

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**SECURITIES AND EXCHANGE
COMMISSION,
100 F Street, N.E.
Washington, DC 20549-6030**

Plaintiff,

v.

**LEN A. FAMILANT and
PAUL V. GREENE,**

Defendants.

Case: 1:12-cv-00119
Assigned To : Boasberg, James E.
Assign. Date : 1/25/2012
Description: General Civil

COMPLAINT

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

SUMMARY

1. This case arises from a scheme to artificially inflate the financial results of InPhonic, Inc. ("InPhonic"), a publicly-owned retailer of wireless telephones. From late 2005 through early 2007, Len A. Familant, an InPhonic senior vice president, and Paul V. Greene, president of telephone supplier America's Premier Corporation ("APC"), engaged in a series of fraudulent "round-trip transactions" that resulted in misstatement of InPhonic's reported financial results for the third quarter of 2005 and each quarter of 2006. After the end of each of these periods but before InPhonic reported its financial results, APC provided InPhonic sham "credits" that InPhonic used to inflate its reported financial performance. APC provided these credits pursuant to an unwritten, undisclosed agreement between Familant and Greene that InPhonic would repay APC by purchasing cellular telephones and repair services from APC at inflated prices, and by paying APC for fake repairs. Pursuant to this scheme, InPhonic improperly

recorded almost \$10 million in false credits from APC. InPhonic subsequently made repayments to APC in the form of overpayments for cellular telephones, repair services, and fake repairs.

2. The round-trip scheme agreed to and implemented by Familant and Greene resulted in misstatement of InPhonic's reported quarterly and annual financial statements by more than \$7.5 million. Familant and Greene knew that the bogus credits were being used to improperly inflate InPhonic's reported financial results. They also knew that their conduct was illegal, and they took steps to conceal the scheme.

3. By engaging in this fraudulent scheme, Familant violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) thereunder [17 C.F.R. § 240.10b-5(a) and (c)], as well Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1]. He also aided and abetted InPhonic's violations of the Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)], Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13], and Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

4. By engaging in this fraudulent scheme, Greene violated Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) thereunder, as well as Exchange Act Rule 13b2-1. He also aided and abetted InPhonic's and Familant's violations of Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c), and aided and abetted InPhonic's violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13, and Section 13(b)(2)(A) of the Exchange Act.

5. The Commission brings this action pursuant to Section 21 of the Exchange Act [15 U.S.C. §§ 78u]. The Commission requests that the Court permanently enjoin Familant and Greene from future violations, bar Familant from acting as an officer or director of a public

company, require Greene to disgorge his ill-gotten gains, and require Familant and Greene to pay civil money penalties.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa].

7. Familant and Greene used the means or instrumentalities of interstate commerce or of the mails, or the facilities of a national securities exchange, in connection with the acts, transactions, practices, and courses of business described in this Complaint.

8. Venue is appropriate in this district pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because acts and transactions constituting the violations occurred in this district. Throughout the relevant period, InPhonic was headquartered in the District of Columbia and Familant's office was located in the District of Columbia. InPhonic's false financial statements were filed with the Commission in the District of Columbia.

DEFENDANTS

9. **Len A. Familant**, 42, joined InPhonic in 2000 and served as Senior Vice President, Procurement and as Senior Vice President, Supply Chain. Familant reported to InPhonic's chief executive officer ("CEO") and other senior executives, and was responsible for InPhonic's vendor relations, including purchasing decisions. After InPhonic declared bankruptcy in late 2007, Familant joined the privately-held company that acquired InPhonic's assets. Familant resides in Bethesda, Maryland, and has been unemployed since late 2010.

10. **Paul V. Greene**, 46, founded APC in 2000 and has been its president since that time, although APC is currently inactive. Greene is the CEO of three other cellular telephone

companies (Liberty Wireless, Movida, and Cintex Wireless) and continues to do business with public companies. Greene resides in North Bethesda, Maryland.

RELATED ENTITIES

11. **InPhonic, Inc.** was a Delaware corporation headquartered in Washington, D.C. After InPhonic went public in 2004, its common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the NASDAQ National Market. InPhonic was at one time the largest online retailer of cellular telephones and related services in the United States. InPhonic filed for bankruptcy in November 2007. The Commission revoked the registration of InPhonic's securities in November 2008.

