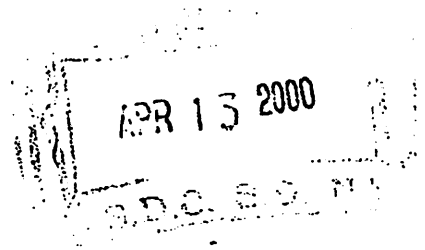


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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ROBERT E. COHEN,  
VICTOR M. CARON, and  
JAMES B. YATES, JR.

Defendants.

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AMENDED  
COMPLAINT

99 Civ. 5822  
(NRB)

It appears to Plaintiff, Securities and Exchange Commission ("Commission"), and it alleges that:

1. Defendant Robert E. Cohen ("Cohen") has engaged, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute and

will constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77e(a), 77e(c) and 77q(a)], Sections 10(b), 15(b)(6)(B), and 15(c)(1) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b), 78o(b)(6)(B), and 78o(c)(1)], and Rules 10b-5 and 15c1-2, thereunder [17 C.F.R. 240.10b-5 and 240.15c1-2].

2. Defendant Cohen has engaged and, unless commanded by this Court, will continue to engage in transactions, acts, practices, and courses of business which violate the consent Order by the Commission pursuant to Section 15(b)(6)(A) of the Exchange Act [15 U.S.C. 78o(b)(6)(A)] in In the Matter of Robert E. Cohen, Admin. Proc. File No. 3-7700, Rel. No. 34-30543, 1992 SEC LEXIS 775 (April 1, 1992), barring Defendant Cohen from associating with securities brokers and dealers ("the Commission Order").

3. Defendant Victor M. Caron ("Caron") has engaged, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute and will constitute violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77e(a) and 77e(c)].

4. Defendant James B. Yates, Jr. ("Yates, Jr.") has engaged, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which

constitute and will constitute violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77e(a) and 77e(c)].

5. Pursuant to the authority granted by Sections 10(b), 15(c), and 23(a) of the Exchange Act [15 U.S.C. 78j(b), 78o(c) and 78w(a)], the Commission has promulgated Rules 10b-5 and 15c1-2 [17 C.F.R. 240.10b-5 and 240.15c1-2] and said Rules were in effect at all times mentioned herein and are now in effect.

#### JURISDICTION AND VENUE

6. The Commission brings this action to enjoin such acts and practices pursuant to Sections 20(b) and 20(c) of the Securities Act [15 U.S.C. 77t(b) and 77t(c)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. 78u(d) and 78u(e)] and to obtain an order of this Court pursuant to Section 21(e) of the Exchange Act [15 U.S.C. 78u(e)] commanding Defendant Cohen to comply with the Commission Order.

7. This Court has jurisdiction of this action under Sections 20(c) and 22(a) of the Securities Act [15 U.S.C. 77t(c) 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].

8. Certain of the acts and practices constituting violations of the Securities Act and the Exchange Act have occurred within the Southern District of New York, and were perpetrated through use of the mails, the means and

instrumentalities of interstate commerce, and the means and instruments of transportation and communication in interstate commerce.

#### SUMMARY

9. Defendant Cohen has engaged in a scheme to defraud a public corporation and its shareholders, and Defendants Cohen and Yates, Jr. have engaged in a scheme to evade the registration provisions of the federal securities laws through the abuse of Regulation S under the Securities Act [17 C.F.R. 230.901 through 230.905], as that Regulation existed during the relevant time period ("Reg. S"). Defendants Cohen and Yates, Jr. secretly profited from stock sales made at steep discounts to supposed foreign investors, when, unknown to the issuer, those foreign investors were merely nominees of the defendants. Defendant Caron received money from the sale of his own stock to one of the foreign nominees, purportedly in compliance with Reg. S. In addition, Defendant Cohen acted as broker and dealer in connection with these stock sales and additional relevant transactions, in violation of a prior Commission Order barring him from association with any broker or dealer.

10. The defendants' scheme took advantage of the continuous financial troubles of a publicly held company named Blue Chip Computerware ("Blue Chip"). That company was formed in 1992 and, throughout its existence, was either

unprofitable or marginally profitable. The management of Blue Chip tried unsuccessfully to arrange a second public offering of its stock and to secure additional financing from other sources. In the face of these failed attempts to raise more capital, Blue Chip retained Defendant Cohen as a consultant. Defendant Cohen, among other things, was to raise capital through foreign sales of Blue Chip stock.

