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CLERK U S DISTRICT COURT  
DISTRICT OF ARIZONA  
BY E. DEPUTY

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13 UNITED STATES DISTRICT COURT  
14 FOR THE DISTRICT OF ARIZONA

CV 06 0951 PCT-SMM  
No.

15 SECURITIES AND EXCHANGE  
16 COMMISSION,

17 Plaintiff,

18 vs.

19 DAVID L. MCMILLAN,  
20 Defendant.

COMPLAINT

21 Plaintiff, the United States Securities and Exchange Commission alleges the  
22 following for its complaint.

23 I. SUMMARY

24 1. From at least February 1999 through October 2005, David L. McMillan,  
25 an investment advisor and stock broker working in Bullhead City, Arizona defrauded  
26 investors in Arizona, Nevada, California, and Colorado by offering and selling them  
27 investments in either annuity or loan programs that did not exist. Rather than investing  
28 his clients' money as he had represented, McMillan used it to pay his personal expenses  
or to make purported interest payments to earlier investors.



1 commerce, or the means and instruments of interstate commerce, in connection with the  
2 transactions, acts, practices, and courses of business alleged in this complaint.

3 8. Venue lies in this Court pursuant to Section 27 of the Exchange Act,  
4 Section 20(b) of the Securities Act, and Section 209(d) of the Advisers Act because  
5 certain of the transactions, acts, practices and courses of business constituting violations  
6 have occurred within the District of Arizona, the defendant resides in Arizona, and the  
7 defendant's office was in Arizona.

### 8 **III. THE DEFENDANT**

9 9. Defendant David L. McMillan is a resident of Fort Mohave, Mohave  
10 County, Arizona. He has worked as an investment adviser in Bullhead City, Arizona  
11 since at least 1994. He has been associated with Schooner Financial Associates Inc., a  
12 registered investment adviser, since 1994. He was employed by Royal Alliance  
13 Associates, Inc., a registered broker-dealer, or by Geneos Wealth Management, Inc., a  
14 registered broker-dealer, at various times during the course of his fraud.

### 15 **IV. FACTUAL ALLEGATIONS**

#### 16 **The Transnation Fraud**

17 10. At all times material to this complaint, McMillan was an investment  
18 adviser engaged in the business of advising other persons, for compensation, about the  
19 value of securities or the advisability of investing in, purchasing, or selling securities.

20 11. Between February 2002 through October 2005, McMillan employed a  
21 device, scheme or artifice to defraud, and engaged in transactions, practices and courses  
22 of business that operated as a fraud or deceit upon, his clients in Arizona, California,  
23 and Nevada by offering and selling an investment contract which he represented to them  
24 was an annuity.

25 12. McMillan told investors that he was offering and selling an annuity issued  
26 by Transnation Title Insurance (Transnation), an Arizona title insurance company.

27 13. McMillan also told these investors that the Transnation annuity paid  
28 annual interest ranging from 3.75% to 10%.

1           14.   McMillan statements to investors about the existence of the Transnation  
2 annuities and the rate of return were untrue statements of material facts, because  
3 Transnation did not offer any such annuities or pay interest on any such investments.

4           15.   McMillan misrepresented how he would use investors' funds. He omitted  
5 to tell the investors that he did not use the funds that he received from them to purchase  
6 Transnation annuities but instead misappropriated their funds for his personal benefit.

7           16.   McMillan acted with scienter because he knew his statements to investors  
8 and omissions of material fact were false or misleading because Transnation annuities  
9 did not exist and he did not transfer the funds he received from investors to Transnation.

10          17.   Based on McMillan's false and misleading statements, at least five of his  
11 investment advisory clients, including Eugene Doty, Darlene Bruner, Ronald Laughlin,  
12 Lisa Dallman, and Geraldine Teeters paid him at least \$933,000 between February 2002  
13 and April 2004 to invest in the Transnation annuities.

14          18.   In furtherance of the fraud, McMillan created and mailed to at least five of  
15 the six investors fictitious account statements on Transnation letterhead showing their  
16 investment in Transnation and the amount of interest allegedly being earned.

17          19.   McMillan issued these false and misleading account statements to lull  
18 investors into a sense of security and inaction, and to discourage investors from  
19 demanding a return of their principal investment.

20          20.   McMillan mailed two false account statements to Eugene Doty in May  
21 2002 showing his investment of \$100,000 had earned approximately 9.6% interest,  
22 which induced him to invest an additional \$46,000 in the fictitious Transnation  
23 annuities.