12. **America's Premiere Corp.**, which did business as "APC Wireless," is a Maryland corporation headquartered in Rockville, Maryland. APC is wholly-owned and controlled by defendant Greene. Although APC ceased operations in 2008, it has not been dissolved. APC distributed cellular telephones and equipment, and repaired cellular telephones.

FACTS

A. The Round-Trip Scheme: Part I -- APC Provides False Credits

13. APC began selling telephones, related equipment, and repair services to InPhonic by at least 2002 and InPhonic became APC's largest customer.

14. As head of InPhonic's procurement activities, Familant was responsible for purchasing from APC. In the course of purchasing products and services from APC, Familant dealt with Greene in Greene's capacity as President of APC. Greene's approval was required to finalize APC's sales to InPhonic.

Two Credits Recorded For The Third Quarter of 2005

15. The round-trip scheme began in October 2005, after the end of the third quarter, when Familant told Greene that InPhonic wanted APC to issue a credit to InPhonic. Familant promised Greene that InPhonic would repay the credit in full by purchasing goods or services from APC in the future at marked-up prices.

16. On October 18, 2005, Greene instructed an APC employee (the "APC Employee") to email Familant a credit memo in the amount of \$400,525. The credit memo was emailed to Familant that day, marked to indicate that the credit was being provided in connection with defective telephone components. That description was fictitious.

17. Later that day, Familant requested that Greene provide a replacement credit memo backdated to September 2005. As requested, Greene directed the APC Employee to send Familant a backdated credit memo. The APC Employee did so, inserting the date "September 12, 2005." Greene was copied on the email sending the backdated credit memo to Familant.

18. APC later made cash payments totaling \$400,000 to InPhonic to cover this initial credit. APC recorded these cash payments as "loans," reflecting the agreement between Familant and Greene that the amounts credited to InPhonic would be returned .

19. At Familant's request, APC issued a second credit to InPhonic in October 2005, in the amount of \$277,925. This credit was also provided based on Familant's promise that InPhonic would repay the credited amounts by purchasing goods or services from APC at marked-up prices.

20. InPhonic improperly recorded these two sham APC credits in its financial statements for the third quarter of 2005 as reductions in the cost of goods sold, in the total amount of \$678,450. The resultant inflated financial statements were filed with the Commission in November 2005 as part of InPhonic's Form 10-Q for the third quarter of 2005.

Nine Credits Recorded For 2006

21. After the end of each quarter in 2006, Familant obtained additional credits from APC pursuant to the round-trip scheme. As InPhonic was closing its books each quarter, InPhonic's finance department directed Familant to obtain credits from APC in specific amounts. Familant then asked APC, through Greene or the APC employee, to provide a credit in the specified amount, to be attributed to the quarter just ended. Familant also provided the wording to be used in the credit memo. The descriptions in the credit memos, including references to "rebates," "volume bonuses," "volume discounts," and "price protection," were fabricated and did not reflect that the credits were essentially loans from APC to InPhonic.

22. Many of the credit memos were emailed directly to Familant, with a copy to Greene. Familant then provided the credit memos to InPhonic's finance department. InPhonic improperly recorded these bogus credits as reductions to expenses for the quarter just ended.

23. In January 2007, at the direction of the InPhonic's finance department, Familant sought a credit of almost \$5 million from APC. Greene considered several ways APC could recoup this \$5 million, as well as other credits that had not yet been repaid. One possibility noted by Greene was for APC to mischaracterize working InPhonic telephones held by APC as beyond economic repair ("BER") and later sell them to other customers. Another possibility considered by Greene was to falsely bill InPhonic for purported reprogramming ("re-flashing") of thousands of telephones. A third possibility addressed by Greene was for APC to increase the amount it was overbilling InPhonic (with Familant's cooperation) for telephone repairs.

