

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
	)	File No. EB-10-IH-4133
)	
	)	NAL/Acct. No. 201132080030
Associated Telecommunications Management Services, LLC	)	FRN No. 0019354513
)	
BLC Acquisition Group, LLC	)	FRN No. 0019421031
)	
Bellerud Acquisition Group, LLC	)	FRN No. 0019389527
)	
Ganoco Acquisition Group, LLC	)	FRN No. 0019389485
)	
Lifeconnex Acquisition Group, LLC	)	FRN No. 0019387182
)	
Triarch Acquisition Group, LLC	)	FRN No. 0019389451
)	
SCTxLink Acquisition Group, LLC	)	FRN No. 0019419746
)	
DialTone & More Acquisition Group, LLC	)	FRN No. 0019418581
)	
Ren-Tel Acquisition Group, LLC	)	FRN No. 0019418474
)	
Apparent Liability for Forfeiture)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 15, 2011

Released: July 15, 2011

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that various subsidiaries of Associated Telecommunications Management Services, LLC (“ATMS”) apparently violated section 214(a) of the Communications Act of 1934, as amended (“Act”),¹ and sections 63.03 and 63.04 of the Commission’s Rules (“Rules”)² by willfully consummating eight separate transactions, each involving the substantial transfer of control of a domestic section 214 authorization, before they obtained Commission approval. ATMS is the parent of eight wholly-owned subsidiaries – BLC Acquisition Group, LLC; Bellerud Acquisition Group, LLC; DialTone & More Acquisition Group, LLC; Ganoco Acquisition Group, LLC; Lifeconnex Acquisition Group, LLC; Ren-Tel Acquisition Group, LLC; SCTxLink

¹ 47 U.S.C. § 214(a).

² 47 C.F.R. §§ 63.03, 63.04.

Acquisition Group, LLC and Triarch Acquisition Group, LLC (collectively, “ATMS Subsidiaries”³) – that consummated eight separate unauthorized domestic section 214 transfers of control. Based on our review of the undisputed facts in this matter, and for the reasons discussed below, we find that each of the ATMS Subsidiaries is apparently liable for a forfeiture of \$8000.

II. BACKGROUND

2. Section 214(a) of the Act, in pertinent part, prohibits the operation or acquisition of lines for interstate or international common carrier communication without prior Commission approval.⁴ Sections 63.03 and 63.04 of the Rules require Commission approval before a transfer of control or assignment of a domestic section 214 authorization.⁵

3. The ATMS Subsidiaries consummated the following domestic section 214 transfers of control without prior Commission approval:

- BLC Acquisition Group, LLC (“BLC”) and BLC Management, LLC filed a section 214 transfer of control application with the Wireline Competition Bureau (“WCB”) on December 21, 2009. On February 27, 2010, WCB granted BLC’s application.⁶ BLC acquired BLC Management, LLC prior to filing the requisite section 214 transfer of control application.⁷
- On or about September 1, 2009, Bellerud Acquisition Group, LLC (“Bellerud”) acquired Bellerud Communications, LLC.⁸ On December 21, 2009, Bellerud filed its transfer of control application with WCB.⁹ On January 26, 2010, WCB granted a Special Temporary Authority (“STA”) application for a 60-day period for the Bellerud transaction.¹⁰ On February 27, 2010, WCB granted Bellerud’s application.¹¹
- DialTone & More Acquisition Group (“DialTone”) and DialTone & More, Inc. filed a section 214 transfer of control application with WCB on December 21, 2009. On February 27, 2010,

³ For the sake of brevity, unless stated otherwise, all references to “ATMS Subsidiaries” in this *NAL* refer to one or more of the aforementioned eight ATMS subsidiaries.

⁴ 47 U.S.C. § 214(a).

⁵ 47 C.F.R. §§ 63.03, 63.04. Section 63.03(d) addresses pro forma domestic section 214 transactions, which do not result in carrier’s ultimate ownership or control. 47 C.F.R. § 63.03(d).

⁶ See “Notice of Section 214 Authorizations Granted, WC Docket Nos. 10-5, 10-6, 10-7, 10-8, 10-9, 10-10 & 10-11,” *Public Notice*, DA 10-354, 25 FCC Rcd 2018 (WCB 2010).

⁷ The Bureau cannot disclose the specific date on which this transaction was consummated due to a pending request for confidential treatment.

⁸ See “Domestic Section 214 Application Filed for the Transfer of Control of Bellerud Communications, LLC to Bellerud Acquisitions Group, LLC, Streamlined Pleading Cycle Established,” *Public Notice*, WC Docket No. 10-11, DA 10-149, 25 FCC Rcd 970 (WCB 2010).

⁹ *Id.*

¹⁰ *Id.* at n. 1.

¹¹ See *supra*, at note 7.