24          21.   When Geraldine Teeters became suspicious of the validity of the  
25 Transnation annuity, she began to question McMillan and pressure him for the return of  
26 her money. In August 2004, McMillan paid her \$130,181.66 which included return of  
27 her initial \$100,000 investment and interest.

28          22.   However, at least four of the remaining five clients that invested in the

1 fictitious Transnation annuities did not receive any repayment of their investment.

2 23. By means of the conduct described above, McMillan in the offer and sale  
3 of the Transnation annuities obtained money from his clients by means of untrue  
4 statements of material fact and omissions of material facts necessary to make the  
5 statements he made to his clients not misleading.

6 24. McMillan in the offer and sale of the Transnation annuities engaged in  
7 acts, transactions, practices or courses of business that operated as a fraud or deceit  
8 upon the purchasers of the annuities.

9 **The Riverside Fraud**

10 25. In 1999, Riverside Associates LP (Riverside) owned approximately 40  
11 acres in Bullhead City, Arizona which it was developing for residential home  
12 development. Joel Ontell, the president of the General Partner in Riverside Associates  
13 LP determined that the partnership needed a \$200,000 loan to cover some of the costs of  
14 developing the lots. Ontell was introduced to a local mortgage broker in Bullhead City,  
15 who told him that McMillan and he could locate five to seven people to make the loan.

16 26. By March 1999, McMillan and the mortgage broker had persuaded the  
17 following persons and a trust to pool their capital contributions and make the \$200,000  
18 loan to Riverside. The names of the investors and the amount of money that each  
19 contributed to the loan are Kimberly Butler who invested \$50,000; Charles and  
20 Charlotte Smith who invested \$50,000; David and Sandra Rock who invested \$35,000;  
21 Todd and Deborah Taggart who invested \$25,000; Becky and Kenneth Flippan who  
22 invested \$25,000 and the Sorensen Family Trust which invested \$15,000. The parties  
23 signed a promissory note providing for Riverside to make interest payments of 12% per  
24 year which note was secured by a Deed of Trust on certain of the lots in the  
25 development.

26 27. Starting in April 1999, Riverside began making monthly interest payments  
27 to the investors. Riverside mailed the monthly interest checks to the mortgage broker  
28 who in turn gave them to McMillan to distribute to the investors

1           28.     In October and December 2001, Riverside made two repayments of  
2 \$30,000 in principal which were paid to the investors listed in paragraph 26 above based  
3 on their percentage interest in the loan. Riverside mailed the two sets of principal  
4 checks to the mortgage broker who in turn gave them to McMillan to distribute to the  
5 investors

6           29.     Following Riverside's principal payments, McMillan told the investors  
7 that they could continue their investment in the Riverside loan by depositing the  
8 principal checks into their own bank accounts and then writing a new check to  
9 "Schooner Financial" for the same amount. McMillan told investors that their new  
10 investment in the Riverside loan would continue to earn the same rate of interest.

11           30.     McMillan was the signatory on and owned a credit union account in the  
12 name of Schooner Financial.

13           31.     Based on McMillan's statements, each of the investors wrote checks in  
14 January or February 2002 to Schooner Financial to reinvest in the Riverside loan in the  
15 following amounts: Butler re-invested \$15,000; Smiths reinvested \$15,000; Rocks  
16 reinvested \$10,500; Taggarts reinvested \$7,500; Flippans reinvested \$7,500; and  
17 Sorensen Family Trust reinvested \$4,500. These payments represent the full amount of  
18 principal that these investors had received from Riverside to date.

19           32.     McMillan deposited these checks into his credit union account. He did  
20 not transfer the funds to Riverside.

21           33.     On September 30, 2002, and February 29, 2004, Riverside made  
22 additional partial payments of principal to the investors in the amounts of \$20,000, and  
23 \$60,000 respectively. On March 9, 2004, Riverside made its final principal payment of  
24 \$60,000. Each of these payments was distributed to the investors listed in paragraph 26  
25 above based on their percentage interest in the loan. Riverside mailed the principal  
26 checks to the mortgage broker who in turn gave them to McMillan to distribute to the  
27 investors.

28           34.     Following each of Riverside's principal payments to the investors,

1 McMillan told the investors that they could continue their investment in the Riverside  
2 loan by depositing the principal checks into their own bank accounts and then writing a  
3 new check to "Schooner Financial" for the same amount.

4 35. McMillan falsely represented to investors that the Riverside investment  
5 would continue on for years.

6 36. Each of the investors reinvested the principal payments they received  
7 from Riverside as described in paragraph 33 above by writing a check to Schooner  
8 Financial and delivering it to McMillan who deposited it into his credit union account.  
9 By May 2004, McMillan had received \$200,000 of reinvested funds from the investors.  
10 McMillan did not transfer any of these reinvested funds to Riverside.

