

MEMORANDUM TO THE BOARD OF DIRECTORS  
WILMINGTON TRUST, N.A.

April 18, 2025

RE: Formal notice regarding Cogent Communications  
Holdings, Inc. IPv4 securitization

FROM: David J. Koch  
Federal whistleblower – case involving Cogent  
Communications (NASDAQ: CCOI)

To the Members of the Wilmington Trust Board of  
Directors:

This memorandum provides formal legal and ethical notice regarding a material transaction your institution executed on April 11, 2025—the \$174.4 million IPv4 securitization with Cogent Communications Holdings, Inc. (NASDAQ: CCOI).

That transaction was finalized despite the existence of formal legal notices and whistleblower disclosures, both public and private, identifying active federal investigations and detailing Cogent’s concealed acquisition of Fiber Network Solutions, Inc. (FNSI).

The FNSI transaction was never properly disclosed to the SEC and that occurred during a period of documented medical incapacitation of the company’s co-founder and CEO.

This memorandum is provided to ensure the facts are known and that the fiduciary responsibilities of Wilmington Trust's board are clearly preserved in the record.

## 1. BACKGROUND: THE 2003 FNSI ACQUISITION

I was the co-founder, President, CEO, and Chairman of Fiber Network Solutions, Inc., a Tier-1 Internet backbone based in Ohio with over \$10 million in annual revenue and unqualified audit opinions from KPMG.

In early 2003, while I was incapacitated due to severe illness, under activities that demonstrate clear legal, ethical, and criminal misconduct, I was forcibly and unlawfully divested of control of my company, along with my 1.2 million shares.

Rather than a legitimate corporate acquisition, a deliberate financial fraud was orchestrated among at least six individuals, ensuring that insiders extracted company value while bypassing rightful shareholder entitlements.

Rather than a standard stock transaction, this was camouflaged as an "asset sale"—a structure that effectively nullified my 1.2 million shares and redirected financial benefits through a sophisticated web of undisclosed and deliberately concealed mechanisms. The belief was that I would not survive my medical challenges to uncover this activity.

Rather than disclose this origin, Cogent omitted any reference to FNSI in its 2004 IPO registration. The FNSI transaction was buried in an unindexed exhibit, categorized generically as "miscellaneous assets," with no board

minutes, ownership schedules, or voting records. All schedules to Exhibit 2.5 were omitted.

That omission, material by any reasonable legal or ethical standard, became foundational to the company that later executed the IPv4 securitization you now hold paper on.

## 2. THE 2025 IPV4 SECURITIZATION

The securitization executed by Wilmington Trust in April 2025 was collateralized in part on infrastructure and revenues tied directly to Cogent's operational history, history rooted in FNSI's intellectual property, proprietary systems, trade secrets and customer base.

Despite having received four legal notices between March 14 and March 19, 2025, Cogent:

- Made no disclosures regarding the whistleblower investigation in its offering memorandum.
- Made no disclosures regarding a whistleblower who contacted Cogent during December 2023.
- Made no reference to the FNSI acquisition in any investor materials or public filings neither at the time nor for over two decades afterward.
- Acknowledged receipt of legal notices in writing but proceeded with the transaction without disclosure.
- Did not notify Wilmington Trust or its institutional counterparties of the underlying legal risks.

The transaction closed on April 11, 2025. These facts are now part of the timeline and public record.

### 3. TIMELINE OF DISCLOSURES AND EVENTS:

- March 14–19, 2025: Four legal notices delivered to Cogent executives and legal counsel.
- March 19, 2025: Written acknowledgment of notices from Cogent’s Chief Legal Officer.
- April 5, 2025: Formal memorandum issued to Cogent’s full board of directors.
- April 11, 2025: Wilmington Trust finalizes \$174.4M IPv4 securitization.
- April 14–15, 2025: Public news releases issued disclosing federal whistleblower activity.
- April 17, 2025: Formal memorandum issued to Cogent’s full board of directors.
- April 18, 2025: This memorandum formally delivered to Wilmington Trust’s board.

At every point along this sequence, opportunities existed to investigate, delay, or disclose. Those opportunities are now part of the evidentiary trail.

### 4. ETHICAL CONSIDERATIONS

This matter extends beyond legal exposure. At its core is a fundamental ethical question:

What responsibility does a financial institution carry when it monetizes a transaction that originated in the erasure of a medically incapacitated founder? That founder was presumed too ill to uncover the truth. Two credible sources had informed participants in the transaction that he was not expected to survive more than six months.

A transaction was structured to disappear from the record. His shares were nullified, his role erased, and his company absorbed. Decades later, assets rooted in that company were securitized and sold, without reference to any of the above.

- When that founder did not die as expected, the original crime became a 22-year criminal cover-up.

Seven specific federal criminal acts since December 2023 have reset the statute of limitations to March 6, 2025 under: *Klehr v. A.O. Smith Corp.*, 521 U.S. 179 (1997); *Merck & Co. v. Reynolds*, 559 U.S. 633 (2010); *United States v. Smith*, 740 F.2d 734 (9th Cir. 1984); *United States v. Arnold*, 117 F.3d 1308 (11th Cir. 1997); *United States v. Levine*, 457 F.2d 1186 (10th Cir. 1972); and, *Toussie v. United States*, 397 U.S. 112 (1970). The criminal conspiracy that began in 2003 is a current criminal enterprise today.

Each act of suppression, retaliation, obstruction and concealment, most recently in March 2025, extends the legal timeline and resets applicable statutes under federal law.

Now, that transaction is in your institution's portfolio.

##### 5. CURRENT STANDING AND LEGAL POSTURE

- Formal whistleblower filings have been submitted to:
  - Department of Justice (DOJ)
  - The Federal Bureau of Investigation (FBI)
  - The Securities and Exchange Commission (SEC)

- The Internal Revenue Service – Criminal Investigation Division (IRS-CI)
- The Financial Industry Regulatory Authority (FINRA)
- The statute of limitations was reset to March 6, 2025, based on newly surfaced evidence, internal legal responses from Cogent, and third-party involvement.
- Cogent’s written acknowledgement of prior legal notice is archived and submitted.
- The full record is contained in a fully detailed 147-page report filed with the DOJ, FBI, SEC, IRS-CI and FINRA. Portions of the underlying evidence is accessible at <https://FiberNetworkSolutions.net>.

Your institution’s role is now documented within the chronology of disclosures and subsequent filings.

## 6. PATH FORWARD

This memorandum does not accuse Wilmington Trust or assign guilt. It simply places your board on notice and preserves the integrity of your governance process.

As trustees, you may choose to:

- Open an internal inquiry.
- Notify counterparties or insurers.
- Seek clarification from Cogent or your internal compliance counsel.
- Or take no action.

April 18, 2025

Page 7 of 7

Whatever you decide, your institution is now on formal record as having been informed.

## FINAL WORD

This was not simply a securitization.

It was the conversion of a concealed and now documented twenty-two-year criminal history into tradable securities.

You now hold the paper.

You now hold the truth.

Respectfully,

A handwritten signature in blue ink that reads "David Koch". The signature is written in a cursive style with a large, stylized "D" and "K".

David J. Koch

Federal Whistleblower

dave@koch.net

(614) 364-4085