

Mark K. Schonfeld
Regional Director (MS-2798)

Ⓢ SI

Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
Northeast Regional Office
233 Broadway
New York, New York 10279

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JAN 26 2005 ★
BROOKLYN OFFICE
BLASSER, J.
MANN, M.J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

HERMAN'S WORLD OF SPORTS, INC.,
THOMAS J. DZWILEWSKI,
MICHAEL EISEMANN, AND LOUIS
MONTAINO,

Defendants.

05 438

05 Civ. ____ ()

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges the following against defendants Herman's World of Sports, Inc. ("Herman's Sports"), Thomas J. Dzwilewski ("Dzwilewski"), Michael Eisemann ("Eisemann"), and Louis Montaino ("Montaino") (collectively the "Defendants"):

SUMMARY

1. This action involves fraudulent misrepresentations in the offer and sale of shares of Herman's Sports through unregistered offerings. Investors were solicited with false promises of an imminent initial public offering ("IPO") that would enable them to earn a quick profit and misrepresentations concerning the relationship between Herman's Sports and well-known

national banks. Investors also received copies of one or more versions of the Herman's Sports private placement memorandum ("PPM") that contained false statements and omissions about the Herman's Sports offering. Moreover, the Herman's Sports offering was not registered under the federal securities laws and did not qualify for any exemption from registration. The fraudulent offering raised at least \$641,500 from at least 59 investors.

2. The main perpetrators of the fraud are Eismann, formerly the Vice President of Investor Relations at Herman's Sports, and Montaino, a former registered representative retained by Herman's Sports to solicit investors. Eismann and Montaino solicited investors in the Herman's Sports private placement through a series of false or misleading statements. Eismann also sent investors documents, including several versions of the PPM, containing misrepresentations about the Herman's Sports offering, and Montaino knew that Eismann was forwarding the PPM to investors. Furthermore, neither Eismann nor Montaino were registered as, or affiliated with, a broker-dealer at the time they sold shares of Herman's Sports. Eismann received at least \$76,200 from the fraud, and Montaino received at least \$62,500.

3. Dzwilewski, the former President and CEO of Herman's Sports, also participated in the fraudulent offering of Herman's Sports shares. Dzwilewski distributed correspondence containing misrepresentations that a prominent national bank was assisting Herman's Sports with an IPO. Dzwilewski also drafted portions of the Herman's Sports PPM that were false, including statements that a national law firm and an international accounting firm were retained by Herman's Sports and that certain individuals, with substantial experience in the sporting apparel industry, were members of Herman's Sports management. Dzwilewski received at least \$85,000 from the fraud.

NATURE OF THE PROCEEDINGS AND THE RELIEF SOUGHT

4. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77t(b), and Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78u(d), to permanently enjoin and restrain the Defendants 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), and 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, and to permanently enjoin and restrain Eisemann and Montaino from violating Section 15(a) of the Exchange Act, 15 U.S.C. § 78j(b).

5. In addition, the Commission is seeking, against all Defendants, disgorgement of all ill-gotten gains, plus pre-judgment interest thereon, and civil penalties, and, against Eisemann and Montaino, penny stock bars.

STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED

Antifraud Provisions

6. The Defendants have engaged, and, unless enjoined and restrained, will again engage, in transactions, acts, practices, and courses of business that constitute violations of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and 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.

Registration Requirements

7. The Defendants have engaged, and, unless enjoined and restrained, will again engage, in transactions, acts, practices and courses of business that constitute violations of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

Broker-Dealer Registration Requirements

8. Eisemann and Montaino have engaged, and, unless enjoined and restrained, will again engage, in transactions, acts, practices and courses of business that constitute violations of Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a), and Sections 21(d), 21(e), and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e), and 78aa.

10. Venue lies in this Court pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 78aa. Certain of the transactions, acts, practices and courses of business alleged herein occurred within the Eastern District of New York. For instance, Herman's Sports maintained its principal place of business in Bethpage, New York, and all of the Defendants engaged in certain of the acts alleged herein in the Eastern District of New York.

