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CENTRAL DISTRICT OF CALIFORNIA
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Attorney or Party Name, Address, Telephone and Fax Number, and CA State Bar No.

James C. Bastian, Jr. - Bar No. 175415
Mark Bradshaw - Bar No. 192540
MARSHACK SHULMAN HODGES & BASTIAN LLP
26632 Towne Centre, Suite 300
Foothill Ranch, California 92610
Telephone: (949) 340-3400
Facsimile: (949) 340-3000

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re:

RELAY POINT, INC.,

Debtor(s).

CASE NO.: **LA 00-44012 BR**

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: **March 14, 2001** Time: **10:00 A.M.**

Location: **U.S. Bankruptcy Court, 255 E. Temple St., Courtroom 1668, Los Angeles, CA 90012**

Type of Sale: Public Private Last date to file objections: **March 13, 2001 at Noon**

Description of Property to be Sold: See the attached Notice of Hearing on Debtor's Motion for Order Approving the Debtor's Sale of Its Subscriber Lines (the "Hearing Notice")

Terms and Conditions of Sale: See the attached Hearing Notice

Proposed Sale Price: See the attached Hearing Notice

Overbid Procedure (If Any): None instituted

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:
March 14, 2001 at 10:00 A.M.

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):
James C. Bastian, Jr., Esq.
Marshack Shulman Hodges & Bastian LLP
26632 Towne Centre, Suite 300, Foothill Ranch, CA 92610
Telephone: (949) 340-3400
Facsimile: (949) 340-3000

Date: March 5, 2001

W/S

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION

3 In re

4 RELAY POINT, INC.,

5 Debtor.

6 Debtor's Address:
6430 SUNSET BLVD SUITE 700
HOLLYWOOD, CA 90028

7 Tax I.D. No. 95-4606373

Case No. LA 00-44012 BR
Chapter 11

**NOTICE OF HEARING ON DEBTOR'S MOTION FOR
ORDER APPROVING THE DEBTOR'S SALE OF ITS
INTEREST IN SUBSCRIBER LINES, FREE AND
CLEAR OF LIENS, CLAIMS AND INTERESTS
PURSUANT TO 11 U.S.C. SECTION 363**

Date: March 14, 2001
Time: 10:00 A.M.
Place: Courtroom 1668
255 East Temple Street
Los Angeles, CA 90012

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9
10 PLEASE TAKE NOTICE that on March 14, 2001 2001, at 10:00 A.M. , in Courtroom 1668 of the
11 above-entitled Court located at 255 East Temple Street, Los Angeles, California, Relay Point, Inc., the
12 debtor and debtor in possession herein ("Debtor" or "Relay Point") will bring a Motion for Order
13 Approving the Debtor's Sale of its Interest in Subscriber Lines, Free and Clear of Liens, Claims and
14 Interests Pursuant to 11 U.S.C. Section 363 (the "Sale Motion").

15 **A. Commencement of the Bankruptcy Case**

16 The Debtor filed a petition under Chapter 11 of the Bankruptcy Code on December 7, 2000 (the
17 "Petition Date"), and has continued in the possession of its property and the management of its affairs.

18 **B. Description of the Debtor's Business**

19 The Debtor is a prominent provider of digital subscriber line ("DSL") services focused on delivering
20 broadband services to the business market and residential customers. Prior to the Petition Date, the
21 Debtor was an integrated communications provider and delivered high-speed Internet DSL access and
22 value-added communications services to business and residential customers in the United States.

23 Essentially, DSL technology is a way of utilizing existing ordinary copper telephone lines in the
24 customer's home or business location to facilitate high-speed data transmissions for accessing the
25 Internet and transmitting electronic mail.

26 In order to provide DSL service to its end users, the Debtor typically leases copper telephone lines from
27 a regulated wholesale DSL provider, such as Covad Communications ("Covad"), who in turn leases
28 these lines from the traditional telephone company. Debtor also leases DSL lines directly from
telephone companies such as Pacific Bell and GTE Communications. Over these leased lines, the
Debtor acts as the end user's Internet service provider or "ISP". As an ISP, the Debtor serves the end
user's gateway to the Internet. The Debtor "owns" the end user retail customer relationship by being
the primary point of contact for ordering, provisioning, billing, technical support, customer care and
all other aspects of the customer experience.

The Debtor currently owns and operates key network elements, including the Debtor's service delivery
points and integrated operations support system, and leases other network elements from Covad.
Leased network elements include the copper phone lines overs which the data is transmitted and the
equipment that connects the customer's telephone lines to the Debtor's network. Debtor's wholesale
suppliers of DSL technology includes Covad, New Edge Networks, Pacific Bell and GTE
Communications. This broad group of wholesale suppliers allows Debtor to offer high-speed Internet
services anywhere in North America that the suppliers offers wholesale DSL services to Debtor.