24. During a February 2007 conversation, Familant assured the APC Employee that InPhonic would repay the new \$5 million credit and \$3 million in earlier credits by, among other things, continuing to pay APC's invoices for phony repair services. The APC Employee told

Familant that APC's accountant had told Greene that "we cannot do that. That is fraud. We cannot do it." Undeterred, Familant encouraged APC to hide its billing for phony services: "[W]hatever you send to [InPhonic] and whatever you put on your books can also be two different things too, you know? You can tell your accountant it's flashing and you can tell [InPhonic] it's something else." Further, Familant assured the APC Employee that the previous "\$3 million is going to get paid back in the first six months. . . on top of the \$5 million being paid back at the same time."

25. When APC demanded specific inflated prices for certain phones and services and a repayment deadline (\$165 for Motorola V3 RAZR telephones for six months, a \$55 repair rate, and a 52-week repayment period), Familant agreed. Familant also agreed to Greene's proposal to mischaracterize working InPhonic phones held by APC as beyond repair. (However, when Greene sold these phones to third parties, Greene pocketed the money and did not recognize it as part of APC recoupment of the credits.)

26. By February 6, 2007, Greene had authorized the new credit. On that date, acting at Greene's direction, the APC Employee sent InPhonic two credit memos totaling \$4,944,075 with Greene's stamped signature. This credit was used to inflate InPhonic's financial performance for 2006.

27. In total, nine APC credits were recorded by InPhonic in its financial statements for 2006, in the amount of approximately \$9.3 million.

Comprehensive List of Credits

28. The following table identifies the eleven sham APC credits recorded by InPhonic in 2005 and 2006 as part of the round-trip scheme:

Credit Memo Number	Date Provided	Date on Memo	Description on Memo	Credit Amount	Period In Which Recorded by InPhonic
3004134	10/18/2005	9/12/2005	Defective Battery, Housing, LCD & Charger	\$400,525.00	Q3 2005
None	On or about 10/17/2005	None	None	\$277,925.00	Q3 2005
3004436	4/26/2006	4/26/2006	Price Protection	\$543,750.00	Q1 2006
3004437	4/26/2006	4/26/2006	Credit for billing errors	\$219,946.50	Q1 2006
3004606	7/28/2006	7/17/2006	Price Protection for Q2 Motorola RAZR Shipped 26,000	\$650,000.00	Q2 2006
3004607	7/28/2006	7/24/2006	Credit for Q2 2006 Repair Invoices	\$616,186.72	Q2 2006
3004608	7/28/2006	7/27/2006	Q2 2006 50k Volume Bonus	\$250,000.00	Q2 2006
3004796	11/03/2006	11/03/2006	Credit Q3 Volume Discount 17.5%	1,962,389.98	Q3 2006
3004817	11/13/2006	11/13/2006	Credit Q3 Repair	\$129,199.36	Q3 2006
3004996	2/06/2007	2/06/2006	Repair Discount FY 2006 Volume Bonus FY2006	\$491,343.64 \$494,747.94	Q4 2006
3004997	2/06/2007	2/06/2007	Rebate Towards FY06 Equipment Purchases	3,957,983.49	Q4 2006
Total				9,993,997.63	

29. As shown above, InPhonic recorded a total of more than \$9.9 million in bogus credits from APC in 2005 and 2006. Familant and Greene knew that these credits falsely inflated InPhonic's financial performance. Greene at times showed the APC Employee the portion of InPhonic's financial statements relating to cost of goods sold and explained that the APC credits helped improve InPhonic's performance. Similarly, while listening to InPhonic earnings calls in 2006, Greene told the APC Employee that InPhonic's positive results were due to the APC credits.

B. The Round-Trip Scheme: Part 2 -- InPhonic Repays APC

30. Familant and Greene agreed to the amounts by which APC would inflate its invoices to InPhonic for telephones and repairs. Familant and Greene also agreed that every few weeks APC would send InPhonic invoices totaling \$60,000 to \$100,000 for fictitious repairs.

31. APC monitored InPhonic's repayment of the credits. At Greene's direction, the APC Employee created tracking sheets listing the credits APC had issued and the amounts APC had recouped. The tracking sheets also showed the specific amounts by which APC was overbilling for telephones, repairs, and fictitious repairs.

32. The APC Employee at times provided these tracking sheets to Greene. On June 29, 2006, the APC Employee emailed to Greene a tracking sheet showing that APC had overbilled InPhonic \$231,880 for telephones and \$208,930 for repairs. This sheet showed that APC's invoices for telephones were marked up by \$10 per item to recoup the credits.

