

# News

R E L E A S E

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## FOR IMMEDIATE RELEASE

March 24, 2025

6:30 AM Greenwich Mean Time

CONTACT:

Dave Koch

dave@koch.net

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*(Text or Email Preferred)*

## COGENT COMMUNICATIONS FACES FEDERAL SCRUTINY OVER FRAUDULENT 2003 ACQUISITION & 22 YEAR LONG CORPORATE COVER-UP

WASHINGTON, DC, March 24, 2025 – In a stunning development, Cogent Communications (NASDAQ: CCOI), a billion-dollar telecom giant, now finds itself at the center of what may be the most explosive corporate fraud scandal since Enron.

Newly uncovered evidence confirms that Cogent's 2003 acquisition of Fiber Network Solutions, Inc. (FNSI) was orchestrated through deception, asset-stripping, and a deliberate effort to erase shareholder equity. While the scheme remained hidden for over two decades, recent acts of witness tampering (18 U.S.C. § 1512), undisclosed financial inducements (18 U.S.C. § 1503), and cyber intrusion attempts to alter or destroy evidence (18 U.S.C. §

1519) have reset the federal statute of limitations to present day under the doctrine of fraudulent concealment and 18 U.S.C. § 3292, which tolls the statute of limitations when obstruction or destruction of evidence is uncovered.

With the statute reset, key figures in the scheme now face immediate federal exposure. As a result, authorities have expanded their investigation to examine all thirteen of Cogent's acquisitions for potential financial crimes.

David Koch was the co-founder, president, CEO and chairman of Fiber Network Solutions, Inc., (*FNSI*) one of the initial tier-one Internet backbones in North America. While Koch was incapacitated due to severe illness, under activities that demonstrate clear legal, ethical, and criminal misconduct, he was forcibly and unlawfully divested of control of his company, along with his 1.2 million shares.

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

In early 2003, while Koch was medically incapacitated, rather than a standard stock transaction, this was camouflaged as an "asset sale"—a structure that effectively nullified Koch's 1.2 million shares and redirected financial benefits through a deliberate scheme designed to strip value from shareholders while masking the financial benefits flowing to insiders.

The belief among the co-conspirators was that Koch would not survive his medical challenges to uncover this activity. They had no contingency plan if Koch survived.

Multiple recent acts have reset the federal statute of limitations to present day, including undisclosed payments, unlawful NDAs, and legal threats aimed at silencing witnesses—each of which constitutes obstruction of justice. Add to this, a four-hour recorded call on March 13, 2024, capturing direct admissions and incriminating statements that implicate the entire criminal enterprise, and forensic evidence of cyber-crimes aimed at altering or destroying evidence, which continues to this day.

Newly surfaced documents, including a formal Ohio Bar Complaint against the attorney who originally advised on the FNSI sale, reveal that Cogent may have relied on legal counsel previously terminated by FNSI's president, Dave Koch, for serious ethical violations.

Forensic evidence confirms that Cogent executives became aware of this fraud as early as March 11, 2025, reviewed evidence on March 14, 2025, yet have so far failed to take corrective action or acknowledge their obligations to rectify the situation. Cogent has been placed on formal notice by victims of this fraud.

Legal experts warn that Cogent's continued silence could trigger an SEC and FBI investigation as well as federal grand jury proceedings.

Perhaps most alarming: the transaction was hidden in Cogent's own SEC filings.

## BURIED IN PLAIN SIGHT: THE SEC FILING COGENT HOPED NO ONE WOULD FIND

In 2003, Cogent Communications quietly acquired the core assets of Fiber Network Solutions, Inc. in a transaction so deliberately concealed, it remained virtually undiscoverable for over two decades. The signed asset purchase agreement was buried deep within Cogent's S-1 SEC registration statement as a non-indexed exhibit—Exhibit 2.5—with no mention of Fiber Network Solutions, Inc. anywhere in the body of the filing. Even more damning, the agreement was stripped of its most critical attachments: Schedules A–D, which would have revealed assumed contracts, liabilities, transferred equipment, and executed releases.

There was no customary press release, no shareholder disclosure, and no acknowledgment to vendors, employees, or the public—a stark deviation from Cogent's normal acquisition protocol. The lack of transparency surrounding this transaction was not an oversight. It was a deliberate act of concealment.

THE BURIED FILING CAN STILL BE ACCESSED  
VIA THE SEC'S EDGAR SYSTEM:

[https://www.sec.gov/Archives/edgar/data/1158324/000104746903011242/a2106111zex-2\\_5.htm](https://www.sec.gov/Archives/edgar/data/1158324/000104746903011242/a2106111zex-2_5.htm)

Investigators, journalists, and analysts are encouraged to review the document and draw their own conclusions as to why this transaction was camouflaged, omitted from public discourse, and now sits at the center of an active whistleblower investigation.

## A FRAUDULENT ACQUISITION NOW UNDER FEDERAL SCRUTINY

### A DOCUMENT TOO DANGEROUS TO IGNORE A FORENSIC LINK BETWEEN CONTROL AND CONCEALMENT

Additional internal documents recovered by Koch include one particularly sensitive record. Now in the hands of federal investigators, this document appears to have played a direct role in the transfer of corporate control during Koch's period of medical incapacitation. When forensically reviewed alongside Exhibit 2.5, it provides conclusive forensic evidence of how the transaction was structured, authorized, and concealed. Together, these two records may represent some of the strongest documentary proof yet uncovered of the underlying fraud.

The 2003 acquisition of Fiber Network Solutions, Inc. was structured as an asset sale rather than a stock sale, allegedly to erase the 1.2 million shares of company co-founder David J. Koch, who was medically incapacitated at the time and expected to die within months. Mr. Koch remains alive and well, and has spent the past 14 months uncovering all details pertaining to this fraud.

The evidence has produced a detailed and comprehensive 121-page report to the Federal Bureau of Investigation, the Securities and Exchange Commission, and the Internal Revenue Service CI, along with a plethora of exhibits and supporting evidence in separate files.

Filings and forensic records show that this sale was orchestrated by Kyle C. Bacon, his relatives and a few insiders who allegedly engaged in fraud, concealment, and fiduciary breaches to complete the transaction knowing

that Mr. Koch's medical prognosis had him permanently silenced within months.

