ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
GARRY B. SMITH, ROBERT J. NELSON, JR., STEVEN M. RAY, OVERLAND ENERGY, INC., and ACORN ENERGY, INC.,	§	
	§	**Case No.:** 4:10cv613
Defendants,	§	
	§	
and	§	
	§	
TEGA OPERATING CO.,	§	
	§	
Relief Defendant, Solely for the Purpose of Equitable Relief.	§	
	§	

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges:

SUMMARY

1. This civil enforcement action involves the fraudulent offer and sale of unregistered securities in the form of interests in six joint ventures involving Texas oil and gas drilling programs. From at least September 2007 through at least August 10, 2010, Defendants Overland Energy, Inc. ("Overland") and Acorn Energy, Inc. ("Acorn") served as the managers for the respective drilling programs, and through owners Garry B. Smith ("Smith") and Robert J. Nelson, Jr. ("Nelson"), and, as to Overland, salesperson Steven M. Ray ("Ray") (collectively, "Defendants"), raised more than $10.4 million from at least 180 investors through these illegal securities offerings. Defendants Smith and Nelson have enriched themselves at the expense of

defrauded investors, misappropriating and misapplying large portions of the offering proceeds by, among other things, using investor funds to support their personal lifestyles and transferring funds to Relief Defendant Tega Operating Co. ("Tega" or "Relief Defendant"), a company Smith and Nelson own and control. Moreover, to entice investors into the scheme, Smith, Nelson, and (as to Overland) Ray, disseminated offering materials to investors that misled investors as to, among other things, the use of offering proceeds and estimated investment returns, and failed to disclose the use of baseless production projections.

2. By reason of the foregoing: Defendants Overland, Smith, and Nelson violated Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b) and 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78o(a)(1)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder; Defendant Acorn violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. §§ 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder; and Defendant Ray violated Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)]. In the interest of protecting the public from any further violations of the federal securities laws, the Commission brings this action against the Defendants, seeking permanent injunctive relief, accountings, disgorgement plus prejudgment interest, civil money penalties, and all other equitable and ancillary relief deemed necessary by the Court. Against the Relief Defendant, the Commission brings this action seeking disgorgement and all other equitable or ancillary relief deemed necessary by the Court to prevent their unjust enrichment or retention of assets to which they have no legitimate claim.

JURISDICTION AND VENUE

3. The Commission brings this action under Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], seeking to restrain and enjoin permanently the Defendants from engaging in the acts, practices, and courses of business alleged herein.

4. This Court has jurisdiction over this action under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa].

5. The Defendants, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business described in this Complaint.

6. Venue is proper because transactions, acts, practices, and courses of business described below occurred within the jurisdiction of the Eastern District of Texas.

PARTIES

7. Plaintiff Commission is an agency of the United States of America charged with enforcing the federal securities laws.

8. Defendant Smith, age 36, resides in Flower Mound, Texas and handles Overland's and Acorn's respective day-to-day operations. Between 2003 and 2007, Smith owned Triton EP, LLC ("Triton"), a company that sold interests in oil and gas programs and raised more than $38 million from investors. Triton filed for Chapter 11 bankruptcy on November 7, 2009. In May 2006, Smith and Triton agreed to pay $5,000 to the State of Alabama pursuant to a Cease and Desist Order alleging Triton's sale of unregistered securities by Smith, an unregistered sales agent.

9. Defendant Nelson, age 47, resides in Prosper, Texas. He supervised the sales process at Overland, which included hiring and training sales agents. Nelson previously held Series 22 and 63 securities licenses. However, he let his licenses lapse when he started working at Overland.

10. Defendant Ray, age 44, resides in Frisco, Texas, and is Smith's brother-in-law. Between January 2008 and March 2010, he worked as a sales agent at Overland and received at least $392,000 in commissions. He previously held Series, 22, 39 and 63 securities licenses. Like Nelson, Ray's licenses lapsed after he began working at Overland.

11. Defendant Overland is a Texas corporation with its principal place of business in Plano, Texas whose primary business is to offer and sell interests in oil and gas programs. It sought to raise $11.35 million by offering interests in the following joint venture drilling programs: Brock #1 ($3 million), Collier #1 ($3 million), Abercrombie A ($1.5 million), Abercrombie B ($1.75 million), and Abercrombie C ($2.1 million). Smith and Nelson own and control Overland.

