

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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<p>YESHIVA YAGDIL TORAH, a New York corporation doing business as VAAD HARABBONIM LETIKSHORETH,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">- vs. -</p> <p>SPRINT SOLUTIONS, INC., a Kansas corporation, SPRINT PCS, a Delaware corporation, SPRINT NEXTEL CORP., a Kansas corporation, and SPRINT COMMUNICATIONS COMPANY, L.P., a Delaware corporation,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">CIVIL ACTION NO. 06-cv-13726 (MGC)</p> <p style="text-align: center;">ECF Case</p> <p style="text-align: center;">AMENDED COMPLAINT</p>
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INTRODUCTION

Plaintiff Yeshiva Yagdil Torah, doing business as Vaad HaRabbonim Letikshoreth (the "Vaad"), by its undersigned attorneys, by and for its complaint against defendants Sprint Solutions, Inc., Sprint PCS, Sprint NEXTEL Corp. and Sprint

Communications Company, L.P. (collectively, "Sprint"), state as follows:

PARTIES

1. Plaintiff Yagdil Torah is a corporation formed under the Religious Corporation Law of the State of New York doing business for the purposes set forth herein as Vaad HaRabbonim Letikshoreth pursuant to a Certificate of Assumed Name dated January 23, 2006 and filed with the New York Department of State pursuant to §130 of the General Business Law of New York. Plaintiff has a principle place of business at 5110 18th Avenue, Brooklyn, New York.

2. Defendant Sprint Nextel Corp. is a corporation of the State of Kansas licensed to conduct business in the State of New York.

3. Defendant Sprint PCS is a corporation of the State of Delaware licensed to conduct business in the State of New York.

4. Defendant Sprint Communications Company is a corporation of the State of Delaware licensed to conduct business in the State of New York.

5. Defendant Sprint Spectrum, L.P. is a corporation of the State of Kansas licensed to conduct business in the State of New York.

6. Defendant Sprint Solutions, Inc. is a corporation of

the State of Kansas licensed to conduct business in the State of New York and acts as agent of all the other defendants.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332.

8. Plaintiff and defendants are residents of different states, the Vaad being located in the State of New York and the Sprint defendants each being business entities organized under the laws of Delaware or Kansas, respectively.

9. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

10. Venue is proper pursuant to 28 U.S.C. §1391 because plaintiff resides and does business in the State of New York and defendants do business and are licensed to do business here.

11. This Court has supplemental jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. §1367.

FACTS

12. Over the last decade we have seen profound technological and cultural changes in the way individuals communicate with each other.

13. Of all these changes, perhaps none are more profound than the developments in mobile communications via cellular technology and of the Internet.

14. One result of these changes is a vast cultural realignment. Many social observers agree that these developments have at once led to new levels of enhanced human interaction as well as reduced adherence and respect for traditional norms of social discourse.

15. As to the Internet, it is a commonplace that some strange virtue of the psychological and social environment of the Internet has lowered barriers of modesty, dignity and chastity among young and old, of all sexes and social strata, to a degree and at a rate that could not have been predicted 20 years ago.

16. Certain types of interactions among people, for example, have historically reserved for only the most intimate or, in other cases, most debased of social contexts. Today such intercourse is now casually or anonymously initiated and maintained in the form of "virtual" relationships that can have profound effects on family, social and spiritual life in the "real" world.

17. The combination of the Internet and ubiquitous high-speed mobile communications has, in turn, not only magnified the impact of each of them, but is causing a shift in cultural mores no more modest than the introduction of the automobile into American life approximately a century ago.

18. These changes have reached all segments of society,

and have already wrought practical and often profoundly negative effects on individuals and communities from the most humble individuals to the very halls of national leadership.

19. People and communities with traditional values have found themselves at sea in battling what they regard as the disastrous moral, psychological, spiritual, and in some places very practical effects of this phenomenon.

20. Because almost no one over a certain age is considered a participant in modern life today with at least a cellular telephone on his hip or in her purse, parents, spouses and educators worry increasingly about the un-chaperoned entry of those for whom they have responsibility into the moral no man's land that is the Internet.

21. One such community is the orthodox Jewish community, particularly its more fervent or "ultra-orthodox" segments, also known as Haredim. These include members of groups commonly known as Hasidic Jews and their non-Hasidic "Lithuanian" or "Misnagdic" counterparts. Among both sub-groups within the fervently orthodox sector, social norms and religious law and custom insist on rigid separation of the sexes except among married persons largely in private, or in family contexts, as well as much heightened standards of modesty in dress, speech, and all forms of social intercourse.

22. These values are inimical to the changes described

above that have been wrought by the Internet. Community leaders, including educators, counselors, and clergy, report shocking developments within the fervently orthodox community resulting from free use of the Internet by people young and old.

23. The members of this community have, by choice and by virtue of their familial and other personal situations, little or no exposure to or participation in a culture at large that has, as one social critic and respected jurist has urged, chosen to engage in a "slouch toward Gomorrah." The Internet, however, allows modernity in all its forms to be thrust directly into their lives. The promulgation of Internet technology to mobile communications has only heightened this effect.

24. Furthermore, because these individuals are otherwise sheltered and unsophisticated as to these matters, casual, often unplanned exposure to ready communication with strangers via Internet-based and mobile technologies can have an even powerful effect on standards and inhibitions that are seldom challenged.

25. This concern is particularly acute among parents in these communities of children old enough to be given the independence of cell phone use. These parents have understandable anxiety at placing a window into a sometimes predatory virtual world strange to their own values into the hands of their children.

26. Unfortunately, it is almost impossible, for technical

and legal reasons, for an individual to obtain cellular phone service and insure that it is not used for Internet communications, especially text messaging, and especially if that phone is in the custody of another person.

27. In 2005, a group of activists from across the spectrum of the fervently orthodox community decided to oppose this trend at least within their world, and formed a council, or *vaad* in Hebrew, to battle this problem. The Vaad was endorsed by leading rabbis, Hasidic grand rabbis and seminary deans, and took on the name of the Vaad HaRabbonim Letikshoreth (Council of Rabbis for Telephony) (the "Vaad").

28. Lacking an organizational or corporate structure, and eager to move forward with the project, the Vaad acted under the auspices of a rabbinical academy, Yeshiva Yagdil Torah, whose dean, a leading and revered figure in the community, had taken a leading role in the promotion of this initiative.

29. For this reason, certain of the account documents list Yeshiva Yagdil Torah in identifying the account, but for all practical purposes Sprint has correctly designated the name of this account "Vaad HaRabbonim" or an alternate spelling of "Vaad Harabonim."

30. The Vaad is and at all times has been a non-profit endeavor and is recognized as such by the Internal Revenue Service pursuant to 501(c)(3) of the Internal Revenue Code.

31. The Vaad did, however, raise and solicit funds to finance its efforts, and over the course of 2006 invested approximately \$150,000 in the development and marketing of the Kosher Phone program. The Vaad expected that this investment would ultimately be returned and that the capital could be used for the continued administration of the program.

32. The Vaad activists decided to develop an alternative to cellular telephones that offered Internet services, including instant messaging, a simple but insidious technology that community observers considered responsible in part for a breakdown of walls delineating traditional relationships.

33. The sought to establish a program whereby fervently orthodox families could subscribe to "plain vanilla," voice-communication cell phone service that could not, once the cell phones were provided to family members, be converted to Internet-capable communicators. This was the concept that came to be known as the Kosher Phone.

34. One of the criteria for development of such a product, therefore, was the identification of cell phone companies with technology that was amenable to such limitations. For example, companies whose phones utilize removable, easily transferable computer chips, or SIM cards, that can be changed from phone to phone, would not be candidates for the development of the Kosher Phone.

