

EXHIBIT 3

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

DAVID G. RAY, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

Plaintiff,

v.

TIERONE CORPORATION,
GILBERT G. LUNDSTROM,
EUGENE B. WITKOWICZ,
MICHAEL J. FALBO,
JAMES A. LAPHEN, AND
CHARLES W. HOSKINS,

Defendants.

Lead Case No. 8:10-cv-00199

DOUGLAS L. STEJSKAL,

Plaintiff,

v.

GILBERT G. LUNDSTROM,

Defendant.

Member Case No. 4:10-cv-3177

DOUGLAS L. STEJSKAL,

Plaintiff,

v.

JAMES A. LAPHEN,

Defendant.

Member Case No. 8:10-cv-332

[PROPOSED] ORDER AND FINAL JUDGMENT

On the ____ day of _____, 2012, a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation of Settlement dated May 25, 2012 (the “Stipulation”) are fair, reasonable, and adequate for the settlement of all claims asserted by Lead Plaintiffs Vincent Valentino, Raoul and Sharon Turcot, and Eric Follestad (collectively, “The Valentino Group”), on behalf of themselves and all persons who purchased TierOne Corporation common stock during the period from August 9, 2007 through May 14, 2010, inclusive, against Defendants Gilbert G. Lundstrom, Eugene B. Witkowicz, Michael J. Falbo, James A. Laphen, and Charles W. Hoskins (collectively, the “Individual Defendants”); (2) whether judgment should be entered dismissing the Consolidated Second Amended Complaint dated August 24, 2011, on the merits and with prejudice, in favor of the Individual Defendants and as against all persons who are members of the Class and who have not requested exclusion therefrom; (3) whether to approve the proposed Plan of Allocation (described in the Notice of Pendency and Settlement of Class Action) as a fair and reasonable method to allocate the settlement proceeds among members of the Class; (4) whether and in what amount to award fees and reimbursement of expenses to Lead Counsel; and (5) whether and in what amount to grant an award to Lead Plaintiffs;

The Court having considered all matters submitted to it at the hearing and otherwise; and

It appearing that a notice of the Settlement Hearing substantially in the form approved by the Court in the Court’s Order of Preliminary Approval of Settlement (“Preliminary Approval Order”) was mailed to all persons and entities reasonably identifiable who purchased TierOne common stock that is the subject of the Action, during the Class Period, except those persons and entities excluded from the definition of the Class; and

It appearing that the Notice of Pendency and Settlement of Class Action substantially in the form approved by the Court in the Preliminary Approval Order was published in accordance with the Preliminary Approval Order and the specifications of the Court;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Court has jurisdiction over the subject matter of the Action, Lead Plaintiffs, all Class Members, and the Individual Defendants.
2. All capitalized terms used herein shall have the same meanings as set forth and defined in the Stipulation.
3. The Court finds that the prerequisites for a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Lead Plaintiffs are typical of the claims of the Class they seek to represent; (d) Lead Plaintiffs fairly and adequately represent the interests of the Class; (e) questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.
4. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for purposes of the Settlement only, the Court hereby certifies the following action as a class action: all persons who purchased the common stock of TierOne Corporation during the period from August 9, 2007 through May 14, 2010, inclusive. The "Class" includes the Class Members collectively, as well as each Class Member acting individually. Excluded from the Settlement

Class are all of the Individual Defendants and all former officers and directors of TierOne Corporation, and such excluded persons' immediate families, legal representatives, heirs, predecessors, successors, and assigns, and any entity in which any excluded person has or had a controlling interest. Also excluded from the Class are those persons who excluded themselves by filing a timely, valid request for exclusion in accordance with the Preliminary Approval Order.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for purposes of the Settlement only, Lead Plaintiffs are certified as the class representatives and the Lead Counsel previously selected by Lead Plaintiffs and appointed by the Court is hereby appointed as Lead Counsel for the Class.

6. The Stipulation is approved as fair, reasonable, and adequate, and in the best interests of the Class. Lead Plaintiffs and the Individual Defendants are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation.

7. The Action is hereby dismissed with prejudice and without costs.

8. Lead Plaintiffs and the Class Members hereby release and forever discharge the Released Persons from any and all Released Claims.