11. From April 1993 through December 1995, Defendant Cohen obtained financing for Blue Chip's ongoing operations through the sale of 7.6 million shares of stock in numerous transactions with persons who purportedly reside overseas. These 7.6 million shares of Blue Chip common stock were not registered under the Securities Act and did not qualify for any exemptions from the registration requirements of that Act.

12. The largest total purchases of Blue Chip Reg. S stock were purportedly made by Rita Freeman ("Freeman"), and her father, James B. Yates, Sr. ("Yates, Sr."). Freeman and Yates, Sr. are purportedly residents of Liberia. In fact, Freeman and Yates, Sr. were merely nominees of Defendants Cohen and Yates, Jr.

13. Between September 1993 and March 1995, in 18 separate transactions, Defendant Cohen arranged for Blue Chip and its officers to sell approximately 2.5 million shares in purported private sales to the two nominees,

Freeman and Yates, Sr. The shares purportedly sold to the nominees Freeman and Yates, Sr. were subsequently deposited into brokerage accounts maintained in the names of the nominees. Brokerage accounts maintained in Freeman's name were used in 17 of these Reg. S transactions, and an account maintained in the name of Yates, Sr. was used in one of the transactions.

14. No overseas brokerage accounts were used in the Freeman/Yates Reg. S transactions. The certificates for the Blue Chip shares were never sent overseas. None of the money used to pay for the Blue Chip shares came from overseas, or from Freeman or Yates, Sr. In at least six of the Freeman/Yates Reg. S transactions, the purchases were not paid for in full at the time the stock was purportedly sold to the nominees. Virtually all of the Freeman/Yates Reg. S stock was paid for with the proceeds of the sale of Freeman/Yates Reg. S stock into the United States market. In almost every instance the stock was resold to a domestic broker-dealer, typically within two months after the 40-day Reg. S holding period had expired.

15. Defendant Cohen negotiated the terms of each of the Freeman/Yates Reg. S sales. Under his consulting agreement with Blue Chip, the company paid him a fee for each Reg. S stock sale equal to 5% of the total price of the transaction.

16. Defendant Cohen was assisted in this scheme by Defendant Yates, Jr., the son of Yates, Sr. and brother of Freeman. Together, Defendants Cohen and Yates, Jr. utilized Freeman and Yates, Sr. as nominees. Defendants Cohen and Yates, Jr. controlled brokerage and bank accounts in the names of Freeman and Yates, Sr. Defendants Cohen and Caron arranged for the sales of Blue Chip stock to Freeman and Yates, Sr. at prices which were significantly lower than those obtained from other Reg. S purchasers. Defendants Cohen and Yates, Jr. then profited when the Reg. S stock was sold into the United States market from brokerage accounts in the names of Freeman and Yates, Sr.

17. Defendant Cohen falsely represented to Blue Chip's outside counsel ("Counsel") and to the company's auditors that he had no financial interest in the Freeman/Yates Reg. S sales. Defendant Cohen also failed to disclose his financial interest in the Freeman/Yates Reg. S sales when he proposed each of those transactions for approval by the Blue Chip board and when Blue Chip's chairman questioned whether Defendant Cohen was profiting from the Freeman/Yates sales.

18. Defendant Cohen received approximately \$803,000 from the Freeman/Yates Reg. S transactions. Defendant Yates, Jr. received approximately \$543,000 from the Freeman/Yates Reg. S transactions. Defendant Caron received approximately \$405,000 from one transaction involving the

sale of stock he owned to the nominee Freeman. The nominees, Freeman and Yates, Sr., obtained no profits from their purported transactions in Blue Chip stock.