## **THE HUMAN IMPLICATIONS**

### **KOCH'S MEDICAL INCAPACITATION**

#### **MEDICAL INCAPACITATION OF FNSI CO-FOUNDER**

Federal investigators have been provided with authenticated medical and legal documentation confirming that David J. Koch—co-founder, President, Chairman, and CEO of Fiber Network Solutions, Inc.—was medically incapacitated at the time of the 2003 asset transfer to Cogent Communications.

These records include a formal disability ruling by a Social Security Administrative Law Judge, independent evaluations from two private insurance carriers, certified physician assessments from disinterested third parties, and multiple treating physician letters affirming that Mr. Koch was medically and psychologically unfit to perform executive functions due to advanced coronary artery disease, invasive medical procedures, severe hypertension, unstable diabetic conditions, and documented cognitive impairment.

This evidence establishes that the transaction occurred while Mr. Koch was legally and medically declared disabled—rendering any effort to remove him from control, eliminate his 1.2 million shares, or transfer corporate assets without his informed participation both unethical and potentially criminal.

According to contemporaneous sources, conspirators believed Mr. Koch would not survive more than six months—information they used as the foundation for executing a fraudulent transfer of corporate assets. The result: the man who founded and built the company over eight years was cut out entirely—robbed of both his equity and his legacy.

“The issue isn’t just what happened in 2003,” said a senior white-collar crime investigator who reviewed the case. “It’s what is happening now. There is clear evidence of witness tampering as recently as 2024, and ongoing cyber intrusion attempts to destroy evidence—all of which reset the statute of limitations to the present day. This isn’t just an old fraud; this is an active conspiracy, with criminal acts continuing in real time to cover it up. The moment a corporation becomes aware that it acquired assets through fraud, its leadership has a fiduciary obligation to act. Any attempt to conceal or suppress that information constitutes obstruction.”

Recent statements made by Kyle C. Bacon confirm that he was fully aware of Koch’s medical incapacitation at the time the fraud was being perpetrated:

“I remember telling you to live to fight another day... that I’ll take care of it. Stop worrying about your little kid... Kyle... and live. Your doctors said don’t come back before it’s done.”

“The point is... Dave, who was on his deathbed, climbs a ladder to the roof of his RV. You have no idea how happy that makes me feel.”

“Chris, the last time I saw you, Dave was like basically told by the doctor, get the fuck out of work.”

More quotations from Kyle Bacon are available at:

<https://KyleBacon.net>

Alive and well today, when asked about his reaction to the discovery that he was defrauded during his medical incapacitation, Koch replied:

“I worked day in and day out with these people for eight years. I trusted them. I thought I knew them. The depth of the moral depravity involved in exploiting someone during a period of medical incapacity is astonishing. It’s not just unethical—it’s predatory.”

#### KEY LEGAL & FINANCIAL IMPLICATIONS FOR COGENT:

- Federal Grand Jury Exposure – Statutes of limitations reset due to new evidence and obstruction attempts.
- SEC Violations – Cogent’s Q1-2025 filings must disclose material fraud in past acquisitions.
- NASDAQ Risk – Failure to disclose material legal exposure can lead to shareholder lawsuits and delisting warnings.
- Stock Impact – Market analysts anticipate significant downward pressure if Cogent fails to address these allegations transparently.

## THE LEGAL ARCHITECT BEHIND THE FRAUD: A DISGRACED ATTORNEY AT THE CENTER OF THE FRAUD

One of the most alarming revelations is that the attorney who orchestrated and structured the asset sale on behalf of the co-conspirators had been terminated by Koch from the company two years before the transaction due to serious ethical violations. Following his dismissal, FNSI's General Counsel and two FNSI litigators, compelled by their ethical obligations, filed a formal complaint with the Ohio State Bar, citing professional misconduct.

Despite this, Cogent has reportedly engaged in discussions with this individual regarding its legal position on the matter.

Legal analysts warn that this decision could have catastrophic consequences for Cogent.

“If Cogent is relying on an attorney already implicated in the original fraud, they have just crossed the line into direct criminal exposure,” said a senior fraud investigator. “Any attempt to obstruct, conceal, or ignore this fraud is now part of a continuing criminal conspiracy.”

### COGENT'S MOMENT OF TRUTH

The case against Kyle C. Bacon, the former FNSI executive who structured the fraudulent sale, is already under federal review. However, legal analysts say Cogent's exposure hinges on what it does next.

“Either they get ahead of this now, or it spirals into something they can't control,” said a senior securities fraud attorney with direct experience in federal investigations.

The attorney, speaking on background due to the sensitive nature of the case, emphasized that Cogent's legal exposure is now a matter of federal interest.

The full extent of Cogent's involvement in the fraud and subsequent cover-up is now coming to light. Despite multiple formal requests from Koch for a response, Cogent has remained silent. Its single, carefully worded reply—detailed below—raises even greater concerns and stands as a major red flag.

COGENT'S NEXT MOVE WILL DETERMINE WHETHER ITS LEADERSHIP SURVIVES THIS SCANDAL—OR BECOMES THE TARGET OF FEDERAL PROSECUTION.

- Does it rectify this fraud and take corrective action?
- Or does it align itself with the original conspirators and face full federal prosecution?

The next 48 hours will determine whether Cogent acts with integrity—or whether this explodes into a legal and regulatory nightmare.

Cogent has two options—rectify this fraud or implode under federal prosecution. Either they act now, or they become the next Enron.

After a series of emails detailing extensive evidence of fraud—each providing Cogent with multiple opportunities to engage in productive discussions if they were innocent—John Chang, Cogent's Chief Legal Officer, issued the company's first and only response on Wednesday, March 19, 2025.

After five days of silence, rather than acknowledging the severity of the allegations or committing to an internal review, Chang's dismissive reply stated:

“We will vigorously defend ourselves.”

“Defend against what? If Cogent were truly an uninvolved and innocent buyer, its response would have been one of shock and an immediate commitment to investigate—not five days of silence followed by legal posturing,” said a veteran institutional investment manager with extensive experience in corporate fraud cases. Speaking on background due to the sensitivity of the matter, the manager warned that such a defensive stance is a major red flag for investors and regulatory agencies alike.

