337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42, 210.43, and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42, 210.43, and 210.50).

By order of the Commission.

Issued: February 24, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–3970 Filed 3–1–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comments received on the proposed Final Judgment in *United States* v. *Cingular Wireless Corp. et al.,* Civil Action No. 1:04CV01850 (RBW), filed in the United States District Court for the District of Columbia, together with the United States' response to the comments on February 17, 2005.

Copies of the comments and the response are available for inspection at Room 200 of the Department of Justice, Antitrust Division, 325 Seventh Street, NW., Washington, DC 20530, telephone (202) 514–2481, and at the Office of the Clerk of the United States District Court for the District of Columbia, E. Barrett Prettyman United States Courthouse, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

J. Robert Kramer II,

Director of Operations.

In the United States District Court for the District of Columbia

United States of America, State of Connecticut and State of Texas, Plaintiffs, v. Cingular Wireless Corporation, SBC Communications Inc., BellSouth Corporation and AT&T Wireless Services, Inc., Defendants; Plaintiff United States's Response to Public Comments

Civil No. 1:04CV01850 (RBW)

Filed: February 17, 2005

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.SC. 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby responds to the public comments received regarding the proposal Final Judgment in this case. After careful consideration of the comments, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comments and this Response has been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

On October 25, 2004, plaintiffs filed the Complaint in this matter alleging that the proposed acquisition of AT&T Wireless Services, Inc. (''AT&T Wireless'') by Cingular Wireless Corp. (''Cingular'') and its parents, SBC Communications Inc. (''SBC'') and BellSouth Corp. (''BellSouth''), would violate Section 7 of the Clayton Act, 15 U.S.C. 18. Simultaneously with the filing of the Complaint, the plaintiffs filed a proposed Final Judgment [1] and a Preservation of Assets Stipulation and Order signed by plaintiffs and defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act. Pursuant to those requirements, the United States filed a Competitive Impact Statement (''CIS'') in this Court on October 29, 2004; published in the proposed Final Judgment and CIS in the **Federal Register** on November 15, 2004, *see* 69 FR 65633 (2004); and published a summary of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, in the Washington Post for seven days beginning on November 10, 2004 and ending on November 16, 2004. The 60-day period for public comments ended on January 15, 2005, and two comments were received as described below and attached hereto.

I. Background

As explained more fully in the Complaint and CIS, this transaction substantially lessened competition in mobile wireless telecommunications services and mobile wireless broadband services in 13 geographic markets, located in 11 states. To restore competition in these markets, the proposed Final Judgment, if entered, would require Cingular to divest (1) AT&T Wireless's wireless business in 5 geographic markets (Connecticut RSA–1 (CMA 357), Kentucky RSA–1 (CMA 443), Oklahoma City (CMA 045), Oklahoma RSA–3 (CMA 598), and Texas RSA–11 (CMA 662)); (2) minority interests in other wireless service providers in 5 geographic markets (Shreveport, LA (including CMAs 100, 219, 454, 455, and 456), Pittsfield, MA (CMA 213), Athens, GA (CMA 234), St. Joseph, MO (CMA 275), and Topeka, KS (CMA 179)); and (3) 10 MHz of contiguous PCS spectrum in 3 geographic markets (Detroit, MI (BTA 112), Dallas, TX (CMA 009), and Knoxville, TN (BTA 232)). Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. Legal Standard Governing the Court's Public Interest Determination

Upon the publication of the public comments and this Response, the United States will have fully complied with the Tunney Act and will move the Court for entry of the proposed Final Judgment as being ''in the public interest.'' 15 U.S.C. 16(e). The Court, in making its public interest determination, shall consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including considerations of the public benefit, it any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1). As the U.S. Court of Appeals for the District of Columbia Circuit has held, the Tunney Act permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's compliant, whether the proposed Final Judgment is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the proposed Final Judgment may positively harm third parties. See *United States* v. *Microsoft*

[1] A corrected version of the proposed Final Judgment was filed on November 3, 2004. The only change was the addition of the *underlined* language to the last sentence of Section II.F: ''Plaintiff United States in its sole discretion may approve this request if it is demonstrated that the retained minority interest will become irrevocably and entirely passive, *so long as defendants own the minority interests,* and will not significantly diminish competition.''

The corrected version is what was published in the **Federal Register**. None of the public comments addressed this aspect of the proposed Final Judgment.

Corp., 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

''Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.''15 U.S.C. 16(e)(2). Thus, in conducting this inquiry, ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney).[2] Rather:

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * *carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at ¶ 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public. '' *United States* v. *BNS Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft,* 56 F.3d at 1460–62. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the pubic in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is '*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel. 648 F.2d at 666 (emphasis added) (citations omitted).[3]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice of whether it mandates certainty of free competition in the future. Court approval of a consent judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability of is 'within the reaches of public interest.' '' *United States* v. *AT&T Corp.,* 552 F.Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting Gillette, 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); see also *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent judgment even though the court would have imposed a greater remedy).

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Id.* at 1459–60. The United States is entitled to ''due respect'' concerning its ''prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.'' *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (citing *Microsoft,* 56 F.3d at 1461).

III. Summary of Public Comments and the United State's Response

During the 60-day public comment period, the United States received two comments—one from the Oklahoma Corporation Commission (''OCC'') and the other from William Lovern, Sr.—which are attached hereto and summarized below. The United States appreciates the comments from the OCC and Mr. Lovern. As explained below, neither comment addresses whether the proposed Final Judgment is in the public interest or warrants any change to the proposed Final Judgment. Copies of this Response and its attachments have been mailed to the OCC and Mr. Lovern.

A. Oklahoma Corporation Commission

1. Summary of Comment

The OCC is the state agency charged with regulatory oversight of the telecommunications industry in Oklahoma. In its comment of January 6, 2005, the OCC expresses concern about the potential for the merger to harm Oklahoma consumers, specifically Oklahomans throughout the state who are current subscribers to AT&T Wireless's services and ''may not wish to do business with Cingular, or any other company acquiring the AT&T Wireless customer base, and that those customers may be assessed a fee to terminate their existing AT&T Wireless contracts.'' The OCC's comment also quotes a portion of the language from Section II.L of the proposed Final Judgment, which it believes may address this concern, at least for consumers in Oklahoma City and Oklahoma RSA–3: ''[A]ny subscribers who obtain mobile wireless services through any contract retained by [Cingular] and who are located in [Oklahoma City, Oklahoma, Oklahoma RS–3 (CMA598), and some other areas outside Oklahoma], shall be given the option to terminate their relationship with [Cingular], without financial cost, within one year of closing of the Transaction.'' (Brackets in original.) The OCC asks that the language in the proposed Final Judgment be clarified or expanded to include all AT&T Wireless subscribers in Oklahoma and state that no ''Oklahoma consumer with an existing contract for wireless service with AT&T Wireless will be charged a termination fee by AT&T Wireless, Cingular or any other company that acquires that customer contract, after the closing of the Cingular acquisition of AT&T Wireless.''

2. Response

The OCC's primary concern appears to be that the merger could harm Oklahoma consumers. The Department also was concerned about the welfare of residents of Oklahoma. The Complaint

[2] See *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (recognizing it was not the court's duty to settle; rather, the court must only answer ''whether the settlement achieved [was] within the reaches of the public interest''). A ''public interest'' determination can be made properly on the basis of the CIS and Response to Comments filed by the Department of Justice. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. No. 93–1463, 93d Cong., 2d Sess. 8–9 (1974), *reprinted* in 1974 U.S.C.C.A.N. 6535, 6538–39.

[3] *Cf.BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [Tunney Act] is limited to approving or disapproving the consent decree''); *Gillette,* 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''); see generally *Microsoft* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' ''.

alleges competitive harm in Oklahoma City and Oklahoma RSA–3, and the proposed Final Judgment provides for the divestiture of AT&T Wireless's wireless businesses in those markets in order to preserve the existing competition for the benefit of Oklahoma's citizens. The OCC's concern that most AT&T Wireless customers would be forced to deal with Cingular after the merger is a consequence of the companies' decision to merge and not the proposed Final Judgment. Although consumers may not like to switch providers, switching caused by a merger that does not harm competition does not constitute a harm to competition that is recognized by the antitrust laws.

It would also be inappropriate for plaintiffs or the Court to require as part of the settlement of this matter that all of AT&T Wireless's customers in the wireless business divestiture markets be allowed to cancel existing contracts when the divestiture assets are sold. To preserve competition, any divestiture package must include the necessary assets for the purchaser to be a viable, ongoing competitor to the merged firm in the affected markets. *See* U.S. Dept. of Justice, Antitrust Div., Policy Guide to Merger Remedies at 4, 9–12 (Oct. 2004) (''Restoring competition is the 'key to the whole question of an antitrust remedy.' '' (quoting *United States* v. *E.I. du Pont de Nemours & Co.,* 366 U.S. 316, 326 (1961))). A package without sufficient assets to allow a divestiture purchaser to quickly replace the competition lost as a result of the merger and give it the incentive to do so fails to protect competition. *See Policy Guide to Merger Remedies* at 9–11. To be a viable competitor, the divestiture purchaser needs access to the divested business's customers.[4] Therefore, the proposed Final Judgment in Section II.L provides for customer contracts to be included in the Wireless Business Divestiture Assets in order to ensure that a suitable purchaser would be willing to acquire the assets make the effort necessary to maintain competition for the benefit of all consumers in these areas.

The OCC's request for clarification of the language in Section II.L of the proposed Final Judgment is unnecessary. This Section relates solely to business customer contracts that cover subscribers both inside and outside the wireless business divestiture markets. In an effort to avoid forcing these customers who previously had a single contract to deal with both Cingular and the divestiture purchaser, the proposed Final Judgment assigns the contracts to Cingular or the divestiture purchaser based upon where the majority of the subscribers covered by the business customer contract are located. Section II.L of the proposed Final Judgment requires Cingular to divest business customer contracts where more than 50 percent of the subscribers are located in the wireless business divestiture markets.[5] This will give the purchaser the necessary access to business customers to make it a viable competitor to preserve the existing competition.

Under the terms of the proposed Final Judgment, any business subscriber located in the wireless business divestiture markets covered by a business customer contract retained by Cingular has the right to terminate their service without financial penalty within one year of the closing of the merger. *See* Proposed Final Judgment, section II.L. This last provision is what was quoted by the OCC, but by its very terms it applies only to subscribers covered by the business customer contracts retained by Cingular. The provision's purpose is to provide additional incentive to the divestiture purchaser by expanding the base of customers to which it could immediately market its services.

