

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

<b>SECURITIES AND EXCHANGE COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
vs.	)	<b>Case No. 4:10-cv-87</b>
	)	
<b>AMERICAN EQUITY INVESTMENT LIFE</b>	)	
<b>HOLDING COMPANY;</b>	)	
<b>DAVID J. NOBLE; and</b>	)	
<b>WENDY C. WAUGAMAN,</b>	)	
	)	
<b>Defendants.</b>	)	

**COMPLAINT**

Plaintiff, the United States Securities and Exchange Commission (“the Commission”), for its Complaint, alleges as follows:

**SUMMARY**

1. On September 2, 2005, American Equity Investment Life Holding Company (“American Equity” or the “Company”) acquired, for \$1, American Equity Investment Service Company (“Service Company”), a financing company wholly-owned by David Noble, the founder, Chairman, and former Chief Executive Officer (“CEO”) of American Equity. This acquisition conferred significant benefits on Noble. American Equity, Noble, and Wendy Waugaman (formerly Wendy Carlson), American Equity’s then Chief Financial Officer (“CFO”) and General Counsel (and current President and CEO), failed to properly disclose these benefits in the Company’s 2006 proxy statement.

2. At the time of the acquisition, Service Company’s liabilities exceeded its assets (including its future revenue stream) by approximately \$19 million, and Service Company lacked resources to pay all of its upcoming obligations or the financial capability

to survive as an entity long-term. Noble had personally guaranteed a significant portion of Service Company's liabilities. He had also faced potential personal liability or losses for the rest of Service Company's debts. By virtue of this transaction, American Equity effectively absorbed all of Service Company's liabilities, conferring a substantial economic benefit upon Noble. In addition, immediately prior to the acquisition, Service Company paid Noble a \$2.5 million distribution (despite its substantial deficit position), which constituted most of Service Company's liquid assets.

3. American Equity, Noble, and Waugaman made a number of disclosures over the years pertaining to the Service Company relationship, the consolidation of Service Company into its financial statements, and the acquisition of Service Company. However, none of those disclosures described the significant benefits to Noble resulting from the relationship. Specifically, American Equity's public disclosure about the Service Company acquisition in American Equity's 2006 proxy statement was materially misleading because it failed to properly disclose these financial benefits to Noble, as required by Commission regulations.

4. American Equity's 2006 proxy statement disclosure relating to Noble's compensation described Noble as modestly compensated and unwilling to accept additional salary or a bonus. This disclosure was also materially misleading in light of the significant benefit he received from the Service Company acquisition.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e) and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d)-(e), 78aa]. The Defendants have, directly or indirectly, made use of the means

and instrumentalities of interstate commerce, or the mails, or of the facilities of a national securities exchange in connection with the acts, practices and courses of business alleged in this complaint.

6. This is an appropriate venue under Section 27 of the Exchange Act [15 U.S.C. § 78aa]. The transactions, acts, practices and courses of business constituting the violations alleged herein occurred within the Southern District of Iowa, Defendant Waugaman resides within the district, Defendant Noble spends the majority of his time at his residence in the district, and Defendant American Equity's principal place of business is within the district.

#### **THE DEFENDANTS**

7. American Equity is an Iowa corporation with its principal place of business in West Des Moines, Iowa. American Equity is a full service underwriter of fixed annuity and life insurance products through its wholly-owned life insurance subsidiaries, American Equity Investment Life Insurance Company ("American Equity Life") and American Equity Investment Life Insurance Company of New York. The vast majority of American Equity's insurance business is conducted through American Equity Life. American Equity's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is traded on the New York Stock Exchange.

8. David J. Noble, age 78, maintains residences in Longboat Key, Florida and Clive, Iowa. Noble founded American Equity in 1995 and is currently Chairman of American Equity's Board of Directors. Noble was American Equity's CEO, President, and Treasurer, as well as CEO of American Equity Life, until he resigned from those positions effective January 1, 2009. Noble founded Service Company in 1996 and was

its sole owner, President, and sole employee until American Equity acquired Service Company on September 2, 2005.

9. Wendy C. Waugaman, age 49, is a resident of Waukee, Iowa. Effective January 1, 2009, Waugaman succeeded Noble as American Equity's CEO and President. Waugaman was American Equity's Chief Financial Officer and General Counsel, and American Equity Life's General Counsel from June 1999 until she became CEO and President. Waugaman also became a member of American Equity's Board of Directors in 2008. Waugaman served as outside corporate counsel for American Equity from its inception until she joined the Company in 1999. Waugaman also serves as a non-compensated trustee on several of Noble's personal trusts and prepares tax returns for several of Noble's trusts and his charitable foundation. She has also assisted Noble with his personal tax planning over the years.