9. Each of the Individual Defendants, including any and all of their respective successors in interest or assigns, hereby releases and forever discharges any and all Settled Defendants' Claims against the Lead Plaintiffs, Class Members, and any of their counsel, including Lead Counsel.

10. Lead Plaintiffs and the Class Members are hereby permanently barred and enjoined from prosecuting the Released Claims against the Released Persons.

11. Pursuant to 15 U.S.C. § 78u-4(f)(7), the Court hereby permanently bars and enjoins any future claims for contribution arising out of this Action: (a) by any person or entity against the Individual Defendants; or (b) by the Individual Defendants against any person or entity other than a person or entity whose liability has been extinguished by the Settlement reached with the Individual Defendants.

12. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

13. Neither this Order and Final Judgment, the Stipulation, nor any of the negotiations, documents, or proceedings connected with them shall be:

- (a) referred or used against the Released Persons or against the Lead Plaintiffs or the Class as evidence of wrongdoing by anyone;
- (b) construed as, or be deemed to be evidence of, an admission or concession on the part of any Individual Defendant with respect to any actual or potential claim, liability, wrongdoing, or damage whatsoever, or any infirmity in the defenses that the Individual Defendants have asserted;
- (c) construed as, or received in evidence as, an admission, concession, or presumption against the Class or any of them, that any of their claims are without merit or that damages recoverable under the Consolidated Amended Complaint would not have exceeded the Settlement Fund; or
- (d) construed against the Released Persons or against the Lead Plaintiffs or the Class as an admission or concession that the consideration to be given hereunder represents the amount that could be or would have been recovered after trial.

14. Any disputes arising out of the terms of the Stipulation, or the implementation or enforcement thereof, shall be submitted to the Court for final resolution upon the application of any party hereto. This Court retains exclusive jurisdiction over the Action, the Settling Parties, and the Class Members to consider all further matters arising out of, or connected with, the Settlement.

15. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

16. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

17. The finality of this Order and Final Judgment shall not be affected, in any manner, by rulings that the Court may make on the Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses and an award to Lead Plaintiffs.

18. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable method to allocate the settlement proceeds among members of the Class.

19. The Court hereby finds that the notice given to the Class provided the best notice practicable under the circumstances. Said notice provided due and adequate notice of these proceedings and the matters set forth herein, including the Settlement and Plan of Allocation, to all persons entitled to such notice, and said notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process. A full opportunity has been offered to the Class Members to object to the proposed Settlement and to participate in the hearing thereon. Thus, it is hereby determined that all members of the Class are bound by this

Order and Final Judgment except those persons set forth on Exhibit A to this Order and Final Judgment.

20. In the event that the Settlement does not become final and effective in accordance with the terms and conditions set forth in the Stipulation, then this Order and Final Judgment shall be rendered null and void and be vacated, and the Settlement and all orders entered in connection therewith shall be rendered null and void (except as provided in sections D.5, F.1-3, H, M.5, N.11, and N.13 in the Stipulation), and the parties shall be returned to their respective positions immediately before the execution of the Stipulation.

Dated: _____, 2012

Hon. Joseph F. Bataillon
UNITED STATES DISTRICT JUDGE

EXHIBIT A TO ORDER AND FINAL JUDGMENT

David G. Ray v. Lundstrom, et al., Lead Case No. 9:10-cv-00199

1. TierOne Corporation and TierOne Corporation bankruptcy estate, c/o Brian Kruse, Esq., Rembolt Ludke, 1201 Lincoln Mall, Suite 102, Lincoln, Nebraska, 68508;
2. Gary L. Peck, 1529 Cafe DuMonde, Conroe, TX, 77304;
3. Mark G. Bernadiner and Dmitri M Egorov JTEN, 1114 Sussex Trl, Pearland, TX 77584;
4. Jeff & Janice Kuester, 1900 SW 23rd Street, Lincoln, NE 68522;
5. Martin L. Grotelueschen, 1607 Road 2, Leigh, NE 68643;
6. Gerald M. and Linda Sue Bontrager, 1267 Country Road I, Ithaca, NE 68033; and
7. Martin L. Klotovich, 1455 W. Oak Street, Bozeman, MT 59715.