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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff,

v.

UBS SECURITIES LLC and UBS FINANCIAL SERVICES INC., Defendants.

ECF CASE

Civil Action No.

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CASHIERS

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges the following against defendants UBS Securities LLC and UBS Financial Services, Inc. (collectively "UBS" or "Defendants"):

NATURE OF THE ACTION

1. This is a case in which the Defendants misled tens of thousands of its customers regarding the fundamental nature and increasing risks associated with auction rate securities ("ARS" or "ARC")) that UBS underwrote, marketed and sold. Through its financial advisors ("FAs"), marketing materials, and account statements, UBS misrepresented to its customers that ARS were safe, highly liquid investments that were equivalent to cash or money-market funds. As a result, numerous customers invested their savings in UBS's ARS that they needed to have available on a short-term basis.

2. In the latter part of 2007 and early 2008, UBS's senior management was aware of undisclosed risk factors associated with its ARS program, including concerns about its ability and willingness to support the auctions. As evidence of the importance of this

type of information to investors, at the end of 2007 and in early 2008, several senior executives sold all or some of their personal ARS holdings after becoming aware of the mounting institutional and market related problems facing the program.

3. On February 13, 2008, UBS determined that it would not continue to support auctions, as it had historically done, and that it would let its auctions fail. As a direct result of auction failures, over forty thousand UBS customer accounts holding more than $35 billion in auction rate securities had their investments rendered virtually illiquid overnight and, because of the illiquidity, many customers incurred mark to market losses on the par value of their ARS investments held at UBS. Customers who did sell their securities in the secondary market had to do so at a loss.

4. By engaging in the conduct described in the Complaint, the Defendants violated Section 15(c) of the Securities Exchange Act of 1934 [15 U.S.C. §78o(c)]. Accordingly, the Commission seeks: (a) entry of permanent injunctions prohibiting the Defendants from further violations of the relevant provisions of the Exchange Act; (b) the imposition of a civil penalty against each defendant; and (c) any other relief this Court deems necessary and appropriate under the circumstances.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to Sections 21(d)(1), 21(e), 21(f), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1), 78u(e), 78u(f), and 78aa].

6. UBS, directly or indirectly, used the mails and means and instrumentalities of interstate commerce in connection with the acts, practices, and courses of business alleged herein.

7. Venue is appropriate in this District pursuant to Section 27 of the Exchange Act because UBS is found, has its headquarters and principal executive offices, and transacts business in this District.

DEFENDANTS

8. UBS Securities LLC is a wholly-owned investment bank subsidiary of UBS AG, incorporated in Delaware with its principal place of business located in Stamford, Connecticut. UBS Securities maintains executive offices, as well as its short-term trading desk in New York, New York. It is registered with the Commission as a broker-dealer and is a member of NASD Inc. and the New York Stock Exchange. Among other services, UBS Securities LLC provides securities underwriting and related services for clients residing and doing business in the United States.

9. UBS Financial Services Inc. is a wholly-owned subsidiary of UBS AG, incorporated in Delaware with its principal place of business located in Weehawken, New Jersey. UBS Financial Services maintains offices located in New York, New York. It is registered with the Commission as a broker-dealer and is a member of NASD Inc. and the New York Stock Exchange. Among other services, UBS Financial Services Inc. provides wealth management and related services for clients residing and doing business in the United States.

RELATED PARTY

10. UBS AG is a Swiss based global financial services firm that, with respect to the conduct alleged in this Complaint, does business in the United States both in its own name and by and through its wholly owned subsidiaries UBS Securities LLC and UBS Financial Services Inc.

FACTUAL ALLEGATIONS

Description of Auction Rate Securities

11. ARS are bonds issued primarily by municipalities and student loan entities, or preferred stock issued by closed-end mutual funds, each of which provide for interest rates or dividend yields that are periodically reset through auctions, typically every seven, fourteen, twenty-eight or thirty-five days. ARS are usually issued with maturities of 30 years, but the maturities can range from five years to perpetuity.

12. Because ARS are essentially long term obligations, but re-price frequently using short-term interest rates which are typically lower than long-term rates, they can be attractive financing vehicles for issuers.

13. From the customer's perspective, ARS were a potentially attractive investment because they offered a slightly higher interest rate than various forms of cash alternative products. However, ARS typically can only be liquidated at one of the periodic auctions.