C. Debtor's Post-Petition Plans

The Debtor currently maintains a network that allows it to service thousands of DSL customer lines. The Debtor does not need this network capacity postpetition. In fact, the Debtor's postpetition business model contemplates focusing on non-DSL Internet technology. Therefore, the Debtor is negotiating agreements with Covad and other third parties to sell its DSL lines.

D. Summary of Debtor's Secured Obligations

In its Bankruptcy Schedule D, the Debtor has listed the following secured claims that relate to the DSL lines to be sold pursuant to the Binding Term Sheet with Covad:¹

Creditor	Description of Collateral	Approximate Amount (All Amounts Are Disputed)
Covad	Retail DSL customers Account No. C10758	\$1,121,757.63
Covad	Retail DSL customers Account No. C10368	\$64,525.61
Covad	Retail DSL customers Account No. C11214	\$7,860.28
Covad	Retail DSL customers Account No. C11257	\$30,923.12
	Approximate Total	\$1,225,066.64

E. Description of Covad and its Relationship with the Debtor

Covad is a publically traded company (NASDAQ symbol "COVD") based in Santa Clara, California.

Covad typically provides wholesale broadband access services utilizing DSL technology that connect home and business users to the Internet. As a leading DSL broadband services provider, Covad's network currently passes more than 42 million homes and businesses in major Metropolitan Statistical Areas ("MSAs"). Covad's services are available in over 100 MSAs, thereby reaching more than 45% of all U.S. homes and 50% of all businesses in the United States.

Covad's services, TeleSurfer™ residential customers and TeleSpeed™ for small business, are available on a resale basis to customers and businesses through a number of ISPs, including the Debtor.

Prior to the Petition Date, Debtor and Covad entered into a services agreement (the "Covad Agreement") pursuant to which Covad supplies access to approximately 1,830 "Subscriber Lines" (certain wholesale copper phone lines that have been installed by Covad to facilitate the Debtor's business operations.) On the average, the Debtor's obligation to Covad under the Covad Agreement is approximately \$150,000 per month, which is presently accruing and remains unpaid as an administrative expense to the estate as of the Petition Date. The postpetition obligation to Covad is arguably a necessary and unavoidable expense to the estate as Covad provides the actual copper phone lines through which Debtor provides its customers with Internet access. In addition to the postpetition administrative obligation of the Debtor to Covad, the Debtor also continues to accrue other

¹ In its Bankruptcy Schedule D, the following additional secured creditors were also listed, however, their collateral will not be affected by the proposed sale transaction:

Creditor	Description of Collateral	Approximate Amount
First Sierra Financial	Computer Equipment	\$31,791.45
Paul Gamberg (Disputed)	Computer Equipment	\$100,000.00

1 postpetition administrative obligations which are necessary costs to Debtor in order to operate the
 2 Covad Subscriber Lines such as the costs for leases necessary to the Debtor's operations and payroll
 3 expenses. The postpetition obligation to Covad as well as the administrative expenses associated with
 4 operating the Covad Subscriber Lines will not cease to continue to accrue until such time as the Debtor
 5 is able to transition its interest in the subject subscriber lines pursuant to a Court approved sale to
 6 Covad, as Covad has agreed to stop billing Debtor on a postpetition basis after February, 2001, for
 7 use of subscriber lines upon the closing of the sale scheduled for March 15, 2001, pending Bankruptcy
 8 Court approval of the sale being obtained on or before March 15, 2001.

9 The "burn rate" of the Debtor - that is, the rate at which the postpetition expenses of the Debtor
 10 exceed its postpetition revenue - is such that the Debtor will only be able to operate for an additional
 11 four to six weeks before a complete shut down would be required. Accordingly, the only option
 12 available to the Debtor is a quick and orderly transition of the Covad Subscriber Lines. In the event
 13 that a quick transition does not take place, the Debtor would be forced to close its doors, thereby
 14 shutting off approximately 1,830 end users and effectively precluding a sale of the Covad Subscriber
 15 Lines.

16 If the Debtor were unable to utilize the Covad Subscriber Lines, the lines would "go dark" resulting in
 17 the sudden and complete loss of Internet access by the Debtor's customers. To the Debtor's business
 18 customers relying on today's Internet communications technology, this loss of Internet access could
 19 be severely damaging.