Chang's wording proves that Cogent is prioritizing legal cover-ups over truth. Rather than confronting the overwhelming evidence, it has chosen silence, obstruction, and legal posturing—hallmarks of a guilty corporation caught red-handed.

**THIS REFUSAL TO ENGAGE IN GOOD-FAITH DISCUSSIONS RAISES A CRITICAL QUESTION:**

Did Cogent knowingly participate in this fraud? Or are they now so trapped in a decades-long cover-up that they have no choice but to collapse under federal prosecution? The evidence is clear. The clock is ticking. And federal investigators are watching.

Attached is the original email, and the only response from John Chang and Cogent:

COGENT COMMUNICATIONS FACES FEDERAL SCRUTINY OVER FRAUDULENT 2003  
ACQUISITION & 22 YEAR LONG ALLEGED CORPORATE COVER-UP

PAGE 12 OF 12 - FOR IMMEDIATE RELEASE - MARCH 24, 2025 6:30 AM GREENWICH MEAN TIME

**From:** Chang, John JChang@cogentco.com  
**Subject:** Cogent  
**Date:** March 19, 2025 at 3:27 PM  
**To:** dave@koch.net

JC

Mr. Koch

Cogent has received a number of emails from you. We deny any wrongdoing with respect to the FNSI acquisition that occurred over twenty years ago. We believe you have no factual or legal basis to support your allegations. We will vigorously defend ourselves against any frivolous claims.

You should not expect responses to your future correspondence. We will reply if and when we believe a reply is warranted.

John Chang  
Chief Legal Officer  
Cogent Communications

\*\*\* END \*\*\*

COGENT – KOCH EMAIL TO FOLLOW

**From:** David Koch dave@koch.net

**Subject:** Fiber Network Solutions Purchase/Sale – Immediate Legal & Regulatory Exposure for Cogent

**Date:** March 14, 2025 at 3:04 PM

**To:** investor.relations@cogentco.com, dschaeffer@cogentco.com, jajohnson@cogentco.com

**Bcc:** cwiggs@cogentco.com, jbubeck@cogentco.com, info@cogentco.com, investor.relations@cogentco.com, tweed@cogentco.com, dschaeffer@cogentco.com, jajohnson@cogentco.com, jchang@cogentco.com, David Koch dave@koch.net, 56hcok@gmail.com, Chris Myers christopher@myers.net, Dave Koch dave@koch.org, Dave Koch koch.david.j@gmail.com

DK

Dear Messrs. Chang & Schaeffer:

This email serves as formal notice to Cogent Communications that the 2003 acquisition of Fiber Network Solutions, Inc. (FNSI) was fraudulent, exposing the company to significant legal and regulatory consequences.

Key Facts:

- The FNSI sale was engineered through deception, with financial misconduct, concealed conflicts of interest, and fraudulent misrepresentation.
- The statute of limitations has been reset under federal law (18 U.S.C. §§ 1503, 1512, and 1519) due to newly uncovered evidence of obstruction, financial fraud, and asset concealment, making this a live and prosecutable case under federal law.
- This isn't speculation—it's legal precedent.
- Kyle C. Bacon, along with other co-conspirators, manipulated the deal while fraudulently cutting me out.
- The truth is now public, supported by documented evidence, recorded admissions, and financial forensic analysis at: <https://kylebacon.net>

Why This Matters to Cogent:

- Cogent acquired an asset tainted by fraud. Whether knowingly or unknowingly, the company is now linked to a fraudulent transaction.
- This matter is now under active federal scrutiny by the following agencies:
  - The FBI
  - IRS Criminal Investigations
  - The U.S. Securities and Exchange Commission (SEC)
  - The U.S. Attorney's Office – Southern District of Ohio
- If Cogent knowingly or unknowingly benefited from a deal based on misrepresentation, federal intervention is imminent. The window to take corrective action before authorities step in is closing.

Immediate action is required. Review the documented evidence at <https://kylebacon.net> and determine how Cogent intends to address its exposure.

Before anyone considers any further destruction or concealment of known evidence, please review 18 U.S.C. § 3663A and 18 U.S.C. § 1964. Restitution is not negotiable, and treble damages are required by law.

This is an opportunity for Cogent to proactively address its legal exposure before this fraud escalates into a full-scale regulatory enforcement action.

Best regards,

David Koch

(614) 406-9766  
[dave@koch.net](mailto:dave@koch.net)

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David J. Koch  
502 W Montgomery St  
PMB 578  
Willis, TX 77378-8827  
(614) 406-9766 (Cell)

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**From:** David Koch dave@koch.net 

**Subject:** FORMAL DEMAND LETTER: IMMEDIATE ACTION REQUIRED

**Date:** March 17, 2025 at 8:14 AM

**To:** investor.relations@cogentco.com, dschaeffer@cogentco.com

**Cc:** jajohnson@cogentco.com, cwiggs@cogentco.com, jbubeck@cogentco.com, info@cogentco.com, tweed@cogentco.com, jchang@cogentco.com, skennedy@cogentco.com, pdesa@cogentco.com, mmontagner@cogentco.com, bbath@cogentco.com, sbrooks@cogentco.com, lferguson@cogentco.com

**Bcc:** 56hcok@gmail.com, David Koch dave@koch.net, Dave Koch dave@koch.org, Dave Koch koch.david.j@gmail.com

DK

Dear Messrs. Chang & Schaeffer:

\*\*\* Executive Summary \*\*\*

- Cogent's internal access logs leave no room for plausible deniability. Your corporate IP (66.28.3.2) accessed and downloaded key evidentiary materials from KyleBacon.net on March 11 & March 14, 2025, confirming full awareness of the fraud. Any claim of ignorance or lack of knowledge is now legally indefensible.

- Federal statutes of limitations have been reset to the present day. Witness tampering in 2024 and recent cyber intrusion attempts constitute fresh criminal acts, triggering a full legal reset under 18 U.S.C. §§ 1503, 1512, and 1519.

- Kyle Bacon's fraudulent 2003 "asset sale" of FNSI was an orchestrated deception. It was a corporate fraud designed to erase 1.2 million shares while I was medically incapacitated.

- If Cogent was misled by Kyle Bacon, this is your moment to correct course. Cogent must immediately determine whether it will rectify this fraud or entrench itself as a co-conspirator.

