation of --

5 JUDGE SAINSOT: That's fine.

6 MR. FEDER: To me, that's the ICC.

7 JUDGE SAINSOT: That's fine. So, indeed, you did
8 pursue an informal complaint?

9 MR. FEDER: Yes.

10 JUDGE SAINSOT: And that informal complaint has
11 been closed and out?

12 MR. FEDER: Correct.

13 JUDGE SAINSOT: Then I am totally bewildered as
14 to why we have not had any contact from Access One.
15 It's disturbing to me that this date has been set
16 and that the petitioner has been made to appear,
17 whereas, the respondent has not appeared, or filed
18 anything, or asked for any continuance or anything
19 of the like, perhaps something got lost in the mail
20 and I would hope that there would be some reasonable
21 explanation similar to that circumstance.

22 What I'm going to do, Mr. Feder, since

1 I hesitate to proceed without the respondent here in
2 any fashion, is to apologize to you on their behalf
3 and to reschedule this for another date and I will
4 let you pick that date.

5 MR. FEDER: Okay.

6 JUDGE SAINSOT: Do you work?

7 MR. FEDER: Yes.

8 JUDGE SAINSOT: In the daytime?

9 MR. FEDER: Yes.

10 JUDGE SAINSOT: Do you work downtown?

11 MR. FEDER: I'm on the west side.

12 JUDGE SAINSOT: Okay. There is one day that's
13 better for you or --

14 MR. FEDER: In the middle of the month is the
15 quietest time I would think for me.

16 JUDGE SAINSOT: What do you do?

17 MR. FEDER: I'm the comptroller for this
18 company.

19 JUDGE SAINSOT: Okay.

20 MR. FEDER: But I don't understand why I have to
21 be punished because I did everything to be here.

22 JUDGE SAINSOT: You did. You did.

1 MR. FEDER: And can I at least submit my
2 documents to show my clear facts or am I not allowed
3 to do that since they're not here?

4 JUDGE SAINSOT: Okay. Let me -- let me think
5 about this a minute.

6 Let's go off the record.

7 (Off the record.)

8 Okay. I am having this conversation
9 with Joe Miller at Access One who informs me that
10 there is some miscommunication of some sort because
11 I understand you haven't gotten notice of this.

12 MR. MILLER: That's correct.

13 JUDGE SAINSOT: Okay. This is my plan. Mr. Feder
14 is here. He is with me here in the room as is the
15 court reporter.

16 MR. MILLER: Okay.

17 JUDGE SAINSOT: Mr. Feder has a job that is --
18 that he is not easily able to get away from and he
19 has expressed a desire to be relieved from hardship,
20 because of this, I'm going to set a date in the
21 middle of January.

22 MR. MILLER: Okay.

1 JUDGE SAINSOT: I am going to allow Mr. Feder to
2 appear by telephone at that time.

3 MR. MILLER: Okay. Yes, without objection.

4 JUDGE SAINSOT: And someone from Access One will
5 be here to present their case.

6 MR. MILLER: Okay.

7 JUDGE SAINSOT: I'm also allowing Mr. Feder to
8 mark exhibits that he would have introduced at the
9 hearing for identification only --

10 MR. MILLER: Okay.

11 JUDGE SAINSOT: -- today.

12 The copies of those documents will be
13 mailed to whoever files an appearance for Access
14 One.

15 MR. MILLER: Okay.

16 JUDGE SAINSOT: Okay. Therefore, you can peruse
17 them and decide if there is any objection, and that
18 can be made on the hearing date, which, again, I
19 said I'll work out with Mr. Feder and will be in the
20 middle of January.

21 Do you know, in fact, if you would be
22 representing Access One on this complaint?

1 MR. MILLER: Yes. Let me get down there today to
2 file my appearance. That's terrible. I'm so sorry.

3 JUDGE SAINSOT: You don't have to file your
4 appearance here. You can mail it or post it on
5 e-docket with the clerk's office.