20 **F. The Covad Purchase Offer**

21 A summary of the terms of proposed transaction with Covad is as follows:²

22 Transaction:	23 Covad buys the right to migrate all of Covad-supplied Relay Point wholesale and retail end-users, and, in its sole option, to direct Relay Point to assume or reject some or all of its affiliate and end user contracts.
24 Price / 25 Net Cash to Estate:	26 Covad will waive its allowed pre & post-petition claims (approximately \$1.5M and \$200K-to date),* 27 - 25% upon execution of agreement. 28 - 75% upon successful migration of 60% of all active lines (represented to be approximately 1,830 lines). * The amount of each claim to be decided by further agreement or, if necessary, the Bankruptcy Court.
29 Migration:	30 Relay Point will provide all necessary customer data to facilitate smooth migration as well as necessary operational support, including customer relations and communications. In addition, Relay Point shall use its best efforts to obtain such information from third parties (e.g., resellers) and shall permit Covad to contact such third parties as necessary to further the migration effort. Each party will be responsible for its own costs related to migration of end-users. Successful migration will be dependent on acceptance of new service contract by end-user and operational transition of end-users to Covad designee. Relay Point must remain operational and

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1		keep lines in service for a minimum of 45 days after a closing, such closing to take place within two (2) days of the approval of this agreement by the Bankruptcy Court.
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3	Billings and Receivables:	Following the closing, Covad will stop billing Relay Point for all services provided by Covad to Relay Point and/or its end-users; provided, however, that following the closing, Covad will be entitled to all revenues related to the Subscriber Lines, whether received by Relay Point or Covad, regardless of when the underlying obligation arose.
4		
5	Binding Commitment; Procedure; Timing	This Term Sheet constitutes a binding commitment, subject only to (a) approval of the Bankruptcy Court on or before March 15, 2001, (b) a closing by March 15, , 2001 and (C) execution of a definitive purchase agreement acceptable to Covad within 7 calendar days (the final document to supercede this term sheet and be filed with the Court as well). To satisfy these criteria, Relay Point shall, within 2 business days of the execution of this term sheet, file a motion seeking approval of the sale contemplated hereby with the Bankruptcy Court and an additional pleading seeking to have the hearing on shortened notice.
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10	Miscellaneous:	Relay Point shall be responsible for all charges related to Covad's services through February, 2001. All such sums shall be due by February 28, 2001, with a "cure" period until the day before the hearing to approve the sale (or March 14, 2001, if earlier).
11		
12		Relay Point shall keep all collections from end users and affiliates collected through March 15, 2001 to fund operations (including payment of Covad's February charges). However, Relay Point will only be entitled to retain \$100,00 of collections for March 2001 services by its end users and affiliates prior to March 15, 2001. Collections fro March 2001 services in excess of \$100,000 will be remitted to Covad by Relay Point. In addition, all collections thereafter shall belong to Covad regardless of the period to which it relates. Covad shall not charge Relay Point for March services. Relay Point shall not incur any cancellation fees as a result of this transaction.
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17	Release:	As part of the consideration, Relay Point shall release Covad from any and all claims that may be asserted against Covad and Covad shall release Relay Point from any claims asserted against Relay Point.
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19 **G. The Moon Global Purchase Offer**

20 The Debtor and Moon Global Network ("Moon Global") are currently finalizing the terms of the
 21 proposed sale in a term sheet. Once finalized, the Moon Global term sheet will be filed with the Court.
 22 It is anticipated that the parties will be entering into a more comprehensive purchase agreement which
 23 incorporates the following terms:³

24 _____
 25 ³ A summary of the material sale terms with Moon Global is discussed in this Notice
 26 and the Sale Motion, but the summary and the discussion is not meant to be a complete review of
 27 every provision of the agreement between the parties. The written term sheet to be filed itself is
 28 the legally binding document the Debtor seeks approval of and, in the event of any inconsistency
 between the terms, provisions or effect of the written term sheet to be filed and the description of
 it in these pleadings, the written term sheet alone shall govern alone and not these pleadings or the
 descriptions herein.

<p>1 Price / 2 Net Cash to Estate:</p>	<p>\$70 per DSL line. There are approximately 1,300 lines involved in this transaction. One-half of the sale proceeds will be held in escrow for 30 days or until there is an actual count of the DSL lines migrated to Moon Global. As there are no secured creditors to the lines to be sold, the funds generated from this sale are anticipated to be unencumbered.</p>
<p>6 Migration:</p>	<p>The migration of DSL lines to Moon Global will occur two days after entry of a Court order approving the sale with no provision for the end user or wholesale customer having to sign a new contract with Moon Global.</p>

9 **H. The Proposed Sales Serve the Bests Interests of the Estate and Creditors**

10 The negotiation of the proposed sales were arms-length transactions. The negotiations with Covad and Moon Global have resulted in offers to sell the Covad, Pacific Bell and GTE Communications related DSL lines that will have substantial benefit. As set forth in the Notice of the Sale Motion, the creditors will have been provided with sufficient notice of the sales. Accordingly, the sales are in good faith and should be approved. The Debtor shall request such a finding pursuant to Bankruptcy Code Section 363(m) at the hearing on the Sale Motion.

