

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
CASE NO. _____-CIV _____

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GLOBETEL COMMUNICATIONS CORP.,
TIMOTHY J. HUFF, THOMAS Y. JIMINEZ
and LAWRENCE E. LYNCH

Defendants.

08-60647

CIV-MARTINEZ

MAGISTRATE JUDGE
BROWN

FILED BY <i>MS</i>	D.C.
MAY - 1 2008	
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. FT. LAUD.	

COMPLAINT

Plaintiff Securities and Exchange Commission ("SEC" or "Commission") alleges as follows:

NATURE OF THE ACTION

1. The Commission brings this action against GlobeTel Communications Corp. ("GlobeTel" or the "company") and three former officers for violations that span more than five years and include fraud and the unregistered sale of more than \$1.6 million in stock. These violations involved one scheme to fraudulently inflate GlobeTel's revenue and then hide millions of dollars in unpaid bills, and another scheme to sell GlobeTel stock in order to pay some of the individuals who were responsible for the fraudulent inflation of GlobeTel's revenue.

2. The fraud continued from 2004 to 2006 during which time the two individuals, Joseph J. Monterosso ("Monterosso") and Luis E. Vargas ("Vargas"), who ran GlobeTel's wholesale telecommunications ("telecom") business created \$119 million in fake invoices that

appeared to reflect transactions between telecom companies and three of GlobeTel's wholly-owned subsidiaries. These invoices falsely created the appearance that GlobeTel's subsidiaries were buying and selling telecom "minutes" at no profit. In reality, GlobeTel and its subsidiaries never bought or sold anything under what was referred to as the "off-net" revenue program.

3. Neither GlobeTel nor its subsidiaries ever paid the invoices supposedly sent by the suppliers, and neither GlobeTel nor its subsidiaries ever received payment from the customers to whom invoices were supposedly sent.

4. As a result of the fake invoices that GlobeTel received, millions of dollars in unpaid bills accumulated on GlobeTel's books each quarter. If GlobeTel had permitted millions of dollars in unpaid accounts receivable and unpaid liabilities to remain on its books, it would have created the appearance that GlobeTel's customers had failed to pay their bills and that GlobeTel had never paid millions of dollars to its suppliers. GlobeTel never had enough cash to pay the "off-net" invoices.

5. GlobeTel never disclosed the unpaid bills accumulating on its books because two GlobeTel executives, Thomas Y. Jiminez ("Jiminez") and Lawrence E. Lynch ("Lynch"), each of whom served as the company's chief financial officer, eliminated the millions of dollars in unpaid bills by making, or causing to be made, entries in GlobeTel's general ledger that set off the receivables attributable to the "off-net" revenue program against the liabilities attributable to that program. The set off of the receivables and liabilities associated with the "off-net" revenue program was made without any basis, was inconsistent with generally accepted accounting principles ("GAAP") and had the effect of concealing the on-going fraud from investors.

Additionally, Lynch and Jiminez were aware of numerous warning signs (“red flags”) that alerted them that “off-net” invoices were suspicious.

6. As a direct result of defendants’ scheme, GlobeTel issued periodic reports, registration statements and press releases that misled investors because they materially misstated GlobeTel’s financial results for at least the period from the third quarter of 2004 through the second quarter of 2006. In order to pay Monterosso and Vargas for the fake invoices they created, GlobeTel sold about \$1.6 million in stock through unregistered sales. Timothy J. Huff (“Huff”), GlobeTel’s CEO, accomplished these unregistered sales by causing one of GlobeTel’s subsidiaries to sell GlobeTel stock and transfer the proceeds to GlobeTel. Those sales violated the securities laws as discussed below.

7. The SEC brings this action based upon violations of the securities law that the defendants committed in furtherance of these schemes. In addition, GlobeTel also violated the securities laws by making false filings or by failing to make required filings from 2002 to 2006, including the failure to account properly for so-called sales of software and networks in 2002 and the failure to properly account for the purchase of private businesses in 2004 and 2005.

JURISDICTION AND VENUE

8. The Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. The defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the acts, transactions, practices and courses of business alleged herein.