11 37. McMillan statements to the investors about continuing their loans to  
12 Riverside were false and misleading because Riverside Associates LP had not agreed to  
13 continue the loan, to borrow the additional funds from the investors, to make interest  
14 payments of 12 % on these additional funds, or to secure these funds with deeds of trust  
15 on the land it was developing in Bullhead City, Arizona.

16 38. McMillan also omitted material facts when he failed to tell investors that  
17 he was not transferring the funds they had paid to Schooner Financial to Riverside  
18 Associates LP for the continuance of their previous loan.

19 39. McMillan knew his statements to investors and omissions of material fact  
20 were false and misleading, because Riverside had not signed new promissory notes or  
21 deeds of trust to continue the loan arrangement, and he had not transferred the money he  
22 received from the investors to Riverside.

23 40. Moreover, in or about August 2002, McMillan began paying investors  
24 purported interest on their Riverside loan by issuing checks drawn on Schooner  
25 Financial's credit union account when he knew that he had not received any interest  
26 payments from Riverside.

27  
28

1           41.     McMillan was operating a Ponzi scheme by making purported interest  
2 payments to investors from funds he had received from investors rather than from  
3 Riverside.

4           42.     In or about February 1999 at the same time that McMillan was raising  
5 money for the Riverside loan, McMillan told Sharon Myers that he had a great  
6 investment opportunity for her to invest \$50,000 with other investors, including the  
7 Rocks and the Taggarts, to make a loan on a housing development on the south side of  
8 Bullhead City, Arizona. McMillan said the investment would pay 12% interest, that  
9 Myers would receive monthly interest payments, and that the investment would  
10 continue for several years. Myers eventually learned that the investment was to be with  
11 "Riverside & Associates."

12           43.     Based on McMillan's statements, Myers agreed to invest \$50,000 in the  
13 loan. She directed McMillan to transfer \$50,000 that she had paid previously to  
14 Schooner Financial into the "Riverside & Associates" investment. Shortly after her  
15 investment, she began receiving monthly interest checks of \$500 drawn on the Schooner  
16 Financial account. These interest checks continued until October 2005.

17           44.     McMillan statements to Myers were false and misleading because he did  
18 not pool her funds with other investors to make a loan to Riverside Associates.  
19 McMillan omitted to tell Myers that he had misappropriated her funds and that the  
20 monthly payments she was receiving were not interest received from Riverside.

21           45.     McMillan knew that Myers' funds were not part of the loan to Riverside  
22 because her name was not listed on the promissory note or deed of trust, and he did not  
23 receive any monthly interest checks for Myers from Riverside. McMillan made the  
24 monthly interest payments to Myers to hide his misappropriation of her funds.

25           46.     McMillan defrauded the Riverside investors out of approximately  
26 \$250,000 by falsely claiming that Riverside was soliciting additional loans after the  
27 original loan to the developer was paid off or by misrepresenting that the investor had  
28 made a loan to Riverside that was fictitious.



**First Deed of Trust Fraud**

1  
2 47. From at least 1999 to October 2005, McMillan told investors that he had  
3 an investment opportunity in which they could invest their money in “First Deed of  
4 Trust investments.”

5 48. McMillan represented to investors that their money would be used to  
6 make loans to a prominent home building company in Bullhead City named Ramsey  
7 Homes, Inc. which was previously known as Ramsey Home Development, Inc.  
8 (referred to jointly herein as Ramsey Homes) or to other individuals or companies that  
9 were building homes in the Bullhead City area.

10 49. McMillan represented to investors they would receive a 10% to 12%  
11 annual return on their investment.

12 50. McMillan also told investors that their investments were secured by first  
13 deeds of trust on specific lots.

14 51. McMillan told these investors that their investment could continue  
15 indefinitely because as one loan was repaid, McMillan would use those funds to make  
16 another loan.

17 52. Based on McMillan’s representations, at least twelve investors paid him  
18 approximately \$1,664,699 to invest in the First Deed of Trust investments between 1999  
19 and October 2005.

20 53. McMillan’s statements, to these twelve investors in connection with his  
21 offer and sale of the First Deed of Trust investments that were to be loaned to Ramsey  
22 Homes, were false and misleading because he did not use the funds received from  
23 investors to make loans to Ramsey Homes. He did not receive any interest payments  
24 from Ramsey Homes. He did not provide investors with promissory notes or first deeds  
25 of trust on specific lots owned by Ramsey Homes to secure their investments.

