

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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CLARENCE LADD
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S.D. OF FLA - MIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

AMERICAN IMAGING, INC.,
AGUSTIN BARRES AND PAUL GRANVILLE,

Defendants.

CASE NO. 00-0940
CIV-MORENO
COMPLAINT FOR
INJUNCTIVE AND
OTHER RELIEF
MAGISTRATE JUDGE
DUBÉ

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

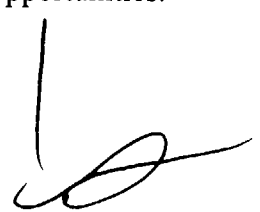
1. The SEC brings this action to enjoin Defendants Agustin Barres ("Barres"), Paul Granville ("Granville") and American Imaging, Inc. ("American") from continuing to violate the federal securities laws by making material misrepresentations regarding American's business.

DEFENDANTS

2. Defendant Barres is a resident of Miami, Florida and has been the president of American since September 1998.

3. Defendant Granville is a resident of Miami, Florida and acted as a consultant to American from July 1998 to the present.

4. Defendant American is a Florida corporation incorporated in 1960 under the name Florida Metal Supply, Inc.. The corporation's name was changed to American in April 1998. American is currently in the business of developing Internet commerce opportunities. American's principal offices are located in Miami, Florida.



JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e) and 78aa.

6. Certain of the acts and transactions constituting violations of the Exchange Act have occurred within the Southern District of Florida. The principal offices of American are located within the Southern District of Florida. Barres and Granville reside within the Southern District of Florida.

7. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business complained of herein.

MISREPRESENTATIONS BY AMERICAN, BARRES AND GRANVILLE

8. Between January 1999 and March 1999, American promoted its stock through its website by disseminating various press releases via the Internet. The publications were prepared and/or reviewed and/or approved by American's president, Barres and/or American's consultant, Granville. In July 1998 and again on March 10, 1999, American stated in its press releases that it had a letter of intent to acquire Little Dutchman, Inc. ("Little Dutchman"), a New Mexico corporation which purportedly owns a 20% interest in one million tons of unrefined slag (the substances remaining after materials are processed by refineries sometimes containing remnants of precious metals). American issued press releases on March 3, 1999 and March 10, 1999, via the Internet, containing misrepresentations regarding revenue estimates from processing minerals contained in the slag.

9. In the March 3, 1999 press release, American stated that according to appraisals, the slag owned by Little Dutchman consisted of silver, gold and other minerals and that the estimated net income from fully processing those materials should exceed \$80 million.

10. In the March 10, 1999 press release, American stated that initial estimates indicated that Little Dutchman's revenue from the slag, when fully processed, may exceed \$80 million over an extended period of time.

11. The representations made by American regarding the estimated net income and revenue from the slag owned by Little Dutchman were false and misleading because:

- (a) sufficient or proper testing was never conducted upon the slag to establish either a \$80 million net income or \$80 million revenue estimate;
- (b) American relied on a certain assay report and financial statements as a basis for the \$80 million revenue estimate, while ignoring other assay reports that showed significantly lower content of minerals in the slag;
- (c) the processing of the materials from the slag was contingent upon American providing financing of \$500,000 to Little Dutchman; however, American did not have the ability to provide such financing or to obtain such financing for Little Dutchman; and
- (d) Little Dutchman provided assay reports, financial statements and other information to American pertaining only to an \$80 million revenue estimate, not an \$80 million net income estimate.

12. The representations made by American regarding the estimated net income and revenue from the slag owned by Little Dutchman were material to a prospective investor or to the investor's decision to purchase, sell or hold American stock.

COUNT I

**FRAUD IN VIOLATION OF
SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5**

The SEC repeats and realleges paragraphs 1 through 12 of this Complaint.

13. Since on or about March 3, 1999 through April 1999, Defendants Barres, Granville and American, directly and indirectly, by use of the means and instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities, as described herein, have knowingly, willfully or recklessly: (i) employed manipulative or deceptive devices, contrivances, schemes or artifices to defraud; (ii) made untrue statements of material facts and/or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (iii) engaged in acts, practices and courses of business which have operated as a fraud upon the purchasers of such securities.

14. By reason of the foregoing, Defendants Barres, Granville and American have violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240. 10b-5, thereunder.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that Defendants Barres, Granville and American have committed the violations of the federal securities laws alleged herein.

II.

Permanent Injunctive Relief

Issue a Permanent Injunction, enjoining Defendants Barres, Granville and American, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Section 10(b) of the Exchange Act and Rule 10b-5, thereunder.

III.

Penalties

Issue an Order directing Barres and Granville to pay civil money penalties pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78(d)(3).

IV.

Retention of Jurisdiction

Further, the SEC respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may hereby be entered,

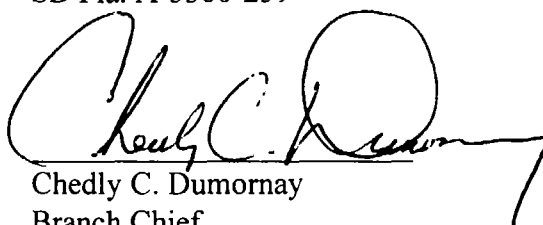
or to entertain any suitable application or motion by the SEC for additional relief within the jurisdiction of this Court.

Respectfully submitted,

Mitchell E. Herr
Regional Trial Counsel
SD Fla. A-5500-259

March 9, 2000

By:

A handwritten signature in black ink, appearing to read "Chedly C. Dumornay", written over a horizontal line.

Chedly C. Dumornay
Branch Chief
Florida Bar No. 957666

Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
1401 Brickell Avenue, Suite 200
Florida, Florida 33131
Telephone: (305) 982-6377
Facsimile: (305) 536-7465

JS 44
(Rev. 12/96)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1994, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS**Securities and Exchange Commission**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(EXCEPT IN U.S. PLAINTIFF CASES)

A-1000/0000 940 / Moreno / Dube

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

Mitchell E. Herr (305) 982-6336**Chedly C. Dumornay (305) 982-6377
SEC, 1401 Brickell Ave., Suite 200, Miami, FL****DEFENDANTS****American Imaging, Inc., Agustin Barres
and Paul Granville, MAGISTRATE JUDGE**

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

(d) CIRCLE COUNTY WHERE ACTION AROSE DADE MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS**II. BASIS OF JURISDICTION**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | |
|---|---|
| PTF DEF | PTF DEF |
| Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions A OR B
A REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	A CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl Ret Inc Security Act	B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240. 10b-5.

LENGTH OF TRIAL

via _____ days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23**DEMAND \$****Perm. Injunction
and Civil Money
Penalties**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO**VIII. RELATED CASE(S) (See instructions):
IF ANY**

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

January 9, 2000

Chedly C. Dumornay

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____