33. On October 11, 2006, the APC Employee sent Familant and Greene a tracking sheet showing that as of that date APC had issued credits of \$2.9 million and InPhonic had repaid more than \$1 million. The tracking sheet indicated that InPhonic's repayments had been made in response to inflated APC bills for telephones and repairs, as well as through InPhonic's payment of an invoice for fictitious repairs (referred to on the tracking sheet as "FRMA," for "Fake Return Merchandise Authorization").

34. During a telephone call with an InPhonic employee in late 2006 or early 2007, Greene complained that InPhonic was not keeping up with its repayments: "[W]e can't recoup it as fast we're giving it away. . . it's supposed to be offset. . . it's something we give to you guys to catch up. But then we're recouped on the back end."

35. Familant worked to ensure that the inflated APC invoices were paid by InPhonic. After agreeing in early 2007 that InPhonic would repay the credits by, among other things, paying inflated prices for Motorola V3 RAZR cell phones, Familant insisted to InPhonic personnel that these phones be obtained from APC at the inflated price, even though InPhonic could obtain them for less elsewhere. In February 2007, when an InPhonic accountant questioned why InPhonic was paying the higher price, Familant replied that "[w]e have to buy from apc at a higher cost for a while."

36. By overpaying for APC's telephones, services, and fictitious services, InPhonic gave APC an estimated \$2.3 million in 2006 in repayment of bogus credits. InPhonic made significant additional repayments to APC during the first half of 2007.

C. Efforts To Conceal The Scheme

37. Familant and Greene carefully concealed the fraudulent round-trip scheme. Together they identified particular telephone models that APC could provide at inflated prices without raising suspicion within InPhonic's accounting department. Similarly, Greene instructed the APC Employee to vary the amounts of the overcharges in the fake repair invoices, and to avoid using round numbers, so the charges would appear legitimate. Familant instructed APC to send invoices for fake work directly to him, to evade scrutiny by others at InPhonic.

38. To avoid discovery, Familant also refused to put the round-trip agreement in writing. In a February 2007 conversation, the APC Employee requested that Familant put in writing his agreement to pay an inflated price for Motorola RAZR V3 cell phones as one means of repaying the sham credits. Familant replied: "Dude, we can't agree to anything in writing, nothing. . . Not a . . . thing."

39. Greene also hid the round-trip scheme from InPhonic's auditors. In April 2007 Greene was asked by InPhonic's independent auditors to confirm InPhonic's year-end balances showing what APC owed InPhonic, and what InPhonic owed APC, at the end of 2006. The confirmation request sent to Greene showed that as of December 31, 2006, InPhonic held \$5.5 million in credits from APC, but the confirmation request contained nothing on InPhonic's agreement to repay the credits. Nevertheless, Greene told one of his employees to stamp the audit confirmation with Greene's signature and return it to the auditors. Greene never disclosed to the auditors that the credits were essentially loans that InPhonic had agreed to repay.

40. Greene concealed the round-trip scheme from InPhonic's outside auditors even after APC's accountant had informed him that APC's sham credit transactions with InPhonic were illegal. In September or October 2006, APC's accountant learned that APC was issuing credits that InPhonic was repaying. APC's accountant warned Greene that these credit transactions with InPhonic were fraudulent.

D. The Credits Improperly Inflated InPhonic's Reported Performance

41. InPhonic violated Generally Accepted Accounting Principles ("GAAP") by recording the sham APC credits as reductions to InPhonic's expenses. Reported expenses should represent the cash outflows that occurred or are expected to occur as a result of operations. InPhonic improperly used the APC credits to reduce its expenses (and thus inflate its reported financial performance) even though there would be no reduction in cash outflows because InPhonic had agreed to repay, and was repaying, the credits. InPhonic also failed to report its obligation to repay the APC credits.

