

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

In the Matter of) File No.: EB-IHD-14-00014841^1
)
) NAL/Acct. No.: 201132080030
)
Associated Telecommunications Management) FRN No. 0019354513
Services, LLC)
)
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
)
)

FORFEITURE ORDER

Adopted: December 1, 2014

Released: December 1, 2014

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. We impose a total penalty of \$64,000 against eight subsidiaries of Associated Telecommunications Management Services, LLC (ATMS) for their unauthorized acquisition of eight domestic telecommunications services providers, in violation of Section 214(a) of the Communications Act of 1934 (Act) and Sections 63.03 and 63.04 of the Commission's rules (Rules). The Act mandates that a telecommunications service provider obtain Commission approval prior to a substantial change in its corporate control. This requirement allows the Commission to evaluate the acquiring company's basic qualifications to determine whether the transaction is in the public interest and whether the acquiring company is prepared to meet its obligations as a Commission licensee.

II. BACKGROUND

2. On July 15, 2011, the Bureau released a Notice of Apparent Liability for Forfeiture in this matter.^2 In the NAL, the Bureau determined that the ATMS subsidiaries had apparently failed to

^1 This case was formerly assigned File No. EB-10-IH-4133.

obtain Commission approval prior to consummating eight substantial transfers of control of authorizations to operate lines for common carrier communications.³ The NAL proposed forfeitures totaling \$64,000 against ATMS for apparent willful or repeated violations of Section 214 of the Act and Sections 63.03 and 63.04 of the Rules.⁴ During the relevant time period, ATMS was a holding company that Thomas Biddix, Kevin Brian Cox, and Leonard I. Solt owned and operated.⁵

3. On August 15, 2011, ATMS filed a response to the NAL seeking a reduction in the forfeiture amount based on the fact that it self-disclosed and attempted to correct four of the unauthorized transfers prior to receiving the Bureau's letter of inquiry LOI.⁶

III. DISCUSSION

4. The Bureau proposed a forfeiture in this case in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁷ Section 1.80 of the Rules,⁸ and the Commission's *Forfeiture Policy Statement*.⁹ When we assess forfeitures, Section 503(b)(2)(E) requires that we take into account 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."¹⁰ As discussed below, we have fully considered ATMS's response to the NAL, but we find it unpersuasive. We therefore affirm the \$64,000 total forfeiture proposed in the NAL.

5. ATMS does not contest our allegation that it willfully failed to obtain Commission approval prior to consummating eight substantial transfers of control of authorizations to operate lines for

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² *Associated Telecommunications Management Services, LLC, et al.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 10205 (Enf. Bur. 2011) (*NAL*). The eight ATMS subsidiaries are: 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 Acquisition Group, LLC and Triarch Acquisition Group, LLC. *Id.* at 10206–08, para. 3. The NAL includes a more complete discussion of the facts and history of this case and is incorporated herein by reference.

³ *NAL*, 26 FCC Rcd at 10208, para. 5.

⁴ 47 U.S.C. § 214(a); 47 C.F.R. §§ 63.03-63.04.

⁵ On April 10, 2014, the Criminal Division of the Department of Justice announced the indictment of Mr. Biddix, Mr. Cox, and Mr. Solt for allegedly using ATMS and its subsidiaries to defraud the federal Lifeline Program out of approximately \$32 million. See Dept. of Justice, Office of Public Affairs, "Three Men charged with Allegedly Defrauding the FCC of Approximately \$32 million," (Apr. 10, 2014), available at <http://www.justice.gov/opa/pr/three-men-charged-allegedly-defrauding-fcc-approximately-32-million>; "Federal Communications Commission, "News Release, "Chairman Wheeler Applauds Indictment of Three Men on Lifeline Fraud Charges," (Apr. 10, 2014), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-326532A1.pdf. The Commission established the Lifeline Program to "help qualifying consumers have the opportunities and security that phone service brings, including being able to connect to jobs, family members, and emergency services." *Easy Tel. Servs. d/b/a Easy Wireless*, File No. EB-IHD-13-00010590, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 14433, 14433, para. 2 (2013).

⁶ *Associated Telecommunications Management Services, LLC, et al.*, Statement Seeking Reduction in Proposed Forfeiture (filed Aug. 15, 2011) (on file in EB-IHD-14-00014841) (*NAL Response*).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. § 1.80.

⁹ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

¹⁰ 47 U.S.C. § 503(b)(2)(E).

common carrier communications.¹¹ Thus, we find that ATMS willfully violated Section 214(a) of the Act and Sections 63.03 and 63.04 of the Rules.