After reviewing the concerns raised by the OCC, the United States continues to believe that the proposed Final Judgment is in the public interest and that it appropriately addresses the competitive harm alleged in the Complaint.

B. William Lovern, Sr.

1. Summary of Comment

William Lovern Sr., President of Trial Management Associates (a self-described ''private company that litigates international public interest cases''), submitted a comment on November 11, 2004. First, Mr. Lovern is concerned that ''AT&T Wireless has been looted by its executives in conjunction with Cingular's takeover, even though the merger is not final.'' In conversations with the United States, he discussed this looting in relation to documents being taken from AT&T Wireless. Second, he asserts the Regional Bell Operating Companies (''RBOCs''), including SBC and BellSouth (the parents of Cingular), are ''operating an anticompetitive Universal Billing & Collection System known as the InterCompany Settlement System (ICS)'' that allegedly controls the billing and collection for the RBOCs as well as their competitors. He claims that the new Cingular/AT&T Wireless and Verizon Wireless will have ''market share advantages'' that will force competitors out of business because they will be the only two entities that have 100%A on net Universal Billing & Collection.'' Finally, he states that ''SBC has violated Sarbanes-Oxley with their 2004, 1st, 2nd and 3rd Quarter Q filing with the [Securities and Exchange Commission],'' which he alleges is a result of its operating of the ICS. Along with his comment, Mr. Lovern submitted a copy of a letter he sent to James S. Turkey, Chairman and CEO of Ernest & Young, LLP, stating that SBC has ''committed flagrant securities fraud'' allegedly by ''operating a criminal enterprise'' (*i.e.,* the ICS) that illegally overcharges consumers and put four of his telecommunications companies out of business.

Mr. Lovern provided additional information on November 24, 2004 in the form of a November 22, 2004 letter to Warburg Pincus LLC and Providence Equity Partners Inc. detailing his long-running dispute with the RBOCs over the ICS, which he alleges is a ''criminal racketering enterprise,'' and Warburg Pincus's and Providence Equity Partners' alleged liability from purchasing Telecordia Technologies, which he claims was involved with the ICS. As described in this second submission, Mr. Lovern sued SBC in 1992, and the lawsuit was subsequently settled against his wishes. He now claims that the court lacked jurisdiction, making the settlement invalid. Mr. Lovern also alleges that the Missouri Public Service Commission covered up the fraud he alleges was committed by the RBOCs through ICS. Finally, he forwarded a series of demand letters via e-mail threatening lawsuits or regulatory complaints against SBC and its executives on December 9, and 10, 2004.

[4] *See Policy Guide to Merger Remedies* at 10 (''In markets where an installed base of customers is required in order to operate at an effective scale, the divested assets should either convey an installed base of customers to the purchaser or quickly enable the purchaser to obtain an installed customer base.'').

[5] The proposed Final Judgment reads in part: ''[P]rovided that defendants shall only be required to divest Multi-line Business Customer contracts, if 50 percent or more of the Multi-line Business Customer's subscribers reside or work within any of the five (5) license areas described herein [the wireless business divestiture areas which include Oklahoma City and Oklahoma RSA–3], and further, any subscribers who obtain mobile wireless services through any *such* contract retained by defendants and who are located within five (5) geographic areas identified above, shall be given the option to terminate their relationship with defendants, without financial cost, within one year of the closing of the transaction.''

Proposed Final Judgment, section II.L (emphasis added). ''Multi-line Business Customers'' are defined as AT&T Wireless business customers that have contracts for multiple wireless phones for their employees for which the business is liable. See *id.* section II.G

2. Response

Mr. Lovern's series of submissions has nothing to do with the issue before this Court—whether the proposed Final Judgment is in the public interest. Nothing in Mr. Lovern's comments relates to competition in the relevant product markets (*i.e.,* mobile wireless telecommunications and mobile wireless broadband services) or to the assets that Cingular must dives under the proposed Final Judgment. Mr. Lovern's allegations about the ICS remain unchanged by the merger, and the alleged Sarbanes-Oxley violations are, by their very nature, not addressable by the antitrust laws.

IV. Conclusion

After careful consideration of these public comments, the United States still concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is, therefore, in the public interest. Pursuant to Section 16(d) of the Tunney Act, the United States is submitting the public comments and its Response to the **Federal Register** for publication. After the comments and its Response are published in the **Federal Register**, the United States will move this Court to enter the proposed Final Judgment.

Respectfully submitted

Hillary B. Burchuk (D.C. Bar # 366755),
Matthew C. Hammond,
David T. Blonder,
Benjamin Brown,
Michael D. Chaaleff,
Benjamin Gilibnerti,
Jeremiah M. Luongo,
Lorenzo McRae (D.C. Bar # 473660),

Attorneys, Telecommunications & Media, Enforcement Section, Antitrust Division.

U.S. Department, of Justice, City Center Building, 1401 H Street, NW., Suite 8000, Washington, DC 20530, (202) 514–5621, Facsimile: (202) 514–6381.

Certificate of Service

I hereby certify that copies of the Plaintiff United States' Response to Public Comments have been mailed, by U.S. mail, postage prepaid, to the attorneys listed below, the 17th day of February 2005.

Counsel for Defendants Cingular Wireless Corporation and SBC Communications, Inc.; Richard L. Rosen, Esq., Arnold & Porter LLP, 555 Twelfth St., NW., Washington, DC 20004.

Counsel for Defendants Cingular Wireless Corporation and BellSouth Corporation; Stephen M. Axinn, Esq., Axinn, Veltrop & Harkrider LLP, 1801 K St., NW., Washington, DC 20006.

Counsel for Defendant AT&T Wireless Services, Inc.; Ilene Knable Gotts, Esq., Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, NY 10019.

Counsel for Plaintiff State of Texas; John T. Prud'homme, Jr., Esq., Assistant Attorney General, Antitrust and Civil Medicare Fraud Department, Office of the Attorney General, 300 West 15th Street, 9th Floor, Austin, Texas 78701.

Counsel for Plaintiff State of Connecticut; Rachel O. Davis, Esq., Assistant Attorney General, Antitrust Department, 55 Elm Street, Hartford, Connecticut 06106.

Hillary B. Burchuk (D.C. Bar # 366755),
Matthew C. Hammond,
Lorenzo McRae (D.C. Bar # 473660),

Attorneys, Telecommunications & Media Enforcement Section, Antitrust Division, U.S. Department of Justice, City Center Building, 1401 H Street, NW., Suite 8000, Washington, DC 20530, (202) 514–5621.

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Office of General Counsel

Ben Jackson, General Counsel

January 6, 2005

Nancy Goodman
Chief, Telecommunications & Media Enforcement Section
Antitrust Division
U.S. Department of Justice
1401 H Street, NW., Suite 8000
Washington, DC 20530

Re: United States v. Cingular Wireless Corporations, SBC Communications, Inc., BellSouth Corporation, and AT&T Wireless Services, Inc.; Competitive Impact Statement, Proposed Final Judgment, Complaint, Preservation of Assets Stipulation and Order

Public Comment of the
Oklahoma Corporation Commission

On November 15, 2004, a notice was published in the Federal Register inviting public comments regarding the proposed acquisition of AT&T Wireless Services by Cingular Wireless Corporation. *Reference:* 69 Fed. Reg. 65,633 (2004). The notice specified that public comments would be considered by the U.S. Department of Justice and filed in *United States v. Cingular Wireless Corp.*, Civil Case No. 1:04CV01850 (RBW). In response to that notice, the Oklahoma Corporation Commission submits this public comment to express its concern about the proposed acquisition.

The Oklahoma Corporation Commission is the state agency charged with regulatory oversight of many industries operating within the State of Oklahoma, including the telecommunications industry. While the Oklahoma Corporation Commission does not have direct oversight of the wireless telecommunications industry, it does regulate some aspects of wireless operations within Oklahoma and is especially focused on decisions that impact the rights and obligations of state residents.

The Oklahoma Corporation Commission is concerned that the potential exists for Oklahoma consumers to be harmed by the proposed acquisition. Specifically, the Oklahoma Corporation Commission is concerned that Oklahoma consumers who subscribed to AT&T Wireless service

may not wish to do business with Cingular, or any other company acquiring the AT&T Wireless customer base, and that those customers may be assessed a fee to terminate their existing AT&T Wireless contracts. The Notice published in the Federal Register indicates that, "[A]ny subscribers who obtain mobile wireless services through any contract retained by [Cingular] and who are located in [Oklahoma City, Oklahoma, Oklahoma RS-3 (CMA 598), and some other areas outside Oklahoma], shall be given the option to terminate their relationship with [Cingular], without financial cost, within one year of the closing of the Transaction." *Reference:* 69 Fed. Reg. 65,641 (2004).

While this language appears to satisfy the concerns of the Oklahoma Corporation Commission, the language is somewhat ambiguous. The language could be read to exclude some Oklahoma customers that reside outside Oklahoma City or Oklahoma RS-3. Further, the words "without financial cost" are not defined and do not specifically exclude assessment of termination fees that may be provided for within the AT&T contracts.

The Oklahoma Corporation Commission respectfully asks that this language be modified to clearly state that no Oklahoma consumer with an existing contract for wireless service with AT&T Wireless will be charged a termination fee by AT&T Wireless, Cingular or any other company that acquires that customer contract, after the closing of the Cingular acquisition of AT&T Wireless.

If you have any questions or comments, do not hesitate to contact the Oklahoma Corporation Commission, Attn. Bennett Abbott, Assistant General Counsel, Office of General Counsel, P.O. Box 52000, Oklahoma City, OK 73152-2000; Phone 405-521-3570.

Respectfully Submitted

BENNETT ABBOTT, OBA No.15921
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(405) 521-3570

cc: Bob Anthony, Chairman, Oklahoma Corporation Commission
Jeff Cloud, Vice Chairman, Oklahoma Corporation Commission
Denise Bode, Commissioner, Oklahoma Corporation Commission
Joyce Davidson, Director, Public Utility Division, Oklahoma Corporation Commission
Eric Sequin, Chief of Telecom, Public Utility Division, Oklahoma Corporation Commission

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November 11, 2004

R. Hewitt Pate, Matthew C. Hammond
Antitrust Division - New Case Unit
950 Pennsylvania Ave., N.W. Suite 3322
Washington, DC 20530

Via fax: (202)-514-6381

RE: SBC Communications, Inc. / Bell South Corporation

Dear Mr. Hammond:

As we discussed Tuesday, AT&T Wireless has been looted by its executives in conjunction with Cingular's takeover, even though the merger is not final. SBC Communications, Inc. (SBC) and Bellsouth Corporation (BS) have been operating an anticompetitive Universal Billing & Collection System known as the InterCompany Settlement System (ICS) since 1984. The ICS is located in Missouri at Southwestern Bell telephone (SWBT). It has been operated for 20 years under the radar without a single tariff being filed anywhere, and to the detriment of consumers nationwide and competition. It is a monopoly. It is the only billing & collection system with 100% on net capability.