12. Defendant Acorn is a Nevada corporation located in Lewisville, Texas that offers and sells interests in oil and gas programs. Acorn currently is offering interests in a six-well drilling program, referred to as the Hamilton. It is a $1.05 million offering, of which $590,625 has been raised. Smith and Nelson own and control Acorn.

13. Relief Defendant Tega is a Texas corporation located in Plano, Texas that purports to drill and operate oil and gas wells for Overland and Acorn. Smith and Nelson own and control Tega.

STATEMENT OF FACTS

A. The Overland Securities Offerings

14. Between September 2007 and March 2010, Overland offered and sold interests in five joint ventures involving oil and gas drilling programs in Texas---Brock #1, Abercrombie, Abercrombie B, Abercrombie C, and Collier #1. Overland, by and through Smith, Nelson, and Ray, served as sponsor and manager for each program, which purportedly drilled oil and gas wells in Texas. In the five offerings combined, Overland has raised approximately $10.4 million from at least 180 investors located throughout the United States.

15. During all relevant periods, no registration statement was filed with the Commission or was in effect as to Overland, or Brock #1, Abercrombie, Abercrombie B, Abercrombie C, and Collier #1 Joint Ventures.

16. To facilitate the offerings, which were not registered with the Commission as required by law, Smith and Nelson hired and maintained a sales staff, which included Ray, to make unsolicited telephone calls to prospective investors throughout the country. Smith and Nelson identified prospective investors by purchasing lead lists from other companies.

17. Overland paid commissions to its sales agents. Overland paid its sales staff a "bonus" equal to 10% of each sale after a minimum sales level. Sales agents occasionally received "incentive" vacation trips in lieu of bonuses. Ray received a salary, commissions, and at least one incentive trip for himself and his spouse to Cancun, Mexico. Nelson received 2% overrides on certain sales, and international incentive trips as bonuses for his sales performance.

B. Misleading Statements Regarding Investment Returns

18. At Smith and Nelson's direction, sales staff, including Ray, sent prospective investors written offering materials, including a private-placement memorandum ("PPM") with production maps and "Potential Production Returns" information.

19. Smith prepared the production maps, which depict data points on the map to show investors the production levels they could expect. The production maps were misleading because, among other things, they failed to include any "dry holes," *i.e.,* those wells found incapable of producing either oil or gas in sufficient quantities to justify completion, but instead only showed the top producing wells in the area—none of which were Overland wells.

20. Smith, Nelson, Ray and the other sales agents used baseless projections to sell the Overland offerings, touting the success of other wells purportedly drilled near their proposed well sites. Depending on the offering, the projections estimated that oil and gas production at a particular level (*e.g.*, 50 to 150 barrels per day for oil and 100 to 300 MCF per day for gas) at a certain price would result in a return on investment (ROI) in as little as twelve months. Defendants promised investors monthly income of $1,200 to $3,600 and told them that they would receive a 100% ROI in one to two years.

21. These statements regarding investment returns were false and misleading. The Defendants concocted the unfounded estimates and projections to entice investors into the scheme. Indeed, the estimates had no reasonable basis, considering, among other things, that the Defendants misappropriated and misapplied vast sums of the offering proceeds, as explained below. Moreover, Overland had never operated a profitable oil-and-gas program, a fact known to the Smith and Nelson during the program offerings. Smith had an abysmal track record at his affiliated company, Triton EP, LLC, with only one of 33 drilling programs even coming close to

"breaking even" for investors. (Triton filed Chapter 11 bankruptcy in November 2009). Furthermore, none of the Overland wells ever produced in commercial quantities. None of the Defendants disclosed to investors Overland's poor performance history and instead continued to present the baseless projections as being realistic. As a result, the Defendants' representations regarding investment returns were misleading.

C. Misapplication and Misappropriation of Offering Proceeds

22. The PPM for each program specified the amount sought in the offering and how the offering proceeds would be spent. Each Overland PPM represented that approximately 82% of the offering proceeds would be spent on operational costs, such as drilling, testing, and completion. The remaining 18% would be spent on management costs, which included legal, organizational, accounting, printing, syndication costs, and management fees, along with salaries, bonuses, and overhead.

23. Further, the PPM for each program described investors as "Joint Venturers" and specified that Overland served as the program's "Joint Venture Manager." Each PPM stated:

> The Joint Venture Manager is accountable to the Joint Venturers as a fiduciary and consequently must exercise the utmost good faith and integrity in the handling of Joint Venture affairs. The Joint Venture Manager must provide Joint Venturers (or their representatives) with timely and full information concerning matters affecting the business of the Joint Venture, including its formation and liquidation.