#### **OTHER ENTITY INVOLVED**

10. Service Company is an Iowa corporation with its principal place of business in West Des Moines, Iowa. Noble founded Service Company in 1996 and was its sole owner and employee until he sold Service Company to American Equity on September 2, 2005. From 1996 through 2003, Service Company was an S corporation. It revoked its Subchapter S election effective January 1, 2004. As an S corporation, Service Company's taxable income or losses were reported each year on Noble's personal tax return. From 1997 to 2004, Service Company provided financing to American Equity Life for a portion of American Equity Life's commissions owed to agents for selling its policies. In return, American Equity Life paid Service Company a stream of renewal commissions based on the outstanding account values of the underlying policies.

## FACTS

### A. American Equity's Need for Statutory Surplus and Noble's Formation of Service Company

11. Noble founded American Equity with a personal investment on December 15, 1995. American Equity is one of the nation's largest underwriters of index annuity products. The Company is licensed to sell its products nationwide through two life insurance subsidiaries, American Equity Life and American Equity Investment Life Insurance Company of New York.

12. American Equity Life markets its insurance and annuity products through its network of more than 40,000 independent insurance agents. American Equity Life pays these independent agents commissions in the year the policies are sold. Thus, American Equity Life incurs substantial upfront commission costs early in the life of its policies before it recognizes the revenues from premiums paid on those policies.

13. Life insurance companies are required to file annual statutory financial statements with the insurance departments in the states in which they do business. The statutory financial statements are used by insurance departments to regulate companies and ensure their solvency. As a way to ensure payment by insurance companies on their policies, state insurance regulations limit the amount of policy underwriting life insurance companies can engage in relative to the companies' "statutory surplus," which is effectively the amount by which an insurance company's assets exceed its liabilities under the statutory accounting rules. State statutory accounting regulations disallow capitalization of certain expenses, including commission expense. As a result, new business generates losses in the early years due to the timing difference between the commission costs and the premium revenues. Newly-formed life insurance companies

typically incur statutory losses in the first several years and may struggle to accumulate the statutory surplus necessary to grow their businesses.

14. Statutory surplus also plays a major role in rating agencies' financial strength ratings of life insurance companies. In order to obtain an A- rating, life insurance companies traditionally had to maintain statutory surplus at least two to three times the "action level" at which the state insurance departments impose additional regulations upon the companies.

15. In its early years, because of its rapid growth, American Equity Life had difficulty maintaining the statutory surplus level necessary to support its growth and to attain strong financial strength ratings from rating agencies.

16. In September 1996, Noble formed Service Company as an S corporation, with Noble as the sole shareholder. One way American Equity Life addressed its statutory surplus needs was by engaging in "commission financings" with Service Company. In a commission financing, Service Company paid a portion of the upfront commissions that American Equity Life owed to its agents. In return, American Equity Life paid Service Company "renewal commissions" for up to a five-year period based on the outstanding account values for the policies financed by Service Company. As a source of funding its portion of producing agents' commission payments, Service Company borrowed money directly from Noble or American Equity, and from a third party in 2004. The third-party loan was personally guaranteed by Noble.

17. These commission financings benefited American Equity Life by allowing it to levelize its upfront commission expenses over a several-year period for statutory accounting purposes and temporarily increase statutory surplus. This increase in

statutory surplus temporarily improved American Equity Life's capital ratios and allowed American Equity Life to write more new business. Generally, in December of each year, when they could best determine what, if any, additional statutory surplus American Equity Life may need for the year, Waugaman and Noble decided whether and to what extent to use Service Company for commission financing.

18. The Service Company relationship was one of several alternatives available to American Equity Life to strengthen its statutory surplus. As another way to strengthen its statutory surplus beginning in 2001, American Equity Life entered into surplus relief reinsurance agreements, which transferred a portion of the risk associated with insurance policies. Surplus relief reinsurance worked similarly to Service Company financings in that it provided temporary statutory surplus relief and temporarily increased statutory earnings. American Equity also raised capital through various debt and stock offerings and contributed substantially all of the proceeds to American Equity Life, which permanently increased its statutory surplus. Rating agencies viewed increases to statutory surplus through means such as commission financings and reinsurance as inferior to permanent capital raising activities or earnings growth due to their temporary nature.

