

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 02-10471 DPW
)	
ANAMAR COMMUNICATIONS, INC., and)	
BRETT R. MALLORY,)	
)	
Defendants.)	
_____)	

**FINAL JUDGMENT OF PERMANENT INJUNCTION,
DISGORGEMENT AND OTHER RELIEF
AS TO DEFENDANT BRETT R. MALLORY**

Defendant Brett R. Mallory (“Mallory”) having (i) executed the Consent to Final Judgment of Permanent Injunction, Disgorgement and Other Relief by Defendant Brett R. Mallory (“Consent”) which is attached hereto and hereby incorporated by reference; (ii) entered a general appearance; (iii) consented to the Court’s jurisdiction over himself and the subject matter of this action; (iv) consented to entry of this Final Judgment of Permanent Injunction, Disgorgement and Other Relief as to Defendant Brett R. Mallory (“Final Judgment”) without admitting or denying the allegations of the Complaint; (v) waived findings of fact and conclusions of law; and (vi) waived any right to appeal from this Final Judgment:

DOCKETED

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I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Mallory and his agents, servants, employees, attorneys, successors or assigns, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §77q(a)] by, directly or indirectly, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails: (a) employing any device, scheme, or artifice to defraud; (b) obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser of such security.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Mallory and his agents, servants, employees, attorneys, successors or assigns, and those persons in active concert or participation with him who receive actual notice of this Final Judgment, are permanently restrained and enjoined from violating Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5] by, directly or indirectly, the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange, in connection with the purchase or sale of any security: (a) employing any device,

scheme, or artifice to defraud; (b) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Mallory is liable for disgorgement of \$130,500, representing the amount of money Mallory received as a result of the conduct alleged in the Complaint, plus pre-judgment interest in the amount of \$6,417, for a total disgorgement obligation of \$136,917, provided that said amounts of disgorgement and pre-judgment interest shall be joint and several with Anamar Communications, Inc. Based upon Mallory's sworn representations in his Statement of Financial Condition dated June 7, 2002, concerning his inability to pay, payment of the disgorgement amount and pre-judgment interest is waived.

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that, based upon Mallory's sworn representations in his Statement of Financial Condition dated June 7, 2002, concerning his inability to pay, the Court is not ordering Mallory to pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)].

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the decision to waive payment of the disgorgement amount and pre-judgment interest thereon and the decision not to impose a civil penalty are contingent upon the accuracy and completeness of Mallory's sworn

representations in his Statement of Financial Condition dated June 7, 2002, concerning an inability to pay. If at any time following the entry of this Final Judgment, the Commission obtains information indicating that Mallory's representations in his Statement of Financial Condition to the Commission concerning his assets, income, liabilities or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Mallory, petition the Court for an order requiring him to pay the full disgorgement amount, with pre-judgment and post-judgment interest thereon, and the maximum civil monetary penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Mallory was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including but not limited to ordering Mallory to pay funds or assets, directing the forfeiture of any assets, or imposing sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Mallory may not, by way of defense to such petition: (1) challenge the validity of his Consent or the Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment and post-judgment interest or a civil penalty should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; (5) contest the imposition of the maximum civil penalty allowable under the law; or (6) assert any defense to liability or remedy, including but not limited to any statute of limitations defense.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over Mallory as a party to this matter for all purposes, including the implementation and enforcement of this Final Judgment.

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that, the Court finding no just reason for delay, the entry of this Judgment shall constitute a final judgment as to all of the Commission's claims against Mallory in this action, and the Clerk of the Court is directed to enter this Final Judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

Dated: September 3, 2002.



UNITED STATES DISTRICT JUDGE