35. In the course of its research, the Vaad identified Sprint as one of the few cellular companies that do not utilize SIM cards and made initial contacts with Sprint to discuss its concept.

36. On January 19th a meeting was arranged between Sprint's representative and the Vaad's Rabbi Chaim Garfinkel, Israel Rozenberg, and Menachem Garfinkel regarding the development of the project. The meeting was based on the points included in various emails among Vaad activists and Sprint representatives, which became the outline on which the entire project was based. Communications among the Vaad team and Sprint continued throughout the winter and spring of 2006.

37. The Vaad's concern on the blocking of text messaging remained paramount. In a trial run during January, 2006, text messaging capabilities were successfully blocked in the sample phones. Sprint assured the Vaad that the deactivation of Internet capability on new phones would be much quicker in the future.

38. On or about February 15, 2006, Sprint sent the Vaad an email summarizing all the issues being worked on to make the Vaad's project a reality. Sprint confirmed that the text messages being disabled should not be a concern, and that the assignment of a block of numbers for Vaad users would still need to be determined.

39. At that time, Sprint also addressed the key issue of what party or parties would be ultimately financially liable for billing. Sprint explained to the Vaad that the only way to ensure central control of phone features was if the account was established on a "Corporate-Liable" basis, meaning the central "corporate" entity controlling the account, i.e., the Vaad, had not only sole supervisory authority over the enabling of phone features but ultimately financial responsibility for all accounts as well.

40. The Vaad repeatedly explained to Sprint that while the Vaad understood that it could maintain control of the text-messaging blocking unless it assumed account liability for all the users, the Vaad was not in a financial or logistical position to assume the responsibility of billing hundreds or eventually thousands of anticipated users.

41. Sprint repeatedly indicated its understanding of the Vaad's position on the billing.

42. At that juncture, it was suggested that Sprint act as the "billing agent" for the Vaad HaRabbonim, and Sprint agreed that it would bill the users directly and apply payments to the Vaad's account with Sprint.

43. On or about February, 24, 2006, Sprint presented the project to the Vaad via an emailed PowerPoint presentation as a document summary of the project (the "February 24th

PowerPoint"). The February 24th PowerPoint reiterated the understanding that Sprint would bill individual users.

44. The February 24th PowerPoint also stated, "All phones will have text messaging completely restricted and no one except the 'Points of Contact' [authorized Vaad representatives] will be allowed to switch this . . . All phones will also have internet access completely restricted and no one except the 'Points of Contact' will be allowed to switch this."

45. In early March, as the project neared its launching date and both sides had finalized most of the details, Sprint's representative apologized for not having prepared for the Vaad a "special contract" explicitly incorporating the parties' full understandings, including billing, calling plans and control of the text messaging system.

46. In lieu of the customized contract, Sprint urged the Vaad to sign the "default NVP contract" and defer the memorialization of the non-standard aspects of the arrangement.

47. "We will use this contract until we [get] the Special Pricing Department to draw up the final contract with all the amendments," wrote a Sprint representative. "However we will still follow all of the extra things that we have talked about (billing, restrictions, etc) until that time."

48. Again, on March 7, 2006, Sprint's representative stated that he "could not get" the finalized "special contract,"

and instead sent the Vaad the default "Standard Service Agreement" with the assurance that the agreement "will be amended as we work out the other issues (billing, restrictions, plans, etc). In the meantime though we will be following all of the 'rules and guidelines' that we have spoken about."

49. Sprint reassured the Vaad that "As far as the billing, that is pretty much set in stone about the Corporate Liable with Individual Billing, so we are good there. We are still figuring out how we are going to handle 'payment defaults'. See usually if it is corporate liable like we spoke about defaults the whole company will be liable and eventually the account will be effected, but we obviously don't want that to happen so we are figuring out other ways."

50. On March 14, 2006, Sprint emailed the Vaad that "The billing is all worked out as far as having individuals pay their own bill, even though it is considered corporate liable. There was some early confusion as far as how this will work, but I am happy to report this is all worked out!!"

51. Significantly, at this juncture the Vaad raised the issue of having the users sign a contract with Sprint. The Sprint representative replied, "The only contract that will be signed will be between Sprint and the organization. Any other contracts that you want the individual to sign would be completely on your own. As far as the deposits, that is on your

own too and I dont [sic] want to know anything about that.. :)"

52. Thus, far from forbidding individual users from signing customer agreements with the Vaad - a cornerstone of Sprint's later accusation that the Vaad was illegitimately, and contrary to its agreement with Sprint, assuming the role of a "reseller" - Sprint knew of, and was involved in the decision making process regarding, the policy of having every end user sign a Customer Agreement with the Vaad.

53. In May of 2006, Sprint and the Vaad were finalizing the details of how the individual billing and support for users would be set up. The Vaad was given to understand that, following activation of a new number by the Vaad, it would provide Sprint with new user information via a spreadsheet; that Sprint in turn would take the billing information and calling plan (i.e., pricing) and apply it from the date that the phone was transferred to the end user.

54. Although it was understood that there could be a lag of one or even several days to make this transfer, the Vaad's assumption was that because the Vaad was entitled to a \$29.99 "Vp credit" each month, usage charges during the transfer period would "come out in the wash."

55. Sprint also addressed the issue of central concern to the Vaad - its control over the accessibility of phone features. The Vaad was told that the user would interact with customer

service via the Sprint Customer Service number, but that there would be special "URGENT/IMPORTANT NOTES" notation on the account to alert Sprint customer service representatives that no changes as to billing or features could be made without the consent of a Vaad "Point of Contact."

56. Another PowerPoint presentation was submitted to the Vaad on or about April 21, 2006 (the "April 21 PowerPoint"). Among the various terms of the agreement laid out in the slides, Sprint clearly demonstrated an understanding of the Vaad's concern regarding the delicate situation of the Vaad's control over phone features, stating that Sprint would ensure that "no bill impacting decisions and no plan changes, feature adds or deletions, etc." would be available to the end users, and that "Wireless Field Support is only available to the authorized points of contact and should never be engaged by the end-user as they are not authorized."

57. In the first week of May Sprint began shipping phones to the Vaad, which immediately began incurring insurance charges. But the Vaad could not proceed with their distribution because of delays on Sprint's end in providing the final contract and price plans from Sprint, although throughout May Sprint consistently reassured the Vaad that it would be eligible for "whatever [plans] Sprint offers."

58. Among the unresolved issues was a error by Sprint in

the insurance charges for the phones. Although Sprint assured the Vaad that there would be only a \$4.00 per handset insurance charge, Sprint billed the Vaad \$6.00 for every phone until correcting the error in August.

59. Phone distribution began in mid-May, though some users reported instances in which devices had the ability to send and receive text messages. Sprint's Damon Williams reapplied the block on this service and then confirmed that all units had the text messaging and Internet capabilities blocked.

60. At the end of May, hundreds of phones had been distributed.

61. Around this time, however, the Vaad learned that certain cell phone store proprietors in markets served by the Vaad were nervous about the expected success of the project and how it might affect their business.

62. Upon information and belief, in late May one or more Sprint resellers contacted Sprint and, posing as a Vaad representative, authorized the enabling of text message features on all the "Kosher Phones" for the period of May 28th - May 30th, contrary to Sprint's explicit arrangement with the Vaad and essentially undermining the entire purpose of the Vaad's efforts and expenditures on the Kosher Phone project.

63. Despite complaints to Sprint, these unscrupulous individuals succeeded numerous times in having the text

messaging feature activated on individual units and making changes to the Vaad's confidential password, which Sprint acknowledged in a June 1, 2006 email.

