

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 WILLIAM A. MUNDELL
4 Chairman
5 JIM IRVIN
6 Commissioner
7 MARC SPITZER
8 Commissioner

9 In the matter of:)
10)
11 MELVIN LEE CLINE)
12 7812 Via de la Entrada)
13 Scottsdale, Arizona 85258)
14)
15 WHY NOT ENTERTAINMENT, L.L.C)
16 7229 East 1st Av., Suite C)
17 Scottsdale, Arizona 85251)
18)
19 Respondents.)

DOCKET NO. S-03431A-01-0000

DECISION NO. _____

**ORDER TO CEASE AND DESIST, FOR
RESTITUTION AND FOR
ADMINISTRATIVE PENALTIES**

20 **I.**

21 **INTRODUCTION**

22 On March 29, 2001, the Securities Division (“Division”) of the Arizona Corporation Commission
23 (“Commission”) filed a Notice of Opportunity for Hearing Regarding Proposed Order for Relief (“Notice”)
24 against the above Respondents. The Notice specified that Respondents would be afforded an opportunity for
25 an administrative hearing on this matter upon filing a written request with Docket Control of the Commission
26 within ten (10) days of receipt of the Notice. MELVIN LEE CLINE was served a copy of the Notice on
27 May 16, 2001, via certified mail. WHY NOT ENTERTAINMENT, L.L.C was served on May 17, 2001,
28 through its statutory agent. Neither Respondent requested a hearing.

29 ..
30 ..
31 ..

1
2 **II.**

3 **FINDINGS OF FACT**

4
5 1. MELVIN LEE CLINE (“CLINE”), whose last known Arizona address was 7812 Via de la
6 Entrada, Scottsdale, Arizona 85258, is Chief Executive Officer of WHY NOT ENTERTAINMENT, L.L.C.
7 At his request, CLINE was served with a copy of the Notice, via certified mail, at 222 Wilder St.,
8 Morristown, Tennessee 37813.

9
10 2. WHY NOT ENTERTAINMENT, L.L.C (“WHY NOT”) is an Arizona limited liability
11 corporation, whose last known address was 7229 East 1st Av., Suite C, Scottsdale, Arizona 85251.

12 3. The Respondents may be collectively referred to as “RESPONDENTS.”

13 4. Beginning in February 2000, RESPONDENTS engaged in the offer or sale within or from
14 Arizona of securities in the form of stock of WHY NOT to the public.

15
16 5. CLINE came up with the concept for WHY NOT and created a “Confidential Private
17 Offering Memorandum” (“POM”) for WHY NOT, seeking to raise \$10,000,000 through the sale of common
18 stock. The POM was given to prospective investors. The POM listed CLINE as the Interim CEO and
19 Director of WHY NOT.

20
21 6. According to RESPONDENTS, WHY NOT intended to use the proceeds of the offering
22 primarily to invest in Touch-Tunes Music Corporation, an OTCBB company, in a joint venture with Sonic
23 Corporation, a Nasdaq listed company, in Straightline Entertainment, Inc. and in Infant Art-in-Motion, the
24 latter two being private companies, plus the purchase of \$1,000,000 of jukeboxes, to be located in Arizona
25 and Hawaii.
26

1 7. No investment was ever made by WHY NOT. Instead, it spent the money raised on
2 marketing, salaries and expenses. The salaries paid by WHY NOT include CLINE’s annual salary of
3 \$100,000.

4 8. The POM stated that the stock offering was a private offering, via an exemption under
5 Federal Rule 506 and Regulation D and a corresponding exemption under the Securities Act of Arizona,
6 A.R.S. §§ 44-1801 *et seq.* (“Securities Act”). However, no filing, as required by A.A.C. R14-4-126, was
7 made with the Securities Division.

8 9. The POM stated that as of its offering date, 1,687,500 shares of WHY NOT were
9 outstanding, including 1,625,000 owned by New Millennium, Ltd. (“New Millennium”), a Antiguan company
10 controlled by CLINE. However, no shares had been issued to New Millennium nor had it purchased or paid
11 for any shares. No disclosure was given in the POM or to investors that CLINE had created the concept of
12 New Millennium, had been its CEO or that he controlled New Millennium through a power of attorney.