UBS's Role In The Auction Rate Securities Market

14. Investment banking firms, such as UBS, seek out public and private issuers that may want to finance operations by using ARS. During the relevant time period, UBS pursued this business through its municipal securities group, which was a part of its investment bank. The municipal securities group typically generated a fee for UBS by underwriting the offering. It was also paid an annualized broker-dealer fee based on the amount of securities remarketed into auctions or in the secondary market. While the remarketing contract did not require UBS to use its own capital to support auctions, in practice, UBS did use its own capital to make supporting cover bids (bids to buy all

remaining securities for sale at auctions) in order to ensure an orderly and successful auction.

15. Both the issuer and UBS typically contemplated that UBS would remarket the ARS directly and primarily to UBS's wealth management group customers, which could include individuals, small businesses, charities, and institutional customers. In fact, UBS's ability to remarket ARS successfully to its large customer base was an important factor considered by issuers when they selected UBS as their underwriter.

16. When a UBS wealth management group FA sold an ARS to a customer, the FA and UBS typically shared the broker-dealer fees paid by the issuer of the ARS. The revenue generated from this arrangement was substantial for UBS. According to an email from a member of senior management, the wealth management group "has lived off this business for a decade."

17. The mechanics of an auction are fairly straightforward. UBS solicits bids from its customers, who typically place bids at the lowest interest rate they are willing to accept for the particular security. UBS then transmits those bids to an auction agent. If there are enough bids to purchase all of the securities, then the clearing rate is the lowest rate among all the bids that could purchase the entire issue and typically every bidder at or below that rate will receive securities paying interest or dividends at the clearing rate. If there are not enough bids from UBS customers to purchase all of the securities, then the auction will fail unless the remarketing agent, in this case UBS, provides the necessary supporting bid to cause the auction to be successful. If there are not enough bids to purchase all of the securities, and UBS does not enter a supporting bid, then the auction fails. In that event, the rate on the ARS is the rate specified in the offering documents for

the security and is typically called the maximum rate or, in industry parlance, the "max rate." The max rate will apply until the next successful auction, if any. The max rate may be higher or lower than the prior auction clearing rates or the rates available on other securities of similar credit quality.

UBS Financial Advisors And Customer Account Statements Represented That ARS Are Cash Alternatives

18. Through its FAs, UBS marketed ARS to its customers as cash alternatives which could be liquidated at the customer's demand on the next auction date. As a result, many customers placed money in these investments that they might need in the short-term, such as for a down payment on a house, medical expenses, college tuition, or taxes. In many cases, UBS did not advise these customers that, under certain circumstances, the funds invested for short-term needs could be tied up indefinitely, and that other products that it marketed as cash alternatives did not carry this same risk.

19. The monthly account statements sent to UBS customers listed ARS under the heading "cash alternatives" or "money market instruments." These characterizations caused customers reasonably, albeit erroneously, to believe that the safety and liquidity features of their ARS investments were similar to those of other cash alternatives UBS offered, such as United States Treasury securities, FDIC-insured certificates of deposit, and commercial paper.

20. Further, although UBS also used the term "money market instruments" to describe ARS to some customers in these account statements, UBS knew or was reckless in not knowing that this characterization was inaccurate and misleading, since it understood that money market funds generally did not hold ARS because of the potential

lack of liquidity associated with ARS. Thus, UBS's use of the term "money market instruments" also misled its customers regarding the nature of their ARS holdings.

UBS Knew Or Was Reckless In Not Knowing That Its Financial Advisors Marketed ARS To Its Customers As Cash Equivalents

21. Senior UBS officers and managers knew or were reckless in not knowing that UBS FAs marketed ARS to retail customers as being liquid investments. For example, a December 15, 2007 email from the head of UBS's municipal securities group to UBS's chief risk officer stated that:

> [T]hese [ARS] instruments – obviously not ideal as a structure...but I believe have been sold for years as a cash alternative instrument – and retail clients have – I am confident been told that these are 'demand' notes...and will be redeemed at par on demand- thereby always relying on the remarketing agent to provide this liquidity 100 cents on the dollar on auction date...although there is no formal liquidity provision in place and always relies on the dutch auction mechanism to clear...the moral obligation runs very deep.