6. The Commission's *Forfeiture Policy Statement* specifies that the Commission shall impose a forfeiture based upon consideration of the factors enumerated in what is now Section 503(b)(2)(E) of the Act.¹² Taking all of these factors into consideration, we find that each of ATMS subsidiaries is liable for an \$8,000 forfeiture, for a total penalty of \$64,000. As explained in the NAL, this total results from applying the base forfeiture amount of \$8,000 to each subsidiary's separate unauthorized substantial transfer of control.¹³

7. ATMS seeks a reduction from the proposed forfeiture based on the fact that it self-disclosed and attempted to correct four of the unauthorized transfers prior to receiving the Bureau's LOI.¹⁴ Such partial disclosure and compliance efforts are insufficient to warrant a reduction in the proposed forfeitures. Although the Commission has in certain circumstances reduced proposed forfeitures "based on . . . good faith corrective efforts . . . taken prior to Commission notification" of the violations," a "lack of diligence" in addressing all aspects of the violations precludes any such reduction here.¹⁵ ATMS did not disclose or attempt to correct four of the eight violations until after it had received the LOI, despite the fact that the eight transactions at issue occurred within the same time frame.¹⁶ Under these circumstances, a reduction of the proposed forfeiture is not warranted. Weighing the relevant statutory factors and our own forfeiture guidelines, we conclude, based upon the evidence before us, that the proposed forfeiture of \$64,000 properly reflects the seriousness, duration, and scope of the violations of ATMS and its subsidiaries.

IV. CONCLUSION

8. Based on the record before us and in light of the applicable statutory factors, we hereby affirm our conclusion in the NAL that ATMS and its subsidiaries willfully violated Section 214(a) of the Act and Sections 63.03 and 63.04 of the Rules by failing to obtain Commission approval prior to consummating eight substantial transfers of control of authorizations to operate lines for common carrier communications. We decline to cancel or reduce the forfeiture amounts, which properly reflect the seriousness, duration, and scope of ATMS's violations. We therefore conclude that ATMS is liable for forfeitures totaling \$64,000.

V. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules,¹⁷ BLC Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand

¹¹ *NAL*, 26 FCC Rcd at 10208, para. 5.

¹² 47 U.S.C. § 503(b)(2)(E).

¹³ *NAL*, 26 FCC Rcd at 10209, para. 6.

¹⁴ *NAL* Response at 2–3.

¹⁵ *Sutro Corporation, Payette, Idaho*, Memorandum Opinion and Order, 19 FCC Rcd 15274, 15277, para. 10 (2004).

¹⁶ See Letter from Lance J.M. Steinhart, Lance J. Steinhart, P.C., to Marlene H. Dortch, Secretary, FCC, Request for Special Temporary Authority of Bellerud Acquisition Group, LLC, Docket No. WC 10-11 (filed Jan. 7, 2010) (on file in EB-IHD-14-00014841) (stating that ATMS's owners initiated a series of unauthorized transfers of control "[b]eginning on or about September 1, 2009"); E-Mail from Robert G. Morse, Wilkinson, Barker, Knauer, LLP, to Robert Krinsky, Investigations and Hearings Division, FCC Enforcement Bureau (Nov. 9, 2010) (on file in EB-IHD-14-00014841) (stating that the four unauthorized transfers of control disclosed in ATMS's LOI Response "occurred on or about November 30, 2009").

¹⁷ See 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80.

dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.¹⁸

10. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, Bellerud Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

11. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, DialTone & More Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

12. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, Ganoco Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

13. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, Lifeconnex Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

14. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, Ren-Tel Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

15. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, SCTxLink Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

16. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, Sections 0.111, 0.311, and 1.80 of the Commission's rules, Triarch Acquisition Group, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for willfully or repeatedly violating Section 214(a) of the Communications Act of 1934, as amended, and Sections 63.03 and 63.04 of the Commission's rules.

17. Payment of the forfeitures shall be made in the manner provided for in Section 1.80 of the Commission's rules no later than December 19, 2014.¹⁹ If the forfeitures are not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Communications Act of 1934, as amended.²⁰ ATMS and the ATMS Subsidiaries shall send electronic notification of the payments to William A. Kehoe at

¹⁸ See 47 U.S.C. § 214(a); 47 C.F.R. §§ 63.03-63.04.

¹⁹ See 47 C.F.R. § 1.80.

²⁰ See 47 U.S.C. 504(a).

William.Kehoe@fcc.gov, and Robert B. Krinsky at Robert.Krinsky@fcc.gov on the date said payment is made.

18. The payments must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Numbers and FRNs referenced above. ATMS and the ATMS Subsidiaries shall send electronic notification of the payments to William A. Kehoe at William.Kehoe@fcc.gov, and Robert B. Krinsky at Robert.Krinsky@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²¹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions Indigo Wireless, Inc. should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

19. Any request for making full payment over time 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, DC 20554.²² If ATMS or the ATMS Subsidiaries have questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Thomas Biddix, Associated Telecommunications Management Services, LLC, 6905 N. Wickham Road, Suite 403, Melbourne, FL 32940 and to Kepler Funk, Funk, Szachacz & Diamond, LLC, 3962 West Eau Galle Boulevard, Suite B, Melbourne, FL 32934.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²² See 47 C.F.R. § 1.1914.