WCB granted DialTone's application.¹² DialTone acquired DialTone & More, Inc. prior to filing the requisite section 214 transfer of control application.¹³

- On or about September 30, 2009, Ganoco Acquisition Group, LLC ("Ganoco") acquired Ganoco, Inc. d/b/a American Dial Tone, LLC.¹⁴ On December 21, 2009, Ganoco filed its transfer of control application with WCB.¹⁵ On January 26, 2010, WCB granted an STA to Ganoco for a 60-day period for the transaction.¹⁶ On February 27, 2010, WCB granted Ganoco's application.¹⁷
- On or about September 1, 2009, LifeConnex Acquisition Group, LLC ("LifeConnex") acquired LifeConnex Telecom, LLC.¹⁸ On December 21, 2009, LifeConnex filed its transfer of control application with WCB.¹⁹ On January 26, 2010, WCB granted an STA for a 60-day period for the Lifeconnex transaction.²⁰ On February 27, 2010, WCB granted LifeConnex's application.²¹
- Ren-Tel Acquisition Group, LLC ("Ren-Tel") and Ren-Tel Communications, Inc. filed a section 214 transfer of control application with WCB on December 21, 2009. On February 27, 2010, WCB granted Ren-Tel's application. Ren-Tel acquired Ren-Tel Communications, Inc. prior to filing the requisite section 214 transfer of control application²²
- SC TXLink Acquisition Group, LLC ("SC TXLink") and SC TXLink, LLC filed a section 214 transfer of control application with WCB on December 21, 2009. On February 27, 2010, WCB granted SC TXLink's application.²³ SC TXLink prior to filing the requisite section 214 transfer of control application.²⁴

¹² *Id.*

¹³ The Bureau cannot disclose the specific date on which this transaction was consummated due to a pending request for confidential treatment.

¹⁴ See "Domestic Section 214 Application Filed for the Transfer of Control of Ganoco, Inc. D/B/A American Dial Tone to Ganoco Acquisition Group, LLC, Streamlined Pleading Cycle Established," *Public Notice*, WC Docket No. 10-9, 25 FCC Rcd 976 (WCB 2010).

¹⁵ *Id.*

¹⁶ *Id.* at n. 1.

¹⁷ See *supra*, at note 7.

¹⁸ See "Domestic Section 214 Application Filed for the Transfer of Control of Lifeconnex Telecom, LLC to Lifeconnex Acquisition Group, LLC, Streamlined Pleading Cycle Established," *Public Notice*, WC Docket No. 10-10, DA 10-152, 25 FCC Rcd 979 (WCB 2010). *LOI Response* at 4.

¹⁹ *Id.*

²⁰ *Id.* at n. 1.

²¹ See *supra*, at note 7.

²² The Bureau cannot disclose the specific date on which this transaction was consummated due to a pending request for confidential treatment.

²³ See *supra*, at note 7.

²⁴ The Bureau cannot disclose the specific date on which this transaction was consummated due to a pending request for confidential treatment.

- On or about October 12, 2009, Triarch Acquisition Group, LLC (“Triarch”) acquired Triarch Marketing, Inc.²⁵ On December 21, 2009, Triarch filed its transfer of control application with WCB.²⁶ On February 1, 2010, WCB granted a 60-day STA for the Triarch transaction.²⁷ On March 5, 2010, WCB granted Triarch’s application.²⁸

III. DISCUSSION

4. Under section 503(b)(1) of the Act, “[a]ny person who is determined by the Commission ... to have ... willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act ... shall be liable to the United States for a forfeiture penalty.²⁹ Section 312(f)(1) of the Act defines “willful” as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate any provision of this Act or any rule or regulation by the Commission authorized by this Act....”³⁰ The legislative history to section 312(f)(1) of the Act clarifies that this definition of “willful” applies to both sections 312 and 503(b) of the Act,³¹ and the Commission has so interpreted the term in the section 503(b) context.³² To impose a forfeiture penalty, the Commission must issue a notice of apparent liability, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.³³ The Commission will then issue a forfeiture if it finds, based on the evidence, that the person has violated the Act, a Rule, or a Commission Order.³⁴

5. We conclude that it is apparent that the ATMS Subsidiaries willfully violated section 214(a) of the Act and sections 63.03 and 63.04 of the Rules because they failed to obtain Commission approval before consummating eight separate substantial transfers of control of domestic section 214 authorizations. The facts underlying this case are undisputed: ATMS, as parent of the ATMS Subsidiaries, confirmed that its ATMS Subsidiaries (i) did not seek approval for any of these transactions until after each had been consummated, and (ii) did not disclose four of the eight transactions until the Enforcement Bureau’s investigation and only after WCB had granted the applications.³⁵ The violation periods range from approximately 2.5 months to approximately 3.5 months.

²⁵ See “Domestic Section 214 Application Filed for the Transfer of Control of Triarch Marketing, Inc. to Triarch Acquisition Group, LLC, Streamlined Pleading Cycle Established,” *Public Notice*, WC Docket No. 10-33, DA 10-219, 25 FCC Rcd 1238 (WCB 2010).

²⁶ *Id.*

²⁷ *Id.* at n. 1.