11. Defendants, directly or indirectly, have each made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate commerce, and/or the mails, in connection with the acts, practices, and courses of business alleged herein.

DEFENDANTS

12. **Herman's Sports** is a Nevada corporation operating out of a small two-room office in Bethpage, New York. Herman's Sports owns the trademarks of Herman's Sporting Goods, Inc. ("Herman's"), a well-known chain of sporting goods stores that filed for bankruptcy protection in 1996 and was eventually liquidated. Herman's Sports currently operates a retail

website, www.hermansports.com, which sells sporting goods online. Herman's Sports also has several business plans, including selling franchises to sell sporting goods from mobile vans and the sponsorship of sports camps.

13. **Dzwilewski**, age 51, resides in Huntington, New York. Dzwilewski is a Director and employee of Herman's Sports and was the President and CEO of Herman's Sports from its inception until approximately May 2004. Dzwilewski is the largest shareholder of Herman's Sports.

14. **Eisemann**, age 46, resides in Brentwood, New York. Eisemann was Vice President of Investor Relations for Herman's Sports from approximately November 2001 until approximately March 31, 2004, during which time he engaged in the fraudulent acts described herein. From 1988 through November 2000, Eisemann worked for, and was associated with, several broker-dealers, including Nationwide Securities Corporation, Morgan Grant Capital Corp ("Morgan Grant"), and Joseph Dillon & Co., Inc. ("Joseph Dillon"). In March 2002, Eisemann pled guilty to charges of conspiracy, securities fraud, and making false statements to the government for his role in a fraudulent securities offering unrelated to this case. U.S. v. Fiore, et al., 00 Cr 1267 (LAK) (SDNY).

15. **Montaino**, 36, resides in Monterey Park, California. He was employed by Herman's Sports to solicit investors in the Herman's Sports private placement from approximately May 2001 through approximately March 2003. Since 1995, Montaino has worked for, and been associated with, several broker-dealers, including Morgan Grant and Joseph Dillon. Until approximately August 2004, Montaino was associated with Greenwood Securities, Inc., a broker-dealer located in California. On August 27, 2002, the NASD suspended

Montaino from association with an NASD member firm for six months because of his role in a market manipulation scheme.

FACTS

Background

16. Herman's was a well-known chain of over 700 retail stores when it filed for bankruptcy in 1996. In December 1999, Dzwilewski purchased the Herman's trademarks from a sporting goods company that had in turn bought them in the bankruptcy proceeding. At the time, Dzwilewski was trying to operate an on-line sporting goods business with little success, and he hoped that the trademarks, with their association to a storied brand name, would help the venture get off the ground.

17. On or about November 2001, Dzwilewski learned that both Eisemann and an individual who had co-founded Herman's Sports had been arrested and indicted for federal securities fraud charges for conduct unrelated to this case, U.S. v. Fiore, et al., 00 Cr 1267 (LAK) (SDNY). Thereafter, the co-founder was terminated from his position at Herman's Sports but Eisemann was promoted to Vice President for Investor Relations.

18. To date, Herman's Sports has never earned a profit. Revenues from its website have never exceeded \$60,000 in any given year.

The Herman's Sports Offering

19. Between February 1, 2001, and March 25, 2003, Herman's Sports raised at least \$641,500 from at least 59 investors in a private placement. Of this amount, Eisemann was paid at least \$76,200 and Montaino received at least \$62,500 – in aggregate, some 22% of the offering proceeds – while Dzwilewski received at least \$85,000.