9. Venue is proper in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

ISSUER AND CORPORATE DEFENDANT

10. **GlobeTel Communications Corp.** (“GlobeTel”) is a Delaware corporation with a headquarters in Fort Lauderdale, Florida. Until February 2007, its headquarters was located in Pembroke Pines, Florida. At all relevant times, the common stock of GlobeTel was registered pursuant to Section 12 of the Exchange Act. Its shares traded on the American Stock Exchange (“AMEX”) from in or about May 2005 until the AMEX delisted the company on October 11, 2006. Before and after trading on the AMEX, GlobeTel’s shares were listed over-the-counter on the Pink Sheets.

11. GlobeTel purported to be in a number of businesses from 2002 to 2006, including the development of an airship to broadcast telecommunications to entire cities and the installation of \$600 million in wireless networks in Russia.

12. As part of its efforts to join the AMEX, GlobeTel initiated a 1 for 15 reverse stock split on May 23, 2005.

13. GlobeTel’s independent auditor from 2002 through 2006 was Dohan & Co., a Miami firm that GlobeTel dismissed on January 4, 2007.

14. On October 6, 2006, GlobeTel issued a press release to announce that its audit committee had authorized an internal investigation concerning accounting issues raised by the Commission. GlobeTel hired a law firm to conduct the investigation, but by about December

2006, GlobeTel had stopped the investigation. GlobeTel later hired an accountant as its interim chief financial officer who resigned in March 2007.

15. On November 15, 2006, GlobeTel announced in a Form 12b-25 filed with the Commission that it would not file its Form 10-Q for the third quarter of 2006 in light of issues raised by the Commission's investigation. GlobeTel has not filed a quarterly or annual report for any period after June 30, 2006.

16. On May 8, 2007, the company announced in a Form 8-K filed with the Commission that it expected to restate its financial statements from 2004 to 2006, including a restatement of revenue related to its wholly-owned subsidiary, Centerline Communications, LLC ("Centerline"). On June 29, 2007, the company announced in a Form 8-K filed with the Commission that it expected the restatement would involve the elimination of about \$120 million in revenue and about \$9.9 million in intangible assets.

17. On November 2, 2007, the company filed a restated Form 10-KSB for 2004 in which the company reduced its annual revenue by \$17.68 million, reduced its assets by \$2.778 million, and increased its net loss by \$2.778 million. On December 5, 2007, the company filed a restated Form 10-K for 2005 in which the company reduced its annual revenue by \$70.99 million, reduced its assets by \$9.9 million, and increased its net loss by \$9.9 million.

INDIVIDUAL DEFENDANTS

18. **Timothy M. Huff**, 42, has his primary residence in Broward County, Florida. He was GlobeTel's chief executive officer ("CEO") and a director from April 2002 until September 2006, when he became the company's chief technology officer. As CEO, Huff oversaw the

operations of the entire company. Huff left GlobeTel in March 2007, although he continued to function as a consultant to the company.

19. **Thomas Y. Jimenez**, 48, has his primary residence in Broward County, Florida. He was chief financial officer (“CFO”) of GlobeTel and its predecessor from October 1999 until April 2006, when he retired. As CFO, he oversaw all accounting functions and GlobeTel’s financial reporting, including financial reports included in GlobeTel’s filings with the Commission. Jimenez is a CPA licensed in New York, although the license has lapsed. Jimenez signed four quarterly reports and two annual reports filed with the Commission from August 2004 to March 2006.

20. **Lawrence E. Lynch**, 56, has his primary residence in Broward County, Florida. He was chief operating officer (“COO”) of GlobeTel from 2004 to March 31, 2006 when he became the company’s acting CFO. GlobeTel terminated him in October 2006 while Monterosso was GlobeTel’s COO after Lynch complained to the board of directors about Monterosso’s claims that GlobeTel was profitable. Lynch has an MBA with a focus in managerial accounting.

21. As COO, Lynch had responsibility for Centerline, including the financial reporting of transactions with vendors and customers. Lynch helped design the financial controls at Centerline and implemented some controls on transactions in which telecom traffic was actually routed through a GlobeTel-controlled telecom switch, which some GlobeTel executives described as “on-net” transactions.