64. Upon information and belief, the purpose of these persons in doing this was to sabotage the Kosher Phone project and thereby eliminate a perceived threat to existing businesses engaged in the sale of cell phones to the community served by the Vaad.

65. In fact, Sprint never changed the password on the account despite the fact that it had obviously been compromised.

66. Utilizing its own control over the account, the Vaad manually changed the password itself. Despite this change, unauthorized changes continued to be made to the Vaad account.

67. In early June, the Vaad asked that Sprint provide a letter explaining what had happened with the text-messaging activation in order to placate both the rabbinical leadership of the Vaad, both of which justifiably felt that their reputation and good name were tainted by endorsing a project which did not meet its criteria, and to reassure users that the Kosher Phones would indeed remain secure.

68. Additionally, the Vaad believed it was important to publicly confirm that the calling plans being offered through Vaad were bona fide and authorized by Sprint. The Vaad sought to dispel rumors that Sprint was backing away from the Kosher

Phone project and was withdrawing from its commitments to the Vaad, or that the Vaad was offering service that Sprint would not provide.

69. In early June, the Vaad also requested repeatedly that, although it was early in the rollout of the project, Sprint provide it with a report on the status of each phone, to "help us get organized now in the beginning to see where we are up to."

70. Sprint did not provide such a report.

71. Throughout the first weeks of June, despite all the technical and administrative measures, system changes, and other steps that Sprint guaranteed would take place to prevent future problems with activation of text messaging, text messaging was enabled on several units by users simply calling Sprint Customer Care and requesting this option.

72. On or around June 7, 2006, Sprint provided the letter requested by the Vaad, which in turn requested two amendments, namely (1) a clarification that Sprint fully authorized the use of the "Mobile to Office" billing feature on all plans and the offer of the International Unlimited Plan for an additional fee in conjunction with this feature on all plans above \$45.99, and (2) stating Sprint's consent that an additional phone could be added to the Sprint Fair & Flexible Plan.

73. Later, a Sprint representative emailed back that "Some

of the prices and minutes you have listed on the spreadsheets do not match what we have in our system. Can someone call me to clarify and discuss, thank you." A Vaad representative emailed the Vaad HaRabbonim Price Sheet that had been approved by Sprint to explain the prices the Vaad was using.

74. On June 8, 2006, Sprint sent the final draft of the letter for the Rabbis including the requested verifications. A copy of the letter, approved by a supervisor of the account representative, is attached hereto as Exhibit A.

75. On June 9, 2006, the Vaad reiterated an earlier request for more phones for the 646 exchange and reminded Sprint of the ongoing importance of maintaining the service notes on the account to ensure that no text messages capabilities be permitted on the Kosher Phones.

76. Nonetheless, on June 11, 2006, at least one user reported that upon making a request to Sprint customer service, text messaging was enabled on a Kosher Phone without any difficulty.

77. The Vaad wrote to Sprint again on June 12, 2006, expressing frustration that there had been no resolution on any of the open items on the account, including numerous billing plan issues discussed in a conference call the previous June 8th.

78. At a teleconference later that day, the Vaad was informed by Damon Williams, Project Manger, Lynn Gioe, Senior

Sales Manager, Geri Aguiar, Implementation Manager, and Jerald Burkin, Pricing Analyst for Sprint that, despite Sprint's earlier and repeated representations to the contrary, the "additional phone" feature in conjunction with the Fair & Flexible calling plan "did not exist as a code in the Sprint computer system" and was "not available."

79. Sprint informed the Vaad that all Kosher Phone users signed on to this plan would need to be transferred to a different plan.

80. The Vaad reminded Sprint that its own previous emails approved the accuracy of the Vaad HaRabbonim price plan sheet including the disputed plan. It was emphasized that this was a particularly attractive plan for the community used to competitors' family plans and that the Sprint pricing was already a compromise for most users switching to the project.

81. The Vaad also explained to Sprint that it could be fatal for the Kosher Phone project if the Vaad had to notify 70-80 users out of approximately 400 that the plan that they signed on to was not authentic - exactly what the rumors had claimed, and when the project's credibility was already at stake due to the text messages crisis.

82. A decision was made, pending resolution of this issue, that no additional Fair & Flexible Additional phones would be offered for the interim and that an internal conference would be

held at Sprint to explore the possibilities of an alternate solution. The Vaad told Sprint that a comprehensive list of all existing users signed on to that particular plan would be emailed to them.

83. The Sprint team assured the Vaad that a resolution to the problem would be determined as soon as the list was sent, which it was shortly thereafter.

84. Sprint, however, never followed up on its promise to provide a solution for customers already enrolled into a non-existent plan due to Sprint's error.

85. Sprint also never presented the Vaad with an alternative reasonable family calling plan.

86. On June 12, 2006, service to all Kosher Phones was temporarily suspended due by Sprint, which informed the Vaad that it has opened a "fraud investigation" on the account.

87. This suspension caused considerable confusion among users, including those seeking to make service changes within the ambit of the standard options offered by the Vaad but who were "frozen out" during the pendency of the "investigation."

88. A Sprint representative informed the Vaad that "While the investigation is taking place no changes can be made to the service. Since this individual's account falls under your hierarchy no changes are being made. I apologize for the inconvenience this may cause."

89. Numerous users ended up returning their phones in frustration at Sprint's refusal to provide customer service during this period.

90. As the "fraud investigation" continued, Sprint ended the weekly status calls between Sprint and the Vaad.

91. Sprint thus eliminated the key line of communications between it and the Vaad and the best opportunity to discuss and resolve any problem or misunderstanding that might come up as the project progressed.

92. On June 15, 2006, during the "fraud investigation" and during the period during which service changes were supposedly frozen, unauthorized persons believed by the Vaad to be cell phone stores proprietors again enabled text messages on the Kosher Phones.

93. On the 16th of June, the Vaad urged Sprint to restore normal account access so that the Vaad could monitor and protect the project from fraud as well as work with Sprint to resolve outstanding issues regarding pricing.

94. "The billing cycle close date is the 25th of the month," wrote the Vaad. "We CANNOT afford to have people receive wrong information on their bills and subject ourselves and Sprint to a reputation for not being reliable and trustworthy."

95. The local Sprint representatives were prevented by Sprint from providing even a modicum of customer service to the

Vaad, however.

96. A Sprint representative wrote, "I am rechecking what authority I have to make changes to the account, its notes and plans, to accommodate the billing concerns. At this stage, I have no authorization to manipulate your account in any fashion. I really do understand the concerns as they are my concerns as well. This period of inactivity puts all my resources behind schedule to address the issues we had prior to this as well as any new concerns that may exist thereafter. However, my hands are tied."

97. Based on this communication, the Vaad requested a conference with Sprint and on June 16, 2006, a teleconference was arranged between Sprint representatives.

98. At the start of the meeting, Sprint's Lynn Gioe, forwarded to the Vaad a copy of the Vaad HaRabbonim Signup Application and Customer Agreement which were sent to Sprint by a cell phone store proprietor. Sprint objected that the Vaad HaRabbonim documents were written using "verbiage copied directly off a Sprint brochure," giving the impression that the user was entering into a contract with Sprint.

99. The Vaad denied that the language of its contract with users had been taken from Sprint literature.

100. Sprint also claimed, for the first time, that taking deposits and requiring a written agreement with users was

contrary to the Vaad's responsibilities under its contract with Sprint and was akin to "reselling," which was forbidden, though not defined, in the agreement between Sprint and the Vaad.

101. Sprint proposed that the Vaad either become a licensed dealer or revise the wording of the contract so that there would not be any confusion as to the Vaad's role.

102. Sprint informed the Vaad that if these changes were not made, the "fraud investigation" would continue indefinitely.

