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WOMAN GETS 90 MONTHS IN PRISON FOR SECURITIES FRAUD SCHEME

LAS VEGAS - - A Las Vegas woman who induced people to invest in a company that she claimed could extract gold, platinum, and other precious metals from volcanic cinders, was sentenced today by U.S. District Judge Robert C. Jones to 90 months in federal prison, announced Daniel G. Bogden, United States Attorney for the District of Nevada.

Diana Flaherty, age 57, of Las Vegas, was also ordered to serve three years of supervised release, pay \$5.7 million in restitution, and forfeit \$5.7 million. She was convicted by a jury on May 4, 2006, of one count of Conspiracy to Commit Securities Fraud, Mail Fraud and Wire Fraud, one count of Securities Fraud and one count of Conspiracy to Commit Money Laundering.

Evidence presented at her trial showed that no later than January 1993, Diana Flaherty conspired with her late husband, Robert F. Flaherty, to promote and sell securities issued by Robert F. & Diana Lee Flaherty, Inc., and Phoenix Metals U.S.A. II, Inc., Nevada corporations controlled and managed by the Flahertys.

During the period from 1993 to 1994, the Flahertys promoted and sold "Ore Purchase Agreements" issued by Flaherty, Inc. The Flahertys represented that they possessed proprietary technology that enabled them to profitably extract gold, platinum, and other precious metals from

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volcanic cinders, and claimed that they owned vast reserves of such cinders. The Flahertys promised to process the purported “ore” purchased by investors—typically at a rate of \$1,000 per ton—and guaranteed a 300% return.

In 1993, Robert and Diana Flaherty acquired control of a publicly traded corporation they renamed Phoenix Metals U.S.A. II, Inc. The Flahertys purported to transfer proprietary technology and millions of dollars of cinders to Phoenix Metals. Over the years, they also inflated Phoenix Metals’ assets and value by purporting to assign over \$2.6 billion of additional cinder “ore” to the corporation in exchange for millions of shares of stock. From 1993 through 2002, Robert and Diana Flaherty actively promoted Phoenix Metals and sold millions of shares of their stock by making and causing others to make untrue representations, such that volcanic cinders contain concentrations of precious metals; that the Flahertys and their corporations owned or controlled vast reserves of such cinders; that the Flahertys and their corporations possessed proprietary technology capable of extracting precious metals from cinders on a commercially viable basis; and that production of precious metals had begun or was imminent.

In September 1997, the Securities and Exchange Commission (SEC) brought a civil suit against Robert F. Flaherty and Phoenix Metals alleging essentially the same fraudulent conduct as was charged in the Indictment. In January 1998, a Judgment was entered against Robert F. Flaherty and Phoenix Metals permanently enjoining them from making false statements and engaging in fraudulent business practices regarding the sale of securities. Despite the entry of this judgment, Robert F. Flaherty and Diana Lee Flaherty continued to promote and sell the stock of Phoenix Metals. Indeed, rather than abandoning their fraudulent scheme, during the pendency of the SEC investigation, the Flahertys acquired a refinery on a mill-site situated on public lands near

Searchlight, Nevada. The Flahertys hosted a “Grand Opening” at this mill-site in March 1998 where they displayed precious metals purportedly extracted through their purported process, and disseminated financial statements representing that Phoenix Metal's assets were valued at almost three billion dollars.

In 1998, the U.S. Department of Interior found that Phoenix Metal's mill site claim should be revoked because their purported technique for extracting precious metals from volcanic cinders had no scientific or technological validity and the cinders contained no valuable mineral content.

Robert Flaherty died in December 2001, and despite the corporation's expulsion from public lands and its inability to extract or produce precious metals, Diana Lee Flaherty and co-defendant Michael Gardiner perpetuated the "gold from cinders" scheme and continued to make material misrepresentations regarding Phoenix Metals' assets and capabilities in an effort to sell shares of that corporation's stock through January 2002.

Defendant Flaherty expended proceeds from the sale of securities on a variety of personal expenses and luxuries including acquiring luxury automobiles, servicing the mortgage on her residence in the Lakes Estates in Las Vegas, and maintaining a lavish lifestyle.

Diana Flaherty must self-report to the Federal Bureau of Prisons no later than April 16, 2007.

Co-defendant, Michael Gardiner, pleaded guilty to securities fraud and is awaiting sentencing.

This case was investigated by the Federal Bureau of Investigation and BLM, and prosecuted by Assistant United States Attorney Timothy S. Vasquez.

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