

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11 Cases  
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360networks (USA) inc., et al., : Case No. 01-13721 (ALG)  
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Debtors. : Jointly Administered  
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**ORDER APPOINTING A POSTCONFIRMATION  
REPRESENTATIVE OF THE DEBTORS' ESTATES**

Upon the United States Trustee's motion (the "Motion") for entry of an order under section 1112(b) of title 11 of the United States Code (the "Bankruptcy Code") converting to chapter 7 the chapter 11 case, Case No. 01-13721 (ALG) of 360networks (USA) inc. and the only other remaining open related chapter 11 case, Case No. 01-13729 of 360fiber inc.; and an order to show cause (the "Order to Show Cause") having been entered by the Court scheduling a hearing (the "Hearing") to consider the Motion as well as to consider alternative relief based on the issues raised by the Motion; and upon consideration of the Reorganized Debtors' response to the Motion and all other responses to the Motion; and upon the statements of and consultation with the following parties who appeared at the Hearing regarding the relief requested (collectively, other than the United States Trustee and the Reorganized Debtors, the "Appearing Creditors"): AboveNet Communications, Inc., Pirelli North America, Inc., Florida East Coast Industries, Inc., and Liquidity Solutions, Inc.; and all interested parties having agreed that it is necessary that there be an independent professional to represent the interests of the Debtors' estates in connection with the matters referred to in the Motion; and it appearing that the Court has jurisdiction over this matter and the relief requested in the Motion and referenced in the Order to Show Cause pursuant to 28 U.S.C. §§ 157 and 1334; and due and sufficient notice of

the Motion and Order to Show Cause having been given under the circumstances; therefore, upon the Motion, the record at the Hearing, the Debtors' Plan (as defined below), and all the proceedings before the Court and after due deliberation and sufficient cause appearing therefore; it is hereby:

ORDERED that the Motion to convert is denied based on the facts and circumstances specifically identified by the Court at the hearing; and

ORDERED that the Court shall appoint a Postconfirmation Representative of the Debtors' Estates (the "Representative"): (i) to investigate and recommend steps to be taken regarding; as well as (ii) if authorized by this Court, to initiate, pursue, settle and collect any claims ("Claims") of the "Debtors'" estates, holders of "Class 7 Claims," and the "Committee" based upon the investment, disbursement, prior distribution, misappropriation, defalcation or other use or application of, or failure to use or apply, proceeds from "Committee Claims" and the "Preference Account," each such term as defined in the First Amended Joint Plan of Reorganization Proposed by Debtors and 360networks (holdings) Ltd., dated August 14, 2002, as amended ("the Plan"); and it is further

ORDERED that the Representative must be a "disinterested person" as defined in section 101(14) of the Bankruptcy Code and must file a sworn affidavit to that effect with this Court within five business days of his or her appointment; and it is further

ORDERED that Appearing Creditors and any other interested parties are urged to consult among themselves and nominate within five business days of the date hereof a Representative, or several candidates to be Representatives if they cannot agree, after which the Representative shall be appointed by this Court after consideration of these candidates whose

name(s) is/are submitted in writing by the Reorganized Debtors and the Appearing Creditors or any other interested party (individually or collectively); and it is further

ORDERED that the Representative may, in his or her discretion and to the extent it is feasible to do so, provide a draft of any report on his investigation on a confidential basis to the Reorganized Debtors, current members of the Committee, and any or all of the Appearing Creditors for their review and comment, which comments, if any, the Representative may accept or reject in whole or in part; and it is further

ORDERED that the Representative's initiation of any litigation to recover on or agreement to settle any Claims first must be authorized by this Court based upon a motion filed and served on not less than ten business days notice, with service by hand or overnight mail on the Reorganized Debtors, each current member of the Committee, the Appearing Creditors, and the United States Trustee; provided, however, that without Court authorization, the Representative may commence litigation or file any proof of claim, notice, or similar document solely to the extent necessary to preserve a claim that might otherwise expire or be lost due to a statute of limitations, bar date, or other bar or emergent situation; and it is further

ORDERED that the Representative shall: (i) pending further order of this Court, hold any recoveries on the Claims in accordance with requirements for holding cash applicable to a trustee appointed under the Bankruptcy Code in this District; and (ii) make reports no less than every three months of any collections and the Representative's fees and expenses to the Court, the United States Trustee, the Reorganized Debtors, the current members of the Committee, and the Appearing Creditors; and it is further

ORDERED that in the event Dreier LLP and/or Marc Dreier or any present or former attorney or employee of Dreier LLP files or becomes the subject of a petition for relief under the Bankruptcy Code, the Representative shall hereby be authorized to appear in and, if selected, become a member of any creditors' committee appointed in such cases respecting the Claims; and it is further

ORDERED that the Court reserves decision on any issue related to the confidentiality of any material provided to the Representative, provided that any materials separately obtained under the Federal Rules of Bankruptcy Procedure may be used by any party; and it is further

ORDERED that this Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

Dated: New York, New York  
December 17, 2008

/s/ Allan L. Gropper  
HON. ALLAN L. GROPPER  
UNITED STATES BANKRUPTCY JUDGE