20. Investors purchased Herman's Sports stock for \$1 or \$2 a share.

21. The Herman's Sports private placement offering was described in three different versions of a PPM, all dated February 1, 2001, copies of which were sent to investors. All three versions of the PPM claimed that the securities being offered were exempt from registration pursuant to Section 3(b) and 4(2) of the Securities Act and Rule 506 of Regulation D. On January 9, 2002, Herman's Sports filed a Form D with the Commission stating that it intended to raise up to \$5 million through a private placement purportedly exempt from registration pursuant to Rule 506 of Regulation D.

22. However, of the 43 investors that signed and returned subscription agreements and confidential questionnaires that accompanied the PPM (out of the at least 59 investors that purchased shares in the private placement), only two investors filled out information sufficient to indicate that they qualified as accredited investors, as is required in a Rule 506 offering.

23. Eisemann and Montaino each solicited and sold Herman's Sports stock during periods when they were not associated with, or registered as, a broker-dealer. Both Eisemann and Montaino received commissions for seeking out investors and providing advice about, and negotiating the sale of shares in, the Herman's Sports private placement offering. Eisemann engaged in these activities after he pled guilty to a willful violation of the federal securities laws. Montaino engaged in these activities after having been suspended by the NASD from association with any of its member firms.

The Herman's Sports PPMs

24. The original Herman's Sports PPM, which was distributed to investors from February 2001 through November 2001, contained misrepresentations, including that: (a) Herman's Sports had retained a national law firm and an international accounting firm to perform the company's legal and accounting work; (b) certain individuals with extensive

experience in the sporting goods apparel industry were members of Herman's Sports' management; and (c) Herman's Sports will pay brokers a 10% sales commission with an optional 3% expense allowance. Each of these representations was false. In fact, neither the law firm nor the accounting firm had been retained by Herman's Sports, the identified executives were not in fact working for Herman's Sports, and Montaino actually received commissions on the sale of Herman's Sports securities in excess of 20%.

25. The second version of the PPM, which was distributed to investors from December 2001 through April 2002, contained the same misrepresentations about Herman's Sports' management, the retention of the law firm and the accounting firm and the sales commission rate. The second version of the PPM also failed to disclose that Herman's Sports' co-founder had been indicted for securities fraud in November 2001.

26. The third version of the PPM, which was distributed to investors from May 2002 until at least March 2003, also failed to disclose co-founder's indictment and misrepresented the sales commission rate.

THE ROLES OF EISEMANN AND MONTAINO IN THE OFFERING

27. Eiscmann and Montaino cold-called investors and offered to sell them shares of Herman's Sports. In doing so, they made material misrepresentations and omissions concerning, inter alia, Herman's Sports' plans for and participation in an IPO and Herman Sports' relationship with banks.

28. As part of their solicitation efforts, Montaino and Eiscmann targeted former investors of another stock offering they had participated in, the stock of which had become worthless prior to the commencement of the Herman's Sports offering. Montaino and Eiscmann induced investors in that worthless stock to invest in the Herman's Sports offering by telling

them that if they invested additional money in Herman's Sports stock, they would also be allowed to convert their worthless stock to Herman's Sports stock.

Misrepresentations About a Purported Herman's Sports IPO

29. Both Eiscmann and Montaino made a variety of misrepresentations to investors concerning an alleged Herman's Sports IPO, including the existence and timing of the IPO, the price at which shares would be sold in the IPO, and the amount by which the investors would profit.

30. Eiscmann made misrepresentations during his solicitation efforts about the purported Herman's Sports IPO, including that: (a) Herman's Sports would be conducting an IPO by a date certain, which Eiscmann described as a period of weeks, one month, months, or "soon;" (b) the IPO would open at a particular price, as much as \$10 per share, and that Herman's Sports shares were available at a discounted price to a small segment of investors; (c) money would be returned to investors if Herman's Sports did not conduct a public offering by January 2003; and (d) in September or October of 2002, Eiscmann told an investor, who invested \$10,000 in the Herman's Sports offering, that he should have \$30,000 to \$32,000 before Christmas as a result of the Herman's Sports IPO. Eiscmann told at least one investor that the offering was "proceeding nicely," and told another investor that the investor would "be happy with everything" and "would see some money soon."