24. Finally, each PPM stated: "The Joint Venture Manager shall have full, exclusive and complete charge of all affairs of the Joint Venture and of the management and control of the Joint Venture . . . ." The investors are therefore passive participants, with their role limited to signing purchase documents and paying for the investment.

25. An analysis of Overland's financial records demonstrates that the Defendants misapplied and misappropriated offering proceeds, utterly disregarding the representations that

they would limit spending to certain percentages in specified categories. Between January 2008 and February 2010, Overland raised approximately $10.4 million from investors. Of the total funds raised, approximately $6.8 million was transferred to Tega, a company owned and controlled by Smith and Nelson. Only 48%, or $5 million, of the $10.4 million raised was spent on operational costs (drilling, testing, and completing wells). Smith and Nelson together received, at a minimum, $2.3 million, or 22% of the funds raised as salaries, "dividend disbursements," cash withdrawals, fringe benefits, and various disbursements for their personal use or benefit.

26. Smith and Nelson spent approximately $5.4 million, or 52% of Overland investor funds on "management costs," which materially exceeds the 18% they represented to investors. Specifically, the uses of investor funds within the category of "management costs" included approximately:

a. $1.6 million paid to Smith and Nelson in salaries and other direct payments;

b. $1.1 million paid in sales agent commissions and employee salaries and benefits;

c. $425,000 in miscellaneous and unknown disbursements;

d. $392,000 in salary and other disbursements to Ray;

e. $305,000 in credit card payments for Smith and Nelson's personal use or benefit, including international and domestic travel, meals, entertainment, automobile expenses, pilot lessons and the purchase of firearms;

f. $294,000 in general and administrative expenses and taxes;

g. $281,000 in office rent, improvements, maintenance and utilities;

h. $280,000 in legal and accounting fees;

i. $198,000 in distributions to investors;

j. $157,000 in disbursements for the use or benefit of Smith and Nelson, including auto expenses, cash withdrawals, payments to debt collectors, lead list purchases, travel and entertainment;

k. $143,000 in fringe benefits for Smith and Nelson including, auto allowances, insurance and childcare;

l. $65,000 in salary paid to Smith's wife; and

m. $60,000 in payments to two entities owned and or controlled by Smith.

27. Altogether, $3.8 million of investor funds, or 37% of the total funds raised, was paid directly to Smith and Nelson, or indirectly to them for their personal use or benefit, and to the employees and sales staff they employed in the scheme, including Ray.

28. Smith and Nelson freely spent investor funds for personal expenses. They frequently paid themselves large "dividend disbursements" and withdrew money whenever investor funds were available. Smith and Nelson also used investor funds to reimburse themselves for luxury car payments, nanny and babysitting expenses, gym membership fees, meals, and entertainment. They used investor money to fund extensive domestic and international travel for themselves and/or friends and family, and to pay for their own custom suits, private flight instruction, and firearms. Many of Smith's international trips were strictly "mileage runs" so that he could maintain Executive Platinum status with American Airlines. Besides personal expenses, Smith and Nelson also charged expenses related to other businesses, including Triton and Acorn, to the Overland business credit card, which was paid with Overland investor funds. None of the Defendants ever disclosed that investor funds were being used for personal expenses unrelated to the offering programs. In short Smith and Nelson spent offering proceeds in a manner grossly inconsistent to the use-of-proceeds statements in the offering materials, rendering those statements misleading.

29. Contrary to the PPM fiduciary-duty disclosure, the Defendants did not provide

investors timely and full information concerning the use of investment proceeds, including the amounts paid to Smith, Nelson, and Ray. Indeed, the fiduciary-duty representation was itself a misleading statement, designed to entice investors with false promises of good faith, integrity, and timely and full information. In keeping with the scheme, however, the Defendants had no intention of exercising good faith or integrity or of providing investors timely and full information concerning matters affecting the business of the Joint Venture.

C. The Most Recent Fraudulent Offering (Acorn's Hamilton Offering)

30. Having spent nearly all of the Overland offering proceeds, Smith and Nelson are now focusing on Acorn. From at least April 2010 through the present, Acorn, acting by and through Smith and Nelson, offered oil-and-gas securities in a program called "Hamilton 6-Well Joint Venture," which purported to have six oil-and-gas wells located in Texas. The offering materials, the most recent version of which is dated August 23, 2010, included a PPM and provided that Acorn sought to raise $1,050,000 through the fractional sale of 6 units priced at $175,000 per unit. On March 30, 2010, Acorn hired a registered broker-dealer in Houston, to act as the managing broker-dealer for the Acorn offering, which is not registered with the Commission. As of September 30, 2010, Acorn has raised $590,625. Acorn broke escrow in August and has not provided the broker-dealer with an accounting to determine the use of investor proceeds.

