

FORMAL NOTICE – LEGAL MEMORANDUM TO THE
BOARD OF DIRECTORS OF COGENT COMMUNICATIONS
HOLDINGS, INC.

TO: Members of the Board of Directors, Cogent
Communications Holdings, Inc.

FROM: David J. Koch, Federal Whistleblower and Co-
Founder, Fiber Network Solutions, Inc.

DATE: June 11, 2025

SUBJECT: Urgent Legal Exposure Arising from the
Concealed 2003 Acquisition of Fiber Network
Solutions

To All Board Members:

This memo accompanies [today's public news release](#) titled: "Cogent Communications Didn't Build or Design a Data Center Model — They Stole One." It includes newly published documented, physical and forensic evidence that renders further inaction by Cogent's board both indefensible and legally perilous.

In accordance with your fiduciary duties under Delaware law—including your duty of care, duty of loyalty, and duty of oversight as established in *Stone v. Ritter*, 911 A.2d 362 (Del. 2006)—you are expected to promptly download and review [today's public news release](#), which includes evidence now under federal investigation.

[The Release](#) contains links to Exhibit A, which is the original 2001 brochure for Fiber Network Solutions, Inc. (FNSI), published and distributed more than a year before Cogent Communications acquired its first data centers from PSInet. This brochure is not promotional fluff—it is documented forensic evidence of an already operational, profitable, nationally recognized Tier One co-location data

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center provider with audited financials and a coast-to-coast backbone.

IT CONFIRMS:

FNSI's colocation and transit-free model predates Cogent's entrance into the data center space.

Cogent inherited this model, deployed it across failing PSInet data centers and began reporting profits within nine months.

The FNSI acquisition was never disclosed in Cogent's S-1 or public investor filings, and remains buried as a mislabeled, unscheduled "miscellaneous asset purchase" in Exhibit 2.5.

AND IT RAISES THE QUESTION:

Why has Cogent continued to suppress the origin of its entire business model for over two decades?

YOU ARE NOW ON FORMAL NOTICE

This brochure, archived for over two decades at this link,

<https://web.archive.org/web/20040622112204/http://www.fn si.net/images/FNSIBrochure.pdf>

together with recorded admissions and federal filings, supports my allegations of:

- Racketeering and conspiracy under 18 U.S.C. § 1962(d)
- Whistleblower retaliation under 18 U.S.C. § 1513(e)
- Obstruction of justice under 18 U.S.C. § 1519

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INVESTIGATIONS ARE NOW ACTIVE AT THE:

- IRS Criminal Investigation Division
- FBI Public Corruption and Financial Crimes Units
- SEC Office of the Whistleblower
- FAA Aviation Enforcement Division
- U.S. Attorney's Office for the Southern District of Ohio

You are each responsible for your actions from this point forward. You may no longer credibly claim ignorance or distance.

RECOMMENDED ACTION

- To limit your exposure and fulfill your fiduciary obligations:
- Demand immediate disclosure of the full, original Exhibit 2.5 schedules from the 2003 acquisition agreement.
- Retain independent legal counsel with experience in whistleblower retaliation, securities fraud, and federal RICO defense.
- Insist on a board-level independent investigation with authority to report directly to federal agencies.
- Cease any suppression or obstruction of whistleblower communications through email filtering, proxy denials, or internal directives.

FAILURE TO ACT WILL LIKELY RESULT IN:

- Personal civil liability
- Criminal investigation

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- Resignation demands under federal scrutiny

CLOSING STATEMENT

This is not just corporate misjudgment—it is now an alleged criminal conspiracy involving the erasure of over 1.2 million founder shares, theft of trade secrets, and the deliberate concealment of a company’s true origin story.

I was supposed to be dead. That was your founder’s entire strategy without a contingency plan. But I didn’t die. And now the truth is louder than your silence.

I have not gone away. I have not given up. And I am not bluffing. If you continue to believe this is posturing, you are making a serious miscalculation.

I strongly urge each of you to choose cooperation over complicity.

Respectfully,

A handwritten signature in blue ink that reads "David Koch". The signature is fluid and cursive, with the first name "David" and last name "Koch" clearly legible.

David J. Koch

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