13 10. The POM states that CLINE “graduated with a Masters Degree in Marketing and Business
14 Management from Owens University.” That information was false, as CLINE had never graduated from
15 college, much less received a master’s degree.

16 11. The POM did not disclose, nor did RESPONDENTS inform investors that CLINE had been
17 convicted in 1986 of five felony counts of obtaining property by false pretenses and additional counts of
18 transacting worthless checks and had been sentenced to eight years in prison.

19 12. RESPONDENTS did not inform investors that on July 14, 1999, the state of Alaska had
20 entered a temporary cease and desist order against CLINE, fining him \$25,000, for violations of that State’s
21 securities law. That order became final on January 7, 2000.

22 13. WHY NOT raised at least \$112,500 from at least seven investors in Arizona and Colorado.

23 ..
24 ..
25 ..

26 **III.**

CONCLUSIONS OF LAW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. From on or about January 2000, RESPONDENTS offered or sold securities in the form of stock, within or from Arizona.

3. The securities were not registered pursuant to the provisions of Articles 6 or 7 of the Securities Act. This conduct violates A.R.S. § 44-1841.

4. RESPONDENTS offered or sold securities within or from Arizona, while not registered as dealers or salesmen pursuant to the provisions of Article 9 of the Securities Act. This conduct violates A.R.S. § 44-1842.

5. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; and (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes the following:

- a) Failing to disclose to investors CLINE's felony convictions.
- b) Failing to disclose to investors that the state of Alaska had found that CLINE had violated that State's securities laws and had fined him \$25,000 for the violation.
- c) Falsely informing investors in the POM that WHY NOT's stock was exempt from registration while never taking the steps necessary in order to have such exemption.

1 d) Falsely informing investors in the POM that 1,625,000 shares of WHY NOT had been
2 sold to New Mellennium, Ltd.

3 e) Failing to disclose to investors that New Mellennium, Ltd., a company listed as owning
4 the controlling interest in WHY NOT, was controlled by CLINE.

5 f) Falsely stating in the POM that CLINE “graduated with a Masters Degree in Marketing
6 and Business Management from Owens University,” when CLINE had never attended Owens University,
7 much less obtain a master’s degree from it.
8

9 6. This conduct violates A.R.S. § 44-1991.

10 **IV.**

11 **ORDER**

12
13 THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, the Commission finds that
14 the following relief is appropriate, in the public interest, and necessary for the protection of investors:

15 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, and any of
16 RESPONDENTS’ agents, employees, successors and assigns, permanently cease and desist from violating the
17 Securities Act.
18

19 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall, jointly and
20 severally, pay restitution to investors shown on the records of the Commission in the amount of \$112,500, plus
21 interest at the rate of 10% per annum from the date of each investment, within thirty (30) days after entry of this
22 Order. Payment shall be made by cashier’s check or money order payable to the “State of Arizona” to be
23 placed in an interest-bearing account maintained and controlled by the Arizona Attorney General. The Arizona
24 Attorney General shall disburse the funds on a pro rata basis to investors. Any funds that the Attorney General
25 is unable to disburse shall revert to the state of Arizona.
26

1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall, jointly and
 2 severally, pay an administrative penalty in the amount of \$25,000. Payment shall be made in full by cashier's
 3 check or money order payable to the "State of Arizona" within thirty (30) days after entry of this Order.
 4 Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until
 5 paid in full. The payment obligations for these administrative penalties shall be subordinate to any restitution
 6 obligations ordered herein and shall become immediately due and payable only after restitution payments have
 7 been paid in full, or if RESPONDENTS have defaulted prior to fulfilling their restitution obligations.
 8

9
10 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

11
12
13 CHAIRMAN

COMMISSIONER

COMMISSIONER

14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 15 Secretary of the Arizona Corporation Commission, have hereunto
 16 set my hand and caused the official seal of the Commission to be
 affixed at the Capitol, in the City of Phoenix, this _____ day of
 _____, 2001.

17
18
19 _____
 20 BRIAN C. McNEIL
 Executive Secretary

21
22 _____
DISSENT

23 (md)
24
25
26

1 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator, voice phone
2 number 602-542-3931, E-mail shood@cc.state.az.us.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26