103. The Vaad knew that the paralysis caused by the "fraud investigation" would progressively cripple and eventually destroy the Kosher Phone program.

104. The Sprint team also urged Vaad HaRabbonim to submit payment for a claimed \$55,342 bill that was due July 21st.

105. The Vaad explained that this bill was highly inaccurate and inconsistent with the arrangements between the parties, and that Sprint's Damon Williams was aware for some time that Sprint would need to edit the charges.

106. The Sprint team informed the Vaad that as soon as the Signup Application between the Vaad and the individual users was amended to the satisfaction of the legal team, the "fraud investigation" and the concomitant freeze in customer service would end.

107. The implication of this statement and the facts as the Vaad understood them was that there was no real "fraud

investigation" at all, but rather that the "fraud investigation" status had been invoked by Sprint as an administrative measure to obtain the Vaad's agreement to *ex post facto* concessions to Sprint.

108. Having little choice in the matter, the Vaad almost immediately transmitted a revised Signup Application form from which all the verbiage objected to by Sprint was eliminated.

109. The Vaad also added a clause to the Signup Application reading, "The parties hereby acknowledge that the 'Vaad' is not a reseller of cellular services or cellular phones but rather is a point of contact for certain individuals or entities approved by Sprint as a point of contact for individuals or entities that wish to avail themselves of specialized equipment and services that conform to the strictures of orthodox Jewish and Chassidic law and custom."

110. When Sprint's Lynne Gioe received the revised contract, she emailed, "Thanks so much. I will work closely with internal channels to get the appropriate approvals for you as quickly as possible."

111. Despite the assurance expressed by the Vaad it would accommodate any other edits deemed necessary by Sprint, Sprint never confirmed if the changes submitted were acceptable.

112. On June 18, 2006, text messaging was enabled on the Kosher Phones once again.

113. On June 20, 2006, a teleconference was arranged between the Sprint team and the Vaad regarding the Vaad bill. Although Sprint would not provide any information regarding the still-ongoing "investigation," it insisted that the Vaad "show its good faith" by paying Sprint \$20,000.

114. Sprint explained that the \$20,000 figure was based on the following calculation: First, Sprint maintained that the balance due to it was \$55,446.50. A previously promised one-month credit of \$29.99 was deducted for each of the original 405 units (\$12,145.95), and then a credit of \$150 per phone was issued for 130 faulty devices that had been sent by Sprint (\$19,500) and which were awaiting return to sprint upon Sprint's provision of Returned Merchandise Authorization (RMA) kits. Sprint then estimated \$3,000 for a tax credit that should have been deducted due to the Vaad's tax exempt status, leaving a balance of approximately \$20,000.

115. The Vaad's view was that the balance due was much lower. It calculated the balance by totaling valid, authorized charges. The Vaad also accounted for proper proration of charges for which the Vaad account was billed on every phone initially. Once the individual user was billed individually, the user was charged the same prorated charge and the Vaad account should have been credited the same amount. The Vaad account was eventually credited some of these prorated charges for the

accounts transferred to individual billing, but at later dates and inaccurate amounts.

116. Thus, working the other way at trying to add up the valid charges, the Vaad's calculation provided a total amount due that was a fraction of what Sprint claimed it was owed.

117. The Vaad took the opportunity to vent its frustrations at the length of the hold on the account activities, writing, "I think that the extended amount of time in which we cannot get anything from Sprint, has almost reached its limit. I think Sprint should feel obligated to extend themselves, being that they retracted pricing clearly approved for us, and that the text messaging capabilities were not blocked as we were assured they would be. At a time when it is crucial to prove our efficiency and trustworthiness to the community, not having any phones available, (prices), plans and caller IDs not being changed . . . is proving to be very detrimental to the entire project, and giving a good boost of morale to those seeking to sabotage the project."

118. On June 20, 2006, text messages were again enabled, as Sprint customer service continued simply to neglect to verify if the caller had permission to make changes to the account.

119. The next day, Sprint's Lynne Gioe responded to the email requesting a clarification for the amount discussed by insisting that "We are doing our very best to work with you and

minimize your exposure to over-payment. We do not feel that a payment of \$20,000 is unreasonable at this time. Please make this payment today, as promised by Goldie and we will continue to work toward a totally corrected and up-to-date bill as the next cycle closes in upon us."

120. That same day, the Vaad forwarded to Sprint a nearly complete spreadsheet was emailed to the team listing all the additional Fair & Flexible Phone users, per Sprint's request.

121. Notwithstanding Sprint's promises, Sprint never resolved or in any way communicated with the Vaad regarding the pricing and call-plan availability issues in dispute, and none of these users' plans and billing information was processed properly.

122. The Vaad also again expressed exasperation over the situation where it was being asked to make a "good faith" payment of charges it considered unreasonable even as it was locked out of the ability to make routine changes to its account.

123. The Vaad wrote to Sprint: "Right now, because the account is on hold, and no changes can be made to the account and notes, everything is out of control! . . . It is now a ridiculous situation in which everyone can do whatever they want, and some people are really taking advantage of this breach of conduct in Sprint on which the account was established. All

the Rabbis who endorsed this project are confused and upset at us personally as to how something we assured them [namely that these phones would not permit text messaging], is entirely not in actuality so. We are seen as irresponsible not serious at what we committed ourselves to deliver. Although [Sprint's] Josh [Berg] wrote a wonderful letter to them that this will not reoccur, this situation does not seem to be corrected from within Sprint!"

124. On June 22, 2006, Sprint contacted the Vaad and admitted that its total included previously undisclosed equipment charges that exceeded the \$150.00 per unit credit for the faulty units. This was the first time such information was relayed.

125. Sprint acknowledged a number of other issues that affected the total amount due, such as an unidentified "problem" concerning the Vaad's tax exemption documents. Sprint promised that a large percentage of the charges on the outstanding bill would be credited to the account in the next billing cycle.

126. The Vaad, frustrated with the state of affairs, insisted that it be permitted to speak to Josh Berg, its the account manager, to get an assurance that Sprint would be ready to communicate and work with the Vaad in stabilizing the technological and billing issues that were plaguing it.

127. Berg then called the Vaad, discussed the "fraud

investigation" in general terms, and urged the importance of the Vaad's "showing good faith" to Sprint by paying the balance.

128. The Vaad therefore made the requested \$20,000 "good faith" payment.

129. The Vaad made the "good faith payment" on the assurance that by doing so it would "buy" the Vaad the opportunity to be heard by Sprint management as to the proper management of the account.

130. The Vaad also understood that by making the "good faith payment," the ersatz "fraud investigation" status would be lifted.

131. Finally, the Vaad understood that by making the "good faith" payment, Sprint would cooperate concretely with the Vaad in determining the proper balance due, which the Vaad was eager to resolve and satisfy.

132. On June 23rd, the Vaad submitted an updated Order Information spreadsheet and an updated list of all users signed on for the Additional Fair & Flexible Plan. The Vaad again requested information on resolution of the issues discussed in the previous day's meetings.

133. The Vaad raised the issue because the billing cycle for the account ended on the 24th of every month. "It is worrisome for us that we don't know of the resolution that the team has come up with (hopefully) on how the clients using the

additional Fair & Flexible phone plan is going to see the plan charged in their bills," wrote the Vaad's Israel Rozenberg. "Please let us know whatever the outcome of the conferences were, and how this will in turn be incorporated into the bills."

134. Three days later, not having received any resolution from Sprint on the outstanding issues, the Vaad again expressed its exasperation that four weeks after users' information was being sent to Sprint, the information was not yet transferred or processed: "If these customer[s] are not using any additional phones, could you clarify which customers and why their information[] [was] not yet transferred. I think that their confusion is legitimate. They are calling[,] hysterical[,] that they do not want to maintain their accounts with an organization that is proving itself to be inefficient and unreliable . . ."