SBC is the "Contract Administrator" and the "King Pin" of the racketeering enterprise. The lieutenants [ICS Direct Participants] of the criminal enterprise began in 1985 as the Seven RBOCs, Cincinnati Bell, and Southern New England Telephone (SNET). Today they are no different:

1. New England Telephone Company
2. New York Telephone Company
3. Bell Atlantic, NJ
4. Bell Atlantic, PA
5. Bell Atlantic, DE
6. Bell Atlantic, DC
7. Bell Atlantic MD
8. Bell Atlantic VA
9. Bell Atlantic WV
10. Southern Bell Telephone Company
11. South Central Bell Telephone Company
12. Ohio bell Telephone Company (Ameritech)

13. Michigan Bell Telephone Company (Ameritech)
14. Indiana Bell Telephone Company (Ameritech)
15. Illinois Bell Telephone Company (Ameritech)
16. Wisconsin Bell Telephone Company (Ameritech)
17. Northwestern Bell Telephone Company
18. Southwestern Bell Telephone company
19. Mountain Bell Telephone Company
20. Pacific Bell Telephone Company
21. Nevada Bell Telephone Company
22. Southern New England Telephone Company
23. Cincinnati Bell Telephone Company

These 23 companies can control every single USA toll message placed on a LEC bill anywhere in the U.S., Canada & Caribbean. The ICS is AT&T's original billing system and they have installed numerous derivatives of the system within their respective territories to allow themselves to look like they act independently, when in fact they act as a single monopoly with anticompetitive pricing, part and parcel to a two tier system of billing and collection, violating since 1984 the Clayton Act, Sherman Act, FTC Act and RICO. The criminal enterprise has lined its pockets with hundreds of billions of dollars of dirty money. We have their secret internal documents, flow charts included, showing how they laundered the money. It is the best kept secret in telecommunications. They have paid off numerous public officials to keep the criminal enterprise going over the last 20 years.

By allowing Cingular & AT&T Wireless to merge, Cingular will now enjoy market share advantages no one can appreciate except Verizon Wireless. When SBC, Bellsouth, and Verizon begin bundling wireline service and wireless on the same bill we will see the wireless industry controlled by the racketeering enterprise, specifically Cingular [SBC/Bellsouth] and Verizon Wireless [Verizon]. Nextel, Sprint et al will become extinct as no one can compete with 100% on net Universal Billing & Collection (B&C). Anyone can transport Mr. Hammond, but what separates the "Big Boys" from the "little boys" is billing & collection. Not just collecting your money. The speed, expense, accuracy, accounting, and reporting capabilities of the ICS is so anticompetitive in comparison to the tariffed B&C product offered to the competition it's like comparing Sandlot football to the NFL. In addition to the obvious, the 23 ICS hosts listed above micro manage their competitors messages by unpacking and editing out what the criminal enterprise doesn't want on the LEC bill. The infamous 23 completely controls what goes on the LEC bills. When Judge Greene broke up AT&T he did not give SBC and its partners in crime AT&T's billing system to be used as a monopoly, yet that is exactly what they did, which is why the playing field has never been level since divestiture. To compete one must be able to control its cash flow.

Bill McGowen [MCI Founder] told me personally in 1991 that he knew AT&T had been getting preferential billing treatment since 1985, but that he couldn't prove it. It has taken me 13 years and millions of dollars but be assured that I can prove that and much, much more. I have enough evidence to put the infamous 23's Executives in jail. Through the telecom companies I owned, I lost about $900 million because of the anticompetitive ICS, and by adding 5% compound interest, today my damages are $1.7 Billion. I intend to collect my damages.

Page 3 (DOJ Antitrust)

SBC has violated Sarbanes-Oxley with their 2004, 1st, 2nd and 3rd Quarter Q filings with the SEC as TMA put SBC on written notice of the ICS liability in March 2004, and warned them to disclose pursuant to 17 CFR 229.303, as interpreted by the U.S. Supreme Court. James Turley [Global Managing Partner, Ernst & Young, a personal friend of Ed Whitacre - Chairman of SBC]... Mr. Turley was put on written notice in June 2004, [enclosed] as Ernst & Young is the outside auditor for SBC. Bank of America (BOA) was notified as one of the lead banks in SBC's $6 Billion Credit agreement used to finance the AT&T Wireless deal. BOA covered up the liability [BOA Audit Committee Chairman is a good friend of Whitacre and he refused to look at the evidence], which means the credit agreement is in default, specifically Art. III, Sec. 3.01 (b) of the agreement; and, fraudulent NOTES have been sold to the public. BOA is now a co-conspirator along with Ernst & Young, SBC and its outside lawyers who handled this matter in the upcoming class action that has joint & several liability around $2.5 Trillion, which includes treble damages.

In their capacity as lead bank for the $6 Billion credit agreement, Citibank has knowingly allowed SBC to stay in default since the agreement closed October 18, 2004. The other 19 banks are fighting over how to get out. SBC used this money to issue fraudulent Debt Securities to the public, and now 19 additional banks/lenders are involved in funding antitrust and racketeering. Defendant, C. Michael Armstrong [former CEO at AT&T who covered up the criminal enterprise while at AT&T] sits on the Audit Committee at Citigroup. This incestuous conduct is normal for the defendants.

The list of banks is as follows: Citibank; Bank of America; ABN AMRO Bank, N.V.; Barclays Bank; Deutsche Bank A.G. [NY]; JP Morgan Chase; Lehman Brothers Bank, FSB; UBS Loan Finance LLC; HSBC Bank USA, N.A.; Merrill Lynch Bank USA; Credit Suisse First Boston; William Street Commitment Corp.; Morgan Stanley; Bank of Toyoko-Mitsubishi, Ltd.; Sumitomo Mitsui Banking Corp.; Mellon Bank, N.A.; Wachovia bank N.A.; The Northern Trust Co.; Frost National Bank. These banks/lenders are all now facing joint & several liability in excess of $2.5 Trillion in the upcoming class action mentioned above.

It is important that you notify Judge Walton immediately about the looting of AT&T Wireless, and that we are going to challenge the merger pursuant to the APPA, as it will be necessary to put AT&T Wireless back in tact when the merger is cancelled. As we discussed, it is inappropriate for the AT&T Wireless Executives to loot the company of its files before the merger is even final. As I told you I know this has happened by talking to insiders still around. I will follow this letter up with detailed evidence of the antitrust violations, but first we must protect AT&T Wireless from being destroyed as the merger will be nullified one way or another.

Yours truly,

William Lovern, Sr.
President

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June 29, 2004

James S. Turley
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RE: SBC Communications

Dear Mr. Turley:

You obviously know Ed Whitacre from your time in St. Louis and the Midwest. I hope your relationship with Ed will not skew your ethics in this matter. SBC Communications, Inc. (SBC) has already committed flagrant securities fraud with their 2004 1st Quarter Q et al, violating Sarbanes-Oxley in the process. SBC had an obligation to disclose liability that creates any uncertainties that "**...will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations.**" SBC has been operating a criminal enterprise in Missouri known as the Inter-Company Settlement System (ICS) [billing & collection of toll calls] under the regulatory radar, without a single tariff being filed, which said criminal enterprise violates, but not limited to, the Clayton Act, Sherman Act, FTC Act, and RICO. Consumers lost, due to illegal over-charges directly connected to the ICS, over $400 Billion, and, AT&T competitors lost over $300 Billion between 1984 and 1994. The total figures today are even more staggering. In March of 2004 I put SBC on written notice as to their liability and disclosure obligation under the SEC laws. Today, I demand on behalf of shareholders pursuant to SEC Rule 10A-3 that Ernst & Young make the SBC Audit Committee aware of this problem and inform them I want to present the evidence to them personally. After seeing the physical evidence they will understand clearly the liability.

Beginning in 1992, I lost through my four telecom companies that I owned, over $900 Million to date, which at 5% Compound interest for 13 years is about $1.7 Billion. In 1992, I had 3 year customer B&C contracts worth over $300 Million that each had two 3 year options. SBC in their capacity as "Contract Administrator" for the ICS illegally put me out of business. The conspiracy that began in 1984 is still very much alive and operating today, never having missed a day; hence, the statute of limitations has not even begun to run.

Page 2 (Ernst & Young)

(1)... 17 C.F.R. Ch. II, 229.303 states in (3) (ii);

> **"Describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." [underline added for emphasis].**

The key word is uncertainties.

Commentary to 303 (a) 3 states;

> **"The discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition."**

Commentary to 303 (a) 3 cont-

> **"This would include descriptions and amounts of (A) matters that would have an impact on future operations and have not had an impact in the past,..." [underline added for emphasis].**

Again the key word is uncertainties, with further inference on not and impact.

For uncertainties to be eliminated from disclosure one must conclude that the threatened liability in the upcoming **American TeleDial Corp (ATC) et al v. SBC Communications et al; William Lovern, Sr. et al v. SBC Communications et al** cases is certain not to materialize. SBC Management, nor its lawyers, nor the SEC can make that claim considering the defendant class violated the Judge Greene's Modified Final Judgment (MFJ), overcharging consumers Hundreds of Billions of Dollars, plus stealing Hundreds of Billions from AT&T's competitors, myself and my telecom companies included. The cases do not have to be filed for disclosure to be mandatory.