22. As CFO, Lynch oversaw all accounting functions and GlobeTel's financial reporting, including financial reports included in GlobeTel's filings with the Commission. Lynch signed two quarterly reports filed with the Commission in May and August 2006.

ADDITIONAL GLOBETEL OFFICER

23. **Joseph J. Monterosso**, age 52, has his primary residence in Broward County, Florida. In the summer of 2004, Monterosso began working for GlobeTel as a contractor running GlobeTel's Centerline subsidiary, and in about May 2005, was hired as president of Centerline. Throughout this time period, he reported directly to GlobeTel's CEO, supervised Centerline's employees, negotiated all wholesale telecom contracts, and ran the entire wholesale telecom business. In July 2006, Monterosso began serving as GlobeTel's COO, and he served in that position until he was terminated by GlobeTel in May 2007.

PART I – THE “OFF-NET” REVENUE FRAUD

A. IN 2004, GLOBETEL ENTERED AN AGREEMENT WITH MONTEROSSO TO GENERATE ADDITIONAL WHOLESALE TELECOM REVENUE

24. In 2004, GlobeTel wished to expand the volume of telecom traffic Centerline carried and the amount of revenue it generated, and, to that end, Huff entered into negotiations with Monterosso, who had extensive experience in the wholesale telecom business. Monterosso and his brother owned and operated a telecom switch in Los Angeles, California, and Vargas, who was Monterosso's bookkeeper, had started his own telecom company, Carrier Services, Inc. (“CSI”), utilizing Monterosso's switch. Monterosso handled all negotiations for CSI and often held himself out as the head of the company.

25. Wholesale telecom companies make money by connecting people who want to make telephone calls or other electronic transmissions with companies whose networks have access to the location the customers wish to call. Using "switches" that are either large computer arrays or cable connections, wholesale telecom companies pay by the minute for the right to connect telephone calls to other companies' networks and sell that "termination" service to their customers. A wholesale telecom company's profit is based upon the spread between the price paid to the vendors who provide the termination service and the price it charges its customers for access to the termination service.

26. Huff and Monterosso negotiated a "joint venture" agreement between GlobeTel and CSI pursuant to which CSI would operate Centerline. The purpose of this agreement was "to build telecommunications revenue and client base, utilizing each party's network and financial resources"

27. The agreement between GlobeTel and CSI provided that Centerline was to generate \$50 million in revenue per year and be profitable in its first year of operation, in return for which CSI would receive \$1 million of GlobeTel's publicly-traded stock. If Centerline generated \$50 million in revenue in the second year of operations, CSI would receive an additional \$1 million of GlobeTel's stock.

28. Shortly after CSI entered the joint venture agreement with GlobeTel, Monterosso re-negotiated the agreement with Huff to provide that CSI was only required to generate \$25 million in profitable revenue for Centerline, which would result in CSI receiving 5 million (333,333 post-split) shares of GlobeTel's publicly-traded stock. There was no provision in the

agreement for compensating either Monterosso or Vargas if the minimum revenue goal of \$25 million was not achieved.

29. GlobeTel reported that CSI had achieved the joint venture agreement's \$25 million revenue goal in January 2005 and, therefore, was entitled to receive 5 million shares of GlobeTel's publicly-traded stock.

30. In or about March 2005, Huff and Monterosso negotiated another agreement under which CSI would receive one million shares of GlobeTel's restricted stock if it was able to generate \$10 million in revenue for Centerline. On May 15, 2005, Monterosso reported to GlobeTel that Centerline had achieved the \$10 million revenue goal.

B. MONTEROSSO WAS UNSUCCESSFUL IN GENERATING REVENUE THROUGH "PARTNER AND INCENTIVE AGREEMENTS"

31. GlobeTel's agreement with Monterosso and CSI envisioned that revenue would be generated for Centerline as a result of "Partner and Incentive Agreements" with other wholesale telecom companies. Beginning in about July 2004, Monterosso tried to convince other telecom companies to enter into "Partner Incentive and Financing Agreements" and shift their wholesale telecom traffic to Centerline. Specifically, Monterosso sought to have other telecom companies route their telecom traffic through the switch in Los Angeles that he owned and which he allowed CSI to use.

