

*David J. Koch
Federal Whistleblower
President & CEO
Fiber Network Solutions, Inc.*

502 W Montgomery St
PMB 578
Willis, TX 77378

May 27, 2025

VIA ELECTRONIC MAIL

investor.relations@cogentco.com, dhowell@wc.com, jajohnson@cogentco.com,
cwiggs@cogentco.com, JBubeck@cogentco.com, info@cogentco.com, TWeed@cogentco.com,
JChang@cogentco.com, sherylkennedy888@gmail.com, pdesa@cogentco.com,
marc.montagner@gmail.com, blakebath@yahoo.com, sbrooks@cogentco.com, lewisf3@aol.com,
Howell_dc@yahoo.com, eveandjasper@gmail.com

Board of Directors
Corporate Secretary
Chief Legal Officer
Cogent Communications Holdings, Inc.
2450 N Street NW
Washington, D.C. 20037

RE: Formal Demand for Production of Omitted
Schedules to Exhibit 2.5 and All Related
Documents

TO: The Board of Directors, Corporate Secretary, and
Chief Legal Officer:

Ladies & Gentlemen:

This letter constitutes a formal and legally protected demand for the immediate production of critical documents unlawfully withheld from the undersigned federal whistleblower—specifically, the Schedules omitted from [Exhibit 2.5](#) of the 2003 [Asset Purchase Agreement](#) between Cogent Communications and Fiber Network Solutions, Inc. (“FNSI”). These “Schedules” are no longer subject to discretionary withholding given their relevance to active federal investigations.

These materials have been explicitly referenced in SEC filings and are now central to multiple active federal investigations. Their continued concealment is inconsistent with federal disclosure laws and violates the statutory rights afforded to protected whistleblowers under U.S. law.

THE INCONSISTENT NARRATIVE SURROUNDING EXHIBIT 2.5

In 2003, Cogent Communications downplayed its acquisition of Fiber Network Solutions, Inc. so thoroughly that the transaction was not even identified by name in its S-1 SEC registration statement. Instead, it was buried in a broad category of unindexed “miscellaneous asset purchases,” deemed immaterial and excluded from shareholder disclosure, external communications, syndicated press release, and regulatory attention.

However, in 2025, that same acquisition—specifically, the Schedules omitted from [Exhibit 2.5](#)—has become the most closely guarded and aggressively concealed set of documents in Cogent Communications’ entire corporate history.

If the FNSI acquisition was truly insignificant, why is Cogent Communications now taking extraordinary steps—and exposing its Board of Directors to potential criminal liability—to prevent the release of documents tied to that transaction?

The continued silence and refusal by Cogent Communications, its officers, and board members to release the Schedules speaks louder than any press statement. These documents are no longer guarded by legal discretion—they are being actively concealed in the face of ongoing regulatory and criminal investigations by the SEC,

IRS-CI, FBI, FAA, and the U.S. Attorney's Office for the Southern District of Ohio, Columbus Division.

IMMEDIATE DEADLINE FOR DELIVERY OF SCHEDULES

You are hereby directed to transmit complete, unaltered scanned copies of the omitted Schedules to Exhibit 2.5 to dave@koch.net no later than 5:00 PM Eastern Time on Tuesday, May 27, 2025. This deadline is firm, immediate, and non-negotiable.

Failure to comply will be deemed a knowing and willful act of obstruction in violation of federal law, including 18 U.S.C. § 1505 (obstruction of agency proceedings), and 18 U.S.C. § 1512 (tampering with a witness or informant, or concealment of documents). It may further constitute retaliation against a federal whistleblower under 18 U.S.C. § 1513(e), triggering additional criminal liability and potential civil penalties.

ADDITIONAL 48-HOUR DEADLINE FOR RELATED DOCUMENTS

You are further directed to produce, within 48 hours of this notice, the following categories of records, all of which are directly material to federal investigations and whistleblower disclosures:

- All versions—draft or final—of the omitted Schedules to [Exhibit 2.5](#);
- All internal or external communications (including emails, memoranda, or attachments) referencing the Schedules, their preparation, revision, omission, or treatment;

- All board or executive meeting minutes, notes, or summaries discussing [Exhibit 2.5](#), the FNSI acquisition, or related legal or regulatory risks;
- A list of every individual, including legal counsel, who was involved in drafting, modifying, reviewing, discussing, approving, or omitting the Schedules— with acknowledgement that the crime-fraud exception eliminates attorney-client privilege in this matter;
- All materials reflecting Cogent’s internal or external regulatory posture, compliance discussions, or decisions to suppress disclosure of the Schedules;
- All emails, phone records, notes, or documents involving any direct or indirect contact—formal or informal—between Cogent officers, directors, employees, or agents and Kyle C. Bacon, Craig Housley, or Inga Housley, from December 2023 through the present;
- Any legal briefs, board-level summaries, or strategy documents concerning the handling, withholding, or potential release of the Schedules;
- All records or summaries regarding knowledge of or communication with Kyle C. Bacon, Craig Housley, or Inga Housley at the board, legal, or executive level during or following the FNSI acquisition and subsequent concealment.

LEGAL NOTICE

This demand is issued under the full protection of federal law, including but not limited to the following authorities:

- 18 U.S.C. § 1513(e) – Prohibiting retaliation against a federal whistleblower;
- 18 U.S.C. §§ 1503, 1505, and 1512 – Addressing obstruction of justice, concealment, and tampering with evidence or witnesses;
- The Sarbanes-Oxley Act (15 U.S.C. § 78u-6(h)) – Protecting whistleblowers who provide information regarding potential violations of securities law;
- SEC Rule 17 C.F.R. § 240.12b-20 – Requiring that all material facts be disclosed to make statements not misleading;
- The Whistleblower Protection Act (5 U.S.C. § 2302(b)(8)) – Safeguarding disclosures to oversight authorities;
- The First Amendment to the U.S. Constitution – Protecting lawful speech on matters of public and governmental concern.

The ongoing refusal to produce these materials—particularly after internal confirmation of their existence—constitutes deliberate concealment. Such conduct may toll or reset applicable statutes of limitations under 18 U.S.C. § 1962(d), exposing all participants to renewed RICO conspiracy liability.

FINAL NOTICE

You are now formally on record. This request is being monitored by multiple federal agencies. Any further delay, evasion, suppression, or retaliatory conduct—whether explicit or implied—will be treated as a continuation of the conspiracy, and may result in heightened criminal exposure

Board of Directors
Corporate Secretary
Chief Legal Officer
Cogent Communications Holdings, Inc.
May 27, 2025
Page 6 of 6

under federal statutes governing obstruction of justice and racketeering.

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

President & CEO, Fiber Network Solutions, Inc.

(614) 406-9766

dave@koch.net