19. As with all financing transactions, there were costs associated with American Equity Life's financing commissions through Service Company. The statutory surplus increase was only temporary (two to five years), and because the renewal commissions that American Equity Life paid to Service Company exceeded the amount of the commissions financed, the commission financings themselves had some negative long-term impact on statutory surplus.

**B. Benefits to Noble From the Service Company Financings**

20. Historically, Service Company earned a modest return on the commission financings. For financings completed prior to 2004, Service Company earned a 9% rate of return, which was marginally higher than Service Company's average borrowing costs.

21. American Equity management received questions over the years from investment bankers and other third parties about Noble's modest salary at American Equity and whether he was receiving additional compensation through Service Company. In response, management explained that Noble did not receive a significant salary from Service Company and that Service Company earned a modest return based on the terms of the commission financings.

22. The commission financings produced another benefit to Noble that was not disclosed to investors: they substantially reduced his personal tax liability.

23. Service Company recognized an immediate expense for the amount of commissions it paid on American Equity Life's behalf, and it recognized income from the commission financings as it received renewal commissions over the years. This created a timing difference that caused Service Company to generate a tax loss in the year of financing that would eventually reverse as Service Company received renewal commissions. Because Service Company completed a series of financings over several years, it generated sizable tax losses in all of its early years.

24. This timing difference, and Service Company's status as an S corporation, reduced Noble's personal taxable income. The tax losses incurred by Service Company reduced Noble's personal tax liability for 1994 to 2003 by approximately \$6 million. In



**C. Noble's and Waugaman's Plan to Sell Service Company**

25. The tax benefits realized by Noble over the years, while significant, were also temporary and would ultimately reverse. Service Company was structured as a nearly breakeven entity, with the primary financial benefit to Noble coming from the tax timing difference. If Noble held his interest in Service Company indefinitely, his \$6 million of tax savings would have ultimately reversed and he would have been left with only the time value difference of paying those taxes years later.

26. As early as March 1998, eighteen months after creating Service Company and three months after Service Company's first commission financing, Noble and Waugaman began discussing structures for unwinding Service Company in a manner that would make permanent Noble's tax benefits. Noble told his accountants that he wanted Service Company to generate \$20 million of losses before he sold it to American Equity.

27. In a March 2001 email to Noble, Waugaman wrote:

If you sell the Service Company to the Holding Company, no further income will flow through to you for tax purposes and the tax benefits previously received will be permanent . . . The Service Company will have net income of at least \$20 million this year and next. At the point where most of your loss carry forwards have been used, the Service Company should be sold to the Holding Company.

28. In December 2002, Noble's tax accountants projected Noble's 2002 tax situation based on various assumptions, including both a \$10 million and a \$20 million Service Company commission financing for 2002. Later that month, American Equity Life financed \$11.8 million of commissions through Service Company. This amount of

financing resulted in Noble utilizing all of his remaining tax loss carry-forwards from Service Company, while keeping his 2002 tax liability low.

29. In 2003, American Equity began exploring specific options to acquire Service Company. By 2003, Service Company had a substantial negative value, due to its structure as an S corporation and the resulting flow-through of tax losses to Noble's personal tax return. Service Company's modest profitability was not nearly enough to compensate for the income tax obligations on future renewal commissions. Had Service Company been a C corporation from its inception, it would have had a significant deferred tax asset for net operating loss carry forwards to offset its future tax liability and would have had a slightly positive value. However, because Service Company's tax losses were included in Noble's personal tax returns, there was no such tax asset to offset Service Company's future tax liability, which resulted in a deficit net worth position for Service Company and made it difficult to justify a positive purchase price.

30. In discussions with American Equity senior management and Board members, Waugaman stated that she believed Noble should be compensated as part of the Service Company acquisition for the personal risk he took in forming Service Company and in guaranteeing much of Service Company's debt. This concept would serve as one basis for paying a positive purchase price for Service Company. In a memorandum to the national accounting firm hired to consult with respect to the combination, Waugaman described the past risk assumed by Noble as an "Element of Value" to the transaction. Waugaman and Noble also discussed with Noble's tax accountants the concept of structuring the acquisition in a way that would compensate Noble for the risk he took.