22. Additionally, UBS knew or was reckless in not knowing that the liquidity risk associated with ARS were not disclosed to many of its customers and that these risks were inconsistent with affirmative representations made by UBS. A February 8, 2008 power point presentation prepared for use with senior management stated that with respect to ARS, "Wealth Management Group client holdings are becoming less liquid, contrary to clients' understanding and expectations of these products." Similarly, around the same time, the head of the municipal securities group prepared a memorandum for the executive board of the UBS parent – the highest level executive body of UBS worldwide – which stated "While offering documents disclose that ARCS auctions can fail, ARCS are marketed and reflected on Wealth Management Group client statements as cash alternatives. It is reasonable to assume that clients expect the investments will be relatively liquid." Moreover, as described below, UBS knew or was reckless in not

knowing that the vast majority of its ARS customers had not received any offering documents, which in any event did not disclose all material liquidity risks of ARS.

<u>UBS's Online ARS Marketing Materials Were Misleading</u>

23. Many UBS customers had participated in the ARS market for several years prior to the market collapse in early 2008. During most of this time, UBS made no formal disclosures to the majority of its customers concerning the investment risks associated with ARS purchases. Further, UBS knew or was reckless in not knowing that most of these customers had not received an offering document such as a prospectus, because the firm was only required to provide the prospectus to the initial purchasers of a security, and not to the subsequent purchaser of the security.

24. Starting in October 2007, UBS created and placed information on its internet website concerning ARS purchases that reinforced the "cash alternative" characterization found on its customers' account statements. For instance, one such internet document entitled "Cash & Cash Alternatives: Addressing your short term needs," indicated that liquidity refers "to the ability to quickly convert investments into cash when you need it" and listed ARS among those types of products that "are highly liquid, short-term investments." This document made no reference to any liquidity risks associated with holding ARS. Further, the document contained no hyper-link or reference to other UBS publications that might contain more detailed information about ARS. While the document stated that a "UBS financial adviser can provide you with more information about the features, credit quality and risks of these instruments," a customer viewing this document would have no reason to know of or inquire about the liquidity risks associated with ARS.

25. Other information available on UBS's internet website in October 2007 provided more detailed information concerning the liquidity risk involved in holding ARS. Specifically, the section of the website entitled "Putting Liquidity to Work: A Guide to Cash Alternatives," disclosed, among other things, that UBS supported auctions which would otherwise fail without UBS support, but that UBS was not obligated to do so in the future, and that the firm bids in a large percentage of auctions and believed a significant number of auctions would fail if it did not do so.

26. Notwithstanding this disclosure on the website, UBS had no requirement that its FAs provide this recently posted information to existing or new customers before, at the time of, or after a purchase of ARS, or to otherwise direct the customer to the website for additional information concerning risks associated with ARS. Moreover, many UBS FAs were not even aware of this information. As a result, many UBS customers also were not informed about the availability of this information, which in any event did not disclose all material liquidity risks of ARS.

<u>UBS Knew Or Was Reckless In Not Knowing That The Structure Of ARS Led To Increased Liquidity Risks In Latter Half of 2007</u>

27. By September 2007, the head of the municipal securities group acknowledged in an email that auction failure is "a major issue" and that "auctions really could fail."

28. On December 20, 2007, the chief financial officer for the UBS parent wrote to the highest level executives at the company to express his thoughts about the firm's municipal securities business, including the ARS segment, and stated that with respect to a fundamental feature of ARS, "funding long term assets with short-term money is fundamentally flawed." The chief executive officer for UBS's entire Americas operations, responded, "I fully understand and agree with your views…This type of

product (ARS) as a $300 billion market has been for many years a funding vehicle for issuers and a major asset gathering tool for the dealer community." After discussing several options to potentially address the problem – including resigning as remarketing agent and finding another firm to take on that role which was deemed "impossible in this market environment" – the email concluded "current state is not sustainable for both parties." The email also noted that the main problem involved the student loan ARS.

29. In early December 2007, the head of the municipal securities group exchanged messages with his staff indicating his fundamental concern that the auction rate mechanism as it related to student loan ARS, was not a market-efficient instrument. He noted in this exchange, that it

> [a]ppears the fools in this trade are the dealers that perpetuate the structure because they are intoxicated by the fees...The fulcrum is the max rate – if that was adjusted higher and market found a clearing level that was true – then the mechanism is efficient. We will need to discount these to sell them.