13 Although the Debtor has entered into the Binding Term Sheet with Covad and intends to enter into a written agreement with Moon Global, the Debtor's legal obligation to sell the Covad, Pacific Bell and GTE Communications DSL lines is subject to Court approval.

15 The Debtor believes that the sales pursuant to the foregoing terms will be at a fair market value. The Debtor believes that the offers are the best that it will be able to generate. While overbid is possible, it is not likely. The Debtor is informed that Flashcom, Inc., another larger volume Covad digital subscriber line company in a pending Chapter 11 bankruptcy proceeding (Central District of California, Santa Ana Division, Case No. SA 00-19215 JR), attempted obtain overbids for the purchase of its Covad provided digital subscriber lines. Flashcom, Inc., was not able to generate any overbidders and with the Bankruptcy Court's approval, sold its digital subscriber lines to Covad on terms that are very similar to those as proposed in the Covad sale transaction herein.

20 **I. Good Cause Exists to Grant the Sale Motion**

21 The Debtor has made a business decision that it is in the best interest of the creditors of this estate that the Sale Motion be approved. Due to the amount of liens and encumbrances and operating costs associated with the DSL lines, the Debtor does not believe that such assets are beneficial for its reorganization plan. The operation of the DSL lines is detrimental to Debtor's reorganization efforts causing immediate and serious harm to the Debtor's cash flow. It was the Debtor's dire cash flow situation that caused this Chapter 11 case and the Debtor has determined that in order to reorganize, it must immediately cease to operate in the digital subscriber line market and focus its business operations on other Internet related services on a going forward bases.

25 Finally, if the sale is not approved, the Debtor may be unable to find another buyer and may be forced to cease operations and liquidate in order stop the accrual of the administrative expenses associated with the DSL lines. In essence, the economics of the Debtor's situation mandate that the sale of the Covad, Pacific Bell and GTE Communications lines be approved by March 15, 2001, after that time, the administrative debt incurred by the Debtor would outweigh any benefit it would receive from such sale. However, through the Sale Motion, the Debtor will preserve a benefit for creditors by eliminating

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the secured claim of Covad and receiving unencumbered cash funds. As set forth above, pursuant to the Binding Term Sheet with Covad, the Debtor will retain all collections from end users and affiliates collected through March 15, 2001, up to the amount of \$100,000 from the Covad sale and will receive \$70 per line sold to Moon Global, with approximately 1,300 lines to be sold to Moon Global.

For further information please see the **DEBTOR'S MOTION FOR ORDER APPROVING THE DEBTOR'S SALE OF ITS INTEREST IN SUBSCRIBER LINES, FREE AND CLEAR OF LIENS, CLAIMS AND INTERESTS PURSUANT TO 11 U.S.C. SECTION 363; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF DOUGLAS DESTAFENO IN SUPPORT THEREOF** on file with the Clerk of the above-entitled Court which may be reviewed on Monday through Friday from 9:00 A.M. to 4:00 P.M. A copy of the Sale Motion may also be obtained by written request to the Debtor's counsel at the address indicated below.

PLEASE TAKE FURTHER NOTICE, that objections, if any, shall be filed with the Clerk of the above Court located 300 North Los Angeles Street, Los Angeles, California 90012, and a copy served upon Marshack Shulman Hodges & Bastian LLP to the attention of James C. Bastian, Jr., 26632 Towne Centre, Suite 300, Foothill Ranch, California 92610 and the Office of the United States Trustee, 221 North Figueroa, Suite 800, Los Angeles, California 90012, no later than 12:00 noon on March 13, 2001. Failure to file a timely response may be deemed as consent to the relief requested in the Motion. SEE, LOCAL BANKRUPTCY RULE 9013-1(1)(g).

Dated: March 5, 2001

James C. Bastian, Jr. - Bar No. 175415
Mark Bradshaw - Bar No. 192540
MARSHACK SHULMAN HODGES & BASTIAN LLP
26632 Towne Centre, Suite 300
Foothill Ranch, California 92610-2808
Telephone: (949) 340-3400
Facsimile: (949) 340-3000



James C. Bastian, Jr.
Proposed Attorneys for the Relay Point, Inc.,
Debtor and Debtor in Possession