

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

TOM SHANAHAN and CLEM HANNON,

Defendants

Case No.:

Judge

Magistrate

COMPLAINT

Plaintiff, Securities and Exchange Commission (Commission), alleges the following:

NATURE OF THE ACTION

1. This action involves a financial fraud perpetrated by two senior officers of the Irish subsidiary of Zomax, Inc. (Zomax), a former U.S. public corporation that was based in Plymouth, Minnesota. From the end of 2003 through 2004, Tom Shanahan (Shanahan), the former general manager of Zomax Limited (Zomax Ireland) and Clem Hannon (Hannon), the former financial controller of Zomax Ireland, engaged in a scheme to fraudulently inflate the financial results of Zomax Ireland and caused Zomax to file with the Commission financial statements that materially misrepresented its true financial condition for at least the first three quarters of 2004.

10. Shanahan and Hannon knew that Zomax's quarterly financial statements would be included in its Forms 10-Q filed with the Commission, and made available to the public.

11. Shanahan and Hannon's fraudulent scheme caused foreseeable and substantial harm to the U.S. securities markets and to U.S. investors.

12. Shanahan and Hannon, directly or indirectly, have made use of the means or instrumentalities of interstate commerce in connection with acts, practices, or courses of business alleged herein, in the District of Minnesota and elsewhere.

13. Shanahan and Hannon will, unless enjoined, continue to engage in acts, practices, or courses of business set forth in this Complaint and acts, practices, or courses of business of similar purport and object.

DEFENDANTS

14. Tom Shanahan, age 50, is an Irish citizen and a resident of Dublin, Ireland. Shanahan was appointed the general manager and a director of Zomax Ireland in June 2003, having previously been the director of marketing services at Zomax Ireland for two years. Shanahan has also been licensed as a Chartered Accountant in Ireland since 1983. In May 2005, Zomax terminated Shanahan because of his role in Zomax Ireland's fraudulent accounting practices.

15. Clem Hannon, age 39, is an Irish citizen and a resident of Newbridge, Ireland. Hannon was hired as the financial controller of Zomax Ireland in November 2003. Hannon has been licensed as a Chartered Accountant in Ireland since 1993. In February 2005, while conducting its review of accounting irregularities at Zomax Ireland, Zomax requested Hannon's resignation because of improper accounting practices, and Hannon then tendered his resignation that same month.

RELEVANT ENTITIES

16. Zomax, Inc. (Zomax) was a Minnesota corporation founded in February 1996 with its headquarters in Plymouth, Minnesota. Zomax is a manufacturer of CDs and DVDs, and provides software and related services to computer manufacturers and other producers of multimedia products.

17. During the relevant time period, Zomax's common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was listed on the Nasdaq National Market (Nasdaq). Pursuant to section 13(a) of the Exchange Act, and the rules and regulations thereunder, Zomax filed periodic and other informational reports, including Forms 10-K and Forms 10-Q, with the Commission. These periodic reports contained Zomax's consolidated financial statements. In October 2006, after receiving shareholder approval, Zomax was acquired by a private equity fund and subsequently merged into another subsidiary of this private equity fund.

18. During the relevant time period, Zomax Ireland was an Irish limited liability company and the Irish subsidiary of Zomax. Zomax Ireland was comprised of two distinct divisions; the Marketing Service Group located in Santry, Ireland (Marketing Service Group) and the Operations Facility located in Clondalkin, Ireland (Operations Facility). The Marketing Service Group was a customer contact center, and the Operations Facility was engaged in replication, print management, printing, packaging, warehousing, and distribution activities.

ZOMAX IRELAND'S FINANCIAL REPORTING STRUCTURE

19. Shanahan and Hannon were the Zomax Ireland employees primarily responsible for reporting Zomax Ireland's financial results to Zomax.

they submitted for Zomax Ireland. These certifications, signed by Shanahan and Hannon, stated that they reviewed Zomax Ireland's financial statements and, to the best of their knowledge, the information contained in the financial statements was complete, valid, and accurate in accordance with Sections 302 and 906 of the Sarbanes-Oxley Act. The certifications that Shanahan and Hannon signed further stated that they knew that Zomax's senior officers would be relying on Zomax Ireland's financial statements in connection with the certifications required by the Sarbanes-Oxley Act for Zomax's periodic filings with the Commission.

**SHANAHAN AND HANNON ENGAGED IN A FRAUDULENT SCHEME
TO INFLATE ZOMAX IRELAND'S FINANCIAL RESULTS**

34. Zomax Ireland's performance started to decline in late 2003, due to increased manufacturing costs, decreased customer demand for its products and services, and a corresponding drop in prices to attempt to address the falling customer demand.

35. Zomax Ireland's performance problems were caused by a substantial increase in the cost of its raw materials, specifically petroleum-based materials, which drastically increased Zomax Ireland's costs. Also, many of Zomax Ireland's customers switched to companies with production plants located in Eastern Europe and other parts of the world with lower labor costs. Finally, Zomax Ireland's machinery was aging, making it more difficult to produce CDs and DVDs in a cost effective manner. These problems led to significant declines in Zomax Ireland's operating performance beginning in late 2003 and continuing throughout 2004.

36. Shanahan responded to Zomax Ireland's business downturn by fostering a corporate environment that placed achieving financial targets above accurately reporting financial results.

68. Zomax, with the assistance of its auditor, identified that adjustments of \$1.8 million were required in order to correct its reported financial results for the first three quarters of 2004.

69. On March 1, 2005, Zomax filed a Form 8-K with the Commission announcing the restatement of its financial statements for 2003 and the first three quarters of 2004. The next day, Zomax's share price dropped 9 percent, from \$4.28 to \$3.88 per share.

70. On March 31, 2005, Zomax filed its Form 10-K that restated its financial results for 2003 and the first three quarters of 2004. The next day, Zomax's stock price closed at \$2.89 per share, a decline of 32 percent since the day before the announcement of the restatement.

71. The restatement, caused primarily by Shanahan and Hannon's fraudulent accounting in the first three quarters of 2004, negatively impacted the previously reported quarterly results for 2004. For the first quarter of 2004, Zomax previously reported a net loss of \$981,000; the restatement increased this net loss by \$565,000 to \$1,546,000, which represents a 58% increase in net loss. For the second quarter of 2004, Zomax previously reported net income of \$1,252,000; the restatement decreased net income for this period by \$718,000 to \$534,000, which represents a 57% decrease in net income. For the third quarter of 2004, Zomax previously reported a net loss of \$5,497,000; the restatement increased this net loss by \$540,000 to \$6,037,000, which represents a 10% increase in net loss.

72. The fraudulent accounting entries associated with the sales accruals, the spares, and the holiday pay accrual had the cumulative effect of understating Zomax's operating losses by 15%, 44%, and 5% for the first, second, and third quarters of 2004, respectively. For the nine month period ended September 24, 2004, the fraudulent accounting entries had the cumulative effect of understating Zomax's operating losses by 11%.