135. On June 26, 2006, a Sprint representative acknowledged the chaos the "fraud investigation" had caused, writing, "Unfortunately we are back logged due to the Fraud investigation because I was told to hold off on changes. I am working on catching up to all those orders that I am able to change. . . . Those who signed up for the F&F add-a-phone plan won't receive an invoice until the issue is resolved as their numbers are still on the Vaad account."

136. In fact, although Sprint downplayed the backlog, and admitted only that "a few numbers . . . were not transferred

before yesterday" there were over 30 users whose information was submitted before June 20th whose orders were not processed, in addition to numerous users who signed on after that date.

137. This was also in addition to all the users who believed they had changed their service to the Fair & Flexible plan and were using their phones in accordance with that understanding but being billed at a significantly higher rate.

138. The Vaad expressed concern that it had activated phones and additional service for new users, but Sprint had not yet gotten individual billing information into its system, writing, "In other words, the Vaad HaRabbonim account will be billed this month for all those users, and all those users will have had service free of charge?!"

139. Sprint admitted that, indeed, "If the phones have been given out to those customers who have chosen the F&F add-a-phone plans, then yes they will not be receiving an invoice. The charges will still be on the Vaad account."

140. The Vaad, realizing the implications of Sprint's malfeasance, then wrote an email to Sprint requesting a clarification of the potentially catastrophic situation: "Do you realize the chaos all this has created? People are returning phones in frustration, bad-mouthing us rightfully as irresponsible and inefficient, and causing the collapse of the entire project . . . We need to have some solid workable plans

laid out to us with Sprint's clear intentions stated for us in writing approved by someone in authority. Otherwise, there may not be anything to work with any longer. Sorry our patience has reached the limit. I don't think I am exaggerating the situation or painting a pessimistic point of view. Believe me that the reality is indeed very bleak."

141. Sprint responded on June 26th by stating "we are still waiting for some sort of update on the account."

142. The next day, June 27th, Sprint assured the Vaad again that the Sprint team was "all still working diligently to solve some of the other issues you are currently facing, such as the rate plan issue and the migration of your current users to their correct rate plans" but that due to the "fraud investigation," the "account team has been instructed to wait for further direction."

143. The Vaad reiterated the importance of removing the hold on the account and requested that the identity of the person at Sprint responsible for the fraud investigation in order clarify the status of the hold on the account and provide any information or other cooperation that could expedite resolution of the investigation.

144. Sprint provided no information in response to this request from the Vaad.

145. There were also major discrepancies between the dates

on which the Vaad gave Sprint the names such Sprint customers transferred their service to Kosher Phone and when billing for those customers, and hence credit for their payment to the Vaad's account, would be effective.

146. This problem also exacerbated the application of other agreed-upon credits to users', and the Vaad's, accounts.

147. On June 28, 2006, Sprint admitted in an email that it had failed to execute the central premise of the entire Kosher Phone program: The disabling of the text messaging functionality on Kosher Phones.

148. On that same date, text messaging was once again enabled on the system.

149. Also on June 28th, three users successfully transferred their accounts out of the Kosher Phone system without authorization from a Vaad Point of Contact, which was prohibited under the agreement between the Vaad and Sprint.

150. On June 29th, Sprint set up a conference call among Michael Wodzisz, Greater New York Area Director, Maureen Richard, Fraud Investigator and the Vaad's Israel and Goldy Rozenberg.

151. Sprint informed the Vaad, months after arrangements had been negotiated, phones delivered, service initiated and charges began accruing, that the way Sprint had set up the Vaad account was a violation of Sprint's policies.

152. Sprint also accused the Vaad of operating in a manner that resembled a prohibited reseller arrangement.

153. Because of this, Sprint informed the Vaad that it would not be possible to transfer any billing information for billing directly by Sprint; that the Vaad could no longer ask users to sign any agreement or contract with it; and that the Vaad could not require deposits to protect itself from payment defaults by individual users.

154. There is no limitation in the agreement between Sprint and the Vaad as to the number of phones to be made available to the Vaad and, to the contrary, the oft-stated expectation of both sides was that the program would grow to many thousands of users.

155. Nonetheless, Sprint also announced that it would no longer permit any additional Kosher Phone users to be added, causing embarrassment to the Vaad, which had been marketing the service aggressively among its constituents.

156. The Vaad urged Sprint to reconsider its position, noting that, unlike a reseller, under its arrangement with Sprint, the Vaad was ultimately liable if an end-user default on a bill.

157. The Vaad also pointed out that, unlike a reseller, it was not making any profit

158. Sprint was unsympathetic and refused to be swayed from

its new position regarding the operation of the Vaad program.

159. In short, Sprint unilaterally repudiated the entire premise and practice of how the Kosher Phone program would be structured.

160. In late June, despite its earlier insistence that it could no longer bill individual users, Sprint began to send bills to some users.

161. Many of the bills were correct. Some customers, however, experienced confusion and consternation over the usage and rates users were charged for, or for charges imposed or credits promised but not credited. This was hardly surprising considering that Sprint had refused to resolve the open issues as to what calling plans were to be available despite its earlier reassurances that the Vaad could offer any Sprint plan to its Kosher Phone users.

162. In fact, Fair & Flexible Plan customers who signed on for more than one phone never received any bills from Sprint at all. The Vaad account was instead billed for these customers' usage, and not at the Fair & Flexible Plan rate promised but at a significantly higher rate.

163. Some users expressed confusion at not receiving bills for the service for which they had every intention of paying, while others wondered why they were only being billed impossibly low amounts such as \$2.14 a month for their service.

164. When the Vaad contacted Sprint in early July to request resolution of various billing problems, including the misapplication of various credits because of the lag between the users' actual date of transfer to the Kosher Phone program and Sprint's initiation of direct billing to that user, Sprint informed the Vaad that no "retroactive changes" to the starting dates could be made.

165. Sprint admitted, in a July 5, 2006 email, that "there have been numerous issues impeding our ability to deliver this in a smooth fashion: various misunderstandings, unauthorized account changes, pricing miscommunication and an ongoing fraud investigation. All of which have hampered the integrity of the project."

166. On July 5th, the Vaad emailed Maureen Richards of Sprint a letter from Vaad attorney Mendel Zilberberg in which he suggests scheduling a meeting among himself, Israel Rozenberg, and both the Sprint representatives involved in the formation of the project as well as those authorized to make decisions about it going forward.

167. Also on July 5, 2006, the Vaad transmitted to Sprint a list of 38 users whose billing information was missing from Sprint's data, not including users who signed up expecting to be billed under the Additional Fair & Flexible plan or those who joined the program after June 20, 2006, and requesting the

Sprint reconcile this information with its own billing and usage record.

168. Sprint did not at any time respond specifically to the July 5, 2006 email requesting a billing reconciliation.

169. Other email traffic followed, involving the recurrence of initial fees associated with starting new service because of changes made to the provisioning of certain customers' lines by Sprint. The Vaad expressed confusion and dissatisfaction over the repeated imposition of unauthorized, unjustified and often illogical fees of this nature.

170. Exchanges of this nature went on throughout the summer and early fall of 2006, with nothing being resolved.

171. In September of 2006, Sprint began to threaten to cut off service to the Vaad if it did not pay the balance due based on its calculation.

172. On October 10, 2006, immediately following the Jewish New Year (Rosh Hashana), Sprint's Joshua Berg wrote to the Vaad's Israel Rozenberg acknowledging the existence of "billing issues that we need to work out" and requesting that the parties speak the next morning "to assess the situation and get this all taken care of." Berg added, "This needs to be done tomorrow morning maybe around 11ish, is that's good with you. Please let me know asap."