31. During all relevant periods, no registration statement was filed with the Commission or was in effect as to Acorn or Hamilton 6-Well Joint Venture.

32. Similar to the Overland PPM, the Acorn PPM that is provided to investors describes how the offering proceeds will be spent. The Acorn PPM contains conflicting disclosures about the use of investor proceeds. The "Use of Proceeds" section in the Acorn PPM

indicates that 22.5% of the offering proceeds will go to Acorn for management fees and costs and that 77.5% will go toward drilling-related costs. In addition, the Acorn PPM contains a footnote disclosing that Acorn is also entitled to "anticipated profits" equal to 21% of offering proceeds. In other words, Acorn will receive 43.5% of all investor funds raised.

33. The statements concerning the use of proceeds were false and misleading. Contrary to the PPM, Acorn bank records indicate that between July and September 2010, Smith and Nelson have spent approximately $456,000 of the Acorn investor funds, leaving only about $134,000 in Acorn's bank accounts. Of the money raised, Smith and Nelson have already spent 42%, or $249,000, on "management" costs as follows:

a. $52,000 for overhead (rent, utilities, insurance, and other office expenses);

b. $47,000 to Nelson;

c. $45,000 to Smith;

d. $33,000 to broker-dealer fees;

e. $32,000 to ADP for payroll taxes;

f. $23,000 for sales agent and employee salaries; and

g. $17,000 for credit card payments.

34. In addition, Smith and Nelson have transferred $192,000 or 33% of the funds raised to their company, Tega. Acorn's transfers to Tega appear to have been part of an effort to conceal their true disposition and to give them the appearance of legitimacy. In fact, these funds were not used to pay expenses related to the Acorn wells but instead were commingled with other funds in Tega's accounts and then used to compensate Smith and Nelson, fund expenses in Overland wells, or make "lulling" payments to Overland investors.

35. Specifically, $63,000 of the funds Acorn sent to Tega went to Smith and Nelson as "salary." Another $35,000 was paid toward Tega's payroll taxes. Inexplicably, Tega sent $30,000 to Overland even though there is no indication that Overland provided anything of value to Tega. An additional $27,000 went to one of Overland's wells, the Abercrombie C, while $10,000 went to Overland investors, none of whom hold any investment in Acorn. The Acorn PPM fails to disclose that any portion of the Acorn offering proceeds would be paid to Overland.

36. As with the Overland offerings, Smith and Nelson are misrepresenting how they are using Acorn investor funds. As described above, at least 42% of the Acorn proceeds, not including the questionable transfers and payments to Tega, have already been spent on managements costs instead of 22.5%.

37. Overland, Tega, Smith and Nelson received funds from the Acorn offering, but there is no evidence to indicate that any oil-and-gas drilling or production activities have taken place.

FIRST CLAIM

Violations of Section 5(a) and 5(c) of the Securities Act

38. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 37 of this Complaint by reference as if set forth *verbatim*.

39. Defendants Overland, Smith, and Nelson directly or indirectly, singly and in concert with others, have been offering to sell, selling, and delivering after sale, certain securities, and have been, directly and indirectly: (a) making use of the means and instruments of transportation and communication in interstate commerce and of the mails to sell securities, through the use of written contracts, offering documents and otherwise; (b) carrying and causing to be carried through the mails and in interstate commerce by the means and instruments of

transportation, such securities for the purpose of sale and for delivery after sale; and (c) making use of the means or instruments of transportation and communication in interstate commerce and of the mails to offer to sell such securities.

40. As described in Paragraphs 1-37 above, the investments described herein have been offered and sold to the public. No registration statements were ever filed with the Commission or otherwise in effect with respect to these securities.

41. For these reasons, the Defendants Overland, Smith, and Nelson have violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

SECOND CLAIM

Violations of Section 17(a) of the Securities Act

42. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 37 of this Complaint by reference as if set forth *verbatim*.

43. Defendants Overland, Acorn, Smith, and Nelson, directly or indirectly, singly or in concert with others, in the offer or sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes, and artifices to defraud; (b) obtained money or property by means of untrue statements of a material fact and omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices, and courses of business which operate or would operate as a fraud and deceit upon the purchasers.

