

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

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DISTRICT OF UTAH

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CLEARONE COMMUNICATIONS, INC.,
FRANCES M. FLOOD, AND SUSIE
STROHM,

Defendants.

CIVIL NO: 2:03 CV 0055 DAK

**FINAL JUDGMENT AS TO FRANCES M.
FLOOD**

RECEIVED CLERK
FEB 19 2004
U.S. DISTRICT COURT

The Securities and Exchange Commission ("Commission") having filed a Complaint and Defendant Frances M. Flood ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

It Is Hereby Ordered, Adjudged, And Decreed that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated

Entered on docket

2-20-04 by:

B King
Deputy Clerk

89

thereunder [17 C.F.R. § 240.10b-5], by using 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) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit 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) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

It Is HEREBY Further Ordered, Adjudged, And Decreed that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] 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 use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

or

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] by knowingly providing substantial assistance to an issuer required to file with the Commission any annual, quarterly, or other periodic report required to be filed with the Commission pursuant to Sections 13(a) and 13(b)(2)(A) and (B) of the Exchange Act [15 U.S.C. §§78m(a) and 78m(b)(2)(A) and (B)] and Rules 13a-1, 13a-13, 13b2-1, 13b2-2 and 12b-20 thereunder [17 C.F.R. §§240.13a-1, 240.13a-13, 240.13b2-1, 240.13b2-2 and 240.12b-20] promulgated thereunder by directly or indirectly, or by aiding and abetting:

(a) filing or causing to be filed with the Commission any annual or quarterly report on behalf of any issuer, required to be filed with the Commission pursuant to Section 13(a) of the Exchange Act [15 U.S.C. §78m(a)] and the rules and regulations promulgated thereunder, which contains any untrue statement of material fact, which omits to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not

misleading, or which omits to disclose any information required to be disclosed;

or

(b) failing to:

(i) make and keep accurate books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; or

(ii) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: transactions are executed in accordance with management's general or specific authorization; transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets; access to assets is permitted only in accordance with management's general or specific authorization; and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(c) falsifying or causing to be falsified any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t] and Section 21(d)(2) of the Exchange Act

[15 U.S.C. § 78u(d)(2)], Defendant is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

V.

It Is HEREBY Further Ordered, Adjudged, And Decreed that Defendant is liable for disgorgement of \$71,000, together with prejudgment interest thereon in the amount of \$2,881.93, and a civil penalty in the amount of \$71,000 pursuant to Section 20(d) of the Securities Act. Defendant shall satisfy this obligation by paying \$144,881.93 within ten business days to the Clerk of this Court, together with a cover letter identifying Flood as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that final payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payments and letters to the Commission's counsel in this action. By making these payments, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant.

The Commission may, by motion, propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, in any

Related Investor Action, benefit from any offset or reduction of any investor's claim by the amount of any Fair Fund distribution to such investor in this action that is proportionately attributable to the civil penalty paid by Defendant ("Penalty Offset"). If the court in any Related Investor Action grants such an offset or reduction, Defendant shall, within 30 days after entry of a final order granting the offset or reduction, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

VI.

It Is Further Ordered, Adjudged, And Decreed that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.


VII.

It Is Further Ordered, Adjudged, And Decreed that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VI.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: February 19, 2003⁴.



UNITED STATES DISTRICT JUDGE

Presented by:

Thomas M. Melton
Karen L. Martinez
Attorneys for Plaintiff
Securities and Exchange Commission



Approved as to form:


Richard A. Van Wagoner
Attorney for Defendant
Frances M. Flood

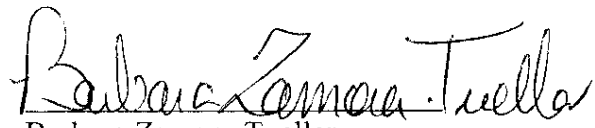
CERTIFICATE OF SERVICE

I certify that on the 19th day of February, 2004, I caused a true and correct copy of the foregoing document, FINAL JUDGMENT AS TO FRANCES M. FLOOD, to be served on defendants via the United States mails at Salt Lake City, Utah with first class postage prepaid, addressed to:

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Salt Lake City, UT 84111


Barbara Zamora-Tueller

United States District Court
for the
District of Utah
February 20, 2004

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00055

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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