31. Montaino also made numerous misrepresentations to investors concerning a purported Herman's Sports IPO, including that: (a) Herman's Sports would be conducting an IPO by a date certain, which he described as a period of weeks, one month, months, or "soon;" (b) the IPO would open at a particular price, which varied from \$3 to \$5 per share; (c) an investor would be able to sell 20,000 shares of Herman's Sports for \$100,000 within ninety days

of purchasing them; (d) if Herman's Sports shares were not publicly traded by October 15, 2002, investments would be refunded; and (e) a prominent national bank will purchase fifty percent of Herman's Sports shares in the IPO for between four and five dollars a share. Montaino even "guaranteed" one investor that the Herman's Sports IPO price would be higher than the price paid by the investor in the private placement.

32. Eisemann and Montaino knew, or were reckless in not knowing, that their statements to investors were false and misleading. Herman's Sports never conducted an IPO and never took any meaningful steps towards conducting an IPO. In addition, there was no basis for any price predictions for Herman's Sports stock or any representations about reimbursing investors.

**Misrepresentations About Herman's Sports'
Relationship With Banks**

33. Eisemann and Montaino falsely represented to investors that certain banks were helping Herman's Sports conduct an IPO.

34. Eisemann sent several investors letters that contained misrepresentations concerning Herman's Sports relationship to a division of a well-known national bank (the "Bank"). For example, on May 1, 2002, Eisemann sent at least one investor a letter that stated, in part: "[the Bank] has indicated to us that they would like to work with us in regards to moving Herman's to an IPO." Similarly in July 2002, Eisemann sent certain investors a letter that stated, in part: "[the Bank] has indicated to us that they would like to work with us in regards to moving Herman's to an IPO and they have assigned us to an executive who sits on their Board to mentor us through their process."

35. Eisemann and Montaino also made misrepresentations about the involvement of other banks in the Herman's Sports IPO. Eisemann falsely represented that Herman's Sports was working with another major bank. Similarly, Montaino falsely represented that another bank would be purchasing forty-nine percent of Herman's Sports.

36. Eisemann knew, or was reckless in not knowing, that his representations about the Bank were false and misleading. Nobody at the Bank ever told anyone at Herman's Sports that they were interested in moving Herman's Sports to an IPO. Furthermore, the particular division of the Bank, which is in the business of asset-based debt lending and generally services large retail chains with lines of credit or secured debt, did not even conduct IPOs. Eisemann and Montaino also knew, or were reckless in not knowing, that their representations about the involvement of the other banks were false.

Misrepresentations Contained in the PPMs

37. Eisemann distributed the different versions of the PPM to investors, but he never took any steps to check the accuracy of the representations contained in any version of the PPM. Montaino, who was soliciting investors, knew that Eisemann was sending PPMs to those investors.

38. Eisemann and Montaino knew, or were reckless in not knowing, that all three versions of the PPM contained material misrepresentations and omissions.

Other Misrepresentations

39. In August 2002, Eisemann sent certain investors a letter that stated, inter alia, that Herman's Sports would be conducting an SB-2 offering and that the offering will be completed and filed with the proper government agencies by the first quarter 2003. Eisemann also falsely represented that Herman's Sports had sales of \$5 million and told a prospective investor that

Herman's Sports owned eight stores under various names in three Midwest states and that a ninth store was being purchased in New York.

40. Eisemann knew, or was reckless in not knowing, that his representations about the SB-2, Herman's Sports' sales figures, and the ownership of retail stores were false and misleading. Herman's Sports has never taken any steps to conduct an SB-2 offering, the \$5 million sales number was completely baseless, and Herman's Sports has never owned any retail stores.