#### DEFENDANTS

19. Defendant Cohen resides in New York, New York. In 1992, the Commission issued its Order barring Defendant Cohen from associating with any securities broker or dealer. In the Matter of Robert E. Cohen, Admin. Proc. File No. 3-7700, Rel. No. 34-30543, 1992 SEC LEXIS 775 (April 1, 1992). The Commission Order against Defendant Cohen was based on a 1991 injunction issued against him in by this Court Securities and Exchange Commission v. Wellshire Securities, Inc., et al., 90 Civ. 1707 (KTD) (S.D.N.Y.), Litigation Rel. No. 12797 (March 6, 1991). The Commission's complaint in that suit alleged fraud in connection with Defendant Cohen's conduct while president and controlling shareholder of Wellshire Securities, Inc. Defendant Cohen consented to the injunction and to the Commission Order.

20. At all times relevant to this suit, the Commission Order continued in full force and effect.

21. Defendant Caron resides in Massapequa, New York. Defendant Caron was the president of Blue Chip at all times relevant to this suit.

22. Defendant Yates, Jr. resides in Staten Island, New York. He is Yates, Sr.'s son and Freeman's brother.



OTHERS

23. Freeman purportedly lives in Monrovia, Liberia. She was the nominee in whose name the majority of the transactions in the defendants' scheme were accomplished. She did not realize any profits from this scheme.

24. Yates, Sr., the father of Freeman and Yates, Jr., purportedly lives in Liberia. Yates, Sr. is the nominee in whose name the first transaction in the defendants' scheme was accomplished. Yates, Sr. did not realize any profits from the scheme.

BLUE CHIP'S REG. S TRANSACTIONS, GENERALLY

25. Blue Chip was formed in June 1992 through the merger of two retail computer businesses, one of which was owned by Defendant Caron. Defendant Caron became the president and a director of Blue Chip. Initially, the company engaged in the business of selling and servicing personal computers.

26. Blue Chip made an initial public offering ("IPO") of 460,000 shares and warrants in August 1992. The company's common stock traded in the over-the-counter market and was registered under Section 12 of the Exchange Act [15 U.S.C. 781].

27. At all times relevant to these proceedings, the only liquid market for Blue Chip securities was in the United States.

28. Blue Chip was, at best, marginally profitable, and primarily generated working capital through the repeated sale of shares under Reg. S.

29. The management of Blue Chip considered other sources of working capital for the company, including a secondary offering of its stock and private placements. These efforts, however, were not successful.

30. Instead, as an alternative source of the working capital Blue Chip needed, Defendants Cohen and Caron arranged for the company to issue and sell large amounts of stock under Reg. S. These issuances and sales continued into 1995.

31. In December 1992, Defendant Caron, on behalf of Blue Chip, and Defendant Cohen, through Magna Financial Services Group, Inc., of which he was president, entered into a consulting agreement. Under the terms of this agreement, as later modified, Defendant Cohen was to seek out merger and acquisition candidates and other financing opportunities for Blue Chip, in exchange for \$10,000 per month and 5% of each transaction that he brought to the company.

32. Under that agreement, Defendant Cohen brought three successful acquisitions, a major investment, and numerous Reg. S sales to Blue Chip. The acquisitions, the major investment, and the Reg. S sales Defendant Cohen

brought to Blue Chip all involved the sale of stock by Blue Chip or its affiliates. Among other things, Defendant Cohen took part in negotiating the terms of the acquisitions, the major investment, and the Reg. S sales he brought to Blue Chip. The company gave Defendant Cohen compensation for his efforts, including a fee equal to 5% of the value of each transaction.

33. Blue Chip followed a general procedure for its Reg. S financings. Typically, Blue Chip's Counsel would receive instructions from Defendant Cohen regarding a proposed Reg. S transaction.

34. Counsel would call Defendant Caron or the chairman of Blue Chip to confirm that the transaction had been approved by the company.

35. Counsel would then prepare a subscription agreement and provide it Defendant Yates, Jr. Defendant Yates, Jr. purportedly would forward each subscription agreement to the buyer and then return it, purportedly signed by the buyer, to Counsel.

36. Defendant Caron signed several subscription agreements on behalf of Blue Chip. After Blue Chip received payment for the stock, Counsel would direct the transfer agent to issue a stock certificate. Certificates typically contained a legend which reflected the 40-day Reg. S restrictive period.

THE FREEMAN/YATES TRANSACTIONS

37. The largest number of Blue Chip's Reg. S shares were issued in purported private sales to the nominees Freeman and Yates, Sr. and then deposited into brokerage accounts maintained in the nominees' names.