26 54. McMillan knew his statements to investors were false and misleading  
27 because the First Deed of Trust investments with Ramsey Homes did not exist. When  
28 he received investments from various individuals, he did not pay the funds to Ramsey

1 Homes, or obtain a promissory note and deed of trust to secure any of the loans.

2 McMillan knew that he was not receiving any interest payments from Ramsey Homes.

3 55. McMillan's statements, to these twelve investors in connection with his  
4 offer and sale of the First Deed of Trust investments that were to be loaned to  
5 individuals or other companies building homes, were false and misleading because he  
6 did not use the funds received from investors to make the loans. He did not provide  
7 investors with promissory notes or first deeds of trust on specific lots to secure their  
8 investments.

9 56. McMillan knew his statements about investments in First Deeds of Trust  
10 to other individuals and companies were false and misleading, because he did not use  
11 the investors' funds for the purposes that he represented.

12 57. In fact, McMillan was using these investors' money for unauthorized  
13 purposes including personal expenditures and to pay interest to other investors.

14 58. In furtherance of the fraud and to hide his misappropriation of the  
15 investors' funds, McMillan used part of the funds he had received from investors to  
16 make purported interest payments to the investors.

17 59. Many of the investors in the First Deed of Trust investments have not  
18 received their principal investment back from McMillan.

## 19 V. CLAIMS FOR RELIEF

### 20 A. FIRST CLAIM

#### 21 Violations by McMillan of Sections 206(1) and (2) of the Advisers Act

22 60. Plaintiff repeats and realleges paragraphs 1 through 24 above.

23 61. McMillan directly and indirectly, by use of the mails or means or  
24 instrumentalities of interstate commerce, and while acting as an investment adviser,  
25 employed devices, schemes or artifices to defraud clients and prospective clients; and  
26 has engaged in transactions, practices or courses of business which have operated, are  
27 operating and will operate as a fraud or deceit upon clients or prospective clients.

28



1 commerce or by use of the mails, has employed devices, schemes, or artifices to  
2 defraud; has made untrue statements of material fact or omitted to state material facts  
3 necessary in order to make the statements made, in light of the circumstances under  
4 which they were made, not misleading; or has engaged in acts, practices, or courses of  
5 business which operated or would operate as a fraud or deceit upon the purchasers or  
6 sellers of such securities.

7 52. By reason of the foregoing, McMillan violated and, unless restrained and  
8 enjoined, will violate Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

9 **RELIEF REQUESTED**

10 **Wherefore**, the Commission respectfully requests that the Court:

11 **I.**

12 Find that the Defendant committed the violations alleged.

13 **II.**

14 Enter a preliminary injunction during the pendency of this action and thereafter a  
15 permanent injunction restraining and enjoining Defendant, and those persons in active  
16 concert or participation with him who receive actual notice of the order of injunction, by  
17 personal service or otherwise, and each of them, from directly or indirectly violating  
18 Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5,  
19 and Sections 206 (1) and (2) of the Advisers Act.

20 **III.**

21 Order McMillan to account for, disgorge and pay over, as the Court may direct,  
22 all ill-gotten gains received or benefits in any form derived from the illegal conduct  
23 alleged in this Complaint, together with pre-judgment and post-judgment interest as  
24 provided by law.

25 **IV.**

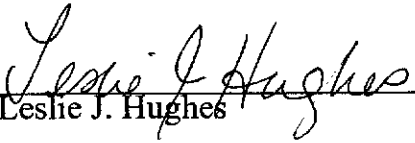
26 Enter an order requiring McMillan to pay third-tier civil penalties pursuant to  
27 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of  
28

1 the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15  
2 U.S.C. § 80b-9(e)].

3 V.

4 Such other and further relief as this Court may deem just, equitable, and appropriate  
5 in connection with the enforcement of the federal securities laws and for the protection of  
6 investors.

7  
8 DATED this 4th day of April, 2006.

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12 Leslie J. Hughes

13 Attorney for the Plaintiff  
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JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
 Securities and Exchange Commission

**(b)** County of Residence of First Listed Plaintiff \_\_\_\_\_  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c)** Attorney's (Firm Name, Address, and Telephone Number)  
 Leslie J. Hughes, United States Securities and Exchange Commission,  
 1801 California Street, Ste. 1500, Denver, CO 80202. 303.844.1000

**DEFENDANTS**  
 David L. McMillan

County of Residence of First Listed Defendant Mohave  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
 (For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 USC 77f(b), 78u(d), (e), 80b-9(d), (e)

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$** \_\_\_\_\_

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 04/04/2006

SIGNATURE OF ATTORNEY OF RECORD: Leslie J. Hughes *Leslie J. Hughes*

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.