173. The parties agreed instead to meet in person, as the

Vaad had requested months earlier, on the next Tuesday, October 17, 2006.

174. Shortly after this exchange of emails, the father of one of the Vaad's representative, Rabbi Lubkowsky, passed away, and the Vaad requested that the meeting be rescheduled to accommodate the traditional Jewish one-week mourning period, or *shiva*, following the death of a close relative during which Rabbi Lubkowsky could not attend to business.

175. Sprint agreed to the postponement and urged a prompt rescheduling of the meeting.

176. The Vaad made numerous attempts following the postponement of the meeting to schedule another one, but Sprint switched to the tack of insisting on full payment of the amounts it claimed due as a condition to a meeting.

177. The Vaad's position was that the purpose of the meeting it sought was to flesh out the billing issues and the representations and misunderstandings between the parties.

178. The Vaad insisted on the participation of the Sprint representatives involved during the "sale" and "closing" of the agreement. The Vaad believed that if all those involved in the development of the project could get together in the same room at the same time, with spreadsheets and other relevant documents, the parties could work out an agreement, come to a final resolution, and promptly see to the payment of any amount

due to Sprint.

179. Considering all the foregoing, the Vaad would not agree to part with a substantial amount of communal money merely for the privilege of discussing whether it had legitimate grounds for asserting its rights under the agreement.

180. The Vaad was also wary of making advance payments in "good faith" when its previous experience with the "good faith" payment of \$20,000 had garnered the Vaad no increased cooperation, communication or good faith at all on the part of Sprint.

181. Relations between the Vaad and Sprint were further complicated by an unfortunate incident during the summer of 2006.

182. During that time, a community activist prepared, at his own expense and on his own initiative, a newspaper advertisement that both verbally and graphically compared the devastating spiritual effect of the use of Internet-capable cell phones to the devastating mass murder of Jews at Auschwitz. The hyperbolic advertisement was entirely in Yiddish but, regrettably, featured side-by-side illustrations of crematoria at Auschwitz and a "flaming" Internet-able cell phone and made unauthorized, though favorable, use of the Sprint logo.

183. In fact, the Vaad had nothing to do with the "Auschwitz advertisement."

184. In fact, when the Vaad became aware that the activist involved was planning to publish and distribute the advertisement, a Vaad representative urged him not to publish it, for obvious reasons. Swept up by his passion and misplaced idealism, however, the individual involved went ahead with the advertising campaign on his own.

185. Notwithstanding the Vaad's non-involvement in the Auschwitz ad, an anonymous person, who upon information and belief was or is a Sprint reseller, forwarded it to Sprint and claimed it was the work of the Vaad.

186. When contacted by Sprint, the Vaad immediately disavowed the advertisement.

187. Nonetheless, Sprint insisted and continues to insist on attributing the advertisement to the Vaad.

188. For example, in a November, 2006 communication to the Vaad's attorney, a Sprint lawyer wrote, despite the Vaad's unequivocal insistence that it did not authorize and in fact had forbidden the advertisement to run, "Sprint was damaged by the outrageous advertisements that the Vaad ran in various religious publications that improperly used Sprint's name in an ad that included an Auschwitz oven. These advertisements also constituted a breach of contract by your client since the contract precluded any use of Sprint's name or marks without prior written permission. While the Yeshiva did pull the

advertisements, they declined to run a retraction, which Sprint was forced to run at its own expense.”

189. In fact, the “retraction” voluntarily run by Sprint did far more harm than the original advertisement, because it was published in the *Jewish Week* of New York.

190. This English-language periodical reaches approximately 70,000 households, mainly non-religious Jews and many non-Jews.

191. No more than a handful of readers of the *Jewish Week* are potential customers of the Kosher Phone program.

192. It is virtually inconceivable that any regular readers of the *Jewish Week* saw the original offensive advertisement.

193. The effect of the “retraction” run by Sprint in the *Jewish Week*, therefore, was to amplify the ugliness of the otherwise obscure Auschwitz ad and, no less destructively, to smear the reputation of the Vaad, its constituents, and the Kosher Phone program.

194. By all indications, the “Auschwitz ad” adventure soured Sprint on the benefits of performing its contract with the Vaad, despite the fact that the unauthorized advertisement ran in what could only be described as obscure Yiddish-language Hasidic publications with numerically trivial circulations.

195. More ominously, Sprint’s insistence that “the Vaad ran” the advertisements, despite its insistence that it did not, suggests that in Sprint’s eyes, the mere fact that the ads were

run by fervently orthodox Jews who dress and speak a certain way, and the fact that the Vaad is composed of fervently orthodox Jews who look and sound the same, renders any distinction between the two groups immaterial.

196. This insensitivity on Sprint's part may explain its inability to deal with the Vaad's account in a professional and consistent manner, but it does not justify it.

197. In October of 2006, the problems between Sprint and the Vaad came to a head. Phone service to some lines was suspended, and the result was an increase in communications among Sprint and Vaad attorneys.

198. By this time, the Sprint personnel in New York who were most closely involved with the Vaad account were, by all indications, barred from all but the most "stage-managed" communications with the Vaad.

199. On October 26, 2006, in response to a request from Vaad counsel to once again attempt to schedule a face-to-face meeting at which the issues in dispute could be worked out, Sprint's attorney was frank in her dismissal of the suggestion, writing that "Sprint had no interest in further discussions about continuing this business relationship" and threatening immediate termination of the lines if another \$20,000 were not delivered to Sprint without regard to the accuracy of the bills.

200. Nonetheless, after some coaxing, the same Sprint

attorney wrote the next day that while "No meeting will take place and no phone service will be restored for the suspended lines until Sprint has received the good faith payment," she expected "to talk with our litigation counsel in Reston, Virginia this afternoon and I'll let you know about logistics of a meeting on the East coast."

201. The Vaad appreciated the opening and took Sprint at its word that, rather than no longer desiring the Vaad's business, it would consider some scenario whereby a "sit-down" was possible. The Vaad could not, however, pay a \$20,000 entrance fee to such a meeting, and wrote as follows the same day:

My clients have understandably expressed quite a bit of distress at the approach Sprint has taken, as communicated in your emails, because they convey a message of considerable inflexibility as well as a posture as to the facts of the situation that is utterly at odds with what they know them to be, the basics of which I have sketched out in previous emails.

I must make it clear that our clients are not interested in reducing their account[] payable to half - they are interested in reducing it to zero. Their analysis of the numbers, however, based on their clear understanding of the terms of the agreement, based on innumerable contacts with Sprint, is that only a small fraction of the amount claimed is owed. For a non-profit organization, the prospect of paying \$20,000 for the privilege of making its case over a disputed account seems highly unreasonable.

Please consider speaking to your client and extending the arbitrary deadline of tomorrow even a week further so we can meet promptly and resolve these issues. Again, the risk to Sprint of such an extension is minimal, but the cost to my client of an immediate cutoff would be great. Meanwhile I am having my client cull the key emails on the topics we have discussed so you can have a substantive basis on which to bring understanding their perspective prior to the actual get-together.

202. Sprint, however, would not relent, responding, "I fear that your email below will have just the opposite effect to what you desire. If your client refuses to pay at least the partial payment of \$21,000 by [the close of business] tomorrow, so that the parties may continue discussions, Sprint will need to take immediate action to mitigate further damages by discontinuing all services . . . Sprint has addressed all of the issues that your client has disputed in writing to date, so we see the remaining balance as undisputed . . ."

203. Sprint's attorney also insisted that the Vaad was engaged in reselling cellular service, and maintained that this amounted to a breach of contract by the Vaad.