32. Monterosso did successfully negotiate three "Partner Incentive and Financing Agreements" for Centerline. However, none of these "partners" ever did any "off-net" business with Centerline or any of its subsidiaries.

33. In March 2005, GlobeTel reported that Centerline and its subsidiaries had entered into "Partner Incentive and Financing Agreements" with companies that provided wholesale telecom services "to produce profitable revenues using the Calling Services of the partners for an initial period of two (2) years."

C. THE "OFF-NET" REVENUE PROGRAM

34. Because Centerline was unable to generate sufficient revenue through partner incentive and financing agreements, in or about October 2004, Monterosso, Vargas and GlobeTel executives devised an "off-net" revenue program. The "off-net" program was different from the "Partner Incentive and Financing Agreements" that were part of the original "joint venture" agreement. GlobeTel employees called this revenue "off-net" to distinguish it from "on-net" transmissions that actually passed through GlobeTel's telecom switch in Los Angeles. However, GlobeTel never distinguished between "off-net" and "on-net" revenue in its filings with the Commission or in its press releases.

35. From 2004 to 2006, Monterosso and Vargas, at Monterosso's direction, provided GlobeTel's finance department with hundreds of invoices that purported to show \$119 million in "off-net" sales and an approximately equal amount of purchases. The hundreds of "off-net" invoices that GlobeTel's finance department received from Monterosso and Vargas appeared to show transactions between three GlobeTel subsidiaries, Centerline, Volta Communications, LLC ("Volta"), and Lonestar Communications, LLC ("Lonestar"), and five other telecom companies.

36. The "off-net" sales were accompanied by hundreds of invoices supposedly showing "off-net" purchases from vendors, so the overall effect on GlobeTel's net income or profit was generally negligible. However, GlobeTel touted its overall revenue in many press

releases from mid-2004 to mid-2006, including press releases on Sept. 28, 2004, Oct. 13, 2004, March 31, 2005, and May 16, 2005.

37. In order to record revenue, GlobeTel's finance department required documents to substantiate the amount of sales and cost of goods sold. With respect to revenue generated by Centerline, the accountants who worked directly or as consultants for GlobeTel asked Monterosso and Vargas for the invoices sent to customers and received from vendors and for "call detail records" ("CDRs"). CDRs are technical documents that record information, such as the date, length, origin and destination for each telephone call. In this respect, a CDR is similar to a large telephone bill that documents all the telephone calls that are placed through a "switch."

38. Monterosso and Vargas knew that GlobeTel could not record revenue generated by Centerline's "off-net" telecom business without invoices and CDRs to substantiate that Centerline and its wholly owned subsidiaries actually engaged in the telecom transactions that were the basis for the revenue they reported.

D. ALL THE "OFF-NET" REVENUE WAS FICTITIOUS

39. GlobeTel's subsidiaries, Centerline, Volta, and Lonestar, conducted no business as part of these "off-net" transactions. They bought nothing and sold nothing. In fact, Volta and Lonestar never conducted any business at all. Therefore, all of Centerline's "off-net" revenue was fictitious.

40. All the "off-net" invoices Monterosso and Vargas, at Monterosso's direction, created from 2004 to 2006 were false. They were false because they created the false impression that Centerline, Volta and Lonestar were buying and selling "minutes" with other wholesale

telecom companies. In total, these fake invoices appeared to record \$119 million in "off-net" revenue.

41. As part of this scheme, Monterosso and Vargas created invoices that appeared to have been generated by two private companies where they did not work, XSTEL and World Communication Carrier Services ("WCCS"). These invoices purported to record sales by those companies to Volta and Lonestar. They also created invoices on Volta and Lonestar letterhead that appeared to record sales to private companies, Mercury Telecom ("Mercury") and Telmetriks. Although Monterosso and Vargas knew who owned XSTEL, Mercury Telecom, WCCS and Telmetriks, they did not provide the owners with copies of the invoices that appeared to be sent by or to their companies.