**D. 2003 Commission Financing Prevents Reversal of Tax Benefits**

31. In the wake of the terrorist attacks on September 11, 2001 and the ensuing turbulent economic environment, American Equity Life struggled to maintain a strong statutory surplus level due to rapid growth in its annuity business and American Equity's failed attempts at raising capital. When capital growth did not keep pace with business growth, American Equity's two major rating agencies downgraded American Equity Life from an A- financial strength rating to a B++ rating (A.M. Best) and BBB+ rating (Standard & Poors) in mid-2002.

32. In order to become A-rated again, American Equity continued to aggressively pursue additional capital in order to increase American Equity Life's statutory surplus. Among other things, in December 2003, American Equity completed its initial public offering ("IPO"), raising \$178 million in the offering. American Equity contributed \$125 million of its raised capital to American Equity Life to strengthen statutory surplus. After this contribution, American Equity Life's statutory surplus was higher than the 250% of company action level that American Equity believed at the time to be necessary to regain its A- rating.

33. Despite American Equity Life's stronger surplus position after American Equity's IPO, in December 2003, American Equity Life financed \$14.4 million of commissions through Service Company. Service Company borrowed \$14.5 million from American Equity to pay those commissions on American Equity Life's behalf. This commission financing only provided American Equity with a short-term increase to statutory surplus (a \$14.4 million pre-tax increase, with American Equity already having

more than \$350 million of surplus) that was projected to fully reverse in less than two years.

34. Although providing minimal statutory surplus relief to American Equity, the 2003 commission financing greatly benefited Noble. Service Company was set to report nearly \$14 million of taxable income for 2003 as a result of renewal commissions earned on previous commission financings, and the tax benefits Noble had enjoyed up to that point were about to begin reversing. The \$14.4 million 2003 commission financing offset Service Company's renewal commissions and reduced Service Company's taxable income to a \$552,201 loss. This allowed Noble to report a tax loss of \$252,057 instead of more than \$14 million of taxable income, and it helped Noble defer approximately \$4.9 million of tax liability.

**E. 2004 Commission Financing Further Defers Taxes Associated With Service Company Financings**

35. American Equity continued to analyze a potential acquisition of Service Company throughout 2004, but never completed a deal.

36. In an effort to regain its A- rating and support long-term growth, American Equity continued to raise substantial amounts of capital in 2004 through various securities offerings. In the summer of 2004, American Equity learned from A.M. Best that to regain its A- rating, it needed to maintain statutory surplus at 300% of company action level and show projections for up to seven years to illustrate that the Company could remain above that level.

37. On American Equity's third quarter 2004 earnings conference call in November 2004, Waugaman stated that American Equity Life did not need additional capital to support its near-term growth. She noted that recent fund-raising and an

38. American Equity made additional debt offerings in late 2004 well beyond the anticipated \$20 million fundraising, including an oversubscribed \$250 million convertible debt offering in December 2004, which was immediately followed by a supplementary \$10 million offering. American Equity contributed \$150 million of these debt proceeds as new capital to American Equity Life. With this capital contribution, American Equity Life's statutory surplus was more than \$70 million higher than the A-rating target provided by A.M. Best.

39. Despite its lack of need for additional short-term statutory surplus, on December 31, 2004, American Equity Life financed \$20 million of commissions through Service Company, with renewal commissions to be paid over five years. This financing temporarily increased American Equity Life's statutory surplus by approximately 2%, and was expected to reverse itself within four years, at which time it would negatively affect statutory surplus. Unlike all previous commission financings, which were funded through loans to Service Company by Noble or American Equity and had a 9% imputed interest rate for the renewal commissions, the 2004 financing was funded through a loan to Service Company by a third-party and guaranteed by Noble, and had an imputed interest rate of approximately 15%. The imputed cost of this financing to American Equity Life was nearly double the 8% implicit interest rate of American Equity's oversubscribed convertible debt offering. Moreover, the new seven-year projection requirement by A.M. Best for an A- rating further reduced the utility of the commission

40. As with the 2003 commission financing, Noble benefited from the 2004 financing by once again achieving tax deferral. Although Noble converted Service Company to a C corporation effective January 1, 2004, any Service Company tax liability still affected him as 100% owner. Without the 2004 financing, Service Company would have owed approximately \$9.9 million in taxes for 2004, yet it had only \$7.2 million of unrestricted liquid assets at year-end. The \$20 million commission financing deferred \$8 million of this tax liability to future years and enabled Service Company to avoid incurring a 2004 tax liability that it lacked the resources to pay. Noble also benefited from the financing because it increased Service Company's value for purposes of the acquisition, as the implicit rate of return on the renewal commissions was approximately 4% higher than Service Company's borrowing cost for the financing.