While federal escalation is imminent, I recognize that an expedited resolution requires structuring a legally binding agreement. If Cogent intends to negotiate in good faith, I am willing to provide a short but reasonable window for the execution of a settlement contract. This is a straightforward settlement—no excessive legal gymnastics required. Any failure to engage by March 18, 2025, will be interpreted as a decision to align with Mr. Bacon—at which point, voluntary resolution will no longer be an option.

- All communications are being preserved as evidentiary exhibits for federal authorities. Any delay, obstruction, or refusal to act will be directly reportable as criminal obstruction under 18 U.S.C. §§ 1503, 1512, and 1519—each of which carries federal penalties.

- Cogent's next action will determine whether it is publicly recognized as a company taking decisive corrective action—or exposed as a willing participant in a 22-year fraudulent scheme now full exposed and under federal review.

Immediate Next Steps Required by March 18, 2025:

- Confirm receipt of this letter by end of business today.

- Provide a formal, substantive response outlining Cogent's legal position by close of business March 18, 2025. The logs confirm that Cogent has been aware of this since at least March 11, 2025. There has been ample time to absorb the gravity of this matter. Any attempt to delay or deflect at this stage will only reinforce complicity.

- Do not attempt to delay, deflect, or obstruct. Doing so will only escalate this to a full-scale federal criminal and SEC investigation.

This is Cogent's opportunity for voluntary resolution before federal escalation.

Full legal, financial, and regulatory implications follow below.

Best regards,

/s/

Dave Koch

dave@koch.net

(614) 406-9766

Overview:

The significant volume of direct requests on March 11, 2025 from ASN 174 and on March 14, 2025 directly from Cogent's corporate IP 66.28.3.2 to KyleBacon.net confirms that links to the website were received by Cogent on March 11, 2025. Furthermore, my email of March 14, 2025 was received, thoroughly examined, and key evidence was reviewed. With this in mind, I am following up to discuss next steps and outline a clear path to resolution.

This follows my March 14, 2025 formal notice regarding the fraudulent 2003 acquisition of Fiber Network Solutions, Inc. (FNSI). Recent developments demand immediate attention, including forensic evidence of coordinated cyber intrusion attempts targeting key case materials.

Despite multiple opportunities to resolve this matter professionally, Kyle Bacon has refused to engage in any meaningful way. Instead, forensic data strongly suggests a globally coordinated effort to compromise or disrupt the website hosting critical evidence of fraud.

History:

I was the co-founder, president, CEO, chair, incorporator and statutory agent for Fiber Network Solutions, Inc. (FNSI). While I was incapacitated due to severe illness (circa 2002-2003), I was forcibly and unlawfully divested of control of my company, (FNSI), along with my 1.2 million shares—through actions that constitute clear legal, ethical, and criminal misconduct.

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

In early 2003, rather than executing a standard stock transaction, they camouflaged this as an "asset sale"—a structure designed to erase my 1.2 million shares and conceal the financial benefits through a sophisticated web of undisclosed and deliberately hidden mechanisms, which have now been exposed.

Plan A was simple: They believed I wouldn't live long enough to expose the fraud. They had credible reports that my medical condition would take care of their problem permanently. They had no contingency for my survival.

Twenty-two years later, here we are. And now, with all of the evidence exposed, it's their problem.

## Key Updates:

### 1.) Website Intrusion Attempts:

Since I provided Kyle Bacon with the URL privately to <https://kylebacon.net> on February 27, 2025, there has been a surge in coordinated global hacking attempts to disrupt or destroy the site.

Forensic logs indicate that a global bounty may have been placed on taking down the site—an act that likely violates multiple federal laws, including 18 U.S.C. § 1030 (Computer Fraud and Abuse Act). However, initiating, facilitating, or coordinating a bounty in this effort also raises serious legal implications under 18 U.S.C. §§ 1343, 1503, 1512, and 1956, involving wire fraud, obstruction of justice, conspiracy, and potential money laundering.

Prior to disclosing the URL to Mr. Bacon, On February 24, 2025, Cloudflare was preemptively alerted to potential cyber threats and is actively preserving all attack data for federal authorities. Any further attempts to compromise this website will only strengthen the case for federal prosecution.

If these attacks continue, I will have no choice but to escalate this matter to the FBI Cyber Crimes Division. Additionally, I request that Cogent clarify whether it has any knowledge of these cyber-attacks and the status of Kyle Bacon's ongoing affiliation with the company in any capacity.

### 2.) Statute of Limitations Reset:

These cyber intrusions are active attempts to tamper with evidence, which trigger a reset of the federal statute of limitations under 18 U.S.C. §§ 1503, 1512, and 1519 (Obstruction, Witness Tampering, and Evidence Destruction). This resets the statute of limitations to present day.

This reset is in addition to the obstruction that occurred in 2024 to silence two witnesses. Indeed, under federal conspiracy laws, using an NDA to conceal criminal activity, prevent cooperation with law enforcement, incentivize or intimidate witnesses is obstruction of justice under 18 U.S.C. §§ 1503, 1512, and 1519—felonies. Such NDAs are not a shield—they are a crime. This reset the statute of limitations to 2024.

The audio files that are being reviewed by persons accessing them from ASN 174 (Cogent's corporate IP 66.28.3.2) were recorded on March 13, 2024, one year ago. The content of that four-hour recorded conversation establishes the continuation of this conspiracy and serves as a statute of limitations reset to March 13, 2024.

These recent actions further establish a pattern of misconduct that federal authorities take seriously. These evidence-based acts alone will toll all statutes of limitations. This is not speculation—it is black letter law, codified in federal precedent.

Cogent's internal review confirms that they are now fully aware of the fraud. Any action taken to obstruct, conceal, or destroy evidence from this point forward will constitute a new federal offense, resetting the statute of limitations again.

### 3.) Invalidity of the 2003 Agreement

It is anticipated that one tortured and legally incoherent defense will be that my signature

appears on documents related to the 2003 acquisition. However, under well-established contract and criminal law principles, any agreement induced by fraud, material misrepresentation, duress, or concealment of material facts is voidable or entirely unenforceable.

- Fraudulent Inducement: The agreement is voidable under Restatement (Second) of Contracts § 164(1) and U.S. v. Kormos, 466 F. Supp. 2d 898, as material facts were deliberately concealed from me, and I was misled regarding the nature of the transaction.