Financial Results As Originally Reported

42. By improperly accounting for the APC credits, InPhonic materially understated its losses in the third quarter of 2005 and throughout 2006. The following chart identifies the amounts by which InPhonic misstated its original reported financial results due to the fraudulent round-trip scheme:

(In Millions)	2005	2006				
	Q3	Q1	Q2	Q3	Q4	2006 annual
Original Reported Net Loss	\$(5.0)	\$(3.9)	\$(5.3)	\$(4.8)	(3.5)	(17.5)
Estimated Net Loss without the credit memo scheme	\$(5.6)	\$(4.4)	\$(6.3)	\$(6.0)	(7.8)	(24.6)
Estimated Understatement of Net Loss	12%	11%	17%	19%	55%	29%

43. These inflated earnings figures were included in the original financial statements filed by InPhonic with the Commission for the relevant periods, as part of the following documents:

- * 3Q05 Form 10-Q filed November 14, 2005;
- * 2005 Form 10-K filed March 16, 2006;
- * 1Q06 Form 10-Q filed May 10, 2006;
- * 2Q06 Form 10-Q filed August 9, 2006;
- * 3Q06 Form 10-Q filed November 9, 2006;
- * 3Q05 Form 10-Q/A filed December 22, 2006; and

* Form 8-K filed February 22, 2007.

Restated Financial Results

44. In June 2007, InPhonic restated portions of its financial results for the first three quarters of 2006 due to accounting errors unrelated to the APC credit memos. The round-trip scheme Familant and Greene engaged in was not uncovered during the restatement process. Consequently, even after the restatements, InPhonic's financial statements continued to overstate InPhonic's financial performance for the third quarter of 2005, each quarter of 2006, and the year 2006. The following chart identifies the amounts by which InPhonic's restated financial results were misstated due to the fraudulent round-trip scheme:

(In Millions)	2006				2006 annual
	Q1	Q2	Q3	Q4	
Restated Net Loss	\$(4.3)	\$(9.6)	\$(15.5)	\$(34.3)	\$(63.7)
Estimated Restated Net Loss without the credit memo scheme	\$(4.8)	\$(11.1)	\$(16.7)	\$(38.6)	\$(70.7)
Estimated Understatement of Restated Net Loss	10%	10%	7%	11%	10%

45. These financial results, still fraudulently inflated due to the round-trip scheme, were included in the financial data or restated financial statements filed by InPhonic with the Commission as part of the following documents:

- * 2006 Forms 10-Q/A filed on June 1, 2007 (three separate reports, for first three quarters of 2006);
- * 2006 Form 10-K filed, June 1, 2007;

- * 2006 Form 10-K/A filed June 5, 2007;
- * 1Q07 Form 10-Q filed June 20, 2007;
- * 2Q07 Form 10-Q filed August 9, 2007;
- * Form 8-K filed August 9, 2007;
- * Amendment number 2 to the 1Q06 Form 10-Q, filed August 10, 2007; and
- * Amendment number 2 to the 2Q06 Form 10-Q, filed August 10, 2007.

Misstatement Of Adjusted EBITDA

46. By improperly accounting for the APC credits, InPhonic also materially overstated its adjusted EBITDA (earnings before interest, taxes, depreciation and amortization), in the press releases announcing its quarterly and annual earnings. These releases were attached to the Forms 8-K filed by InPhonic with the Commission on the following dates: November 8, 2005; February 21, 2006; May 8, 2006; August 2, 2006; November 6, 2006; and February 22, 2007. The following chart shows that without recording the sham APC credits, InPhonic would not have achieved the adjusted EBITDA it had projected in guidance previously released to the public:

(In Millions)	2005		2006			
	Q3	Q1	Q2	Q3	Q4	2006 annual
Reported Adjusted EBITDA	\$11	\$2.1	\$4.2	\$6.7	\$11.4	\$24.5
Adjusted EBITDA without the APC credits	\$10.3	\$1.3	\$2.7	\$4.7	\$6.4	\$15.2
Guidance previously provided regarding Adjusted EBITDA	\$11.0- \$12.0	\$2.0- \$2.2	\$4.0- \$4.4	\$5.0 - \$7.0	\$9.0- \$11.0	\$22.0- \$24.0

D. InPhonic Halts Repayments Due To Bankruptcy

47. By September 2007 APC had not yet fully recouped the credits provided to InPhonic and was having difficulty obtaining further repayment because InPhonic's business was failing. In an October 12, 2007, email to himself, Greene outlined claims he sought to pursue in a lawsuit against InPhonic. Greene stated that he would seek revocation of "all credits fro [sic] the last 2 years because INPC has not lived up to their commitment of buying telephones at \$20.00 above actual agreed upon price and repairs at \$20.00 above agreed upon repair price." Greene also stated that InPhonic's recent purchase of telephones for which it could not pay was "an attempt to offset the fake credits that were negotiated with INPC that they were using to hit certain quarterly numbers."

