



News

R E L E A S E

FOR IMMEDIATE RELEASE

April 15, 2025

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WILMINGTON TRUST ACCESSED WHISTLEBLOWER DISCLOSURE ONLY AFTER FINALIZING \$174M COGENT DEAL, LOGS CONFIRM

NEW FORENSIC RECORDS RAISE QUESTIONS ABOUT WHETHER COGENT WITHHELD ACTIVE CRIMINAL INVESTIGATION FROM INDENTURE TRUSTEE

WASHINGTON, D.C. — April 15, 2025 — Cloudflare server logs confirm that Wilmington Trust, N.A.— Indenture Trustee for Cogent Communications Holdings, Inc. (NASDAQ: CCOI)—did not access any of the four detailed whistleblower disclosures delivered to Cogent on March 14, March 17, March 18, and March 19, 2025 until 8:33 AM ET on April 14, 2025. This was three full days after Cogent executed and filed its \$174.4 million IPv4 securitization with the Securities and Exchange Commission (SEC).

The specific document, a consolidated PDF dated March 21, 2025—titled “20250321_Email_Cogent_Koch.pdf”—was accessed by Wilmington Trust on April 14, 2025 – but not previously. It compiled all four earlier legal notices and explicitly outlined Cogent’s exposure to active federal criminal investigations, as well as potential liability stemming from its 2003 acquisition of Fiber Network Solutions, Inc. (FNSI). The final page contained a written reply from Cogent’s Chief Legal Officer, whose brief and dismissive response—despite the legal gravity of the allegations—is best described as professionally negligent and legally indefensible.

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Confirmed Access Details:

Accessed URLs:

- <https://fibernetworksolutions.net/news.html>
- https://fibernetworksolutions.net/ewExternalFiles/20250321_Email_Cogent_Koch.pdf

WILMINGTON TRUST ACCESSED WHISTLEBLOWER DISCLOSURE ONLY AFTER FINALIZING \$174M COGENT DEAL, LOGS SHOW. NEW FORENSIC EVIDENCE SUGGESTS COGENT WITHHELD ACTIVE CRIMINAL INVESTIGATION FROM INDENTURE TRUSTEE

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Timestamp of Activity (*Eastern Time*):

April 14, 2025 — Beginning 8:33:20 AM (*Multiple requests recorded*)

“This is irrefutable forensic evidence,” said a technical spokesperson for the whistleblower. “Wilmington Trust did not open the document until three days after the deal closed. Cogent had acknowledged four prior legal notices—but appears to have downplayed or concealed the seriousness of the allegations. Provided this is properly documented and reported to the SEC, that makes Wilmington Trust a misinformed fiduciary—not a co-conspirator.”

The IPv4 securitization transaction was formally executed on April 11, 2025. SEC filings confirm that Beverly D. Capers, Vice President of Wilmington Trust, signed both the Indenture Supplement and the Second Amendment to the Base Indenture—legally finalizing the \$174.4 million transaction on behalf of Wilmington Trust.

The March 21 whistleblower notice—consolidating the four earlier warnings—was emailed directly to four Wilmington Trust recipients:

- bcapers@wilmingtontrust.com
- cmbstrustee@wilmingtontrust.com
- tim.johnson@wilmingtontrust.com (*Bounced*)
- alennon@wilmingtontrust.com

Only three of the four addresses were successfully delivered. Cloudflare logs now confirm that the documents

were not accessed by Wilmington systems until April 14—after the transaction had closed.

There is no evidence that Wilmington Trust’s systems accessed the disclosures before April 14, 2025. As of this release, only Cogent had confirmed receipt and acknowledgment of the whistleblower’s four prior notices. Whether Cogent disclosed those notices to Wilmington Trust prior to closing remains unknown—but public records confirm that no mention of the criminal investigation was made by Cogent in any SEC filing, press release, or investor communication leading up to the April 11 closing.

“This is Cogent’s pattern,” said FNSI co-founder David J. Koch. “In 2003, they acquired Fiber Network Solutions while I was medically incapacitated, then buried the transaction in their S-1 IPO—categorizing it as ‘miscellaneous assets’ inside a non-indexed exhibit. Twenty-two years later, after I gave them a clear off-ramp and an opportunity to resolve this diplomatically, they ignored it for days, then responded with a dismissive message that only confirmed their participation in the original fraud. Now in 2025, it appears Wilmington Trust has been drawn into a similarly compromised position—not by choice, but by omission.”

The whistleblower report—formally submitted to the DOJ, SEC, IRS-CI, and FINRA—documents how Cogent concealed the 2003 FNSI acquisition within Exhibit 2.5 of its Form S-1 registration statement. The transaction omitted all critical schedules and shareholder records, and

was never disclosed in any public filings, investor updates, or SEC communications for more than two decades.

SEC Source:

https://www.sec.gov/Archives/edgar/data/1158324/000104746903011242/a2106111zex-2_5.htm

“Why, after Mr. Koch extended an invitation for constructive and good-faith dialogue, did Cogent’s executive leadership and board of directors choose to shut that door?” asked legal counsel involved in the case. “Was the truth too disruptive to the carefully crafted narrative that has sustained Cogent’s growth trajectory for over two decades?”

A senior legal analyst, speaking on background due to the sensitivity of the matter, stated: “There has been no public disclosure from either Cogent or Wilmington Trust acknowledging the existence of the whistleblower report or the ongoing criminal investigation. Cogent’s Chief Legal Officer formally acknowledged receipt of four separate notices. If Cogent failed to disclose that material risk to Wilmington Trust prior to closing, it may constitute an additional federal offense—one that could further reset the statute of limitations under obstruction or fraudulent concealment statutes.”

The new forensic evidence, including Cloudflare server logs and detailed access metadata, will now be submitted to federal authorities alongside formal statutory reset claims under:

- Klehr v. A.O. Smith Corp. (1997)
- United States v. Smith (9th Cir. 1984)



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Together, these cases support the legal position that the statute of limitations tied to the 2003 FNSI fraud has been reset—most recently by acts committed in February, March, and April of 2025.

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Supporting access logs, filings, and correspondence available upon request.

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