41. Internal American Equity documents, including emails, indicate that providing tax deferral to Service Company was a significant motivation behind completing the commission financing. In notes created in November 2004 regarding planning for Service Company, Waugaman wrote, "New 04 commission financing to reduce current tax liability".

**F. American Equity's Acquisition of Service Company**

42. American Equity continued to work toward completing an acquisition in 2005. It remained difficult to justify a positive purchase price for Service Company, as illustrated by Service Company's balance sheet as of December 31, 2004:

**ASSETS**

Cash & Cash Equivalents	\$ 3,878,261
Commissions Receivable from AEL (includes all commissions thru 2009)	\$ 35,811,581
<b>TOTAL ASSETS</b>	<b><u>\$ 39,689,842</u></b>

**LIABILITIES**

Accounts Payable	\$ 76
Accrued Interest	\$ 334,076
Federal Income Taxes Payable	\$ 1,933,580
Deferred Income Tax Liability	\$ 14,324,114
Notes Payable	\$ 39,562,553
<b>TOTAL LIABILITIES</b>	<b><u>\$ 56,154,399</u></b>

**DEFICIENCY IN ASSETS**

Common Stock	\$ 10,000
Additional Paid-in-Capital	\$ 146,167
Common Stockholders Dividends	\$ (1,622,696)
Accumulated Deficit	\$ (14,998,029)
<b>TOTAL DEFICIENCY IN ASSETS</b>	<b><u>\$ (16,464,558)</u></b>
<b>TOTAL LIAB. &amp; DEF'Y. IN ASSETS</b>	<b><u>\$ 39,689,842</u></b>

43. As the balance sheet reveals, Service Company's future renewal commission stream was insufficient to cover its future tax and debt obligations, leaving Service Company with a \$16.5 million deficit.

44. Nevertheless, on September 2, 2005, American Equity acquired Service Company for \$1. The acquisition effectively relieved Noble of Service Company's liabilities and allowed him to retain his tax benefits from earlier years by shifting Service Company's future tax liability to American Equity. While American Equity had net operating loss carry forwards to offset Service Company's future tax liability, the majority of those loss carry forwards could have instead been utilized to offset American Equity

Life's income; thus American Equity's overall tax burden increased as a result of the acquisition. Immediately prior to the acquisition, Service Company made a \$2.5 million distribution to Noble from its limited cash reserves, thus increasing the deficit inherited by American Equity to approximately \$19 million.

45. Noble, Waugaman, and certain members of American Equity's Board of Directors expressed an intention to compensate Noble through the Service Company acquisition. One member of American Equity's Board of Directors at the time (but not currently on the Board) told the audit partner from American Equity's independent audit firm that he would not have approved the acquisition of Service Company at the same terms if it involved an outside party. The Board member told the audit partner that Noble had worked for a very low salary and that Noble deserved the acquisition of Service Company by American Equity.

46. American Equity has not done a commission financing with Service Company since acquiring the entity in September 2005.

#### **G. Noble's Reported Compensation**

47. From its inception through 2006, American Equity reported modest compensation for Noble. American Equity reported in its 2006 proxy statement:

Mr. Noble has elected to receive an annual base salary of \$60,000 since the formation of the Company in December 1995, and has received no cash bonuses. In 2000 and again in 2003, the Compensation Committee reviewed Mr. Noble's compensation and made recommendations to the Board of Directors concerning an increase in Mr. Noble's compensation and a cash bonus to reflect his leadership, the scope of his responsibilities and the Company's growth and profitability. The Compensation Committee has approved a form of employment contract for Mr. Noble, which includes an increase in salary and other long-term incentives. However, Mr. Noble has not accepted any salary increase or cash bonuses, and his total cash compensation from the Company remains at \$60,000.



Mr. Noble desires to negotiate several aspects of his proposed employment contract.

According to Noble, he rejected the increases to his salary and bonuses to keep the money in the Company and to present the image to potential investors that American Equity was a conservative Iowa company that outperformed the industry.