204. Nonetheless, Sprint did not cut off service the next day, and after an additional exchange of emails and documents, the Sprint attorney wrote, on November 3rd, "The customer service manager that has been going through the spreadsheets you sent is out today. I'd like to set up something for early next

week to walk through your spreadsheets. I believe most of the credits have already been issued, but I think we should address each issue point by point and give you the dates and amounts of those credits. I'll call you on Monday after I get those details to set up a time for our discussion."

205. Unfortunately, that call from Sprint never came.

206. In the interim, more individual users received bills from Sprint. Many of the bills were correct. But some of the charges bore little or no relationship to the calling plans agreed to or showed mistaken charges or credits, which in the aggregate amounted to substantial discrepancies in Sprint's favor.

207. The problems with the bills sent to the individual users were systematic, the result in part of the errors and missteps by Sprint in executing its side of the agreement between Sprint and the Vaad.

208. Naturally these individual users, upon receiving these bills, inquired with the Vaad as to why they were so incomprehensibly high. The Vaad advised its users in good faith that this was the result of a billing dispute with Sprint that would be resolved at the time of a meeting between the Vaad and Sprint.

209. On November 16, 2006, a Sprint representative emailed the Vaad and demanded that it take part in a telephone

conference the next morning "OR ELSE THE ACCOUNT WILL BE SHUTDOWN!!! [sic]"

210. The Vaad informed Sprint that, after months of ignoring the Vaad's request for a meeting, it was hardly fair for Sprint to insist on an immediate meeting, telephonic or otherwise, with neither notice nor time for preparation. Ultimately a conference call was scheduled for the following Monday.

211. The call was a travesty. The Sprint representatives had no idea how many users had never been entered into the agreed-upon individual billing system, and had an inaccurate count of the number of users who had signed up for the Fair & Flexible Plan that Sprint had, neither fairly nor flexibly, withdrawn from the Vaad's program.

212. The Sprint representatives insisted repeatedly that various aspects of the arrangement worked out between Sprint and the Vaad were not included in the bare-bones "standard contract" that was signed between the parties.

213. The Vaad noted that in fact no calling plans were "in the contract," but that the contract was understood by both parties, as memorialized in the emails, as governing only the core relationship between the parties. The operational details of the program were, according to Sprint at the time, not required to be included in the final formal agreement.

214. The Vaad also argued that the email history indicated that Sprint not only understood this point but promoted it itself, urging the execution of a "standard contract" because of the difficulty in securing a comprehensive one that would govern all the points of this complex arrangement, and assuring the Vaad that the overall agreement between Sprint and the Vaad, as embodied in emails, PowerPoint presentations and otherwise, would govern the program.

215. The Vaad explained that another reason users were not paying was either because they did not receive the service they were promised because text messaging was enabled, thus nullifying their entire purpose in switching to the Vaad plans.

216. Furthermore, because the Vaad was left in the dark as to the status of the bills or the payment plans - its repeated requests to discuss the discrepancies being rebuffed - it was at a considerable disadvantage at attempting to collect outstanding payments.

217. None of the Vaad's comments made an impact on Sprint. On November 20, 2006, a Sprint account analyst wrote to the Vaad and demanded payment of \$95,941.02 and threatened that all service would be discontinued if this amount were not paid within 10 days.

218. The analyst invited the Vaad to contact her with questions. On November 24, 2006, the Vaad made a final attempt

to avoid conflict and work toward a resolution of the problem, writing in an email as follows:

I am writing in response to your letter of November 20, 2006. I am sure you are aware that Sprint and the Vaad are currently discussing the status of this account. It was a condition to payment by the Vaad that Sprint, as the payment agent for the Vaad, individually bill all individual users in a timely fashion, which it has never done, thus leading in part to the outrageous balance due claim by Sprint. We await Sprint's correction of its billing practices as well as the opportunity to meet with Sprint representatives in person, as we have requested for many months, to demonstrate the substantial magnitude of its billing errors. Sprint has never given us a satisfactory reason for its refusal to meet with us, which we take as an acknowledgment of its mishandling of this account. We are above all passionately committed to Sprint being compensated for all services it has actually provided, despite its many breaches of its agreement with the Vaad. Certainly discontinuation of service will not make it easier for us to do this.

We look forward to your advice of a meeting with a Sprint representative at any location which will enable us to resolve the issues that have given rise to this situation.

219. Sprint did not respond to the November 24, 2006 email.

220. On November 30, 2006, following the end of the November billing cycle, the Vaad received a demand by Sprint for payment in the amount of \$114,000.

221. Sprint mailed each user's bill to the Vaad's address

instead of the address provided to Sprint pursuant to the billing arrangement between the parties.

222. On the date hereof, Sprint disconnected many or all of the Kosher Phones still in service.

FIRST CAUSE OF ACTION

BREACH OF CONTRACT

223. All the foregoing allegations are incorporated herein by reference as if set forth fully herein.

224. The agreement between Sprint and the Vaad encompassed all the oral and written understandings set forth herein and in the emails between the parties, as well as the conduct of the parties at all relevant times as to the service Sprint would provide as to cellular service, the blocking of text messaging, account security, the billing arrangements, the calling plans that would be available to the Vaad, and all other relevant and material terms.

225. Sprint's represented, *inter alia*, that it would provide, and agreed with the Vaad to provide, secure cellular phone service without Internet or instant-messaging capability, to bill the Vaad's individual users in a competent fashion, to permit the Vaad to offer any Sprint calling plan otherwise available in the market, to maintain security on the Vaad's account, and to permit the Kosher Phone program to operate in the financial and administrative structure agreed to in the

spring of 2006.

226. The Vaad has performed all its obligations pursuant to the agreement between the parties.

227. In reliance on the representations by Sprint that formed the agreement between it and the Vaad, the Vaad made an investment in the Kosher Phone project in an amount not less than \$150,000.

228. As set forth above, Sprint was and is in repeated breach of the agreement between the parties.

229. By reason of Sprint's breach, the Vaad has been injured by loss of the value of its investment in the Kosher Phone project.

230. By reason of Sprint's breach, the Vaad has been exposed to legal liability for cell phone use and other charges, some neither justified nor authorized by the agreement between the parties, and some uncollectible from end users because of Sprint's breach, in an amount to be determined by trial.

231. The Vaad has been injured because of the actions of Sprint by loss of income, loss of future earnings and profits, loss of goodwill and other damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION

PROMISSORY ESTOPPEL

232. All the foregoing allegations are incorporated herein

by reference as if set forth fully herein.

233. The representations and agreements made by Sprint to the Vaad constituted one or more clear and unambiguous promises to provide services as set forth above.

234. The Vaad relied on those representations and agreements.

235. The Vaad's reliance was reasonable under the circumstances.

236. The Vaad's reliance was foreseeable by Sprint.

237. The Vaad has been injured because of the actions of Sprint by loss of income, loss of future earnings and profits, loss of goodwill and other damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION
ANTICIPATORY BREACH BY SPRINT

238. All the foregoing allegations are incorporated herein by reference as if set forth fully herein.

239. Sprint has repudiated its contractual obligations to the Vaad by, *inter alia*, threatening to discontinue the Vaad's cellular service under the Kosher Phone program unless the Vaad makes payment in the amount demanded by Sprint.

240. The amount demanded by the Vaad is not reasonable or based on the agreement between the parties and its demand is therefore not for a just cause.

241. The Vaad has been injured because of the actions of Sprint by loss of income, loss of future earnings and profits, loss of goodwill and other damages in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
NEGLIGENT MISREPRESENTATION

242. All the foregoing allegations are incorporated herein by reference as if set forth fully herein.

243. Sprint was aware that its representations regarding the administration and operation of the Kosher Phone program, as set forth in numerous conversations, emails and Power Point presentations, would be used by the Vaad for the purpose of determining whether to enter into an agreement with Sprint.