38. The nominee Yates, Sr. bought 200,000 shares for \$200,000 in one transaction in or about September 1993.

39. The nominee Freeman bought a total of 2,311,713 shares for \$2,180,500 in 17 transactions from in or about October 1993 through in or about March 1995.

40. The Reg. S shares purportedly sold to the nominees Freeman and Yates, Sr. were priced at significant discounts, ranging from 6 percent to 82 percent below the prevailing market price.

41. Virtually all of these shares were sold out of the brokerage accounts in the names of the nominees Freeman and Yates, Sr. to domestic broker-dealers shortly after the 40-day Reg. S holding period had passed, for a total profit of approximately \$3 million.

42. Virtually no money other than proceeds from the domestic sale of the Freeman/Yates Reg. S stock was ever used to pay for the purchase of that stock. The stock certificates were never sent overseas. Instead, the certificates were typically deposited in domestic brokerage accounts in the names of the nominees.

43. In several instances, the Freeman/Yates Reg. S stock was paid for with non-interest bearing, personal, promissory notes which were purportedly issued by Freeman or Yates, Sr. and which were not fully repaid until after the Reg. S stock had been sold into the United States market.

44. Almost all the proceeds from the sale of the Freeman/Yates Reg. S stock were deposited into two bank accounts: a checking account maintained jointly in the names of the nominee Freeman and Defendant Yates, Jr. (the "Freeman/Yates, Jr. bank account" or the "joint bank account") and a checking account in the name of Yates, Jr. (the "Yates, Jr. bank account"). Defendants Yates, Jr. and Cohen controlled the Freeman/Yates, Jr. bank account.

45. Neither Freeman nor Yates, Sr. received any of the proceeds from the sales of the Reg. S shares. Instead, the majority of the profits were distributed to Defendants Cohen and Yates, Jr.

46. No registration statement was in effect with respect to the shares of Blue Chip stock sold to the nominees Freeman and Yates, Sr. from 1993 through 1995 and subsequently sold into the United States market.

DEFENDANT COHEN

47. Defendant Cohen set the terms of the Freeman/Yates Reg. S transactions. Among other terms, Defendant Cohen set

the steeply discounted prices at which Blue Chip stock was issued in the Freeman/Yates transactions.

48. Defendant Cohen effectively controlled Blue Chip's finances. Defendant Cohen attended virtually every Blue Chip Board of Directors meeting, on occasion he held himself out as an officer of Blue Chip, and pursuant to his consulting contract he was paid more than any of Blue Chip's officers.

49. At Defendant Cohen's suggestion, in July 1993 the Board appointed a finance committee that had the authority to approve Reg. S sales. Defendant Caron was a member of the finance committee, and Defendant Cohen was a non-voting member of that committee. The finance committee "rubber-stamped" the Reg. S transactions that Defendant Cohen presented to the committee for ratification.

50. When Defendant Cohen had arranged a sale to one of his nominees under Reg. S, he would instruct Counsel to prepare the necessary subscription agreement and other necessary documents. Defendant Cohen also gave copies of necessary legal documents, purportedly signed by the nominee Freeman, to Counsel.

51. In addition, Defendant Cohen gave checks, purportedly signed by the nominee Freeman, to employees of Blue Chip and to selling Blue Chip shareholders, in payment for stock sold to the nominee Freeman under Reg. S.

DEFENDANT CARON

52. Defendant Caron signed many of the Freeman/Yates subscription agreements on behalf of Blue Chip. As a director of Blue Chip and a member of the company's finance committee, Defendant Caron approved the Freeman/Yates Reg. S sales.

53. Defendant Caron authorized Counsel to prepare the subscription agreements and other necessary documents for many of the Freeman/Yates Reg. S transactions.

54. Defendant Caron had reason to believe that Blue Chip Reg. S shares were being sold out of brokerage accounts in Freeman's name and into the United States market. Despite this knowledge, Defendant Caron continued to sign subscription agreements with Freeman on behalf of Blue Chip and to approve Reg. S sales to Freeman.

YATES, JR.