#### **H. American Equity's Materially Misleading Proxy Statements**

48. Item 404 of Regulation S-K (pre-November 2006 amendment) required disclosure in proxy statements all related party transactions exceeding \$60,000 wherein the related person has a direct or indirect material interest. Among other things, Item 404 required discussion of the nature and, where practicable, the amount of the related person's interest in the transaction. 17 C.F.R. § 229.404 (pre-November 2006 amendment). In determining the materiality of a related person's interest, factors such as the importance of the interest to the related person, the relationship of the parties at issue, and the amount involved in the transactions should be determined. Id.

49. The acquisition of Service Company did not require a shareholder vote; but because it was a related party transaction, it was described in American Equity's 2006 proxy statement, a document which Noble and Waugaman both had a role in issuing to shareholders for solicitation of proxies. The proxy statement disclosed American Equity's acquisition of Service Company, but omitted material facts about the nature and amount of Noble's interest in the acquisition that were necessary for the reader to understand the acquisition and Noble's interest therein.

50. In its 2006 proxy statement, American Equity disclosed that it acquired Service Company for \$1, and that Noble received a \$2.5 million cash distribution from Service Company immediately prior to the acquisition. The disclosure did not provide

investors with information regarding the nature and amount of Noble's interest in the transaction – namely, that American Equity purchased Service Company for approximately \$19 million above Service Company's book value, and that, by doing so, it effectively relieved Noble of significant personal liability for Service Company's debts. Without this information, a reader could not determine that Noble benefited substantially from the acquisition, and that his interest in the acquisition far exceeded the \$1 consideration he received for Service Company.

51. American Equity's 2006 proxy statement disclosure describing Noble's modest compensation was also materially misleading in light of American Equity's failure to adequately disclose Noble's interest in the Service Company acquisition. Those disclosures created an impression that Noble refused to accept much remuneration from American Equity, which was materially misleading in light of the millions of dollars of undisclosed benefits to Noble through the sale of Service Company.

52. American Equity, Waugaman, and Noble knowingly, recklessly, or negligently solicited American Equity's 2006 proxy statement to shareholders despite the material omissions and misleading statements regarding the Service Company transactions and Noble's compensation.

53. American Equity's proxy statements were incorporated by reference into American Equity's Form 10-K filed with the Commission.

**CLAIM FOR RELIEF**  
**American Equity's, Noble's, and Waugaman's Violations of**  
**Section 14(a) of the Exchange Act and Rules 14a-3 and 14a-9 Thereunder**

54. The Commission realleges and incorporates by reference the allegations of paragraphs 1 through 53 as if fully set forth herein.

55. Defendants American Equity, Noble, and Waugaman, directly or indirectly, knowingly, recklessly, or negligently, by the use of means or instrumentalities of interstate commerce or of the mails, or of a facility of a national securities exchange or otherwise, solicited by means of a proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing statements which, at the time and in the light of the circumstances under which they were made, were false and misleading with respect to material facts, or omitted to state material facts necessary in order to make the statements therein not false or misleading or necessary to correct statements in earlier communications with respect to the solicitation of the proxy for the same meeting or subject matter which had become false or misleading.

56. As a result of the conduct cited in the preceding paragraph, Defendants American Equity, Noble, and Waugaman failed to comply with such rules and regulations promulgated by the Commission in connection with the solicitation of proxies by way of American Equity's 2006 proxy statement.

57. By engaging in the conduct described above, Defendants American Equity, Noble, and Waugaman have violated Section 14(a) of the Exchange Act [15 U.S.C. § 78n(a)] and Exchange Act Rule 14a-3 and 14a-9 [17 C.F.R. § 240.14a-3, 14a-9].

#### **PRAYER FOR RELIEF**

Wherefore, the Commission respectfully prays that this Court:

- (a) permanently enjoin Defendants American Equity Investment Life Holding Company, David J. Noble, and Wendy C. Waugaman from violating Section 14(a) of the Exchange Act [15 U.S.C. § 78n(a)] and Rules 14a-3 and 14a-9 thereunder [17 C.F.R. §§ 240.14a-3, 14a-9];

- (b) issue an order directing Defendant Noble to pay a civil money penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], in the amount of \$900,000;
- (c) issue an order directing Defendant Waugaman to pay a civil money penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], in the amount of \$130,000;
- (d) issue an order requiring American Equity Investment Life Holding Company to permanently comply with the undertakings described in the Consent of Defendant American Equity Investment Life Holding Company filed simultaneously with this complaint;
- (e) retain jurisdiction over this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court; and
- (f) grant such other relief as the Court may deem just and appropriate.

Dated: March 3, 2010

Respectfully submitted,

/s/ Jeffrey A. Shank

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