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STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

09-61074

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

CIV-ZLOCH

v.

/ROSENBAUM

BRIAN ACKERMAN NEIMAN,
THE FORMULA, INC., and
THE FORMULA, LLC,

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission alleges:

I. INTRODUCTION

1. From at least 2002 until mid-2007, The Formula, Inc. and The Formula, LLC (collectively "Formula"), through their sole owner Brian A. Neiman, conducted an unregistered offering of securities in the form of investment contracts for real estate. Specifically, Formula entered into bulk purchase agreements with developers to purchase a block of condominium units in a development in exchange for a 15% discount from the initial listing price of the condominiums. Formula then solicited individuals to purchase the units, which were to be re-sold once the development was completed as a joint venture with Formula.

2. In connection with the sale of these investments, Formula made misleading statements and omissions about their profitability. Among other things, the companies and Neiman projected returns ranging from 50% to 100% on the re-sale of the units, and failed to disclose the increasing failure rate of developer projects. During the relevant period, Formula

raised more than \$68 million from at least 330 investors nationwide and internationally.

3. By engaging in the conduct described above, and as described more fully below, Formula and Neiman violated the registration provisions of the federal securities laws, Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77e(a) and (c)], and the non-scienter based fraud provisions of the federal securities laws, Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]. The Commission requests that the Court (1) enter permanent injunctions restraining and enjoining Formula and Neiman from further violations of these provisions, and (2) order Neiman to pay a civil money penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. §§ 77t(d)].

II. DEFENDANTS

4. Neiman, 40, is a resident of both Fort Lauderdale, Florida, and Panama. Neiman is the founder and sole shareholder of The Formula, Inc. and The Formula, LLC, although he has no official title at either company. Between 1989 and 1999, Neiman was the subject of several criminal convictions for engaging in the unauthorized practice of law, selling insurance without a license, and insurance fraud. In addition, in 2002, the Supreme Court of Florida ordered Neiman to stop the unauthorized practice of law.

5. The Formula, Inc. is a privately held Florida corporation formed in 2002 and headquartered in Fort Lauderdale. The Formula, Inc. offered investments in discounted condominium units from at least 2002 to November 2005. The Formula, Inc. is not registered with the Commission in any capacity; moreover, no shares or class of securities offered by The Formula, Inc. have been registered with the Commission.

6. The Formula, LLC is a privately held Florida company formed in November 2005 and headquartered in Fort Lauderdale. The Formula, LLC offered investments in discounted

condominium units from November 2005 until mid-2007. The Formula, LLC is not registered with the Commission in any capacity; moreover, no shares or class of securities offered by The Formula, LLC have been registered with the Commission..

III. JURISDICTION AND VENUE

7. 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)].

8. Personal jurisdiction and venue are proper in the Southern District of Florida because many of the Defendants' acts and transactions constituting violations of the Securities Act occurred in the Southern District of Florida. During the relevant period, Formula was located in the Southern District, and Neiman resided at least part of the time here.

9. Formula and Neiman, directly and indirectly, made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of conduct complained of herein.

IV. THE DEFENDANTS' OFFERING

A. Formula's Business Model

10. From at least 2002 until mid-2007, Formula offered investments in discounted residential condominium projects in Florida, Illinois, Nevada, Canada, and the Caribbean. Formula purchased condominium units in bulk, ranging in cost from \$40,000 to more than \$1 million per unit, from various developers whose buildings were in the pre-construction phase or during the conversion of buildings to condominiums. Developers liked this arrangement because it satisfied bank pre-sale requirements and kept financing flowing.

11. Formula typically agreed to purchase 30% of the units in a project directly from a developer before construction began. In exchange, Formula received a 15% discount off the developer's initial list price for the units, and a dollar for dollar reduction of the discounted purchase price in the event the developer reduced its list price in sales to other buyers or offered upgrades to units that remained in inventory. Formula also agreed with developers that its units would be among the last units to close in a project as a means to ensure any dollar for dollar price reduction.