30. In another example, a UBS employee who sold ARS to the firm's customers sent an email to senior management a few days after the failure, which recounted his understanding of the reasons, in addition to the flight to quality, for the auction failure:

> There are flaws with the program to begin with: First the program had gotten too big ($350B or more). Second this program started to fail back in August yet that was not readily visible to 99% of participants until this week, the auction rate program's design as a "cash alternative' with implicit liquidity was a MAJOR flaw (thought of another way...the implicit guarantee is a small flaw under 'normal circumstances' but becomes a MAJOR flaw during a banking crisis). Third, I don't see many immediate substantial corrective mechanisms right how except for the US gov't to step in....

UBS Did Not Disclose That Its Ability To Support Auctions Became Significantly Impaired

31. Until August 2007, when UBS experienced a handful of isolated auction failures, UBS had never experienced an auction failure. Throughout this time, going back to the

1980s, UBS made both issuers and customers aware of this record of successful auction support when questions arose as to the safety and liquidity of ARS. During this time period, UBS had no significant capital constraints limiting its ability to make the necessary supporting bids at auctions. However, it continued to cite this record of success right up to the day of auction failure, even though its prior capital position and flexibility had been significantly diminished by that point.

32. In the latter part of 2007, losses in capital related to its investments in the sub-prime mortgage industry and other areas created significant balance sheet stress for UBS. On December 11, 2007 the chief risk officer sent an email to the head of the municipal securities group which noted that the ARS inventory had exceeded UBS's internal limits, and stated: "I am very nervous about getting long a bunch of paper…We can't afford to have another blow up at the [Investment Bank]...[you] must keep a lid on inventory. You must get below your limit also." The head of the municipal securities group responded that "I understand the need completely to move this paper down," and am "pushing every angle here to move product."

33. The financial stress that UBS experienced as a result of subprime mortgage losses, and in other areas, restricted its ability to acquire additional assets, including ARS, because every additional dollar in purchased assets also required some commitment of UBS's strained capital resources to fund the purchase.

34. This rising inventory was caused by ARS that UBS acquired as a direct result of having placed supporting bids for auctions that would have otherwise failed because of lack of customer demand. Unless customer demand increased in subsequent auctions, or UBS could sell this inventory to an investor outside of the auction process, this inventory

would continue to increase every time that the firm had to make future supporting bids to prevent auctions from failing. Of course, this practice of placing supporting bids ran directly contrary to the instructions of the chief risk officer to reduce or contain the size of the ARS inventory.

35. Because of the need to reduce the size of UBS's existing ARS inventory, UBS senior management did not want to take on even more inventory. Moreover, the amount of money that UBS would have had to be able to commit in order to support all potential failed auctions for which it was the sole or co-manager was approximately $40 billion, the total size of its ARS program. Accordingly, in late 2007 the prospect of auction failure had materially increased over any prior time period, yet UBS did not ensure that current, complete and accurate information was provided to its customers about the significant and increasing risks associated with investing in ARS.

UBS Knew Or Was Reckless In Not Knowing That A Significant Part Of Its ARS Program Included Student Loan ARS, Which Were An Undesirable Product For It And Its Customers To Hold In The Event Of Auction Failure

36. UBS senior management became aware by at least early December 2007 of a particular risk that exacerbated the already difficult increasing ARS inventory problem. This problem was based upon the *type* of inventory that was coming on to UBS's books—student loan ARS. Unlike some other types of ARS (e.g., certain classes of municipal ARS) which have a high fixed max rate reset in the event of auction failure – which both compensates the holder at a higher interest rate than the prior auction clearing rate for the loss of liquidity and creates a punitive incentive for the issuer to restructure the instrument, which provides liquidity to the holder -- student loan ARS were different. While the former class of ARS might have a max rate reset as high as 15 or 20% – well

above market rates for instruments of similar credit quality – the latter class, the student loan ARS, generally had a low max rate reset, in some cases well below market rates for instruments of similar credit quality.

37. The total amount of outstanding student loan ARS handled by all Wall Street firms at the end of 2007 was a little over $80 billion. UBS was the leader among all firms, being the underwriter and remarketing agent for nearly a third of those ARS, or about $26 billion. Student loan ARS comprised the largest class of ARS in UBS's program, and thus the most common type of ARS that its customers could purchase. Thus, the very auctions in which UBS was experiencing an increasing need for auction support were the very ones that would bring potentially below market securities onto its own capital constrained books, creating additional balance sheet stress and a further business impediment to it supporting auctions.