DZWILEWSKI'S ROLE IN THE FRAUD

41. Dzwilewski misrepresented to investors that a division of the Bank was assisting Herman's Sports with an IPO and that a division of the Bank had assigned an executive to mentor Herman's Sports. He personally sent and approved correspondence sent to investors which contained misrepresentations about the Bank's role in a purported Herman's Sports IPO. As the President and CEO of Herman's Sports, Dzwilewski knew, or was reckless in not knowing, that the representations about the Bank were materially false and misleading

42. Dzwilewski drafted sections of the PPM involving the law firm, the accounting firm, and the composition of Herman's Sports' management. He also approved the final version of each PPM. As President and CEO of Herman's Sports, Dzwilewski knew, or was reckless in not knowing, that the law firm and accounting firm had not been retained, that individuals mentioned as part of Herman's Sports management did not hold such positions, the Bank was not working on an IPO, and that the representations concerning them were materially false and misleading.

43. Dzwilewski also signed \$62,500 worth of commission checks to Montaino, thereby paying commissions in excess of those disclosed in each version of the PPM. He knew,

or was reckless in not knowing, that Montaino was being compensated in a manner inconsistent with the representations in the PPM.

44. In addition, Dzwilewski recklessly oversaw the Herman's Sports offering by allowing Eisemann and Montaino to control and participate in the private placement process. Dzwilewski delegated responsibility for the Herman's Sports offering to Eisemann even after Dzwilewski found out, on or about November 2001, that both Eisemann and Herman's Sports' co-founder had been indicted and arrested for violations of the securities laws.

FIRST CLAIM FOR RELIEF

Violation of Section 17(a) Of the Securities Act and Section 10(b) Of the Exchange Act and Rule 10b-5 (Antifraud Provisions - against all Defendants)

45. The Commission repeats and realleges the allegations contained in paragraphs 1 through 44 by reference as if fully set forth herein.

46. Defendants, directly or indirectly, singly and in concert, knowingly, or recklessly, by the use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or by the use of the mails, in the offer or sale, and in connection with the purchase or sale, of securities, have (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of, or otherwise made untrue statements of material fact, or omitted to state material facts necessary to make the statements, in the light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, acts, practices, and courses of business which operated or would operate as a fraud or deceit upon purchasers of securities and other persons.

47. As part of and in furtherance of this violative conduct, as alleged above, Eisemann directly or indirectly, made misrepresentations or omissions of material facts,

including, but not limited to, falsely telling investors that: (a) Herman's Sports will be conducting an IPO in the immediate future; (b) the Herman's Sports IPO will open at a particular price, as much as \$10 per share; (c) individuals will be refunded their investment if the Herman's Sports IPO does not take place by a certain date; (d) banks were assisting Herman's Sports with its IPO; (e) Herman's Sports will be conducting an SB-2 offering; (f) Herman's Sports had sales of \$5 million; and (g) Herman's Sports owned retail stores. In addition, Eisemann distributed versions of the Herman's Sports PPM to investors that falsely described the retention of a law firm and accounting firm and the composition of Herman's Sports' management team.

48. As part of and in furtherance of this violative conduct, as alleged above, Montaino directly or indirectly, made misrepresentations or omissions of material facts, including, but not limited to, telling investors that: (a) Herman's Sports will be conducting an IPO in the immediate future; (b) the Herman's Sports IPO will open at a particular price, as much as three to five dollars per share; (c) individuals will be refunded their investment if the Herman's Sports IPO does not take place by a certain date; (d) the Bank will purchase fifty percent of Herman's Sports shares in the IPO for between four and five dollars a share; and (e) a bank would be purchasing forty nine percent of Herman's Sports.

49. As part of and in furtherance of this violative conduct, as alleged above, Dzwilewski, directly or indirectly, made misrepresentations or omissions of material facts, including, but not limited to, sending and approving of misleading correspondence that a division of the Bank was assisting Herman's Sports with its IPO and drafting and approving several versions of the PPM that contained false and misleading statements about the retention of a law firm and accounting firm and the composition of Herman's Sports management.