²⁸ See “Notice of Domestic Section 214 Authorization Granted, WC Docket No. 10-33,” *Public Notice*, DA 10-386, 25 FCC Rcd 2258 (WCB 2010).

²⁹ 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

³⁰ 47 U.S.C. § 312(f)(1).

³¹ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

³² See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, ¶ 5 (1991) (“*Southern California Broadcasting*”).

³³ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

³⁴ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002).

³⁵ See Application for Commission Consent to Transfer of Control of Section 214-Authorized Interstate Carrier Ganoco, Inc. d/b/a American Dial Tone to Ganoco Acquisition Group, LLC, WC Docket No. 10-09 (Dec. 18, 2009) at 4; Application for Commission Consent to Transfer of Control of Section 214-Authorized Interstate Carrier

6. In determining the amount of a forfeiture penalty, section 503(b)(2)(D) of the Act³⁶ and section 1.80(a)(4) of the Rules direct the Commission to take into account “the nature, circumstances, extent, and gravity of the violation . . . and the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”³⁷ The Commission’s *Forfeiture Policy Statement* and implementing Rules prescribe a base forfeiture of \$8,000 for each separate unauthorized substantial transfer of control.³⁸ In determining the appropriate forfeiture amount, we consider the factors enumerated in section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”³⁹ In consideration of the factors enumerated in section 503(b)(2)(D) for establishing the forfeiture amount, there is no other evidence before us to suggest that the base amount should be adjusted in any way. Accordingly, we find that the base forfeiture of \$8,000 is appropriate for each one of the eight separate domestic substantial transfers of control without prior Commission approval. Based on the facts and circumstances presented, we conclude that a proposed forfeiture of \$8,000 against each of the ATMS Subsidiaries is warranted.

IV. ORDERING CLAUSES

7. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, BLC Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

8. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, Bellerud Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

9. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, DialTone & More Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand

Lifeconnex Telecom, LLC to Lifeconnex Acquisition Group, LLC, WC Docket No. 10-10 (Dec. 18, 2009) at 4; Application for Commission Consent to Transfer of Control of Section 214-Authorized Interstate Carrier Bellerud Communications, LLC to Bellerud Acquisition Group, LLC, WC Docket No. 10-11 (Dec. 18, 2009) at 4; Application for Commission Consent to Transfer of Control of Section 214-Authorized Interstate Triarch Marketing, Inc. to Triarch Acquisition Group, LLC, WC Docket No. 10-11 (Dec. 18, 2009) at 4; *see also* Letter from David H. Solomon and Robert G. Morse, Counsel to ATMS to Robert Krinsky, Investigations and Hearings Div., Enf. Bur., Fed. Comm. Comm’n. (Nov. 8, 2010) at 4 and 7, n. 6.

³⁶ 47 U.S.C. § 503(b)(2)(D).

³⁷ 47 C.F.R. § 1.80(a)(4).

³⁸ *See* 47 C.F.R. § 1.80; *Forfeiture Policy Statement*, 12 FCC Rcd 17087, 17113 (1997). *See also One Call Internet, Inc. Section 214 Transfer of Control of Domestic Transmission Lines Requirements*, Order adopting Consent Decree, 18 FCC Rcd 25718 (2003) (setting the voluntary amount at \$8,000 for possible unauthorized domestic section 214 transfer of control).

³⁹ 47 U.S.C. § 503(b)(2)(D).

dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

10. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, Ganoco Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

11. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, Lifeconnex Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

12. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, Ren-Tel Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

13. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, SCTxLink Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

14. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, 0.314 and 1.80 of the Rules, Triarch Acquisition Group, LLC, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for apparently willfully or repeatedly violating section 214(a) of the Act and sections 63.03 and 63.04 of the Rules.

15. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, the ATMS Subsidiaries SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

16. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank Federal Reserve Bank of New York, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). ATMS will also send electronic notification within forty-eight (48) hours of the date said payment is made to Terry.Cavanaugh@fcc.gov, Pamela.Kane@fcc.gov and Robert.Krinsky@fcc.gov.

17. The written statement seeking reduction or cancellation of the proposed forfeitures, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Commission's rules.⁴⁰ The written statement must be mailed to Theresa Z. Cavanaugh, Acting Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554 and must include the NAL/Acct. No. referenced above. The written statement should also be emailed to Terry Cavanaugh at Terry.Cavanaugh@fcc.gov, Pamela Kane at Pamela.Kane@fcc.gov and Robert Krinsky at Robert.Krinsky@fcc.gov.

18. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

19. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁴¹ For answers to questions regarding payment procedures, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov.

20. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by certified mail, return receipt requested, to counsel for ATMS: Timothy J. Cooney, Esq., Wilkinson, Barker, Knauer LLP, 2300 N Street, N.W., Suite 700, Washington, D.C. 20037-1128.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

⁴⁰ See 47 C.F.R. §§ 1.80(f)(3), 1.16.

⁴¹ See 47 C.F.R. § 1.1914.