38. Due to the numerous and growing problems associated with its ARS program, in mid-December 2007 certain senior managers within the municipal securities group expressed a desire to restructure the entire $26 billion Student Loan ARS book of business into a different type of product which was known as a Variable Rate Demand Obligation, or VRDO. This type of instrument would have a liquidity backstop provided by a letter of credit from a financial institution that the issuers, with UBS's assistance, would have to obtain. These managers believed that with this liquidity backstop it could successfully sell VRDOs to money market funds. In a December 12, 2007 email, a senior manager in the municipal securities group stated, "[t]he Entire book needs to be restructured out of Auctions…we need to be in the B's [billions] to be meaningful…prior to hitting max rates." With regard to the ability to find a liquidity backstop for failed

auctions, the chief risk officer said in an email a few days later, "I am not very hopeful." His pessimism proved well-grounded because UBS was not successful in securing the necessary letter of credit convert the student loan ARS to VRDOs, or finding any other feasible restructuring solutions for the student loan ARS.

39. If UBS decided that it would not, or could not, support auctions involving student loan ARS, or that it could not restructure them into VRDOs prior to incurring the unattractive max rates, then it would be leaving approximately $14.5 billion of these unattractive investments in the portfolios of its customers, which is precisely what happened.

Certain UBS Senior Managers Believed That Auction Failures In One Segment Of The ARS Market Could Trigger A Negative Chain Reaction Across All Segments Of The ARS Market

40. Certain senior UBS managers believed that the wider ARS market was in danger of collapse, since they believed that problems in one part of the market could bring the whole market down. On or about December 20, 2007, UBS AG's chief executive officer for the Americas was appointed to create a high level working group, chaired by himself, to assess the desirability of maintaining UBS's larger municipal securities business, including the portion of the business constituting the ARS segment. Senior management in the municipal securities group informed the working group of their belief that failing auctions at one firm could "trigger a chain reaction of selling across all auction products, regardless of them being Student Loans, Municipals or Auction Preferred Stock." The email concluded that in such a scenario "mark to market losses would be significant to all parties involved," meaning that the impact of holding illiquid ARS could also entail a significant loss in value.

41. For some period of time, UBS senior management considered allowing the student loan portion of the ARS market to fail, rather than the entire ARS market. However, a January 13, 2008 email written by a member of senior management in the municipal securities group noted a problem with that approach, which was the contagion effect resulting from auction failures. He stated,

> This decision is the seminal issue for this firm in the overall financial securities industry. Very interesting (I know it is a warped use of the word) how wide the impact will be on the entire firm-wide client base by deciding to resign or fail. The more I think about it, the more I arrive at the conclusion that you cannot just resign or fail the student loan programs. Will immediately impact taxable munnie investors (of which we have a billion or so if I am not mistaken) and then the [wealth management] FAs will run like hell for the hills. They will dump anything with an [ARS] label. This contagion dramatically affects the municipal tax-exempt market....this is a very large market to have potential panic selling...

One of the recipients of this message was the head of the municipal securities group, who replied with a one word response, "yup."

UBS Failed To Disclose Accurate And Complete Information To Its Customers About The Max Rate Reset Provisions For Student Loan ARS

42. Senior UBS management understood that the type of ARS impacted the max rate to be paid by the issuer in the event of auction failure. As discussed earlier, certain municipal ARS had high, above market, max rates while student loan ARS, the majority of UBS's ARS book of business, typically paid lower max rates, which could become, below market interest rates. Accordingly, UBS management knew or was reckless in not knowing that the type of ARS, the risk of auction failure, and the applicable max rate reset provisions were material to ARS customers in making investment decisions in the then-current interest rate environment. According to UBS's chief risk officer, "if you felt there was any likelihood an auction would fail, then it becomes very important [to an

ARS customer] because an owner of the high caps will do very well, an owner of the formulaic caps will do less well."