6 MR. MILLER: Okay.

7 JUDGE SAINSOT: Okay. So you can call the
8 clerk's office and they'll give you further
9 instructions on that.

10 is there a date that you can work out
11 with Mr. Feder here today?

12 Mr. Feder, you are asking for a date in
13 mid-January?

14 MR. FEDER: Yes.

15 JUDGE SAINSOT: And you would like something
16 early in the morning, because I guess he works as a
17 comptroller and it gets very hectic at his job
18 starting at like 10:30.

19 Is that it?

20 MR. FEDER: Correct.

21 MR. MILLER: No, early in the morning that's
22 fine.

1 JUDGE SAINSOT: We are going to set something for
2 9 o'clock. Okay?

3 MR. MILLER: All right. All right. That's
4 great. You know, I'm sorry. I'm just looking at
5 January 12th looks like a bad day. Other than that,
6 if we can -- I'm sure if that's a scheduling
7 conflict for Mr. Feder, I think we'll be fine.

8 JUDGE SAINSOT: Mr. Feder, what day in January?

9 MR. FEDER: So either that Wednesday, Thursday,
10 or that -- of that week.

11 JUDGE SAINSOT: Okay. You're talking about the
12 10th. Would January 10th be good for you?

13 MR. FEDER: Is that a Wednesday?

14 JUDGE SAINSOT: Yes.

15 MR. FEDER: Yes.

16 JUDGE SAINSOT: Will that work for Mr. Miller?

17 MR. MILLER: Yes.

18 JUDGE SAINSOT: Okay. Then I am going to
19 continue this case to January 1 -- excuse me --
20 January 10th at 9 a.m. I don't know if you want to
21 stay on the phone or I'm going to go through and
22 have Mr. Feder identify these documents that he has

1 marked for identification in this case.

2 MR. MILLER: No. No. He can. I won't stay on
3 the phone for that.

4 JUDGE SAINSOT: Okay. Then as soon as you enter
5 your appearance, I will mail copies of these
6 documents. You'll have plenty of time to look them
7 over and to cross on them, or object to them, or
8 whatever.

9 MR. MILLER: All right. That sounds great.

10 JUDGE SAINSOT: Okay.

11 MR. MILLER: Can you tell me real quick what the
12 name of Mr. Feder's company was?

13 JUDGE SAINSOT: Mr. Feder where he works?

14 MR. MILLER: No. No. No. Access One's
15 customer.

16 JUDGE SAINSOT: It's Howard C. Feder.

17 MR. MILLER: Okay.

18 MR. FEDER: Swiss.

19 JUDGE SAINSOT: And his address is -- you don't
20 mind giving that, Mr. Feder?

21 MR. FEDER: (Shaking head.)

22 MR. MILLER: I don't really need his address.

1 It's just we don't have any residential customers.
2 You know, I was just allowed to cross-reference it
3 with the business customer that we would have.

4 JUDGE SAINSOT: Okay. Mr. Feder, do you have a
5 business there?

6 MR. FEDER: Yes. Swiss, S-w-i-s-s, Products.

7 JUDGE SAINSOT: S-w-i-s-s Products.

8 MR. MILLER: Okay. Swiss Products.

9 MR. FEDER: Yes.

10 JUDGE SAINSOT: Okay.

11 MR. MILLER: All right. All right. Very good.

12 JUDGE SAINSOT: Okay. Then you will also get a
13 notice of this continuance, but it's agreed today
14 between the parties that the matter will be
15 continued to June -- excuse me -- January 10th at
16 the hour of 9 a.m. --

17 MR. MILLER: Right.

18 JUDGE SAINSOT: -- and that Mr. Feder will appear
19 by telephone.

20 MR. MILLER: Correct.

21 JUDGE SAINSOT: Great. Thank you so much,
22 Mr. Miller.

1 MR. MILLER: All right. All right. Thank you.

2 JUDGE SAINSOT: And we'll be talking to you soon.

3 MR. MILLER: All right. Thank you.

4 JUDGE SAINSOT: Bye.

5 (Whereupon, Complainant's
6 Exhibit Nos. 1, 2 & 3
7 were marked for
8 identification.)