12. Upon execution of the bulk purchase agreement, Formula placed a nominal, non-refundable deposit with the developer. In exchange, it received individual contracts for each unit with the name of the unit purchaser blank. The developer gave Formula 30 to 45 days to return the executed condominium purchase and sale agreements and 10% purchase deposits, which a third-party escrow agent held.

13. Formula then sought investors who were willing to enter into joint venture agreements with Formula to purchase the units and, at the end of the construction phase, re-sell them. Through its use of in-house and outside agents, Formula developed a database of potential investors who had indicated an interest in investing with Formula, and were willing to place a 10% deposit on each unit.

14. When Formula obtained a new condominium investment opportunity, it contacted investors in its database, usually by e-mail, and required a 48-hour turnaround for indications of interest. Formula matched interested investors to a particular unit, and shipped them the documents necessary for the closing, including the condominium unit purchase and sale agreement, a copy of the bulk purchase agreement between Formula and the developer, a Buyer Joint Venture agreement between Formula and the prospective investor, and a power of attorney.

15. The Buyer Joint Venture agreement described Formula and the investor/buyer as joint venture purchasers of the unit, and specified how the net profit would be divided between Formula and the investor after re-sale of the unit. The power of attorney gave Formula sole authority to communicate and negotiate on behalf of investors, which gave Formula the authority to list and sell the unit at any time and for any re-sale price Formula deemed appropriate.

16. After signing and returning the deal documents to Formula along with their deposit, made out to the escrow agent, the investors played no further role in the transaction. Formula returned the executed documents to the developer after it had assigned all the units of the bulk purchase to investors, and investors had executed all the contracts for each unit. Thereafter, Formula received its initial deposit back and a commission from the developer of up to six percent.

17. From at least 2002 until mid-2007, Formula raised approximately \$68 million from more than 330 investors through the offer and sale of these units. This amount represents funds investors remitted as 10% down payments on the units, which had a total contract value of approximately \$680 million. However, as further detailed below, many of the development projects experienced problems, including developer defaults and litigation. In fact, few investors realized any profits, since approximately 89% of the investments in the units purchased through Formula were unsuccessful. Most of the remaining investors obtained a refund of their deposits, often after years of delay.

B. Solicitation of Investors

18. Formula's primary means of attracting new investors was to hire agents, whom Formula promised commissions of 10% to 20% of all investor deposits the agents brought in to Formula. While many such agents relied on word of mouth referrals, others used more elaborate

means to find investors. One outside agent placed an ad in Trump Magazine, claiming Formula investors could realize returns of 50% to 100% within two years on average. The ad provided investors with a toll free call-in number. Another agent created a website to highlight the benefits of investing in condominium units through Formula. The website had a link to an audio tape of a conference call between himself and a Formula employee, where they again assured prospective investors of 50% returns within two years.

19. Another outside agent owned a real estate investment “club” that only invested in real estate through Formula. This club charged investors \$20,000 to join, and required that any member share profits with the club and Formula. That agent solicited investors through referrals and a website, which the agent created. The website made claims that an investor could make returns of “100% to 1,700%!” on investments in real estate through Formula. The website also claimed that several members of the club had made more than \$1 million in profits, and that it would not be unusual for other club members to make that amount in just a few years.

20. To a lesser extent, Formula located investors through in-house agents, some of whom were Formula employees. In addition to soliciting new investors, the in-house agents also performed a variety of tasks, including training new agents, meeting with potential and existing investors, creating and maintaining an investor database, reviewing deal documents, forwarding documents and checks to developers, and updating investors on their projects and investments.

21. Formula also created what it called “Buyer Education” marketing materials that described the investment, highlighted expected returns, and assured investors the deposit check was the only check they would ever have to write. Formula e-mailed the Buyer Education marketing materials to at least one investor. In-house agents used the Buyer Education materials during face to

face meetings with prospective investors, and to train new agents on how to market Formula to other prospective investors.