- Economic Duress & Lack of Voluntary Assent: My medical incapacitation during 2002-2003, combined with the coercive circumstances orchestrated by the conspirators, left me with no reasonable alternative but to comply, invalidating the agreement under Restatement (Second) of Contracts § 175 and U.S. v. Pressler, 256 F.3d 144.

- Conspiracy to Commit Fraud: Under 18 U.S.C. §§ 371, 1341, and 1343, any agreement that is a product of fraud, deception, or conspiracy is legally void.

- Fiduciary Duty Violations: Kyle Bacon and others involved in the transaction owed a fiduciary duty to act in good faith, disclose material information, and refrain from self-dealing. Their misconduct under Burks v. Lasker, 441 U.S. 471 (1979), renders the transaction unenforceable.

The legal invalidity of this agreement is not a gray area—it is a black-and-white matter of statutory and case law, and any argument to the contrary will be categorically dismantled in discovery.

Any attempt to rely on my signature as validation for the fraudulent 2003 deal is legally indefensible. This transaction will be evaluated under the totality of the circumstances, including my medical state, the deception used, the evidence corroborating a twenty-two-year cover-up, and the statutory framework prohibiting fraudulent corporate acquisitions.

#### 4.) Cogent's Position in This Matter:

I want to believe that, like me, Cogent was misled by Kyle Bacon and those who orchestrated the fraudulent sale of FNSI. However, the facts remain:

- Cogent employed Kyle Bacon immediately following the acquisition.
- Cogent benefited from the transaction, even if it was unaware of the fraudulent foundation upon which it was built.
- As a publicly traded company, Cogent now has a duty to review, disclose, and take corrective action once material fraud is identified.

Legal and regulatory obligations do not disappear simply because the original misconduct was concealed. Under multiple legal doctrines—including unjust enrichment, fraudulent transfer liability, and Sarbanes-Oxley—any company that has unknowingly benefited from fraud assumes a responsibility to correct it once the fraud is discovered.

The situation is clear: Now that this information has been brought to Cogent's attention, it cannot simply look the other way.

Additionally, if any action is taken to obstruct, conceal, or destroy evidence from this point forward, it could establish not only complicity but also direct liability under federal law. Cogent's own internal review has already confirmed awareness of this fraud, and any future investigations will be viewed in that context.

inaction will be viewed in that context.

If Cogent was unknowingly entangled in this fraud and Mr. Bacon's mythology, now is the time to take corrective action. Federal authorities—including the FBI, SEC, IRS, and U.S. Attorney—have already received my fully documented 121-page report, which references gigabytes of forensic exhibits, recorded admissions, internal communications, and financial records. The report contains everything necessary to prosecute this case in full.

At this stage, the distinction between those who were misled and those who are complicit will be determined by actions taken now. The report and supporting evidence will be shared with those who have a rightful stake in resolving this matter once it is clear where each party stands.

However, if Cogent chooses to ignore or dismiss these concerns, it risks being perceived as complicit in a fraudulent transaction and a sustained twenty-two-year pattern of obstruction—one that continues to this day.

For full transparency, I am sharing the original offer I made directly to Kyle Bacon, and his reply. The \$295M figure was not arbitrary—it was based on our original 50-50 partnership and his stated net worth, with a discount for the convenience of a timely settlement. I provided him an opportunity to resolve this quietly, with no litigation or disputes.

Instead, he refused to engage, and his hollow reply and continued silence only escalated the situation—bringing us to this critical moment.

To clarify, I am not seeking \$295M from Cogent—our relationship is different. However, the financial restitution for this matter is not discretionary; it is an inevitable component of aligning Cogent with the correct legal and ethical course. Working together, we can establish a structured resolution that reflects industry standards for equity-based compensation disputes and corporate fraud settlements while mitigating broader exposure.

This is not a matter of speculation, but an unavoidable reality. This email should not be viewed as a mere discussion point but as a pivotal moment that will define how Cogent responds to documented financial fraud, regulatory violations, and ongoing obstruction of justice. The outcome is not in question—only Cogent's position in it.

#### 5.) Clarification:

Let me be clear—my willingness to engage professionally should not be misinterpreted. This is not an invitation for delay, evasion, or further deception.

Mistaking my diplomacy and willingness to pursue a civilized resolution for weakness would be a grave miscalculation. This is not an attempt to avoid confrontation—it is an opportunity to resolve this before it escalates beyond anyone's control.

I have no need for bluff, conjecture, speculation, or clever legal maneuvering. Every assertion I have made is backed by verifiable evidence—an irrefutable forensic trail already in the possession of federal authorities, including the FBI, DOJ, SEC, and IRS-CI. The facts are established. The only question now is how you choose to respond.

Kyle Bacon and the members of his criminal enterprise are already under federal scrutiny. There will be no off-ramps, no quiet cover-ups, and no second chances once this escalates further.

Cogent must now decide:

- Does it wish to align itself with transparency, integrity, and a clean resolution?
- Or will it entrench itself deeper into a scandal that will only compound with time?

I strongly encourage Cogent to carefully evaluate its position. The window for proactive resolution is rapidly closing.

6.) Next Steps:

I seek full and fair restitution for the company I built—nothing more, nothing less.

Kyle Bacon and the members of his criminal enterprise must be held accountable under federal law, specifically Title 18 U.S.C. §§ 1503, 1512, 1519, 1341, 1343, 1951, 1956, 1957, 2314, and 2315, as well as Title 26 U.S.C. §§ 7201, 7206, 7203, and 31 U.S.C. §§ 5314, 5322, and 5324.

Escalation to federal authorities—including the FBI, DOJ, and the U.S. Attorney’s Office—is now a matter of procedural necessity. While I remain open to cooperative resolution, all responsible parties, either jointly or severally, will be held fully accountable. At this stage, proactive engagement is the only viable path for mitigating the unavoidable consequences of continued inaction.

I strongly encourage Cogent to carefully evaluate its position and take proactive steps before this matter escalates into a full-scale criminal investigation with broader legal implications.

In closing, doing the right thing is never difficult—along with its inherent humiliation, it is always met with admiration and gratitude.

