



## U.S. SECURITIES AND EXCHANGE COMMISSION

**Litigation Release No. 17310 / January 15, 2002**

**Accounting and Auditing Enforcement Release No. 1495 / January 15, 2002**

**SEC v. BellSouth Corporation, Civil Action No. 1:02-CV-0113 (N. D. Ga.) (filed January 15, 2002)**

### SEC SETTLES CASE AGAINST BELLSOUTH CORPORATION

The Securities and Exchange Commission today filed a settled civil action in federal court, in which BellSouth Corporation (BellSouth) consents to a judgment directing it to pay a \$150,000 civil penalty. The Commission's Complaint (Complaint) alleges that BellSouth violated certain provisions of the Foreign Corrupt Practices Act (FCPA). Specifically, the Complaint alleges that BellSouth violated the books and records provisions - Section 13(b)(2) (A) - and internal controls provisions - Section 13(b)(2)(B) - of the Securities Exchange Act of 1934 in connection with payments made by BellSouth's Venezuelan and Nicaraguan subsidiaries. BellSouth settled the civil action without admitting or denying the Commission's allegations.

According to the Complaint, between September 1997 and August 2000, former senior management of BellSouth's Venezuelan subsidiary, Telcel, C.A. (Telcel), authorized payments totaling approximately \$10.8 million to six offshore companies and improperly recorded the disbursements in Telcel's books and records, based on fictitious invoices, as bona fide services. Telcel's internal controls failed to detect the unsubstantiated payments for a period of at least two years. As an additional consequence of this control deficiency, the Complaint alleges that BellSouth was unable to reconstruct the circumstances or purpose of the Telcel payments, or determine the identity of their ultimate recipients. Telcel is Venezuela's leading wireless provider, contributing more revenue to BellSouth's Latin American Group segment than any other Latin American BellSouth operation.

The Complaint also alleges that, between October 1998 and June 1999, BellSouth's Nicaraguan subsidiary, Telefonía Celular de Nicaragua, S.A.'s (Telefonía), improperly recorded payments to the wife of the Nicaraguan legislator who was the chairman of the Nicaraguan legislative committee with oversight of Nicaraguan telecommunications.

According to the Complaint, in 1997 BellSouth acquired a 49 percent ownership interest in Telefonía, and an option to acquire an additional 40 percent. At the time of BellSouth's acquisition of its minority interest in Telefonía, a Nicaraguan law prohibited foreign companies such as BellSouth from acquiring a majority interest in Nicaraguan telecommunications companies ("foreign ownership restriction"). BellSouth intended to exercise its 40 percent option, but could do so only in the event that the Nicaraguan legislature repealed the foreign ownership restriction.

The Complaint alleges that, in October 1998, Telefonía retained the wife of the Nicaraguan legislator to provide various regulatory and legislative services, including lobbying for repeal of the foreign ownership restriction. The wife (lobbyist) had prior financial and operations experience in the telecommunications area, but no prior legislative experience. Because the lobbyist's husband chaired the legislative committee with jurisdiction over the foreign ownership restriction, BellSouth International (BSI), an indirectly wholly-owned subsidiary of BellSouth, knew that payments to the lobbyist could implicate the FCPA. Nevertheless, a former BSI in-house attorney approved Telefonía's retention of the lobbyist. BSI officials, however, knew or should have known that the attorney lacked sufficient experience or training to enable him properly to opine on the matter.

According to the Complaint, the lobbyist worked predominantly on the repeal of the foreign ownership restriction. The Complaint further alleges that, during the lobbyist's retention, the legislator/husband drafted the text of the proposed repeal of the foreign ownership restriction and enlisted support for the proposed repeal from other Committee members. The husband scheduled and presided at a hearing in April 1999, during which his Committee heard arguments from BSI and others advocating repeal of the foreign ownership restriction.

In May 1999, Telefonía terminated the lobbyist. In June 1999, Telefonía made a severance payment to her. Telefonía recorded the total sum of \$60,000 paid to the lobbyist as consulting services and as a severance payment. In September 1999, the Committee referred the proposed amendment for approval by the Nicaraguan National Assembly. In December 1999, the National Assembly voted to repeal the foreign ownership restriction. BellSouth exercised its 40 percent option and increased its ownership interest in Telefonía to 89 percent in June 2000

In a related proceeding, the Commission today also issued a settled cease-and-desist order (Order) against BellSouth in which the Commission finds that BellSouth violated the books and records provisions and internal accounting controls provisions of the Securities Exchange Act of 1934 in connection with payments made by BellSouth's Venezuelan and Nicaraguan subsidiaries. Without admitting or denying the Commission's findings, BellSouth consented to the entry of the Order that requires BellSouth to cease and desist from violating those provisions. The Order notes that in determining to accept BellSouth's settlement offer, the Commission considered BellSouth's cooperation with the Commission staff after being advised of the staff's investigation. The Order also notes that BellSouth undertook several remedial measures, including the disciplining and termination of various employees. Finally, the Order notes that BellSouth has taken steps designed to enhance its compliance program, which currently consists of a number of components, including corporate governance, policies and procedures, training, internal auditing, and corrective action and discipline.

<http://www.sec.gov/litigation/litreleases/lr17310.htm>