> **"...issue of materiality is a mixed question of law and fact that is generally for the jury." In Re Par Pharmaceutical, Inc. Securities Lit., 733 F. Supp. at 677, quoting TSC Industries, Inc. v. Northway, Inc., 426 U.S. at 450, 96 S. Ct. at 2132.**

Information is material if **"...a reasonable investor might have considered [it] important in the making of [the investment] decision." Affiliated Ute Citizens of Utah v. United States, 406 U.S. 128, 153-54; Cook v. Avien, 573 F. 2d 685, 693.** In the case of **Roeder v. Alpha Industries, Inc., 814 F. 2d 22, 25,** the court said;

Page 3 (Ernst & Young)

> **"...we conclude that reasonable investors might have considered defendants' alleged illegal conduct to be important information they would want to have before they made investment decisions."**
>
> **"Investors may prefer to steer away from an enterprise that circumvents fair competitive bidding and opens itself to accusations of misconduct. Furthermore, regardless of financial motives, investors may not want to associate themselves with such an enterprise."** ***Roeder Id.***
>
> **"The securities laws do not operate under the assumption that material information need not be disclosed if management has reason to suppress it. Investors may want to know about illegal activity for the same reason management will be reluctant to reveal it: it threatens to damage the corporation severely. Excepting from the disclosure rules information management has reason to hide would eviscerate the protection for investors embodied in the securities laws."** ***Roeder Id.***

Most important court quote, ***" Information is material if, a reasonable investor might have considered [it] important in the making of [the investment] decision."*** ***Roeder*** citing - **Affiliated Ute Citizens of Utah, supra. [U.S. Supreme Court].**

I concede that the companies in question are not required to disclose our legal theories as to the many different causes of action; however, there is no doubt about the uncertainty of the alleged liability, [it] is not unsubstantiated as we have undeniable evidence in the form of the Defendants' internal documents, which clearly prove the allegations and, it is anything but "...routine litigation." In addition, we will be providing information to the Missouri PSC in preparation for formal hearings about the misuse of the (ICS). Therefore, the alleged liability should have been disclosed so the investors can decide for themselves. ***"Reasonable investors might consider the information important."*** The ***Ute Citizens of Utah*** case opinion requires disclosure.

---

(2)... Aiding & Abetting By Third Parties: Disclosure requirements

Another item to be discussed is the disclosure requirements of outside attorneys and third parties in conjunction with the securities laws. As you know, there are an abundance of outside lawyers / third parties, auditors, etc... directly involved with SBC - specifically pertaining to the disclosure issue under **17 CFR 229.303** in dispute. The Defendant's lawyers have made the same mistakes that former White House lawyers made when Mrs. Clinton took the position that they represented the President and First Lady instead of the American People. Defendant lawyers in this case have made that same mistake by taking the position that they represent management/lawyers instead of the shareholders of SBC.

Page 4 (Ernst & Young)

The types of frauds prohibited under the securities laws are less rigid than the standards established by common law. Examples: **Lerman v. Tenney, 295 F. Supp. 780; U.S. v. Prey, 452 F. Supp. 788; Miller v. Steinbach, 268 F. Supp. 255.** In the current dispute lawyers for SBC, its management, and agents have become aiders and abettors.

> **"Where a person or business entity knowingly gives aid and assistance to a securities fraud perpetrated by another, the regulatory or deterrent purpose of the securities laws will be best served by allowing persons injured by the wrongs to get relief from the aiders and abettors, as well as the wrongdoers."**

In re Equity Funding Corp. of America Securities Litigation, 416 F. Supp. 161.

Without giving away a major part of our case, many times third parties have a disclosure requirement under the securities laws the same as management. **See Hochfelder v. Earnst & Earnst, 503 F. 2d 1100; Hochfelder v. Midwest Stock Exchange, 503 F. 2d 364; Kerbs v. Fall River Industries, Inc., 502 F. 2d 731; Strong v. France, 474 F. 2d 747.** Third parties can easily become parties to derivative actions for failure to disclose to the shareholders.

What's really scary is the number of **"Officers of The Court"** that are involved in aiding and abetting securities fraud connected to this matter. There is a fiduciary relationship of trust and confidence between outside lawyers and auditors working for the company and especially the shareholders. The United States Supreme Court has decreed that under the federal securities laws, a duty to disclose; ... " **arises from the relationship between parties." Dirks v. SEC, 463 U.S. 646, 658;** and, it will exist if there is ... **"fiduciary or other similar relation of trust or confidence between them." Chiarella v. United States, 445 U.S. 222, 228; See Schatz v. Rosenberg, 943 F. 2d 485 (4th Cir. 1991).**

It is well established that the **"Right of Contribution"** for violations of the federal securities laws exists among **"Joint Tortfeasors." See Greene v. Emerson, Ltd., 102 F.R.D. 33, 36, (S.D.N.Y.), aff'd. sub nom; Kenneth Leventhal & Co. v. Joyner Wholesale Co., 736 F. 2d 29; See also, Tucker, 646 F. 2d 727; and, In Re Leslie Fay Companies, Inc. Securities Litigation, 918 F. Supp. 749.**

I hope all parties will reconsider their current positions regarding disclosure. The Audit Committee at SBC has a legal responsibility to investigate, independent of management, violations of Sarbanes-Oxley and 303. **"REASONABLE INVESTORS HAVE THE RIGHT TO CONSIDER ALLEGED ILLEGAL CONDUCT BEFORE MAKING INVESTMENT DECISIONS."** ***Roeder supra.*** The court said alleged, NOT proven. Your friend Ed Whitacre has violated Sarbanes-Oxley. You must not allow this to happen again with the upcoming Q.

Even though several federal district courts have held that there is no private right of action under Item 303, a properly pled case alleging common law fraud and negligent misrepresentation in conjunction with the Defendants disclosure duty under Rule 10b-5 will suffice.

Page 5 (Ernst & Young)

The determination of what needs to be disclosed often depends on the materiality standard. SEC Rule 12b-2 states that, "The term 'material,' when used to qualify a requirement for furnishing information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to buy or sell the securities registered." With respect to misstatements or failures to disclose, relevant factors for the determination of materiality include the following:

- Whether the misstatement masks a change in earnings or other trends;
- Whether the misstatement turns a loss into income or vice versa;
- Whether the misstatement masks a failure to meet analysts' projections;
- Whether the misstatement hides an illegal activity, etc." [underline added for emphasis]

The mixing of qualitative and quantitative factors can result in a numerically insignificant matter being considered by the SEC and the courts to be material. In light of higher standards of accountability and the greater consequences of noncompliance, companies should always err on the side of accurate and full disclosure.

The SEC has emphasized that "[i]nvestors have legitimate expectations that public companies are making, and will continue to make, prompt disclosure of significant corporate developments." SEC Release No. 18271, 1981 SEC LEXIS 292, at *13 (Nov. 19, 1981). Furthermore, under Items 303(a) and 303(b) of Regulation S-K, promulgated by the SEC under the Exchange Act, there is a duty to disclose in annual and periodic reports filed with the SEC "known trends or any known demands, commitments, events or uncertainties" that are reasonably likely to have a material impact on a company's sales revenues, income or liquidity, or cause previously reported financial information not to be indicative of future operating results. 17 C.F.R. §229.303(a)(1)-(3) and Instruction 3. While a company is not required to make predictions about its future performance in its public records pursuant to Item 303 of Regulation S-K, the SEC explicitly distinguishes predictions from presently known data which will impact upon future operating results, which the SEC does require to be disclosed if material. See, e.g., In re Caterpillar, Inc., SEC Release No. 30532, 1992 SEC LEXIS 786, at *15 (Mar. 31, 1992) (a company must provide sufficient information to permit investors to see the company "through the eyes of management").

The SEC has repeatedly stated that the anti-fraud provisions of the federal securities laws, which are intended to ensure that the investing public is provided with "complete and accurate information about companies whose securities are publicly traded," apply to all public statements by persons speaking on behalf of publicly traded companies "that can reasonably be expected to reach investors and the trading markets, whoever the intended primary audience." SEC Release No.33-6504, 1984 SEC LEXIS 2559, at *2 (Jan. 13, 1984).

Not only does Rule 10b-5 forbid the making of "any untrue statement of a material fact," it also provides for **scheme liability**. Scheme liability is authorized by the text of §10(b). According to the Supreme Court, §10(b)'s prohibition of "any manipulative or deceptive device or contrivance" necessarily encompasses any "scheme to defraud."

Page 6 (Ernst & Young)

In Ernst & Ernst v. Hochfelder, 425 U.S. 185(1976), the Court referred to the dictionary definitions of §10(b)'s words to find that a "device" is ' "[t]hat which is devised, or formed by design; a contrivance; an invention; project; scheme; often, a scheme to deceive; a stratagem; an artifice.' " Id. at 199 n.20 (quoting Webster's International Dictionary (2d ed. 1934)). The Court found that a "contrivance" means ' "a scheme, plan, or artifice.'" Id. (quoting Webster's International Dictionary (2d ed. 1934)); see also Aaron v. SEC,446 U.S. 680, 696 n.13 (1980).

Clearly, "scheme" is encompassed in the broad language of §10(b). Thus Rule 10b-5 – adopted by the SEC to implement §10(b) – makes it unlawful for any person "directly or indirectly" to employ "any device, scheme, or artifice to defraud," "[t]o make any untrue statement[s]," or to "engage in any act, practice, or course of business which operates... as a fraud or deceit upon any person." 17 C.F.R. §240.10b-5. [See also U.S. Quest, Ltd. v. Kimmons, 228 F.3d 399, 407 (5th Cir. 2000)].

Liability to the corporation for a loss may be said to arise from an unconsidered failure of the board to act in circumstances in which due attention would, arguably, have prevented the loss. Cases arising whereby ("an unconsidered failure of the board to act in circumstances in which due attention would, arguably, have prevented the loss") do not afford directors the protection of the business judgment rule because in such cases the directors did not exercise any judgment. Such cases could potentially involve the directors' failure to adequately supervise the affairs of the corporation. In proposed rules relating to audit committees and other Sarbanes-Oxley Act issues, the New York Stock Exchange observed that "|w|hile it is not the audit committee's responsibility to certify the company's financial statements or to guarantee the auditor's report, the committee stands at the crucial intersection of management, independent auditors, internal auditors and the board of directors."

Audit committee members, and outside auditors continue to have fiduciary duties to the company and its shareholders, which include the duty of care, the duty of loyalty, and the duty to make informed judgments. The business judgment rule (BJR) is a defense available in litigation to shield directors from breach of fiduciary claims provided that, among other things, directors make informed, rational decisions. Whether audit committee members can successfully defend a claim for breach of duty to make informed judgments will depend upon whether they fully considered all material information reasonably available to them before making a decision [see *Smith v. Van Gorkam*, 488 A.2d 858 (1985)]. Thus, audit committees must be able to probe for reliable and relevant information, which means they must meet with me and consider the information that has been sent to the Board in relation to the upcoming disclosure |Public Report] of the Missouri PSC. This is why you, the Audit Committee, has no choice but to meet with me on this issue.