I am committed to resolving this matter in the most transparent and professional manner possible. Law enforcement, regulatory agencies, and the courts will play a role in ensuring accountability, and I would prefer Cogent to be on the right side of that process.

6.) Inevitability of Media Attention and Mandatory Disclosure in Cogent’s Q1-2025 SEC Filings:

The Headline That Protects Cogent:

“Cogent Communications Uncovers Fraudulent 2003 Acquisition, Takes Decisive Action to Ensure Accountability.”

The Headline That Will Define any Inaction:

“Cogent Communications Implicated in 22-Year continuing Corporate Fraud & Cover-Up—Federal Investigation Expands.”

Cogent now has the opportunity to make an informed decision on how to proceed. A proactive stance will demonstrate integrity and mitigate financial, regulatory, and reputational castigations. Conversely, hesitation or inaction will not only escalate legal scrutiny but may also be viewed as willful participation in a sustained cover-up, carrying severe financial and criminal consequences.

I am prepared to work with Cogent's team toward a fair resolution and to ensure full accountability through the appropriate legal channels.

Please confirm receipt of this email by close of business today. Given the urgency and scope of the issues raised, I expect a substantive response outlining Cogent's official position and intended course of action by close of business on Tuesday, March 18, 2025.

Generic assurances that the matter is "being reviewed" will not suffice; this issue demands a decisive stance. Failure to provide a substantive response will be interpreted as a decision to align with Mr. Bacon and his co-conspirators, necessitating immediate escalation to regulatory authorities, affected shareholders, and key industry stakeholders.

Additionally, pursuant to SEC disclosure obligations, federal compliance statutes, and Cogent's own corporate governance policies, I require an email list of all company executives, board members, and legal representatives who bear a fiduciary or statutory responsibility to remain informed of material risks, pending legal matters, and any potential shareholder-impacting developments. This list should be provided no later than close of business on Tuesday, March 18, 2025. Failure to ensure proper notification to obligated parties may constitute a separate regulatory violation, compounding Cogent's liability exposure.

I look forward to resolving this matter cooperatively. Should you wish to arrange a telephone call, please do so via email.

One final word. I did not create this mess. I simply discovered it and am sharing it with you.

Best regards,

Dave Koch  
/s/  
dave@koch.net  
(614) 406-9766

Citations:

1. Statutory Citations:

- 18 U.S.C. § 1030 (Computer Fraud and Abuse Act): This statute criminalizes unauthorized access to computers and related fraudulent activities.
- 18 U.S.C. § 1341 (Frauds and Swindles): Addresses mail fraud offenses.
- 18 U.S.C. § 1343 (Fraud by Wire, Radio, or Television): Pertains to wire fraud offenses.
- 18 U.S.C. § 1503 (Influencing or Injuring Officer or Juror Generally): Prohibits endeavors to influence, intimidate, or impede jurors or officers of the court, as well as obstructing the due administration of justice.
- 18 U.S.C. § 1512 (Tampering with a Witness, Victim, or an Informant): Criminalizes actions intended to influence, delay, or prevent testimony or cause someone to withhold information from law enforcement.

18 U.S.C. § 1519 (Destruction, Alteration, or Falsification of Records in Federal

- 18 U.S.C. § 1519 (Destruction, Alteration, or Falsification of Records in Federal Investigations and Bankruptcy): Addresses the destruction or falsification of records to impede federal investigations.
- 18 U.S.C. § 1951 (Interference with Commerce by Threats or Violence): Known as the Hobbs Act, it criminalizes actual or attempted robbery or extortion affecting interstate or foreign commerce.
- 18 U.S.C. § 1956 (Laundering of Monetary Instruments): Prohibits financial transactions involving proceeds from specified unlawful activities with intent to promote or conceal the illegal activity.
- 18 U.S.C. § 1957 (Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity): Criminalizes knowingly engaging in monetary transactions involving criminally derived property exceeding \$10,000.
- 18 U.S.C. § 2314 (Transportation of Stolen Goods, Securities, Moneys, Fraudulent State Tax Stamps, or Articles Used in Counterfeiting): Addresses the interstate transportation of stolen property or securities valued at \$5,000 or more.
- 18 U.S.C. § 2315 (Sale or Receipt of Stolen Goods, Securities, Moneys, or Fraudulent State Tax Stamps): Prohibits receiving, possessing, or selling stolen goods or securities valued at \$5,000 or more that have crossed state or U.S. boundaries.
- 18 U.S.C. § 371 (Conspiracy to Commit Offense or to Defraud United States): Criminalizes conspiracies to commit any offense against or defraud the United States.
- 26 U.S.C. § 7201 (Attempt to Evade or Defeat Tax): Addresses willful attempts to evade or defeat any tax imposed by the Internal Revenue Code.
- 26 U.S.C. § 7206 (Fraud and False Statements): Prohibits willfully making false statements on tax returns or other documents under penalties of perjury.
- 26 U.S.C. § 7203 (Willful Failure to File Return, Supply Information, or Pay Tax): Criminalizes willful failure to file tax returns, supply required information, or pay taxes due.
- 31 U.S.C. § 5314 (Records and Reports on Foreign Financial Agency Transactions): Requires U.S. persons to keep records and file reports on foreign financial agency transactions.
- 31 U.S.C. § 5322 (Criminal Penalties): Establishes criminal penalties for willful violations of the reporting requirements under the Bank Secrecy Act.
- 31 U.S.C. § 5324 (Structuring Transactions to Evade Reporting Requirement Prohibited): Prohibits structuring transactions to evade reporting requirements, such as those mandated by the Bank Secrecy Act.

## 2. Restatement (Second) of Contracts Citations:

- § 164(1) (When a Misrepresentation Makes a Contract Voidable): States that if a party's assent is induced by a fraudulent or material misrepresentation upon which they are justified in relying, the contract is voidable by the recipient.
- § 175 (When Duress by Threat Makes a Contract Voidable): Indicates that if a party's

assent is induced by an improper threat leaving no reasonable alternative, the contract is voidable by the victim.

### 3. Case Law Citations:

- United States v. Kormos, 466 F. Supp. 2d 898 (S.D. Ohio 2006): In this case, the court addressed issues related to fraudulent inducement and misrepresentation, holding that contracts induced by fraud are voidable.