55. On October 8, 1993, a brokerage account was opened in the name of the nominee Yates, Sr. (the "Yates, Sr. brokerage account"), for the purpose of selling 200,000 Blue Chip shares purportedly bought by Yates, Sr. in or about September 1993. Defendant Yates, Jr. signed the account opening documents. The Social Security number provided to the broker dealer was that of Defendant Yates, Jr.

56. In or about November 1993, Defendant Yates, Jr. wrote a letter to the clearing broker handling the Yates,

Sr. brokerage account. In his letter, Defendant Yates, Jr. purported to be his father, the nominee Yates, Sr. In his letter, Defendant Yates, Jr. directed that all cash over \$5,000 in the Yates, Sr. brokerage account be wired to "my" checking account. At the time, the cash contained in the Yates, Sr. brokerage account consisted of proceeds from the sale of Reg. S stock into the United States market. The checking account into which Defendant Yates, Jr. directed the transfer of this cash was the Yates, Jr. bank account.

57. After the proceeds of the stock sale were transferred to the Yates, Jr. bank account, Defendant Yates, Jr. used some of that money to make partial payments on the note that had been given to buy the Reg. S stock.

58. Defendant Yates, Jr. frequently dealt with Counsel to facilitate the Freeman/Yates Reg. S sales. Among other things, Yates, Jr. purported to transmit documents between Counsel and his sister, the nominee Freeman, in Liberia. In so doing, Defendant Yates, Jr. took unsigned documents from Counsel and then later brought those documents back to Counsel, bearing the purported signature of the nominee Freeman.

#### THE DEFENDANTS PROFITED FROM THE SCHEME

59. Defendant Cohen received approximately \$803,000 of the profits from the sale of the Freeman/Yates Reg. S shares into the United States market, including \$387,000 in direct



payments to Defendant Cohen or entities he controlled, \$320,000 he used to buy a house on Long Island, and approximately \$34,000 in payments for various boating expenses of Defendant Cohen.

60. Defendant Yates, Jr. received approximately \$543,000 of the profits earned from the sale of the Freeman/Yates Reg. S shares into the United States market.

61. Defendant Caron received approximately \$405,000 when he sold stock he owned to the nominee Freeman, purportedly in compliance with Reg. S.

DEFENDANT COHEN CONCEALED HIS FINANCIAL  
INTEREST IN THE FREEMAN/YATES REG. S TRANSACTIONS

62. Defendant Cohen concealed his financial interest in the Freeman/Yates transactions from the Blue Chip directors. When he presented the Freeman/Yates Reg. S sales to Blue Chip, Defendant Cohen did not disclose that he stood to profit from the transactions. In particular, he did not disclose that he would benefit from the low purchase prices he set for the Freeman/Yates Reg. S sales.

63. Defendant Cohen falsely denied to Counsel and Blue Chip's auditors that he had a financial interest in the Freeman/Yates Reg. S transactions.

64. Defendant Cohen also falsely told Blue Chip personnel that the low prices he set for the Freeman transactions were the best he could negotiate, given current market prices and the urgency of the company's need for

cash; he did not disclose how he would personally benefit when that discounted stock was sold into the market.

FIRST CAUSE OF ACTION

Violations of Section 17(a) (2)  
of the Securities Act [15 U.S.C. 77q(a) (2)]

65. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

66. From 1993 through the present, Defendant Cohen, in the offer and sale of Blue Chip securities, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, obtained money and property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, all as more particularly described in paragraphs 1 through 64 above.

67. By reason of the foregoing, Defendant Cohen has violated, and, unless restrained and enjoined, will continue to violate Section 17(a) (2) of the Securities Act [15 U.S.C. 77q(a) (2)].

SECOND CAUSE OF ACTION

Violations of Sections 17(a) (1) of the  
Securities Act [15 U.S.C. 77q(a) (1)]

68. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

69. From 1993 through the present, Defendant Cohen, in the offer and sale of Blue Chip securities, by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud, all as more particularly described in paragraphs 1 through 64 above.

70. Defendant Cohen knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, all as more particularly described in paragraphs 1 through 64 above.

71. By reason of the foregoing, Defendant Cohen has violated, and, unless restrained and enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. 77q(a)(1)].