22. Commencing in 2006, Formula also sought investors through its website, which remained online until early 2008. The website claimed Formula had purchased “over \$1 billion of properties in over 100 projects under structured contracts and allowed individuals to participate along side as joint venture buyers.”

23. The website also boasted that Formula had a “sterling track record as none of its individual joint venture buyers [have] ever lost one dollar of their principal and most have enjoyed past returns on successful projects in excess of 80% on average.” This statement was followed by a disclaimer that “past results were generated during favorable real estate markets and should not be relied on to predict future returns.” The disclaimer went on to state that “in normal markets, joint venture buyers [would] probably see projected returns under Formula model of 50% to 75% on successful projects.”

C. Misrepresentations and Omissions

1. Misleading Statements Regarding Project History and Failure to Disclose That Most of Formula’s Units Were in Default or Litigation

24. Formula, through Neiman, exaggerated its success rate and the number of projects it had undertaken. Commencing in at least early 2006, Formula’s website and marketing materials represented to investors and prospective investors that it had purchased more than \$1 billion of properties in more than 100 projects. In reality, during its entire history, Formula and its investors had placed deposits on units valued at approximately \$680 million in connection with only 52 projects.

25. At the same time Formula was exaggerating its project history and agents were telling investors they could realize their returns within two to three years, Formula and Neiman

knew that many of the projects were experiencing problems, including developer defaults and litigation. As the following table illustrates, from the standpoint of total assigned units, by March 2006 the project failure rate was at least 33%. By the end of 2006, it had increased to 60%.

Quarter Ended	Approximate Number of Units in Default/Litigation	Approximate Total Number of Units Under Contract	Percent Failure Rate
09/2005	197	1408	14%
12/2005	319	1414	23%
03/2006	473	1416	33%
06/2006	473	1596	30%
09/2006	563	1596	35%
12/2006	980	1641	60%
03/2007	1000	1641	61%
06/2007	1086	1641	66%

26. In fact, approximately 89% of the investments in units purchased through Formula were unsuccessful because developers eventually defaulted, or disputes between Formula and the developer resulted in litigation. In one case, the state purchased the property from the developer through eminent domain. At no point in time did Formula disclose to investors its mediocre record. In fact, Formula, through Neiman, continued through 2007 to tout its “sterling track record” on its website. Neiman authorized the content and use of the website.

2. Misleading Projected Returns

27. Formula, through Neiman and its sales agents, represented to investors that they could expect returns ranging from 50% to 100% within two to three years. Formula’s website stated that it had a “sterling track record as . . . most have enjoyed past returns on successful projects in excess of 80% on average.” An agent’s website touted in large, flashing print returns of “100% to 1,700%!” Neiman was aware of the agent’s website and approved of its language. Another agent’s website posted an audio tape of a conference call assuring investors of 50% to 100% returns within two years. Given the history of failed projects, these statements were misleading.

3. **Misleading Statements Regarding Investors' Obligation to Close on Units**

28. Formula, through Neiman and sales agents, told prospective investors they would never have to close on the units they were purchasing. For example, in one project in which the developer required that all buyers fill out a mortgage pre-qualification form, the sales agent sent an e-mail to prospective investors stating that although the developer needed pre-qualification, they would "NOT be closing and [would] be flipped out of the property loooooong [sic] before the building [was] complete."

29. These assurances were important to investors because most of them purchased units through Formula as a passive investment with the intention of re-selling the unit through an assignment prior to closing. The assurances were misleading, however, because 89% of the units never reached the point of closing because the projects failed. These assurances were also inconsistent with the language of the purchase and sale agreement, which obligated investors to close if their units could not be re-assigned to another buyer.

4. **Misrepresentations Regarding Neiman's Background**

30. Neiman created a biography of himself that sales agents disseminated to prospective investors. The biography provided glowing biographical information about Neiman, stating that "by the age of 22, [he] was probably the only paralegal in the country making over a million dollars a year." The biography did not disclose, however, that Neiman derived those earnings from engaging in the unauthorized practice of law, for which he was convicted. Formula also failed to disclose Neiman's other criminal convictions.