- United States v. Pressler, 256 F.3d 144 (3d Cir. 2001): This case discussed economic duress and lack of voluntary assent, determining that agreements signed under such conditions are unenforceable.

- Burks v. Lasker, 441 U.S. 471 (1979): The Supreme Court held that corporate directors have fiduciary duties, and breaches of these duties can render transactions voidable or unenforceable.

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David J. Koch  
502 W Montgomery St  
PMB 578  
Willis, TX 77378-8827  
(614) 406-9766 (Cell)

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**Immediate Resolution  
Opportunity Federal ...**



**From:** david\_j\_koch@icloud.com  
**Subject:** Whistleblower Inquiry – Immediate Response Required  
**Date:** March 18, 2025 at 10:47 AM



**To:** dschaeffer@cogentco.com, mmontagner@cogentco.com, bbath@cogentco.com, sbrooks@cogentco.com, lferguson@cogentco.com, skennedy@cogentco.com, pdesa@cogentco.com, dhowell@cogentco.com, ehoward@cogentco.com, cwiggs@cogentco.com, jbubeck@cogentco.com, info@cogentco.com, investor.relations@cogentco.com, tweed@cogentco.com, jajohnson@cogentco.com, jchang@cogentco.com

**Bcc:** Dave Koch dave@koch.org, Dave Koch koch.david.j@gmail.com, David Koch dave@koch.net, Chris Myers christopher@myers.net

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Dear Mr. Schaeffer, Mr. Chang, and Cogent Leadership:

I have reviewed the correspondence and evidence I provided to Cogent over the past several days. As I continue to assess the full scope of this matter, I recognize that the volume and significance of the information may have overwhelmed your internal review process.

I am willing to accommodate reasonable requests for time when such requests are explicitly justified.

However, I now need an immediate answer regarding a whistleblower inquiry made to Cogent in December 2023 regarding the fraudulent FNSI acquisition.

Key Questions for Immediate Clarification

- Did a whistleblower contact Cogent in December 2023 regarding fraud or stock options in the FNSI acquisition?
- Did Cogent conduct an internal investigation in response to this inquiry? If not, why?
- Did Cogent refer this whistleblower to any of the original conspirators—including Bill Kelly or Kyle Bacon—rather than investigating the allegations internally?

If Cogent referred the whistleblower to the original conspirators, then your legal position just deteriorated significantly. This action would directly implicate Cogent and its executives in an ongoing criminal conspiracy.

Who is Advising You?

Whoever is advising you to ignore my emails and remain silent is leading you into a disaster.

- If you were unaware of the whistleblower inquiry before now, you need to start asking internal questions immediately.
- If you were aware and failed to investigate, then you have a serious legal problem.
- If you knowingly referred the whistleblower to the original conspirators, then you may already be criminally exposed.

Consult a Criminal Attorney – Not a Corporate Lawyer

I strongly suggest that Cogent's executives, Board of Directors, and legal counsel consult with a criminal attorney—not a corporate lawyer.

The distinction between civil liability and federal criminal conspiracy is profound. If you have not yet grasped this reality, you are already behind.

not yet grasped this reality, you are already behind.

Give my emails to a criminal attorney. See what they say.

### Your Emails Are Now Federal Evidence

Every email exchanged within Cogent regarding this matter is now a potential federal exhibit. If internal discussions confirm that the whistleblower was referred to original conspirators, those emails will become part of a federal investigation.

### Potential Criminal Liability for Cogent and Its Executives

If Cogent knowingly or negligently facilitated witness tampering, retaliation, or obstruction of justice, the company and its executives may now be exposed to serious federal criminal liability, including but not limited to:

- 18 U.S.C. § 1503 – Obstruction of Justice
- 18 U.S.C. § 1512 – Witness Tampering
- 18 U.S.C. § 1519 – Destruction of Evidence
- 18 U.S.C. § 1343 – Wire Fraud
- 18 U.S.C. § 371 – Conspiracy to Defraud the United States

If Cogent referred the whistleblower to the original conspirators, and those conspirators coerced them into silence, executed an NDA, enticed or threatened them, then Cogent itself became an active participant in federal crimes.

This is not a hypothetical concern. It is a direct legal exposure.

### Your Silence Is Noted – And Will Be Interpreted Accordingly

This is not a minor issue.

- If Cogent was unwittingly entangled in this conspiracy, then now is the time to course-correct.
- If Cogent knowingly referred the whistleblower to the original conspirators rather than investigating internally, then you need to immediately assess the personal and corporate legal consequences.

This is no longer a question of whether Cogent is involved. It is a question of how deep that involvement goes—and whether it is correctable before prosecutors intervene.

### Your Next Move Will Define Your Fate

- Confirm receipt of this email by 9:00 AM ET tomorrow, March 19, 2025. Failure to do so will be noted.
- Disclose whether Cogent referred the whistleblower to any original conspirators.
- State Cogent's position—because silence will be treated as willful complicity.

### Cogent's Actions Have Now Directly Tied the Company to an Ongoing Criminal Conspiracy

This is not an accusation—it is a reality that must be confronted immediately.

- If Cogent referred the whistleblower to the original conspirators, rather than investigating, then the company itself is now part of the ongoing conspiracy.
- If that referral resulted in coercion, threats, or an NDA, then federal prosecutors will view it as witness tampering and obstruction of justice.
- If that referral resulted in evidence being deleted or altered, then that is a separate federal felony.
- If Cogent's legal team advised this course of action, then the executives following that advice are still personally liable.

### Your Window for Corrective Action Is Closing

If Cogent was misled into becoming part of this conspiracy, that can be corrected—but only if the company acts immediately and transparently. At this point, you are standing at a crossroads: either acknowledge the issue and take corrective action, or continue down a path that leads to inevitable federal scrutiny. Once prosecutors begin their work, this will be out of everyone's hands.

If Cogent knowingly participated in this fraud, then that will surface as well.