48. On October 25, 2007, Greene's attorney sent InPhonic a draft of a proposed complaint against InPhonic and others, based in part on the failure to fully repay the credits. The proposed complaint stated that Familant and other InPhonic personnel had advised APC that the February 2007 credit of almost \$5 million "would be repaid over the course of the following 12-month period by," among other things, "InPhonic paying APC an additional \$20 for reconditioned telephones over and above the actual price and an additional \$20 for each new cellular telephones sold to InPhonic above its actual price."

49. On October 26, 2007, Greene stated in connection with the possible lawsuit that InPhonic had "approached apc about giving them credit to help them achieve their numbers." He repeated that InPhonic had agreed to reimburse APC by paying \$20.00 over the acknowledged price points for telephones and repairs.

50. The round-trip scheme ended when InPhonic ceased operations and sought bankruptcy protection in November 2007.

FIRST CLAIM FOR RELIEF
Section 10(b) and Rule 10b-5(a) and (c)
(Familant and Greene)

51. Paragraphs 1 through 50 above are hereby restated and incorporated herein by reference.

52. Familant and Greene, by engaging in the conduct alleged above in Paragraphs 1-2, 7-10, 13-40, and 47-50, using the means or instruments of interstate commerce or of the mails or of a facility of a national securities exchange, in connection with the purchase or sale of InPhonic securities, knowingly or recklessly (i) employed devices, schemes, or artifices to defraud and (ii) engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon other persons. Their acts and omissions resulted in material misstatement of InPhonic's financial performance as described above in Paragraphs 1-2 and 41-46.

53. By reason of this conduct, Familant and Greene violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(a) and (c) [17 C.F.R. § 240.10b-5(a) and (c)]. Unless restrained and enjoined, they will violate these provisions in the future.

SECOND CLAIM FOR RELIEF
Aiding and Abetting Violations of Section 10(b)
and Exchange Act Rule 10b-5(a) and (c) By
InPhonic and Familant
(Greene)

54. Paragraphs 1 through 53 are hereby restated and incorporated herein by reference.

55. InPhonic, by engaging in the conduct alleged above in Paragraphs 1-2, 11-12, and 13-46, using of the means or instruments of interstate commerce or of the mails or of a

facility of a national securities exchange, in connection with the purchase or sale of InPhonic securities, knowingly or recklessly (i) employed devices, schemes or artifices to defraud, and (ii) engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon other persons, and thereby violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(a) and (c) [17 C.F.R. § 240.10b-5].

56. Familant violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5(a) and (c) as alleged in the First Claim for Relief.

57. Pursuant to Section 20(c) of the Exchange Act [15 U.S.C. § 78t(e)] whoever “knowingly provides substantial assistance” to another in connection with a violation of the Exchange Act or any regulation thereunder is “in violation of such provision to the same extent as the person to whom such assistance is provided.”

58. By engaging in the conduct alleged above in Paragraphs 1-2, 7, 10, 13-40, and 47-50, Greene knowingly provided substantial assistance to InPhonic and Familant in their violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c).

59. By reason of that conduct, Greene aided and abetted InPhonic and Familant within the scope of Section 21(e) of the Exchange Act in their violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c). Unless restrained and enjoined, he will aid and abet such violations in the future.

THIRD CLAIM FOR RELIEF
Aiding and Abetting Violations of Section 13(a) and
Rules 12b-20, 13a-1, 13a-11 and 13a-13
(Familant and Greene)

60. Paragraphs 1 through 59 are hereby restated and incorporated herein by reference.

61. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 13a-1 and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13] require issuers with securities registered under

Section 12 of the Exchange Act to file complete and accurate annual and quarterly reports with the Commission on Forms 10-K and 10-Q. Rule 13a-11 [17 C.F.R. § 240.13a-11] requires issuers to file accurate current reports. Rule 12b-20 [17 C.F.R. § 240.12b-12] provides that such reports must include additional information as may be necessary to make the required statements not materially misleading.