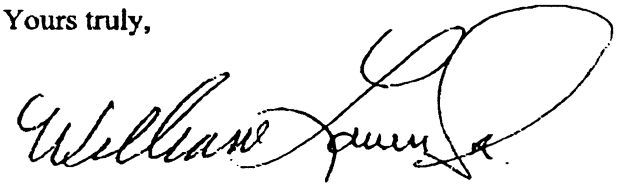
Audit committee members are subject to actions by the SEC under the Securities and Exchange Act of 1934, which grants the SEC broad enforcement powers, increases the maximum penalties for existing crimes, and creates new federal crimes, such as banning any director or officer of an issuer of securities from taking any action to fraudulently influence, coerce, manipulate, or mislead an accountant engaged in the performance of an audit for the purpose of rendering such financial statements materially misleading. Ernst & Young could find themselves in a bad way if you do not handle this request properly. I will hold you and Ernst & Young accountable.

Page 7 (Ernst & Young)

Section 10(b) of the 1934 Act also lowers the threshold for the SEC to ban a person from serving as a director or officer upon a finding that such person demonstrates "unfitness" to serve as an officer or director. The SEC also has the power to ban a person from serving as a director or officer in a cease-and-desist proceeding if such person demonstrates unfitness. Ernst & Young and the SBC Audit Committee are in a no win situation. Disclosure is mandatory in the next Q filing, plus the 1st Quarter Q must be amended.

I expect Ernst & Young to follow the rule of law without exception. Failure to do so will drag Ernst & Young into a class action suit[s] that with treble damages, joint & several, can rise above $2.5 Trillion, with no possible antitrust exemption as the ICS has never been regulated. I do not believe Ernst & Young can manage that. I expect to hear from you ASAP.

Yours truly,



William Lovern, Sr.
Vice-Chairman

Cc: Trial Management Associates

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November 22, 2004

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William Lovern, Sr. et al v. SBC Communications et al
William Lovern, Sr. et al v. Telcordia Technologies et al

Dear Companies:

On March 29, 2004, I put Telcordia Technologies on written notice regarding their massive liability associated with the Intercompany Settlement System (ICS). At the CompTel Convention in Las Vegas in February 1992, all the Bell Companies sat in my Hotel Suite with their lawyers and denied that the ICS even existed. On March 29, 1992, through my partner at the time Fidelity Telephone, I began legally downloading messages into the ICS for LEC Billing. The messages were formatted in EMR instead of the more expensive EMI format, and they flew through the system as expected, ending up at LECS throughout the country just like AT&T messages did daily, except for one thing, when the LECs began calling Southwestern Bell (SWBT) asking what was going on, SWBT panicked. They knew I had figured out the codes and was in the "Country Club's" secret billing system. It was the beginning of the end of the telecommunication industry...POST DIVESTITURE. It was the beginning of the end of the RBOCs discriminatory practices. The ICS has been used as a criminal racketeering enterprise. The criminal enterprise is still in operation today and you can see evidence of such by going to www.trainfo.com/products_services/tra/downloads/raoguide.pdf. The beginning of the criminal racketeering enterprise started when Judge Greene ordered AT&T to divest themselves of their original billing and collection system [ICS] but that didn't happen. Instead it was replicated and the replicated version was installed at Southwestern Bell Telephone in Kansas City, MO by Alex Abjornson who worked at Bell Labs, and he is who designed and built the system.

Page 2 (Telcordia – Warburg – Providence)

The installation at Southwestern Bell Telephone (SWBT) occurred in 1984. In the Spring of 1984 there was a secret meeting at a Hotel in St. Louis between the Regional Bell Operating Companies (RBOCs) and AT&T to discuss how the RBOCs were going to bill and collect AT&T's toll calls. AT&T supposedly did not have a billing system any longer, or so the industry thought.

On February 28, 1983, Judge Greene's Modification of Final Judgment was affirmed [103 S. Ct. 1240] in the now famous case, **U.S. v. American Tel. and Tel. Co.,** 552 F. Supp. 131 (1982). In his decision the court said;

> **"Antitrust consent decree must leave defendant without ability to resume actions which constituted antitrust violation in first place; the decree should not be limited to past violations, but it must also effectively foreclose possibility that antitrust violations will occur or recur."**

Judge Greene went on to say that the way AT&T had maintained monopoly power in telecommunications was through the control of the Bell Operating Companies (BOCs) and their strategic bottleneck position. Divestiture was intended to require the removal of the two main barriers that previously deterred firms from entering or competing effectively in the interexchange market. Regarding exchange access services, which included B&C services, [bottleneck service] the court said;

Judge Greene 552 F. Supp. at pg. 171

> **"AT&T will no longer have the opportunity to provide discriminatory interconnection to competitors. The Operating Companies [BOCs] will own the local exchange facilities. Since these companies will not be providing interexchange services [S-1822], they will lack AT&T's incentive to discriminate.**
>
> **Moreover, they will be required to provide all interexchange carriers with exchange access that is equal in type, quality, and price to that provided to AT&T and its affiliates."**

How badly did the BOCs violate Judge Greene's Order? Below is the speech I gave at the 1994 NARUC Convention in Reno. It's worthy of another read today to bring things into perspective.

"Speech" – BY: WILLIAM LOVERN, SR. given at "National Association of Regulatory Utility Commissioners" (NARUC) - National Convention, November 1994, Reno, Nevada. "NOTE: 2004"...is information added in 2004, not part of the speech.
Also in 1994 we did not have any where near the physical evidence or the BOC employee testimony we have today that proves our claims. Our evidence today is overwhelming.

Today marks the 10th year, 11th month, and 12th day since Divestiture.
What has changed in the telecommunications industry, as far as reshuffling the wealth since the first day of January, 1984 has been remarkable; however, what has not changed in the telecommunication industry since the first day in January, 1984, is the continuing AT&T dominance through its ability to exclusively offer RAO based *"Special Number Calling Cards"* and to receive preferential premium billing services from all US telephone companies.

The importance of these two issues is this:

AT&T has dominated the calling card market, making billions of dollars over the years, through a special calling card arrangement with Cincinnati Bell and Bell South. This special arrangement has allowed AT&T to receive,

*** preferential treatment and premium billing services, as if the card had been issued by a Bell Operating Company ("BOC") or Independent Telephone Company ("ITC") and,**

*** no other competitive interexchange carrier has received such preferential treatment and today 10 years, 11 months and 12 days after Divestiture, no competitive interexchange carrier has been able to market an intraLATA and interLATA calling card that is accepted by virtually the entire telephone industry in the United States.**

What is this arrangement I am referring to?

SPECIAL BILLING NUMBER (RAO) CALLING CARDS

Here's what that includes;

1. Exclusive use of Cincinnati Bell's RAOs. AT&T has been able to issue Special Calling Cards (approximately 4 million) using 308 and 077 (077 appears as 677 on the actual calling card - per Bellcore specifications).

2. Exclusive use of Caribbean RAOs. AT&T has been able to issue Special Calling Cards (approximately 8 million) using RAO codes 503, 506, 507, 508. Each of these RAO codes - having been assigned by Bellcore to specific Caribbean countries - were never intended to be used for the issuance of calling cards, let alone calling cards for AT&T.

The use of these RAOs enables AT&T to issue 12 million, fully honored and completely billable calling cards that have generated billions of dollars over the course of the past few years, inclusive of an enormous amount of money for calls transported over other IC networks, charged to one of these cards, yet AT&T was paid for the call instead of the IC who actually transported the call.

Let's examine the preferential treatment that goes along with this arrangement.

BILLING & COLLECTION

AT&T has received premium billing services since day one of Divestiture. AT&T believes they paid too much money for the service, but the rewards have been enormous. EXAMPLES;

* What competitive interexchange carrier can say that they have 100% market presence in non-equal access as well as equal access telephone companies?

* What competitive interexchange carrier can market a calling card that is universally accepted by virtually every US Telephone Company - for intraLATA, interLATA, and international calling?

* What competitive interexchange carrier receives the comprehensive detail level Billing & Collection ("B&C") reports TODAY that AT&T has been receiving before, during and after Divestiture?

* What competitive interexchange carrier can boast that Bellcore actually changed the Bellcore CIID assignments document, for the entire Bellcore Client Companies [BOCs as you know them] to legitimize AT&T's blatant misuse of Cincinnati Bell and the Caribbean RAOs that have resulted in the issuance of up to 12 million AT&T exclusive calling cards?

* And what competitive interexchange carrier has their own unique version of the Exchange Message Interface ("EMI") that is used by the telephone industry to maintain premium billing services for AT&T?

I am referring to the AT&T - EMI or Exchange Standards Reference Document, or AT&T ESRD. [published and put out by AT&T, not Bellcore]

To summarize there are two systems for billing and collection services. A premium system, or Rolls Royce for AT&T and the BOCs, [BCCs, which includes SNET & CBT] then there is the Chevrolet for everyone else. Oddly the Chevrolet costs as much as a 1200% more to use than the Rolls Royce system and guess who pays for it all, the American Consumer, via the rates associated with LEC Billing.

Most people think AT&T divested themselves of their original billing system (System). Not true, they transferred ownership of replicated versions of their billing systems and kept the original for themselves. ***Alex Abjornson*** [the man who designed, implemented, and wrote the Bellcore Manuals for the System], installed the replicated version at Southwestern Bell in Kansas City. The original CMDS and CATS systems have been alive and well for the last 10 years, 11 months, and 12 days, still controlled by AT&T.

HISTORY ON THE BELL COMPANIES AND DIVESTITURE

It is important to understand the history of billing services, as offered by the Regional Bell Operating Companies or ("RBOCs").

As a result of Divestiture the Access Service Tariff came into existence.

The initial intent of the Tariff was to structure how the RBOCs would be compensated for carrier use of BOC facilities.

Billing and Collection services were not directly a part of local access considerations and were defined as "Ancillary Services."

RBOC analysis determined that under Divested conditions, End User Billing [B&C] could be more than an ancillary requirement of Divestiture.

RBOC awareness as to the revenue potential of Billing & Collection grew, and as a result the RBOCs directed the CSO [later became Bellcore] in September, 1982, to form a Task Force to evaluate billing as a line of business or "LOB."

It should be noted that the development of Billing as a LOB was constrained by the historical regulated rate of return philosophy until April 1983.

In April, 1983, because of the FCC Third Report and Order, Docket 78-72, it became evident that even the short run potentials for Billing as a LOB were theoretically expanded considerably. [HUGE PROFITS]

This resulted in the creation of a new CSO (Bellcore) Task Force to evaluate the potential.

At this time in history, spring of 1983, B&C was no longer subject to regulation.

This meant that if B&C revenues were above or below the FCC allowed rate of return for the other Access Services, whatever B&C earned [more than or less than the normal FCC allowed rate of return] would not impact other Access Service revenues.