44. As a part of and in furtherance of his scheme, Defendants Overland, Acorn, Smith, and Nelson, directly and indirectly, prepared, disseminated, or used contracts, written

offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

45. With respect to violations of Sections 17(a)(2) and (3) of the Securities Act, Defendants Overland, Acorn, Smith, and Nelson were negligent in their actions regarding the representations and omissions alleged herein. With respect to violations of Section 17(a)(1) of the Securities Act, Defendants Overland, Acorn, Smith, and Nelson made the referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

46. For these reasons, Defendants Overland, Acorn, Smith, and Nelson have violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM

Violations of Section 10(b) of the Exchange Act and Rule 10b-5

47. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 37 of this Complaint by reference as if set forth *verbatim*.

48. Defendants Overland, Acorn, Smith, and Nelson, directly or indirectly, singly or in concert with others, in connection with the purchase or sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of a material fact and omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices, and courses of

business which operate or would operate as a fraud and deceit upon purchasers, prospective purchasers, and any other persons.

49. As a part of and in furtherance of his scheme, Defendants Overland, Acorn, Smith, and Nelson, directly and indirectly, prepared, disseminated, or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth in Paragraphs 1 through 37 above.

50. Defendants Overland, Acorn, Smith, and Nelson made the above-referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

51. For these reasons, Defendants Overland, Acorn, Smith, and Nelson violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

FOURTH CLAIM

Violations of Section 15(a)(1) of the Exchange Act

52. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 37 of this Complaint by reference as if set forth *verbatim*.

53. Defendants Overland, Smith, Nelson, and Ray, by engaging in the conduct described above, directly or indirectly made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce, the purchase or sale of securities, without being registered as a broker or dealer, or being associated with a registered broker or dealer in accordance with Section 15(a) (1) of the Exchange Act [15 U.S.C. § 78o(a) (1)].

54. Accordingly, Defendants Overland, Smith, Nelson, and Ray were brokers within the definition of that term in Section 3(a)(4) of the Exchange Act which defines "broker" as any person "engaged in the business of effecting transactions in securities for the account of others." Defendants Overland, Smith, Nelson, and Ray were never so registered and, acted as brokers which included: (1) solicitation of investors to purchase securities; (2) involvement in negotiations between the issuer and the investor; and (3) receipt of transaction-related compensation.

55. For these reasons, Defendants Overland, Smith, Nelson, and Ray violated and, unless enjoined, will continue to violate Section 15(a) (1) of the Exchange Act [15 U.S.C. § 78o(a) (1)].

FIFTH CLAIM

Claim Against Relief Defendant Tega as Custodian of Investor Funds

56. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 37 of this Complaint by reference as if set forth *verbatim*.

57. Relief Defendant Tega received, directly or indirectly, funds and/or other benefits from the Defendants, which either are the proceeds of, or are traceable to the proceeds of, the unlawful activities alleged herein and to which they have no legitimate claim to these funds and property.

58. Relief Defendant Tega obtained the funds and property as part of and in furtherance of the securities violations alleged and under circumstances in which it is not just, equitable or conscionable for them to retain the funds and property, and accordingly, they have been unjustly enriched.

59. The Commission is entitled to an order requiring that Relief Defendant Tega disgorge these funds and property plus prejudgment interest thereon.

RELIEF REQUESTED

Plaintiff Commission respectfully requests that this Court:

(1) Permanently enjoin Defendants Overland, Smith, and Nelson from violating Sections 5(a), 5(c), and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b) and 15(a)(1) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78o(a)(1)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;

(2) Permanently enjoin Defendant Acorn from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) of the Exchange Act [15 U.S.C. §§ 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder;

(3) Permanently enjoin Defendant Ray from violating Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)];

(4) Order each Defendant and Relief Defendant to disgorge an amount equal to the funds and benefits obtained illegally, or to which they are otherwise not entitled, as a result of the violations alleged, plus prejudgment interest on that amount;

(5) Order each Defendant to pay civil monetary penalties in an amount determined appropriate by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] for the violations alleged herein;

(6) Order each Defendant and Relief Defendant to provide a sworn accounting, providing a detailed account of the receipt and disposition of all proceeds from the offering described in Paragraphs 1 through 34, above; and

(7) Order such other relief as this Court may deem just and proper.

DATED: November 9, 2010

Respectfully submitted,

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