THIRD CAUSE OF ACTION

Violations of Section 10(b) of the Exchange Act  
U.S.C. 78j(b)] and Rule 10b-5 Thereunder  
C.F.R. 240.10b-5]

72. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

73. From 1993 through the present, Defendant Cohen, in connection with the purchase and sale of Blue Chip securities, by the use of means and instruments of interstate commerce and by use of the mails, directly and indirectly: employed devices, schemes, and artifices to defraud; made

untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and engaged in acts, practices, and courses of business which operated as a fraud and deceit upon persons all as more particularly described in paragraphs 1 through 64 above.

74. Defendant Cohen knowingly, intentionally and/or recklessly engaged in the above-described conduct all as more particularly described in paragraphs 1 through 64 above.

75. By reason of the foregoing, Defendant Cohen has violated, and, unless restrained and enjoined will continue to violate 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].

#### FOURTH CAUSE OF ACTION

##### Violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77e(a)]

76. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

77. From 1993 through the present, Defendants Cohen, Caron and Yates, Jr., singly and in concert, directly and indirectly, made use of means and instruments of transportation and communication in interstate commerce and of the mails to offer to sell and to sell Blue Chip securities, and carried and caused to be carried through the mails and in interstate commerce, by means and instruments of

transportation, said securities for the purpose of sale and for delivery after sale all as more particularly described in paragraphs 1 through 64 above.

78. No registration statement has ever been in effect nor has any registration statement been filed with the Commission with respect to said securities.

79. By reason of the foregoing, Defendants Cohen, Caron, and Yates, Jr. have violated, and, unless restrained and enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. 77e(a)].

#### FIFTH CAUSE OF ACTION

#### Violations of the 1992 Commission Order Against Defendant Cohen

80. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

81. From 1993 through the present, Defendant Cohen engaged in the business of effecting transactions in securities for his own account and for the account of others all as more particularly described in paragraphs 1 through 64 above.

82. By reason of the foregoing, Defendant Cohen has violated, and, unless restrained and commanded, will continue to violate the Commission Order issued against him In the Matter of Robert E. Cohen, Admin. Proc. File No. 3-7700, Rel. No. 34-30543, 1992 SEC LEXIS 775 (April 1, 1992).

SIXTH CAUSE OF ACTION

Violations of Section 15(b) (6) (B)  
of the Exchange Act [15 U.S.C. 78o(b) (6) (B)]

83. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

84. From 1993 through the present, Defendant Cohen engaged in the business of effecting transactions in securities for his own account and for the account of others while an order was in effect as to him under Section 15(b) (6) (A) of the Exchange Act [15 U.S.C. 78o(b) (6) (A)] all as more particularly described in paragraphs 1 through 64 above.

85. By reason of the foregoing, Defendant Cohen has violated, and, unless restrained and enjoined, will continue to violate Section 15(b) (6) (B) of the Exchange Act [15 U.S.C. 78o(b) (6) (B)].

SEVENTH CAUSE OF ACTION

Violations of  
Section 15(c) (1) of the Exchange Act [15 U.S.C.  
78o(c) (1)] and Rule 15c1-2 thereunder [17 C.F.R.  
240.15c1-2]

86. Paragraphs 1 through 64 are hereby realleged and are incorporated herein by reference.

87. From 1993 through the present, Defendant Cohen, directly and indirectly, made use of the mails and means and instrumentalities of interstate commerce to effect

transactions and to induce and to attempt to induce the purchase and sale of securities otherwise than on a national securities exchange of which he was a member by means of acts, practices, and courses of business which operated as a fraud and deceit upon persons; and untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, which statements and omissions were made with knowledge or reasonable grounds to believe that they were untrue or misleading, all as more particularly described in paragraphs 1 through 64 above.

88. By reason of the foregoing, Defendant Cohen has violated, and, unless restrained and enjoined, will continue to violate Section 15(c)(1) of the Exchange Act [15 U.S.C. 78o(c)(1)] and Rule 15c1-2 thereunder [17 C.F.R. 240.15c1-2].

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully prays for:

I.