In essence, as of April 1983, B&C was allowed to make as much money as it could - **AN IMPORTANT POINT TO REMEMBER.**

[THIS RESULTED IN THE CREATION OF A NEW TASK FORCE TO EVALUATE THE REVENUE POTENTIAL FOR THE BOCS.]

The Task Force met between April 28th through May 29th, 1983. The product of this Task Force was the compilation of over 300 pages of significant data that provided National Parameters from which the RBOCs could utilize for their regional "price driving".. B&C models.

TASK FORCE RESULTS & CONCLUSIONS

A couple of the key recommendations from this Task Force are as follows:

1. Billing & Collection should be considered a LOB by the RBOCs.

2. The mechanism to be used by the RBOCs for determining prices should be based upon the J. Goldberg cost model, generally referred to as the "Top Down Methodology." This process would allow each RBOC to quickly ...calculate revenue maximizing prices. [they artificially inflated costs associated with B&C]

Through the allocation of costs to the various billing elements, each RBOC could assign various costs. What this means is;

1. Billing & Collection rates were manipulated to fully recover the money that RBOCs were receiving from AT&T before Divestiture.

2. There was no consideration by the RBOCs of pricing B&C services competitively - because there were no other competitors.

INTERCOMPANY SETTLEMENTS AND THE CMDS I SYSTEM

At the same time the Task Force was developing AT&T and B&C rates, the RBOCs and CSO [Bellcore] were creating what I refer to as the *Country Club* billing system, the Rolls Royce, the second system, the "circle within the circle."

This secret billing system for the telephone industry was fully functional in every way to the Tariffed billing system being presented to the FCC, except for the COSTS. THE RATES WERE SIGNIFICANTLY LOWER. HOW LOW? Originally the rate per message for billing was set at $.10 per message.

This rate was immediately lowered by 50% to $.05 per message including inquiry inclusive of Rolls Royce reporting system. This still exists today as we speak. This is the Intercompany Settlements System ("ICS") which is facilitated through the Centralized Message Distribution System ("CMDS I") and BOC (BCC) CATS, controlled by Bellcore and the BOCs, operated by Southwestern Bell and it has been operating in full swing since Divestiture.

Imagine $.05 per message [a nickel], inclusive of all services including inquiry and full premium reporting [Rolls Royce] versus $.20, $.30, $.40 per message, even higher, from the Chevrolet which provides inadequate reporting.

QUESTION NO. 1 FOR THE COMMITTEE

Why, when the RBOCs and Bellcore have a fully functional means of providing B&C services through ICS at $.05 per message did the FCC approve B&C Tariffs that reflected rates to the interexchange carrier [IXC] market that were as much as 1200% greater than the rates the RBOCs charged themselves?

WHAT WAS SOME OF THE IMPACT OF TWO B&C SYSTEMS

As a result of AT&T having to pay the Tariffed B&C rates, the RBOCs were able to fully recover pre-Divestiture revenues, in essence - WINDFALL PROFITS.

At the same time the RBOCs have maintained a monopolistic [oligopoly] intercompany settlement billing system for their own use, at a fraction of the cost being charged to the IXC industry. How many of the IXCs in the industry today have B&C rates of $.05 per message, with inquiry, detail reporting and, ***100% ON NET CAPABILITY?***

The artificially inflated costs associated with B&C, which were part of the 1983 tariffs filed at the FCC, pursuant to Divestiture, were essentially the same tariff structures and rates that the BOCs filed in each of your states during this time frame. The ITCs also used the same poison data as the CSO filed the tariffs for the ECA ["NECA" as you know it today], based on the cost information compiled by the infamous Task Force. This affected every consumer in the country as these artificially inflated B&C costs resulted in higher rates.

[Note: November 2004 - As of 2004, estimated overcharges to consumers {wireline only} exceeds $400,000,000,000, AT&T Competitors exceeds $300,000,000,000]

POST DIVESTITURE RESULTS

The Task Force, via the J. Goldberg costing methodology, had already shifted ALL B&C service costs down into the basic rate elements of the service, so regardless of the rate of return, windfall profits would exist, corrupting the FCC's decision to place a 12.75 maximum rate of return on billing services.

On February 17, 1984, the FCC released Memorandum Opinion and Order, CC Docket No. 83-1145, [FCC 84-51, 34298], Investigation of Access and Divestiture Related Tariffs.

In this document the FCC states that the common line rate elements represent a $10.8 Billion revenue requirement, of which the BOCs claim $8.53 Billion or 79%. This is the ... "best estimate of future costs"... represented in the BOCs tariffs, however the FCC stated and I quote,

"The budget view is a list of 59 items relating to unseparated investment, expenses, taxes, and reserves listed in work papers. However, no documentation is presented to explain the source for all the figures which are used to derive interstate amounts, and thus the basis for all the access costs and rates, the discussion of the budget view occupies less than two and a half pages in each BOC filing."

They went on to say;

"...it is not possible from these filings to evaluate or verify the figures in the budget view. First, the sources of the budget view figures are not clearly specified and cannot be checked."

The FCC then predicted the future by stating that if the figures are wrong the whole industry would be affected. [Fruit from the poison tree], I quote again;

"As we pointed out, the budget view is of crucial importance in these filings as the direct basis for the BOC's claimed revenue requirements, is the root for every individual rate. It is additionally important because of the BOC and ECA top - down methodology. Any errors in the budget view would affect essentially every rate under this approach."

To my knowledge, at no time has the FCC or any other Federal agency ever fully investigated or audited the component costs of the RBOC billing services to determine if the costs applied to the billing elements were true, reasonable, and not overstated. The FCC went on to say;

" ...that given their inability to understand and evaluate these rates, they were going to determine whether billing and collection should be detariffed."

Billing & Collection Services were subsequently detariffed under CC Docket No. 85-88. effective January 1, 1987. **[NOTE: 2004 - The Bert Halprin Doctrine, which made him a rich man in post FCC service, representing the BOCs].**

[NOTE: 2004 - Keep in mind that the MFJ required the Bell operating Companies to provide AT&T's competitors the same services as AT&T were receiving in *"...like, quality, and price."*

Page 9 (Telcordia – Warburg – Providence)

QUESTION NO. 2 FOR THE COMMITTEE

Considering the overwhelming evidence that indicates the costs associated with Billing & Collection were intentionally artificially inflated, costing consumers hundreds of billions of dollars in higher rates, why hasn't anyone audited the BOCs component costs associated with billing services? I hope this committee will also ask why the FCC just walked away, or turned their heads from what they new to be an obvious problem and will you [NARUC] investigate?

AT&T new it was a problem, that's why they were filing emergency petitions in late 1983 and early 1984. AT&T said they would loose roughly 60% of there interstate revenue based on the costs and tariffs filed by the BOCs and ECA.

To calm AT&T the BOCs settled with AT&T outside the FCC and the BOCs gave AT&T a present to sooth the wound. That present was called **"Stargate"**. Cincinnati Bell was AT&T's sponsoring LEC into the CMDS I / BOC CATS billing system. This included access to the ICS system and the $.05 price.

In 1987, the Department of Justice investigated SNAFA ("Shared Network Access Facilities Agreement"). For some reason DOJ [Philip Sauntry] completely missed ???? the entire calling card scheme. They missed the fact that AT&T still maintained their original billing system CMDS & CATS. Someone was asleep at the wheel, or ????.

By 1988, AT&T was now issuing calling cards based on Cincinnati Bell's ("CBT") RAOs and Caribbean LECs RAO numbers. Mass marketing began on these new AT&T joint use calling cards. AT&T's use of the RAOs assigned to CBT and the Caribbean LECs went unchallenged by Bellcore or the BOCs.

In 1989, Card Issuer Identifier ("CIID" Numbers) were being talked about by Bellcore as a solution for universal calling cards.

In 1990, CIID Numbers are assigned to requesting carriers.

In 1991, the FCC finds CBT guilty of discrimination for violating Title Two of the Communications Act, in connection with there refusal to supply validation information about the AT&T Special Number calling cards to other IXCs. CBT's response is they will get out of the Calling card business, yet Bellcore reassigns CIID numbers to AT&T that just happen to match AT&T's RAO based Special Number joint use calling cards, issued in connection with CBT and the Caribbean LECs. This brings us to;

QUESTION NO. 3 FOR THE COMMITTEE

Why is it that no other IXC, other than AT&T and now UNITEL a Canadian Long distance carrier, have a universally accepted calling card based on any Bellcore assigned CIID numbers almost 11 years after Divestiture. This is an important question as I know it's not because no other IXC wants to go to market with one.

In closing, I urge the committee and NARUC to launch an investigation into the anti-competitive barriers put up by the BOCs which have prevented any other IXC from being able to compete head to head with AT&T, the LECs, and now UNITEL in the lucrative calling card business. The monopoly by which the BOCs control Billing & Collection has got to be disassembled. The bottleneck on billing services is worse today than in 1984.

The MFJ not only required divestiture of the Bell System local exchange operations, but also required the dissolution of the partnership arrangements among the Bell System Companies. Preferential partnership arrangements between AT&T and the BOCs have cost consumers Hundreds of billions of dollars in overcharges.

The industry has lost hundreds of billions of dollars because of anti-competitive barriers controlled by the BOCs and something you probably don't know, most states and the federal government, have lost an incredible amount of tax dollars due to the inflated costs associated with billing services which have been used to wrongfully deduct expenses from tax returns. This has happened at every telephone company in America.

I urge this committee and NARUC to begin a thorough investigation into the BOCs and AT&T regarding their preferential partnership agreements that violate the MFJ and prevent the rest of the industry from enjoying the right to compete in a free market, void of antitrust and anti-competitive behavior.

It is important that you look at Billing & Collection as it is the most misunderstood, yet probably the most important aspect of the entire telecommunication industry. B&C services are not even close to being competitive. The BOCs bottleneck controls everyone accept AT&T as no one is allowed to use the system as the court originally intended, accept the BOCs. Everyone else, except AT&T, is being held hostage, some have been put out of business for challenging the BOCs control, while attempting to compete.

[Note: 2004 – It was American TeleDial Corp (ATC) & National TeleProcessing, Inc. (NTI) that were illegally put out of business for legally accessing the ICS (InterCompany Settlement System), via Fidelity Telephone, beginning in March 1992. It is the Fidelity court settlement {lawsuit filed by ATC as litigation manager on behalf of Fidelity that has been voided by TMA International Trusts who owned ATC & NTI}. Fidelity assigned, via contract in 1992, all of their legal claims over to ATC].