43. Notwithstanding its importance to customers, UBS provided misleading information to the investing public concerning max rate resets on student loan ARS in the form of a UBS research analyst report made public and dated February 6, 2008. This report provided analysis highlighting several current liquidity risks associated with UBS ARS. In describing what happens in the event of auction failure, the report stated: "Though the maximum rate varies by deal structure, it is typically punitive to the issuer. Thus, in many cases, it is in the best interests of the issuer to make investors whole and restructure the bonds..." While this understanding would indeed be of comfort to a customer that owned ARS that had such a max rate reset, the report provided no information about what happens when an auction fails in student loan ARS, which in many cases actually leads to a maximum rate that is non-punitive to the issuer, and which was a primary reason that certain UBS executives were concerned about owning these ARS in UBS's own inventory. This was an important omission because while the report said the max rate was "typically" punitive to the *issuer*, in the case of UBS's clients, where student loan ARS comprised the most commonly held ARS, the max rate was typically punitive to the *customer*.

44. The next day senior management conducted a conference call attended by over 2000 wealth management group FAs devoted primarily to the issue of addressing concerns regarding ARS and how to communicate with the firm's customers about those issues. The host of the call stated, "our primary objective is to be able to convey factual

information to you so that you feel as fully informed about what's going on in the market as possible."

45. On the call, a senior management official in the wealth management group essentially repeated the same information from the analyst report. That individual stated:

> I think that in most cases, the max rate is not designed to be helpful to the issuer of the security. It's actually designed to be punitive to the issuer and it's designed to be more helpful to the investor for essentially giving up that liquidity at a failed auction, so you're going to see that issuer become motivated at that point in time to consider all their alternatives.

46. The leaders of the call also encouraged the FAs to give the analyst report to their customers. Specifically, the financial analysts were told:

> [I]t's a very good report. Uh, if you wanted to put something in front of your clients about what's going on in the auction market, a good opportunity to remind them about some of the uh the features and benefits and how it operates, it's an excellent place to go.

The statements to the Wealth Management FAs had the effect of being misleading to the extent that a FA believed that these statements would apply to student loan ARS, the most common form of ARS held by UBS's customers.

47. Further, on the day of the call, UBS's chief executive officer for the Americas stated in an email to other senior officers at the firm that a recent auction failure at another firm was not "in any way a statement about [the issuer]. It is a statement about the student loan short term product, the [auction] mechanism that is [a] flawed product and a supply and demand chain that is completely out of whack at this moment." UBS never advised its FAs or customers about these heightened concerns regarding the student loan ARS.

48. After the auction failures on February 13, 2008, certain UBS customers who had been told by their FAs that they would receive a high rate of interest to compensate for

the loss of liquidity were surprised, and angry, to learn that they were only entitled to receive a low rate of interest if they owned student loan ARS. Additionally, because of this feature of the security, the assets were marked down in value by UBS since secondary market investors would not pay par value for a security with below market interest rates. Some UBS customers who purchased student loan ARS as late as December 2007 found that the value of their "cash alternative" security had declined by 25% in two months.

49. UBS did not disclose to many of its customers that in addition to the liquidity risk associated with a failed auction, there was also a potential loss in principal on the student loan ARS because of the impact of the unattractive max rate reset generally associated with this type of ARS.

Sales Of ARS By Senior UBS Officers

50. Several senior level UBS employees held ARS in their individual accounts. The level of knowledge, and the date the knowledge was acquired, varied among these individuals. However, some of these executives were aware of information concerning the general and growing risks associated with ARS that UBS customers were not, and instructed their FA to sell their securities after learning of this information. As a result, these individuals were able to avoid the liquidity problems and substantial loss of value experienced by UBS's customers.

CLAIM FOR RELIEF

[Violation of Section 15(c) of the Exchange Act]

51. Paragraphs 1- 50 are realleged and incorporated by reference as if set forth fully herein.

52. The Defendants 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: (a) by means of a manipulative, deceptive, or other fraudulent device or contrivance, and (b) in connection with which Defendant engaged in a fraudulent, deceptive, or manipulative act or practice.

53. By engaging in the foregoing conduct, the Defendants violated Section 15(c) of the Exchange Act [15 U.S.C. §78o(c)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Permanently enjoin the Defendants and their respective agents, servants, employees, attorneys, assigns and all those persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, from directly or indirectly engaging in violations of Section 15(c) of the Exchange Act [15 U.S.C. §78o(c)];

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

C. Grant such other and further relief as this Court deems necessary and appropriate under the circumstances.

Respectfully submitted,

Robert B. Blackburn (RB 1545)

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