50. The misrepresentations and omissions made by the Defendants, more fully described above, were material.

51. The Defendants know, or were reckless in not knowing, that these material misrepresentations and omissions, more fully described above, were false or misleading.

52. By reason of the foregoing, the Defendants, directly or indirectly, singly or in concert, have violated, are violating, and, unless restrained and enjoined, will continue to violate Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and 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.

SECOND CLAIM FOR RELIEF

Violation of Sections 5(a) And 5(c) Of The Securities Act (Registration Provisions - against all Defendants)

53. The Commission repeats and realleges the allegations contained in paragraphs 1 through 52 by reference as if fully set forth herein.

54. Defendants directly or indirectly: (a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities through the use or medium of a prospectus or otherwise; or carried securities or caused such securities to be carried through the mails or in interstate commerce, by means or instruments of transportation, for the purpose of sale or for delivery after sale; and (b) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy, through the use or medium of any prospectus or otherwise, securities without a registration statement having been filed or being in effect with the Commission as to such securities.

55. The Herman's Sports stock sold by the Defendants to investors was not properly registered with the Commission or subject to an exemption from the registration requirements of the federal securities laws.

56. By reason of the foregoing, Defendants violated, and unless restrained and enjoined, will again violate Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

THIRD CLAIM FOR RELIEF

Violation of Section 15(a) of the Exchange Act (Broker-Dealer Registration Requirements - against Eismann and Montaino)

57. The Commission repeats and realleges the allegations contained in paragraphs 1 through 56 by reference as if fully set forth herein.

58. Eismann and Montaino, directly or indirectly, by use of the mails or the means or instrumentalities of interstate commerce, while acting as brokers whose business was not exclusively intrastate, effected transactions in, and induced and attempted to induce the purchase or sale of, securities (other than an exempted security or commercial paper, banker's acceptances, or commercial bills) without registering as brokers in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

59. For portions of the period from at least May 2001 through at least April 2003, Eismann and Montaino offered and sold shares of Herman's Sports while they were not associated with, or registered as, a broker-dealer and without any exemption from registration.

60. By reasons of the foregoing, Eismann and Montaino violated, and, unless restrained and enjoined, will again violate Section 15(a) of the Exchange Act.

RELIEF SOUGHT

WHEREFORE, the Commission respectfully requests that this Court issue a final judgment:

I.

Ordering: (a) that the Defendants, their agents, servants, employees, attorneys in-fact, and all persons in active concert or participation with them who receive actual notice of the injunction, directly or indirectly, by personal service or otherwise, and each of them, are and be permanently enjoined and restrained 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), and 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; and (b) that Eisemann and Montaino, their agents, servants, employees, attorneys in-fact, and all persons in active concert or participation with them who receive actual notice of the injunction, directly or indirectly, by personal service or otherwise, and each of them, are and be permanently enjoined and restrained from violating Section 15(a) of the Exchange Act, 15 U.S.C. § 77o(a)(1).

II.

Ordering that Eisemann and Montaino are and be permanently enjoined and restrained from participating in any future penny stock offering pursuant to Section 20(g) of the Securities Act, 15 U.S.C. § 77t(g), and Section 21(d)(6)(A) of the Exchange Act, 15 U.S.C. § 78u(d) (amended at Pub. L. No. 107-204, § 603).

III.

Ordering each of the Defendants to disgorge the full amount of the offering, their ill-gotten gains from the violative conduct alleged in this Complaint, plus pre-judgment interest.

IV.


Ordering that each of the Defendants pay civil monetary penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d) and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

V.

Granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York
January 26, 2005

Mark K. Schonfeld (MS-2798)



Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
Northeast Regional Office
233 Broadway
New York, New York 10279
(646) 428-1650

Of Counsel:

Edwin H. Nordlinger
David Rosenfeld
David A. Markowitz
Joshua E. Levine