If the BOCs had been given approval to go into the interstate long distance business, no one, and I emphasize NO ONE would be able to compete head to head with them accept AT&T because each BOC has installed their own version of the billing system locally for their own control region by region. This is why all new deals between AT&T and the BOCs are now locally negotiated whereas before AT&T worked primarily through CBT and Bell South.

[NOTE: 2004 – VoIP is going to eliminate the cash cow known as ICS as it relates to wireline, however the SINS for 20 years of abuse are enormous. By combining wireline overcharging associated with the ICS and wireless overcharging associated with the ICS, the defendants in the upcoming class actions are looking at treble damages approximately in the amount of $2.5 TRILLION in "Joint & Several" liability. The Cingular AT&T Wireless merger can be reversed based on serious anticompetitive issues associated with the ICS never taken into consideration by DOJ. We are in the process of educating DOJ's Antitrust Division and the FCC as the merger is not final via the Tunney Act. It will not be final for about six weeks.

When you sell a service to the general public it's important to be able to collect your money in an efficient manner. Billing services are not competitive today, they never have been competitive, and we are 10 years, 11 months, and 12 days after Divestiture and the "Country Clubs" strangle hold on the industry is tighter than ever. The evidence of foul play warrants your attention and the attention of Washington, inclusive of Congress.

I hope you take appropriate steps to protect the consumers and the industry from further erosion. The Supreme Court said it best in the case *International Salt Co. V. United States;*

> " it is not necessary that all of the untraveled roads to [anticompetitive conduct] be left open and that only the worn one be closed. The usual ways to the prohibited goals may be blocked against the proven transgressor."

To put it all in perspective, had MCI been given the same billing services and opportunities as AT&T, their roadside billboards claiming how much money they have saved consumers would have to be twice as wide to accommodate the extra zeros.

Ladies and Gentlemen you know who the proven transgressors are, you also know about anti-competitive conduct. I hope you will do something about it.

End of Speech

Page 12 (Telcordia – Warburg – Providence)

See the attached letter regarding my stolen money. Now for case number 1.

William Lovern, Sr. et al v. SBC Communications et al

This is the lawsuit to collect the approximate **$1,700,000,000.00**, my partners and I lost as a result of being illegally blocked from using the ICS. In 1992, SWBT in their capacity as "Contract Administrator for the ICS, along with the other Bellcore Client Companies (BCCs) who acted as "Hosts" to the ICS, intentionally blocked Fidelity's [my contractual partner - access to the system]. Fidelity signed over all their legal claims to me and my company American TeleDial Corp (ATC). I filed suit in state court in Missouri and forced SWBT to open access to the ICS, via a TRO. Bellcore was a defendant in this case.

The case was bumped to federal court in Kansas, City MO, where eventually Fidelity [after being threatened by SWBT who told Fidelity the BOCs would put Fidelity out of business], through their St. Louis Law Firm, conspired with the BOCs, Bellcore et al, to illegally settle the case without my approval. The settlement was accepted by the court and sealed. Myself, my partners, nor ATC received one penny of compensation for our losses. Today we can prove SWBT, Fidelity and their lawyers committed fraud on the court, as well committing fraud etc against myself and ATC. The Fidelity settlement has nothing to do with today's claims.

We proved in March that the federal courthouse in Kansas City where the settlement took place, had no legal jurisdiction. The state of Missouri never transferred legal jurisdiction [Missouri Code 12.030 & 12.040 in conjunction with Title 40 U.S.C., Sec. 255, in conjunction with Art. I, Sec. 8, cl. 17 U.S. Constitution - {Also, see Criminal Resource Manual (DOJ Title 9) Sec.'s 664, 665, 668, and, see **Jurisdiction Over Federal Areas Within the States, Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, ordered by President Eisenhower 1958].** The state has confirmed the lack of jurisdiction; hence, the Judge had no jurisdiction, therefore the settlement is null and void. This is just icing on the cake, over and above our other evidence. Jurisdiction is a moot issue as to whether or not we can prove our claims.

This creates an enormous problem for SWBT (SBC) and Bellcore (Telcordia) as the entire industry has been hiding behind this illegal worthless settlement for 11 years. The BCCs and AT&T made Billions of dollars off this illegal scam. Collectively they made **Hundreds of Billions of Dollars**, all in violation of the MFJ. My use of the ICS was completely legal and in accordance with the MFJ. Judge Green gave all LECs the legal right to use the system, he just didn't order the BOCs to educate anyone how to use it. Nullifying the settlement is NOT necessary for me to bring the class action case[s]. The overall $2.5 Trillion in liability is over and above the Fidelity settlement.

During the 1992 preliminary hearing in federal court BOC / Bellcore experts and lawyers perjured themselves. SBC's lawyers subordinated perjury. The Bellcore BOC lawyers intentionally withheld discovery that was later obtained in 1994 – 2004. Today those lawyers claim discovery had not completed back 1992, therefore they technically did not withhold.

Page 13 (Telcordia – Warburg – Providence)

The documents obtained post 1993 include confidential internal bulletins from Bellcore, to the BCCs, explaining to them how to covertly bill AT&T messages so as to not expose the secret billing system, inclusive of flow charts showing how the money was going to be laundered.

The secret billing system got its foot on the ground as a result of RBOC proposals sent to AT&T, part and parcel to the August 1985 letter enclosed. Soon after the RBOCs all agreed to bill AT&T messages covertly, CMDS II was created [paid for by AT&T], which allowed AT&T to covertly go into the ICS and manage its toll messages throughout North America, Canada, and the Caribbean.

When DOJ ordered the RBOCs to cancel AT&T's 12 million line based BOC issued calling cards because they violated the MFJ, AT&T had no way to replace the 12 million cards, so they purchased the right to use Caribbean LEC RAO numbers [four] owned by Cable & wireless, plus, Cincinnati Bell (CBT) received two CIID numbers from Bellcore. Each RAO/CIID number was good for 2 million calling card combinations; hence, the 12 million cancelled cards were replaced, except with one very serious difference. The new AT&T proprietary calling cards had scrambled numbers on them, which made it impossible for AT&T's competitors to format a billable call record, which resulted in 100% of these message being sent back to AT&T's competitors marked unbillable. Bottom line, when someone other than AT&T transported a call charged to one of the AT&T scrambled calling cards the IXC who transported the call never got paid. The industry thought the AT&T customer was getting free long distance. WRONG! Through a sophisticated illegal scheme now known as "Reverse Translation" stolen messages were all collected by the BCCs in their capacity as "Hosts", then sent to CBT who sold the receivables to AT&T via PARIS [accounting system designed for AT&T, part and parcel to the secret billing system] on paper, who then in turn sold them back to CBT [decoding the messages in the process], which said messages were then submitted by CBT [domestic] Bellsouth {International] into the secret billing system [ICS] coded 000 [means transported by the BCC LEC] in the carrier identification code in the EMR format instead of 288 [AT&T's carrier identification code]. By being coded 000 it appeared that the messages had been transported by the BCC LEC, therefore the revenue belonged to BCC. Between 1985 and 1992 the vast majority of the messages were laundered through CBT including interstate interLata messages. The big problem was CBT did not transport interstate messages outside OHIO. Millions of interstate message revenue were credited to CBT's BCC CATS account. Alex Abjornson has testified that before retiring from Bellcore he noticed all this money being credited to CBT and he questioned his boss, Bill Micou, who promptly told Alex that it was a secret deal for AT&T called "Stargate" and that if he said anything about it he would be fired and lose his pension. Mr. Abjornson has since told all. CBT was being credited Millions of Dollars by Bellcore for interstate messages, via their CATS account / reports, which I have in my possession. I obtained these documents through a subpoena. CBT to this day denies ever billing AT&T interstate messages, even though the physical evidence is undeniable.

ATC and its sister company National Teleprocessing, Inc. (NTI) had signed billing & collection contracts in 1992 with AT&T competitors who had been using the seven RBOCs, CBT and Southern New England Telephone (SNET) {nine companies are known as the Bellcore Client Companies BCCs – they are still in place today with SWBT still the Contract Administrator, or as we know them, the "KingPin" of the Racketeering Enterprise. [today the BCCs are called Direct Participants].

Page 14 (Telcordia – Warburg – Providence)

Our B&C Contracts in 1992 were worth about $300 Million over a three year period, and each one had two, 3 year extensions, total value about $900 Million. At 7% compound interest that is about $1.7 Billion today. The industry was flocking to us for Billing & Collection (B&C) services because we could provide a better product [Rolls Royce – ICS] than they were getting from the RBOCs / BCCs [Chevrolet, or outer circle as described in my speech]. The Sacred Cash Cow was in jeopardy as ATC / NTI had forced the "Country Club" to open its membership. The way they reacted one would have thought I was an African American trying to join Augusta National in 1960. Their panic was almost humorous it was so animated, however it was outrageous, and incredibly arrogant. When they called meetings with us it was always in a secret location where no one would see us meeting. It was like they were discussing Black Opts for the CIA.

The bottom line, with 7% compound interest on the money that would have been generated by our signed contracts, ATC lost approximately **$1.7 Billion**. The BOCs made Hundreds of Billions. I want my money, and I intend to get it, even if I have to take down all the remaining Bell Operating Companies in the process, via multiple lawsuits, inclusive of shareholder litigation for securities fraud already committed. They made their money illegally. They took away my legal opportunity to succeed in the billing industry and now you're going to have to pay back my money, plus deal with the $2.5 trillion in consumer and industry liability now that you own Telcordia. Even if SAIC indemnified you, their indemnification is worthless in this matter because of the massive liability as SAIC cannot cover it. It took us 13 years to put this case together and gather all the necessary evidence, inclusive of former RBOC employee testimony from individuals who actually worked and operated the secret ICS billing service inside the RBOCs. Everything in life is timing. The BOCs are hurting now, fighting off litigation, losing local access lines. Today the collective defendants are weaker than ever before post 1993. The timing is good.

SBC is in so much trouble I can't even begin to tell you. They have committed securities fraud with their 1st, 2nd, & 3rd quarter 2004 SEC filings, inclusive of Sarbanes-Oxley. SBC Chairman, Ed Whitacre, General Counsel James Ellis, senior lawyer Al Richter, have been covering up the criminal enterprise since 1992. SBC's $6 Billion Credit Agreement with Citibank, set up to help pay for AT&T Wireless, [SBC owns 60% of Cingular] is fraudulent, and has been fraudulent since the day it was signed October 18, 2004. Article III, Sec. 3.01 (b) of the Agreement has been in default since the execution of the Agreement. Citibank is hiding the default. The Cingular acquisition of AT&T Wireless is in danger of being reversed as it is populated with antitrust violations overlooked by the Justice Department's Antitrust Division. Once Cingular begins bundling wireless and wireline on one bill, no one can compete with Cingular, including Verizon and they have access to the criminal enterprise.

