

COPY ORIGINAL
FILED
05 SEP 28 AM 9:19
RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 HELANE L. MORRISON (Cal. Bar No. 127752)
MICHAEL S. DICKE (Cal. Bar No. 158187)
2 (dickem@sec.gov)
ROBERT S. LEACH (Cal. Bar No. 196191)
3 (leachr@sec.gov)
ERIN E. SCHNEIDER (Cal. Bar No. 216114)
4 (schneidere@sec.gov)

5 Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
6 44 Montgomery Street, Suite 2600
San Francisco, California 94104
7 Telephone: (415) 705-2500
Facsimile: (415) 705-2501

E-Filing

8
9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 SECURITIES AND EXCHANGE COMMISSION,

Case No. **C 06 6033**

14 Plaintiff,

COMPLAINT

15 vs.

SBA

16 GRAYCORT FINANCIAL, LLC,

17 Defendant.
18
19

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

21 SUMMARY

22 1. This case involves unlawful short selling practices by San Francisco-based private
23 investment fund Graycort Financial, LLC ("Graycort"), which netted the fund over \$100,000 in
24 illegal trading profits.

25 2. In connection with two public offerings in 2005, Graycort used shares it
26 purchased in the offerings to cover short sales made shortly before the offerings were priced. In
27 doing so, it violated Rule 105 of Regulation M. Rule 105 seeks to prevent traders from exerting
28 downward pressure on the market price of securities by executing short sales of issuers'

1 securities in the days before an offering is priced and then profiting by covering their short sales
2 at a lower price with shares they obtain in the offering. Such improper short selling activity can
3 artificially drive down the market price for the offered security, thus harming both the issuer and
4 the market by inhibiting the capital raising process.

5 3. To redress Graycort's unlawful conduct and to prevent future violations, the
6 Commission has brought this action and seeks a permanent injunction, disgorgement plus
7 prejudgment interest, and a civil penalty.

8 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

9 4. The Court has subject matter jurisdiction over this action pursuant to Sections
10 21(d)(1), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§
11 78u(d)(1), 78u(e), and 78aa].

12 5. Venue in this Court is proper pursuant to Section 27 of the Exchange Act [15
13 U.S.C. § 78aa] and 28 U.S.C. § 1391(b)(1) because defendant Graycort resides in and transacted
14 business in this judicial district.

15 6. Assignment to the San Francisco Division of this Court is proper because a
16 substantial part of the events or omissions giving rise to claims alleged in this complaint
17 occurred in San Francisco County.

18 7. Defendant Graycort directly or indirectly made use of the means or
19 instrumentalities of interstate commerce or of the mails, or of the facilities of a national securities
20 exchange in connection with the acts, practices, and transactions alleged herein.

21 **DEFENDANT**

22 8. Defendant Graycort is a private investment fund organized as a California limited
23 liability company and is based in San Francisco, California. Graycort's investment objective is
24 to seek capital appreciation through a mixture of long term holdings and aggressive opportunistic
25 trading. One of Graycort's investment strategies is to sell stock short as a hedge against
26 declining markets or to take advantage of particular opportunities.