Sections 5(a) and 5(c) of the Securities  
Act [15 U.S.C. 77e(a) and 77e(c)]

Permanent injunctions restraining and enjoining Defendants Cohen, Caron, and Yates, Jr., their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual

notice of the order of injunction, and each of them, from directly or indirectly:

- (a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, or to offer to buy through the use or medium of any prospectus or otherwise, securities of Blue Chip, or any other security, unless and until a registration statement has been filed with the Securities and Exchange Commission as to such securities, or while a registration statement filed with the Securities and Exchange Commission as to such securities is the subject of a refusal order or stop order of the Securities and Exchange Commission or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act of 1933 [15 U.S.C. 77h];
- (b) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell, through the use or medium of any prospectus or otherwise, securities of Blue Chip, or any other security, unless a registration statement is



in effect with the Securities and Exchange Commission as to such securities; or

- (c) carrying securities of Blue Chip, or any other security, or causing them to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities;

provided, however, that nothing in the foregoing paragraphs (a), (b), or (c) shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act of 1933 [15 U.S.C. 77e].

## II.

### Sections 17(a)(1) and (2) of the Securities Act [15 U.S.C. 77q(a)(1) and (2)]

A permanent injunction restraining and enjoining Defendant Cohen, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of the order of injunction, and each of them, in the offer or sale of securities of Blue Chip, or any other security, by the use of any means or instruments of transportation or communication

in interstate commerce or by the use of the mails, from, directly or indirectly:

- (a) employing any device, scheme or artifice to defraud; or
- (b) obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

III.

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]

A permanent injunctions restraining and enjoining Defendant Cohen, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of the order of injunction, and each of them, in connection with the purchase or sale of securities of Blue Chip, or any other security, by the use of any means or instrumentality of interstate commerce or of the mails, from directly or indirectly:

- (a) employing any device, scheme, or artifice to defraud;

- (b) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit on any person.

IV.

Section 15(c) (1) of the Exchange Act  
[15 U.S.C. 78o(c) (1)] and Rule 15c1-2  
Thereunder [17 C.F.R. 240.15c1-2]

A permanent injunction restraining and enjoining Defendant Cohen, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of the order of injunction, and each of them, in connection with the purchase or sale of securities of Blue Chip, or any other security, from directly or indirectly, making use of the mails and means and instrumentalities of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase and sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which they are members by means of:

- (a) any act, practice, or course of business which operates or would operate as a fraud and deceit upon any person; or
- (b) any untrue statement of a material fact and omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, which statement or omission is made with knowledge or reasonable grounds to believe that it is untrue or misleading.

V.

Section 15(b)(6)(B) of the Exchange Act  
[15 U.S.C. 78o(b)(6)(B)]

A permanent injunction restraining and enjoining Defendant Cohen, his officers, agents, servants, employees, attorneys, and those persons in active concert or participation with him who receive actual notice of the order of injunction, and each of them, in connection with the purchase or sale of securities of Blue Chip, or any other security, from directly or indirectly, while an order under Section 15(b)(6)(A) of the Exchange Act [15 U.S.C. 78(b)(6)(A)] is in effect, without the consent of the Commission, to become or remain a person associated with a broker or dealer in contravention of such order.

VI.

Order Pursuant to Section 21(e) of  
the Exchange Act [15 U.S.C. 78 (e)]

An order commanding Defendant Cohen to comply with the provisions of the Commission Order issued against him In the Matter of Robert E. Cohen, Admin. Proc. File No. 3-7700, Rel. No. 34-30543, 1992 SEC LEXIS 775 (April 1, 1992).

VII.

Civil Money Penalties

An order 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)] imposing civil penalties against Defendants Cohen, Caron and Yates, Jr.

VIII.

Additional Equitable Relief

An order directing that each Defendant return all proceeds received, directly or indirectly, from the sale of Blue Chip securities, to deprive the defendants of any unjust enrichment.

IX.

Findings of fact and conclusions of law in accordance with Rule 52 of the Federal Rules of Civil Procedure.

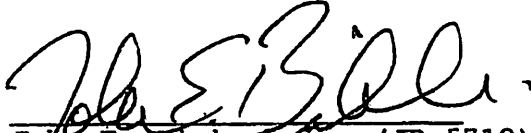
X.

Such other and further relief as this Court may deem just, equitable, and appropriate in connection with the

enforcement of the federal securities laws and for the protection of investors.

Dated: April 12, 2000


Respectfully submitted,



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