42. Between September 2004 and June 2006, Monterosso and Vargas also generated false CDRs to support the fictitious \$119 million in "off-net" revenue contained in the false invoices. The CDRs were false because they did not record any calls that involved Centerline, Volta or Lonestar even though Monterosso and Vargas held them out as recording the calls listed in the "off-net" invoices.

43. Monterosso and Vargas, at Monterosso's direction, provided the false invoices along with the false CDRs to GlobeTel's accountants, knowing that those accountants would provide them to GlobeTel's auditors. Although the invoices generally covered seven-day periods, it was Vargas' regular practice to provide invoices for extended periods of time, on some occasions not until after, or near, the end of the quarter.

44. Between mid-2004 and mid-2006, Monterosso and Vargas, at Monterosso's direction, submitted invoices to GlobeTel that gave the false appearance that Centerline bought

telecom “minutes” worth about \$34.31 million from CSI and sold an equivalent amount of “minutes” to CSI.

45. Between mid-2004 and mid-2006, Monterosso and Vargas, at Monterosso’s direction, submitted invoices to GlobeTel that gave the appearance that Volta bought telecom “minutes” worth about \$30.3 million from WCCS and sold an equivalent amount of telecom “minutes” to Mercury.

46. Between mid-2004 and mid-2006, Monterosso and Vargas, at Monterosso’s direction, submitted invoices to GlobeTel that gave the false appearance that Lonestar bought telecom “minutes” worth about \$55.15 million from XSTEL and sold an equivalent amount of telecom “minutes” to Telmetriks.

E. THE SET OFF OF ACCOUNTS RECEIVABLE AND LIABILITIES RELATED TO THE “OFF-NET” REVENUE PROGRAM

47. Jimenez and Lynch made or caused to be made entries in GlobeTel’s general ledger based on the “off-net” invoices provided by Monterosso and Vargas, at Monterosso’s direction, that caused GlobeTel to record and report about \$119 million in revenue and cost of goods sold. They did this despite their knowledge of the red flags discussed below.

48. Jimenez, Lynch and their employees in GlobeTel’s finance department used the fake “off-net” invoices that appeared to have been issued by Centerline, Volta and Lonestar to their customers to record revenue and the fake invoices that appeared to have been issued to Centerline, Volta and Lonestar from their vendors to record the cost of goods sold in GlobeTel’s books. They also used the fake invoices to enter the amount of the sale or purchase and the name of the company that bought from or sold to GlobeTel’s subsidiaries in GlobeTel’s books.

49. When GlobeTel's finance department employees recorded the revenue on the company's books, they also recorded an equivalent amount of accounts receivable to reflect money owed to GlobeTel's subsidiaries by their customers. When GlobeTel's finance department employees recorded the cost of goods sold on the company's books, they also recorded an equivalent liability to reflect money owed by GlobeTel's subsidiaries to their suppliers. These entries were standard accounting in accordance with GAAP.

50. Because the "off-net" invoices were fake, GlobeTel's subsidiaries did not pay their supposed suppliers CSI, WCCS and XSTEL, and their supposed customers CSI, Mercury and Telmetriks did not pay GlobeTel's subsidiaries. Consequently, at the end of every quarter between mid-2004 and mid-2006, GlobeTel's books reflected millions of dollars in accounts receivable and an equal amount of liabilities.

51. If GlobeTel had reported that it had millions of dollars in unpaid accounts receivable and unpaid liabilities on its books, it would have created the appearance that GlobeTel's customers had failed to pay their bills and that GlobeTel had never paid millions of dollars to its suppliers. GlobeTel never had enough cash to pay the liabilities that it recorded as a result of the "off-net" invoices.

52. From in or about October 2004 until each man left the company, Jimenez and Lynch made, or caused to be made, entries in GlobeTel's general ledger that set off accounts receivable attributable to the "off-net" revenue program against liabilities attributable to the "off-net" revenue program. By making the off-setting entries at or after the end of each quarter, Jimenez and Lynch caused GlobeTel to report relatively steady accounts receivables and liabilities -- never exceeding \$2.58 million and \$9.9 million respectively.