V. CLAIMS FOR RELIEF

COUNT I

**Sale Of Unregistered Securities In Violation of
Sections 5(a) and 5(c) of the Securities Act**

31. The Commission repeats and realleges paragraphs 1 through 30 of its Complaint.

32. No registration statement was filed or in effect with the Commission pursuant to the Securities Act and no exemption from registration exists with respect to the securities and transactions described in this Complaint.

33. Neiman and Formula, from at least 2002 until mid-2007, directly and indirectly: (a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities as described herein, through the use or medium of a prospectus or otherwise; (b) carried securities or causing such securities, as described in this Complaint, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; and/or (c) 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, as described in this Complaint, without a registration statement having been filed or being in effect with the Commission as to such securities.

34. By reason of the foregoing, Formula and Neiman, directly and indirectly, violated and, unless enjoined, are reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and (c).

COUNT II

Fraud In Violation Of Sections 17(a)(2) And 17(a)(3) Of The Securities Act

35. The Commission repeats and realleges paragraphs 1 through 30 of its Complaint.

36. Neiman and Formula, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities, as described in this Complaint: (a) obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (b) engaged in transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon purchasers and prospective purchasers of such securities.

37. By reason of the foregoing, Formula and Neiman, directly and indirectly, violated and, unless enjoined, are reasonably likely to continue to violate, Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(2) and 77q(a)(3).

VI. RELIEF REQUESTED

WHEREFORE, THE Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that the Defendants committed the violations of the federal securities laws alleged in this Complaint.

II.

Permanent Injunctive Relief

Issue a Permanent Injunction, restraining and enjoining the Defendants, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Sections 5(a), 5(c), 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c), 77(q)(a)(2) and 77q(a)(3).

III.

Civil Penalty

Issue an Order directing Neiman to pay a civil money penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d).

IV.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

V.

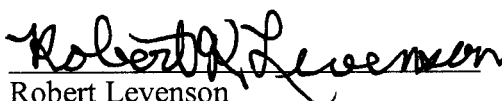
Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

July 20, 2009

By:


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JS 44 (Rev. 2/08)

CIVIL COVER SHEET

FILED by GME D.C.
 JUL 20 2009
 STEVEN M. LARIMORE
 CLERK OF DISTRICT COURT
 S. D. of FLA. - MIAMI

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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below**

I. (a) PLAINTIFFS
 Securities and Exchange Commission
09-61074

DEFENDANTS
 Brian Ackerman Neiman, The Formula
 County of Residence of First Listed Defendant Broward
 (IN U.S. PLAINTIFF CASES ONLY)

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

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Securities and Exchange Commission
 Robert Levenson, Esq. (305) 982-6341
 801 Brickell Ave., Suite 1800, Miami, FL 33131
IV-21008

Attorneys (If Known)
ROSENBAUM

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| 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 |

09cv61074-21008/Rosenbaum

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	PERSONAL INJURY <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 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 PERSONAL PROPERTY <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 LABOR <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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <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)) FEDERAL TAX SUITS <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
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<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	<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	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <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		

V. ORIGIN (Place an "X" in One Box Only)
 1 Original Proceeding 2 Removed from State Court 3 Re-filed- (see VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page):
 a) Re-filed Case YES NO b) Related Cases YES NO
 JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
 15 U.S.C. §§ 77q(a)(2) and 77q(a)(3) ; 15 U.S.C. §§ 77e(a) and 77e(c). Violations of the federal securities laws.
 LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMANDS** \$perm. Inj., Civil Penalty **CHECK YES only if demanded in complaint: JURY DEMAND:** Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE SIGNATURE OF ATTORNEY OF RECORD Robert R. Levenson DATE July 20, 2009

FOR OFFICE USE ONLY
 AMOUNT waived RECEIPT # _____ IFP _____