62. As alleged above in Paragraphs 1-2 and 13-46, InPhonic filed false and misleading annual, quarterly and current reports on Forms 10-K, 10-Q and 8-K. In so doing, InPhonic violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13.

63. Pursuant to Section 20(c) of the Exchange Act [15 U.S.C. § 78t(e)] whoever “knowingly provides substantial assistance” to another in connection with a violation of the Exchange Act or any regulation thereunder is “in violation of such provision to the same extent as the person to whom such assistance is provided.”

64. By engaging in the conduct alleged above in Paragraphs 1-2, 7-10, 13-40, and 47-50, Familant and Greene knowingly provided substantial assistance to InPhonic in its violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13.

65. By reason of that conduct, Familant and Greene aided and abetted InPhonic within the scope of Section 21(e) of the Exchange Act in its violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13. Unless restrained and enjoined, they will aid and abet such violations in the future.

FOURTH CLAIM FOR RELIEF
Aiding and Abetting InPhonic's Violations of Sections 13(b)(2)(A)
(Familant and Greene)

66. Paragraphs 1 through 65 are hereby restated and incorporated herein by reference.

67. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires issuers to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the company's transactions and the dispositions of its assets.

68. By engaging in the conduct alleged above in Paragraphs 1-2 and 13-46, InPhonic violated Section 13(b)(2)(A) of the Exchange Act.

69. Pursuant to Section 20(c) of the Exchange Act [15 U.S.C. § 78t(e)] whoever “knowingly provides substantial assistance” to another in connection with a violation of the Exchange Act or any regulation thereunder is “in violation of such provision to the same extent as the person to whom such assistance is provided.”

70. By engaging in the conduct alleged above in Paragraphs 1-2, 7-10, 13-40, and 47-50, Familant and Greene knowingly provided substantial assistance to InPhonic in its violations of Section 13(b)(2)(A) of the Exchange Act.

71. By reason of that conduct, Familant and Greene aided and abetted InPhonic within the scope of Section 21(e) of the Exchange Act in its violations of Section 13(b)(2)(A) of the Exchange Act. Unless restrained and enjoined, they will aid and abet such violations in the future.

FIFTH CLAIM FOR RELIEF

Exchange Act Rule 13b2-1

(Familant and Greene)

72. Paragraphs 1 through 71 are hereby restated and incorporated by reference.

73. Exchange Act Rule 13b2-1 [17 C.F.R. 240.13b2-1] provides that no person shall directly or indirectly falsify or cause 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)(A)].

74. By engaging in the conduct alleged above in Paragraphs 1-2, 7-10, 13-40, and 47-50, Familant and Greene falsified or caused to be falsified books, records, or accounts subject to Section 13(b)(2)(A) of the Exchange Act, as identified above in Paragraphs 41-46.

75. By reason of that conduct, Familant and Greene violated Rule 13b2-1. Unless restrained and enjoined, they will violate that provision in the future.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that the Court:

A. Permanently enjoin Familant from violating Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) and Rule 13b2-1, and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13;

B. Permanently enjoin Greene from violating Section 10(b) of the Exchange Act, Rules 10b-5(a) and (c), and Rule 13b2-1, and from aiding and abetting violations of Sections 10(b), 13(a) and 13(b)(2)(A) of the Exchange Act and Rules 10b-5(a) and (c), 12b-20, 13a-1, 13a-11 and 13a-13.

C. Order Greene to disgorge all ill-gotten gains received by virtue of the conduct alleged herein, with prejudgment interest;

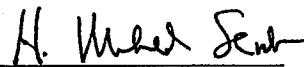
D. Order Familant and Greene to pay civil penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

E. Permanently bar Familant pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] 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 is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)]; and

F. Grant such other relief as the Court may deem just and appropriate, including any equitable relief that may be appropriate or necessary for the benefit of investors pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

Dated: January 25, 2012

Respectfully submitted,



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