9 Let's go back on the record.

10 Mr. Feder, as discussed earlier, your
11 hearing will be on another date; however, you have
12 some paper documents that you wish to propose as
13 being put into the record and that may help you in
14 your testimony, am I correct?

15 MR. FEDER: Yes.

16 JUDGE SAINSOT: Good. I'm going to swear you in,
17 Mr. Feder. Okay.

18 (Witness sworn.)

19 Thank you.

20

21

22

1 HOWARD C. FEDER,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY

6 JUDGE SAINCOT:

7 Q. You will continue under oath up through the
8 end of your hearing. Okay. You have got three
9 exhibits that you wish to propose, am I correct?

10 A. Yes.

11 Q. And what is Exhibit No. 1, what has been
12 marked as Exhibit No. 1?

13 A. Exhibit No. 1 is the original signed copy
14 that was done at my office at the inception of the
15 contract.

16 Q. And it consists of four pages, am I correct?

17 A. I only submitted four pages. It consists of
18 maybe 12 or 15 pages --

19 Q. I see.

20 A. -- but the other pages are not --

21 Q. Not important or relevant to this?

22 A. Right.

1 Q. So these are four pages out of the original
2 contract. And your signature appears at the bottom
3 here and it's dated what?

4 A. April 11, 2005.

5 Q. 2005 or 2000 -- -

6 A. Or 2006. Excuse me.

7 Q. All right. And what is your Exhibit No. 2
8 for identification?

9 A. Exhibit No. 2 is the same contract submitted
10 from Access One that they were using to enforce the
11 contract. This is their copy, and this is a copy
12 they are using to enforce the contract, and it's
13 different than my contract.

14 Q. Okay.

15 A. All right.

16 Q. All right. And what is Group Exhibit No. 3
17 for identification?

18 A. Group 3 is correspondence. The last page is
19 a registered letter that I received and the first
20 e-mails that I sent response to trying to figure out
21 what was the problem between my company and Access
22 One.

1 Q. Okay. And there is some sort of order to
2 these documents?

3 A. Date order, yes.

4 Q. Date order? From earliest or from latest to
5 earliest?

6 A. No, I believe earliest to latest.

7 Q. Or earliest to latest?

8 A. Yes, that's correct, and e-mails.

9 JUDGE SAINSON: Thank you so much. Okay. As
10 soon as I have an appearance as to who will be
11 representing the respondent, I will mail a copy of
12 each of these exhibits that have been marked for
13 identification today so that they will be able to
14 conduct a viable defense at their hearing. Okay?

15 MR. FEDER: Yes.

16 JUDGE SAINSON: And I don't believe that we can
17 go much further today. I would certainly want you
18 to give your testimony when the respondent is
19 present.

20 Is there anything else that you wish to
21 tell me at this time?

22 MR. FEDER: No.

1 JUDGE SAINSOT: Okay. Great. Then with that,
2 we're continuing this matter to January 10, 2006 at
3 the hour of 9 a.m.

4 MR. FEDER: 2007.

5 JUDGE SAINSOT: Thank you so much. This year is
6 going much too fast.

7 MR. FEDER: Yes.

8 JUDGE SAINSOT: You are correct, Mr. Feder, and
9 we'll be calling you at 9 a.m.

10 MR. FEDER: Okay.

11 JUDGE SAINSOT: Okay. Thank you and thanks to
12 the court reporter for helping with this matter.
13 That's it.

14 (Whereupon, the above
15 matter was adjourned, to
16 be continued to
17 January 10, 2006 at
18 9:30 a.m.)

19

20

21

22