244. Sprint's representatives knew or should have known that the Vaad was relying on Sprint's representations.

245. Because of their better knowledge of, access to and relationship with Sprint's policies, management and procedures, Sprint's representatives knew or should have known that its representations regarding how the Kosher Phone program would operate were inconsistent with the corporate and legal policies or the technical capabilities of Sprint.

246. It was foreseeable to Sprint's representatives that Sprint's management would not approve of the arrangements on which the Vaad was relying to decide whether to enter into an

agreement with Sprint and whether to invest in the marketing and development of the Kosher Phone program.

247. Because of their better knowledge of, access to and relationship with Sprint's policies, management and procedures, Sprint's representatives had a duty to the Vaad to represent accurately what could and could not be done to effectuate the agreement regarding the Kosher Phone program.

248. These representations were ultimately shown to be false, as indicated by Sprint's insistence on repudiating its earlier representations, changing the terms and administration of the Kosher Phone program, mishandling and negligently administering the Kosher Phone program, and as otherwise set forth herein.

249. The Vaad relied on those representations and agreements.

250. The Vaad's reliance was reasonable under the circumstances.

251. The Vaad's reliance was foreseeable by Sprint.

252. The Vaad made its reliance on Sprint's representations known to Sprint in numerous conversations and emails.

253. The Vaad has been injured because of the actions of Sprint by loss of income, loss of future earnings and profits, loss of goodwill and other damages in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

CORPORATE DEFAMATION / FALSE LIGHT DISPARAGEMENT

254. All the foregoing allegations are incorporated herein by reference as if set forth fully herein.

255. Sprint's "retraction" of the Auschwitz advertisement placed the Vaad in a false and disparaging light by claiming, contrary to fact, that the Vaad was responsible for the preparation and publication of the advertisement and for the misuse of the Sprint trademarks.

256. Sprint knew that its statements regarding the Auschwitz advertisement were false, or recklessly disregarded the possibility that they were false.

257. Sprint's actions were taken without the benefit of any legal privilege.

258. Sprint's refusal to credit the Vaad's renunciation of the Auschwitz ad and the Vaad's denial of involvement with or approval of the ad was malicious and in bad faith.

259. The Vaad has been injured because of the actions of Sprint by loss of income, loss of future earnings and profits, loss of goodwill and other damages in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

260. All the foregoing allegations are incorporated herein

by reference as if set forth fully herein.

261. The Vaad had and has a relationship with the constituency its leaders represent, i.e. the tens of thousands of fervently orthodox Jews in the greater New York area, such that there was a reasonable expectancy or probability that the Vaad and many of its members of this constituency would have entered into agreements for Kosher Phone contracts.

262. Sprint knew of this expectancy at all relevant times.

263. Sprint unlawfully and intentionally interfered with the business relationship between the Vaad and its constituents by taking the foregoing actions.

264. But for Sprint's wrongful actions and omissions as alleged above, this expectancy would have been successfully realized.

265. The Vaad has been injured because of the actions of Sprint by loss of income, loss of future earnings and profits, loss of goodwill and other damages in an amount to be determined at trial.

WHEREFORE, plaintiff Yeshiva Yagdil Torah demands judgment against defendants Sprint Solutions, Inc., Sprint PCS, Sprint NEXTEL Corp. and Sprint Communications Company, L.P. in an amount to be determined at trial, plus costs and expenses, including attorneys' fees, and such other relief as the Court

considers just.

By: _____/s/_____
Ronald D. Coleman (RC 3875)

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Yeshiva Yagdil Torah doing business as
Vaad HaRabbonim

Dated: December 10, 2006

EXHIBIT A

From: Joshua Berg [Joshua.M.Berg@mail.sprint.com]
Sent: Thursday, June 08, 2006 1:45 PM
To: irosenberg@ichud.org
Subject: Fw: letter

Attachments: rabbiletter.doc



rabbiletter.doc (36 KB)

I am at the airport about to leave you have my aol name if u need to email me or please include me on any email you send to greg and damon...Here is the letter, this is the best that we could do as of now, hope its suitable..I believe it is, have a nice day.... Josh

--- Forwarded Message ---

From: josh@nycblink.com
Sent: Thu 6/8/2006 1:40 pm
To: joshua.m.berg@sprint.com
Subject: Fw: letter

Sent from my BlackBerry? wireless handheld

-----Original Message-----

From: "Jessica Rogers" <jrogers@OnexRealEstate.com>
Date: Thu, 8 Jun 2006 13:33:10
To: <joshuamberg@aol.com>, <josh@nycblink.com>
Subject: letter

?

Good Afternoon-

First let me introduce myself, my name is Joshua Berg and I am an Account Manager at Sprint-Nextel, as well as the representative who has worked so diligently on this project. Let me again thank all of you for choosing Sprint-Nextel and I can promise you that we have and will continue to do our best to give you the best and utmost professional service, which has made us a leader in the telecommunications industry.

Israel Rozenberg, Rabbi Garfinkel, Damon Williams (Sprint Project Manager) and I have worked together since the inauguration of this project in late January to come up with what we believe is the ultimate plan for exactly what you are looking for. We have logged countless hours and worked with almost every department within Sprint to try to answer all questions that you may have had and handle any obstacles that we have faced. I can honestly say that I am very proud of where we stand at this time.

I do greatly appreciate the lengths it took to endorse the plan and I am happy to report that now that the project has officially started it is only a matter of time until we have thousands and thousands of users signed up under the Vaad HaRabbonim project.

There have been some obstacles, like I have mentioned previously that we have encountered and we have done our best to overcome them. We do have our limitations and both Israel and Rabbi Garfinkel have worked with us to continue on our path to success.

We are now all fully aware that the other night, an incident occurred that was solely done to sabotage this project and I can admit that the perpetrator succeeded his goal of accessing the account. Here is what happened to the best of our knowledge: On May 28th, Sprint Customer Service received a phone call from a person claiming to be a Sprint dealer. When asked for the password on the account, this person then gave the last four digits of the Federal Tax-Identification number (which was the password at the time) and asked that all 405 devices under the account be able to send and receive text messages. At that time the customer service representative had no other choice but to do as asked. As soon as we became aware of the situation we investigated the situation to determine what occurred (see above). Since then preventative measures have taken place such as changing the password to a more secure password (that only four people know), putting a special high priority note on the account assuring that NO CHANGES to the account are to be made unless approved by either Damon Williams, Myself or Israel Rozenberg.

Unfortunately fraud exists in all avenues in life and this unfortunately was no different. However you can be assured that we have now taken every step possible to prevent this type of fraud in the future. All phones for this project will in fact have text messaging and internet completely blocked and any fraudulent activities including this one is considered a serious offense and may be met with legal recourse. We welcome any further suggestions that you might have that can assist in preventing this type of activity from happening in the future.

Another feature of the project that we have arranged for is the Sprint Mobile to Office option. This option can be used on most plans as long as it is not through a toll-free 800 number. This feature is widely used with many Sprint customers. Sprint has also worked with the leaders of the Vaad HaRabbonim project to offer a fair and flexible plan to the community. In addition to its usual features, this plan will also allow the customer to add an additional phone to the plan for a small monthly recurring charge. If you have any questions concerning these two or any other plans, please feel free to contact Sprint Customer Service.

We look forward to continue working with all of you and within all of your communities to strive to achieve just what we all set out to do. Please do not believe any rumors that you may have heard, for they are just that, rumors. If you have any further questions, please feel free to call me directly at 516 983 2415.

I hope you all had a Happy Shavuuous!!!

**Regards,
Joshua Berg and The Sprint-Nextel Team**