Best regards,

/s/

Dave Koch

dave@koch.net  
(614) 406-9766

**From:** Dave Koch Koch.David.J@gmail.com  
**Subject:** Escalation Notice – Immediate Action Required  
**Date:** March 19, 2025 at 9:42 AM



**To:** investor.relations@cogentco.com, dschaeffer@cogentco.com, jajohnson@cogentco.com, cwiggs@cogentco.com, jbubeck@cogentco.com, info@cogentco.com, tweed@cogentco.com, jchang@cogentco.com, skennedy@cogentco.com, pdesa@cogentco.com, mmontagner@cogentco.com, bbath@cogentco.com, sbrooks@cogentco.com, lferguson@cogentco.com  
**Bcc:** Dave Koch koch.david.j@gmail.com, David Koch dave@koch.net, Dave Koch dave@koch.org, Chris Myers christopher@myers.net

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Dear Mr. Schaeffer, Mr. Chang, and Cogent Leadership:

Your continued silence is noted—and it is damning.

Every email Cogent has ignored is now potential evidence of obstruction.

If you were innocent, you would have denied these allegations immediately. You did not. That speaks volumes.

Federal investigators do not look kindly on corporate silence in the face of fraud allegations—especially when that silence misleads investors and prevents material disclosure.

At this point, I must assume that Cogent has been fully briefed on the depth of its exposure and is still deciding how to respond. While you delay, the legal landscape continues to shift beneath your feet.

This is no longer just a question of whether Cogent unknowingly inherited fraud—it is now about Cogent's direct participation in the cover-up and whether the company intends to take corrective action or double down on a course that leads to inevitable federal scrutiny.

I am hopeful that all officers and board members have independently consulted with a privately retained, highly experienced criminal attorney because this is no longer a corporate law matter.

Key Developments You Must Acknowledge Immediately:

- I am aware that a whistleblower contacted Cogent in December 2023 regarding stock options and the fraudulent acquisition of FNSI.
- The telephone call evidence is locked in.
- The text messaging evidence is locked in.
- The email evidence is locked in.
- Instead of conducting an internal investigation, Cogent referred that whistleblower back to the very people responsible for the fraud.
- These acts alone tied Cogent directly to an ongoing criminal enterprise and reset the statute of limitations—again.
- The purchase agreement filed with the SEC lists H. Helen Lee as the Chief Financial Officer who executed the transaction on behalf of Cogent. Helen was working directly with Kyle Bacon and Diana Anderson (now Diana Ritchie Thomas) for months prior to the transaction. I was there.
- It is difficult to believe that she was oblivious to the fraudulent nature of the deal. If she was

not unaware, then the key question becomes: To whom was she reporting within Cogent?

You need to understand the legal ramifications of that decision immediately.

#### Crime-Fraud Exception – There Is No Attorney-Client Privilege

Cogent's legal team should be aware of the crime-fraud exception under federal law.

Under *United States v. Zolin*, 491 U.S. 554 (1989), the crime-fraud exception removes attorney-client privilege when legal advice is sought or used to commit or cover up a crime or fraud.

Cogent's attorneys cannot shield any communications, documents, or internal discussions related to:

- Suppressing evidence
- Misleading regulators or investors
- Coaching witnesses to protect conspirators

Federal statutes that apply under the crime-fraud exception include:

- 18 U.S.C. § 371 – Conspiracy to Defraud the United States
- 18 U.S.C. § 1503 – Obstruction of Justice
- 18 U.S.C. § 1512 – Witness Tampering
- 18 U.S.C. § 1519 – Destruction or Concealment of Records
- 18 U.S.C. § 1343 – Wire Fraud
- 18 U.S.C. § 1956 – Money Laundering

This means that any legal advice Cogent's attorneys have given that furthers or conceals this conspiracy is not protected by privilege.

Potential Criminal Exposure for Cogent, Its Executives and Members of its Board of Directors:

- 18 U.S.C. § 371 – Conspiracy to Defraud the United States
- 18 U.S.C. § 1503 – Obstruction of Justice
- 18 U.S.C. § 1512 – Witness Tampering
- 18 U.S.C. § 1519 – Destruction or Concealment of Records
- 18 U.S.C. § 1343 – Wire Fraud
- 18 U.S.C. § 1956 – Money Laundering

The opportunity to resolve this before federal intervention escalates will not remain open indefinitely.

What Has Happened Inside Cogent Over the Last 48 Hours?

I assume the following:

- Your attorneys spent the weekend drafting a response based on statute of limitations or signed documents.
- By Monday morning, they realized that argument is useless.
- You have now reviewed internal emails and call logs to determine whether Cogent had

You have now reviewed internal emails and call logs to determine whether Cogent had contact with the whistleblower.

- You likely spoke to Bill Kelly, which only made your situation worse, and it again reset the statute of limitations.

- You are now debating whether you should reach out to Julie Presas, Jim Rook, or Eric Wittenberg.

If you have not spoken to them yet, you should—immediately.

If you have, then you already know that Bill Kelly was removed from FNSI for ethical violations so severe that a compulsory formal bar complaint was filed against him.

Your Window for Corrective Action Is Rapidly Closing

At this point, Cogent must make a decision.

- Does Cogent move swiftly and settle this now?
- Or does it entrench itself further and face the full force of legal exposure?

If you genuinely did not understand the magnitude of what you inherited, then I am your only path forward.

If you did understand it and are actively engaging in the cover-up, then you already know what happens next.

This is the final escalation before I take the next step.

Your silence is no longer just an oversight—It is an admission

Required Immediate Actions

- Confirm receipt of this email by 5:00 PM ET today, March 19, 2025. Failure to do so will be noted.
- Disclose whether Cogent referred the whistleblower to any original conspirators.
- State Cogent's position—because continued silence will be treated as willful complicity.

If you continue to ignore this, I will assume that Cogent has chosen to dig in and go through the motions of fighting a battle that is unwinnable. You cannot fight evidence.

If that is the case, I will escalate accordingly.

Choose wisely.

Best regards,

/s/

Dave Koch

dave@koch.net

(614) 406-9766

**From:** Chang, John JChang@cogentco.com  
**Subject:** Cogent  
**Date:** March 19, 2025 at 3:27 PM  
**To:** dave@koch.net

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Mr. Koch

Cogent has received a number of emails from you. We deny any wrongdoing with respect to the FNSI acquisition that occurred over twenty years ago. We believe you have no factual or legal basis to support your allegations. We will vigorously defend ourselves against any frivolous claims.

You should not expect responses to your future correspondence. We will reply if and when we believe a reply is warranted.

John Chang  
Chief Legal Officer  
Cogent Communications