

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JAN 22 2004

RONALD A. GUZMAN, JUDGE
UNITED STATES DISTRICT COURT

FEB 09 2004

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CUMULUS MEDIA INC., RICHARD
J. BONICK, JR., DANIEL O'DONNELL
and RICHARD W. WEENING,

Defendants.

03C 8908

Civil Action File No.

JUDGE RONALD GUZMAN

MAGISTRATE JUDGE KEYS

CONSENT AND STIPULATION OF DEFENDANT DANIEL O'DONNELL

A. Defendant Daniel O'Donnell (O'Donnell):

1. Acknowledges service upon him of the Complaint for Permanent Injunction and Other Equitable Relief (Complaint) of Plaintiff Securities and Exchange Commission (Commission) in this action, enters a general appearance, admits the jurisdiction of this Court over him and over the subject matter hereof, and waives the filing of an Answer prior to the entry of an order of permanent injunction against him;

2. Without admitting or denying the allegations of the Complaint, except as to jurisdiction, which is admitted, hereby voluntarily consents to the entry of the attached Final Judgment and Order of Permanent Injunction and Other Equitable Relief (Final Judgment) against him without further notice;

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3. Enters into this Consent and Stipulation (Consent) voluntarily and acknowledges that no threats, offers, promises or inducements of any kind whatsoever have been made by the Commission or anyone else in consideration of this Consent;

4. Waives any right he may have to appeal from the Final Judgment;

5. Understands that the terms of the Final Judgment are enforceable through contempt proceedings;

6. Agrees that he will not oppose enforcement of the Final Judgment on the ground that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure and waives any objections based thereon;

7. Agrees that he does not and will not oppose the validity of the Final Judgment on any jurisdictional ground;

8. Waives service upon him of the Final Judgment and agrees that the entry of the Final Judgment by the Court and filing with the Clerk in the United States District Court for the Northern District of Illinois will constitute notice to him of the terms and conditions of such Final Judgment; and

9. Agrees that the Court shall retain jurisdiction of this matter for all purposes.

B. The Commission and O'Donnell agree that this Consent shall be incorporated by reference into the Final Judgment with the same force and effect as if fully set forth therein.

C. The Commission and O'Donnell waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

D. O'Donnell agrees and undertakes, pursuant to Section 21 of the Securities Exchange Act of 1934 [15 U.S.C. §78u], within ten (10) days of the entry of the Final Judgment, to pay a civil money penalty in the amount of \$40,000 to the United States Treasury. Such payment shall be: (1) made by United States Postal money order, certified check, bank cashier's check or bank money order; (2) made payable to the Securities and Exchange Commission; (3) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (4) submitted under cover letter that identifies Daniel O'Donnell as a Defendant in this action, the caption and case number of this action and the name of this Court. Copies of such check and the accompanying cover letter shall be simultaneously submitted to Anne C. McKinley, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 900, Chicago, Illinois 60604.

E. O'Donnell understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." [17 C.F.R. §202.5(e)]. In compliance with this policy, O'Donnell agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis. If O'Donnell breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this case to its active docket. Nothing in this provision affects O'Donnell's testimonial obligations or right to take legal or factual positions in litigation in which the Commission is not a party.

F. O'Donnell acknowledges and agrees that this proceeding and his Consent are for the purposes of resolving this proceeding only, in conformity with the provisions of 17 C.F.R. §202.5(f), and do not resolve, affect or preclude any other proceedings which may be brought against him. Consistent with the provisions of 17 C.F.R. §202.5(f), O'Donnell waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. O'Donnell acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding.

G. O'Donnell hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996 or any other provision of law to pursue reimbursement of attorney's fees or other fees, expenses or costs expended by O'Donnell to defend against this action. For these purposes, O'Donnell agrees that O'Donnell is not the prevailing party in this action since the parties have reached a good faith settlement.

H. O'Donnell agrees to cooperate fully and truthfully with the Commission and any other federal government agency in the prosecution of this and any related matters by producing documents in his possession, custody or control, providing truthful testimony

in any depositions, hearings and trials in which his testimony may be relevant and providing whatever other assistance is requested of him.

I. O'Donnell agrees that the Final Judgment may be presented by the Commission to the Court for signature and entry without further notice.

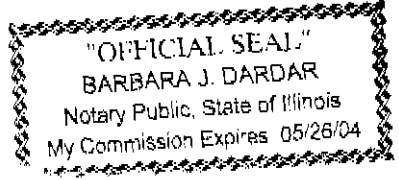
Dated: 4/25/03

Daniel O'Donnell
Daniel O'Donnell

Sworn before me this 25th day of ~~September, 2002~~ April, 2003.

Barbara J. Dardar
NOTARY PUBLIC

My Commission expires: 05/26/04



Anne C. McKinley 12-09-03
Anne C. McKinley
One of the Attorneys for Plaintiff
Securities and Exchange Commission
175 West Jackson Boulevard, Suite 900
Chicago, Illinois 60604
(312) 353-7390

jurisdiction over the parties and the subject matter hereof and being fully advised in the premises, hereby states:

I.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant O'Donnell, his officers, agents, servants, employees, attorneys, assigns and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and are hereby permanently restrained and enjoined from, directly or indirectly, or by aiding and abetting, causing any issuer which has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 (Exchange Act) [15 U.S.C. §78l] or any issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. 78o(d)], to fail to make and keep books, records, or accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the issuer's assets in violation of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §78m(b)(2)(A)].

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant O'Donnell, his officers, agents, servants, employees, attorneys, assigns and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise, and each of them, be and are hereby permanently restrained and enjoined from, directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. §78m(b)(2)] in violation of Rule 13b2-1 promulgated thereunder [17 C.F.R. §240.13b2-1].

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Section 21 of the Exchange Act [15 U.S.C. §78u], within ten (10) days of the entry of this Final Judgment, Defendant O'Donnell shall pay to the U.S. Treasury a civil penalty in the amount of \$40,000. Such payment shall be: (A) made by United States Postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, Virginia 22312; and (D) submitted under cover letter that identifies Daniel O'Donnell as a Defendant in this action, the caption and case number of this action and the name of this Court. Copies of such check and the accompanying cover letter shall be simultaneously submitted to Anne C. McKinley, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 900, Chicago, Illinois 60604.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Consent and Stipulation of Defendant O'Donnell, attached as Exhibit 1, be and hereby is, incorporated herein with the same force and effect as if fully set forth herein and that Defendant O'Donnell shall comply with his Consent.

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this matter for all purposes, including, but not limited to, enforcement of this Final Judgment.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there being no just reason for delay, the Clerk of the Court is hereby directed to enter this Final Judgment.

UNITED STATES DISTRICT COURT JUDGE

Dated: _____