Ernst & Young has knowingly participated in SBC's securities fraud in their capacity as corporate auditor. Whitacre, Ellis and Richter have refused to meet to examine undeniable evidence that proves these allegations, evidence that includes employee testimony. These three men are in the process of destroying SBC's shareholder equity, and the SBC Audit Committee Directors have refused to investigate as required by SEC Rule 10A-3. ED Whitacre's ego is going to destroy the Company, along with himself, Qwest, Verizon, Bellsouth, Cincinnati Bell, Telcordia, and you, if you elect to hang on to your aspirations of owning Telcordia.

Page 15 (Telcordia – Warburg – Providence)

JP Morgan who arranged the sale on behalf of SAIC was warned by us to disclose Telcordia's liability prior to any sale. It appears JP Morgan hid the liability from you, as did SAIC who also was told to disclose. You purchased the ultimate LEMON.

The Missouri Public Service Commission (PSC) has been covering-up this fraudulent scam since 1985 as no Tariff has ever been filed by SWBT, even though they are required by law to file B&C tariffs in Missouri ever since divestiture. The PSC new about the ICS all along. They saw the Millions of Dollars in revenue when they audited SWBT, but the auditors kept it quiet.

The statute of limitations on conspiracy does not begin to run until the last overt act has been committed. Overt acts are committed every day, and have been since March 29, 1992.

This brings us to Case Number 2 - William Lovern, Sr. et al v. Telcordia Technologies et al

The AT&T monopoly was not finally broken up until late 1994, after AT&T got caught by me, which required the RBOCs to kick AT&T out of the "Country Club." Look at AT&T today, a mere shell of a company they use to be. The RBOCs had to sell Bellcore to try and hide their tracks. SAIC intentionally covered up Bellcore's racketeering enterprise, all in the name of GREED. The RBOCs paid SAIC Bellcore's operating budget for several years after the sale. Since when did the RBOCs ever give away money. The sale was for nothing more than to try and hide their tracks. I personally sent enough physical evidence to SAIC shortly after they obtained Bellcore to make any reasonable peron take notice. They simply swept it under the carpet. Back in April SBC lawyers told SAIC lawyers "to sit tight, don't do anything with Lovern." In other words, don't try and settle. Hold the party line. We'll handle it. SBC didn't do a very good job, which is why SAIC sold Telcordia to you, and why it was done quietly through JP Morgan, who has committed fraud in the sale.

Gentlemen, I do not suggest you try and hold the party line for SBC, unless you want to go bankrupt and possibly be prosecuted. I have ample evidence to prove my allegations, inclusive of Bellcore / Telcordia internal secret documents. You can trust your entire financial position in life with SBC et al, but I do not advise it as Telcordia is not worth it. I'm going to take Ed Whitacre down right along with his partners in crime. Whitacre has paid himself hundreds of Millions over the years.

Keep in mind the ICS is the focal point in the ongoing Gambino Crime Family criminal indictment, whereby they used the ICS, via USP&C, to overcharge consumers up to $800,000 per day, over a Billion Dollars total. Consumers lost over $400 Billion, Industry over $300 Billion, plus treble damages, about $2.5 Trillion in joint & several liability. SAIC cannot indemnify you for Telcordia's end share of this liability I'll be in touch today to discuss your options.

Yours truly,

William Lovern, Sr.
President

TRIAL MANAGEMENT ASSOCIATES

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December 9, 2004

SBC COMMUNICATIONS INC. (NYSE: SBC)
Edward Whitacre & All Directors
175 E. Houston
San Antonio, Texas 78205-2233
Pacific Telesis Group, Ameritech, SNET

Via fax: 210-351-3507

RE: William Lovern, Sr. et al v. SBC Communications, Inc. et al
William Lovern, Sr. et al v. Telcordia Technologies et al

Dear Directors et al:

Be advised that the continuing criminal enterprise being operated under the name Intercompnay Settlement System (ICS) is going to be litigated, exposed, and forced legally to be opened up to the entire industry. Your arrogance, criminal conduct, lies, securities fraud, and racketeering activities are going to stop. Your $6 Billion Credit Agreement at Citibank is fraudulent. Your SEC Filings are fraudulent. Your Audit Committee is facing criminal prosecution along with the Executives.

You are facing joint & several liability in excess of $2.5 Trillion. Get ready.

Yours truly,

William Lovern, Sr.
President

Cc: Beasley Allen, Rose & Rose
Diamond Hasser & Frost, R&L Associates
Warburg Pincus, Providence Equity Partners, DOJ

WLS/mb

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November 11, 2004

SBC COMMUNICATIONS INC. (NYSE: SBC)
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175 E. Houston — Via fax: 210-351-3507
San Antonio, Texas 78205-2233

RE: Demand for payment of stolen money

Dear Gentlemen:

In the summer of 1992, the three of you authorized the theft of $554,000 of my money billed and collected through the InterCompany Settlement System (ICS) under the protection of a Missouri Court Order. SWBT in their capacity as "Contract Administrator" allowed my money, with your approval, to be transferred to AT&T even though the money did not belong to AT&T. Al participated in conference calls with myself and AT&T lawyers whereby AT&T admitted to having my money but refused to give it back.

SWBT as contract administrator had the authority to debit the money back through Cincinnati Bell and Bellsouth pursuant to Bellcore CIID Card Processing Guidelines, Issue 90-111 dated April 30, 1990. The three of you elected not to return my money. The criminal and civil statutes of limitation have not run out, therefore, I demand payment in the amount of **$554,000** at 7% compound interest for 13 years, total payment due is **$1,335,054.13**. If I do not receive payment today, I will use the full force of the law to recover, including criminal prosecution. This is not a settlement offer. It is a demand for payment and I suggest you take it seriously.

Yours truly,

William Lovern, Sr.
President

Cc: DOJ Antitrust Division
F.B.I.
Missouri Attorney General's Office

TRIAL MANAGEMENT ASSOCIATES

A PRIVATE COMPANY THAT LITIGATES INTERNATIONAL PUBLIC INTEREST CASES
A Division of TMA International Trusts
www.tmaittma.com Phone: (206)-350-1862 Fax: (775)-871-8373 E-mail: tma@tmaittma.com

SEATTLE, WA - CARSON CITY, NV – FT. WORTH, TX – CHICAGO, ILL – ANNAPOLIS, MD

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November 12, 2004

SBC COMMUNICATIONS INC. (NYSE: SBC)
Edward Whitacre, James Ellis
Al Richter
175 E. Houston
San Antonio, Texas 78205-2233

Via fax: 210-351-3507

RE: Non Payment of Stolen Money

Dear Gentlemen:

Under the Missouri Penal Code 570.010 (8) "Deprive" means: (a) "To withhold property from the owner permanently." (12) "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action. **Aggregation of amounts involved in stealing.** 570.050. Amounts stolen pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times, constitute a single criminal episode and may be aggregated in determining the grade of the offense. 7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

Under federal law, Title 18 U.S.C., Sec. 1961 et seq. (1) "racketeering activity" means B) any act which is indictable under any of the following provisions of title 18, United States Code: section 1343 (relating to wire fraud); section 1951 (relating to interference with commerce, robbery); section 1956 (relating to the laundering of monetary instruments); section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity). **Section 1963. Criminal penalties** (a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years, and shall forfeit to the United States, irrespective of any provision of State law -

(1) any interest the person has acquired or maintained in violation of section 1962;

(2) any -

(A) interest in;

(B) security of;

Page 2 (SBC Stolen Money)

(C) claim against; or

(D) property or contractual right of any kind affording a source of influence over; any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, i violation of section 1962; and (3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

(b) Property subject to criminal forfeiture under this section

includes -

(1) real property, including things growing on, affixed to, and found in land; and

(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

I was in hopes that you would decide not to hold my money any longer, however, for whatever reason here we are at November 12, 2004, 12 years + after the fact and you still will not make good the money that was stolen from me under the protection of a Missouri Court Order. It is now time to do what I have to do. The only question remaining is… how many co-conspirators are there?

Yours truly,

William Lovern, Sr.
President

Cc: DOJ Antitrust
F.B.I.
Missouri Attorney General
Missouri PSC

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E-mail: wlovern@tmaittma.com
Phone: 206-350-1143
Phone: 206-333-0098

November 8, 2004

All Commissioners
Missouri Public Service Commission
C/O Mr. D. Joyce, Esq.
Governor Office Building
200 Madison Street
Jefferson City, MO 65102-0360

Via fax: (573)-751-9285

Dear Commissioners:

Please provide a copy of the Commission Order where the Commission exempted InterCompany Settlement System (ICS) billing & collection services beginning in 1984, whether LEC to LEC [one Missouri LEC providing B&C for another Missouri LEC, or out-of-state LEC through the ICS], or, LEC to IXC [a Missouri LEC providing B&C for an IXC physically located in Missouri or out-of-state], OSP, etc... The ICS billing & collection service is based on ICS Direct Cost, not the Fully Allocated Costing Methodology used for the current B&C tariffed product, or second tier system.

Thank you for your prompt response. This will make sure we are not going to sue the Commissioners improperly. Our research shows no such order.

Yours truly,

William Lovern, Sr.
President

Cc: Antitrust Litigation Team

WLS/mb

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December 10, 2004

SBC COMMUNICATIONS INC. (NYSE: SBC)
Edward Whitacre, James Ellis
Al Richter
175 E. Houston
San Antonio, Texas 78205-2233

Via fax: 210-351-3507

RE: Demand for payment of stolen money

Dear Gentlemen:

You received the enclosed letter a month ago demanding payment of the money you stole from me in 1992. There is no statute of limitations. I now make my final demand for payment today. If it is not paid today I will initiate formal hearings before the PSC and file all legal remedies.

Enclosed is also a letter to the PSC demanding the Order that exempted the ICS. There is no exemption. I want my money Mr. Whitacre, today!

Yours truly,

William Lovern, Sr.
President

Cc: DOJ Antitrust Division
F.B.I.
Missouri Attorney General's Office November 11, 2004

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President

Cc: DOJ Antitrust Division
F.B.I.
Missouri Attorney General's Office November 11, 2004

[FR Doc. 05–3926 Filed 3–1–05; 8:45 am]
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