UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

DOCKETED APR 1/3 2000

SECURITIES AND EXCHANGE COMMISSION.

Plaintiff,

ALAN C. GIBBONS,

Defendant.

CIVIL ACTION NO.

OQC 2247

MAGISTRATE SUBCE ANDERSEN

MAGISTRATE JUDGE DENLOW

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff United States Securities and Exchange Commission ("Commission") alleges as follows:

- 1. Alan C. Gibbons ("Gibbons") has engaged in transactions, acts, practices, and courses of business that constitute violations of Sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].
- 2. The Commission brings this action to enjoin such transactions, acts, practices, and courses of business pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)].

JURISDICTION

e material de la disposición de la completa del Completa del Completa de la Completa del Completa de la Completa del Completa de la Completa del Completa de la Completa de la Completa de la Completa de la Completa del Completa de la Completa del Complet

- 3. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].
- 4. Gibbons, unless enjoined, will continue to engage in the transactions set forth in this complaint and in transactions, acts, practices and courses of business of similar purport and object.
- 5. The transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the jurisdiction of the United States District Court for the Northern District of Illinois, and elsewhere.
- 6. Gibbons has made use of the mails, and of the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business alleged herein in the Northern District of Illinois and elsewhere.

DEFENDANT

7. Gibbons, age 61, resides in Chicago, Illinois. From approximately September 1995 through March 1999, Gibbons was the owner of several companies, including Coex International, Ltd. ("Coex"), Intellitech, Inc. ("Intellitech"), iTrade International, Inc. ("iTrade"), First National Capital, Inc. ("First National"), and Lincoln Aztec Funding, Inc. ("Lincoln Aztec"). Gibbons used those companies in a scheme to misappropriate investors' funds

O com seile co pago periodesi

- 8. In 1989, the National Association of Securities Dealers ("NASD") permanently barred Gibbons from association with any member of the NASD and fined him \$25,000 because of, among other things, filing of inaccurate reports, failing to meet net capital requirements, failing to carry a blanket fidelity bond, and employing an unregistered person as president of a registered broker-dealer owned by Gibbons. <u>District Business</u>

 <u>Conduct Committee v. Alan Gibbons, et al.</u>, NASD Decision in Complaint CHI-1139 (September 29, 1989).
- 9. In 1994, the Illinois Secretary of State permanently barred Gibbons from offering or selling securities in Illinois because of his involvement in a fraudulent investment scheme. In the Matter of Alan C. Gibbons, et al., IL Securities Dept., No. 9300140 (1994).
- In 1996, in a criminal action based on the conduct described in Paragraph 9, Gibbons pleaded guilty to theft of over \$10,000 for defrauding an investor out of \$15,000. The court sentenced Gibbons to a three-year term of probation and ordered him to pay \$15,000 in restitution to the investor. <u>Illinois v. Gibbons</u>, 94 C.F. 1346 (1996).

FACTS

- 11. From approximately September 1995 through March 1999, Gibbons offered and sold approximately \$172,000 in stock and promissory notes issued by companies he formed and owned ("the Gibbons Companies") to at least seven investors.
- 12. The Gibbons Companies included Coex, Intellitech, iTrade, First National, and Lincoln Aztec.
- 13. Gibbons offered and sold investments in the Gibbons Companies on the telephone, through the Internet, and through newspaper advertisements. Gibbons also sent the investors investment materials through the mails.
- 14. Gibbons told the investors that they were providing funds for the operations of particular Gibbons Companies. However, the Gibbons Companies conducted little or no business.
- 15. Coex was purportedly an import/export company. However, Coex never imported or exported anything.
- 16. Intellitech was purportedly going to sell computer software. However, Intellitech never sold any software.
- 17. iTrade was purportedly going to write prospectuses for small companies to help them raise money. However, iTrade performed little, if any work on prospectuses and raised no money for any companies.
- 18. First National was purportedly to find funding for early stage companies.

 However, First National did not raise funds for any companies.
- 19. Lincoln Aztec was purportedly going to hold funds, in escrow, for investment in a private company that would merge with a shell company and go public. However, no

funds provided by investors for Lincoln Aztec were held in escrow or used for investment in that private company.

A socialisti ki kalebia ka O zagozoba iza izali

- 20. Instead of using the investors' funds for the Gibbons Companies,Gibbons used the investors' funds for his own personal expenses.
- 21. Gibbons represented to investors that he would deposit their funds into escrow accounts. However, Gibbons did not deposit investors' funds in any escrow accounts.
- 22. Instead, Gibbons commingled investors' funds in his personal and business bank accounts.
- 23. Gibbons told the investors that the investments were risk free and guaranteed. However, investments in the Gibbons Companies were very risky because the Gibbons companies engaged in little or no business, there was no guarantor, and Gibbons lacked sufficient liquid assets to repay the investors.
- 24. Gibbons promised large returns on investments in the Gibbons Companies. For example, Gibbons told an investor that he would double or triple his money in a few years by investing in Coex. Gibbons also provided investors with First National promissory notes that promised at least 5% per month returns on the investments.
- 25. When soliciting investors in the Gibbons Companies to invest more money or to give their investments more time, Gibbons promised returns of 30% to 50% in four months.
- 26. Gibbons did not pay investors any return on investments in the Gibbons Companies.

27. In connection with the offer and sale of stock and promissory notes of the Gibbons Companies, Gibbons made untrue statements of material facts to investors and prospective investors, concerning, among other things:

O results the section of the Output that the

- a) the use of investor funds for business purposes;
- b) the safety of the investments, including statements that the investments were risk free, guaranteed, and held in escrow accounts;
- c) the liquidity of the investments, including statements that funds would be available on demand; and
- d) the return on investments, including statements that the investments would return at least 5% monthly and that investments would double or triple in a few years.

COUNT I

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

- 28. Paragraphs 1 through 27 are realleged and incorporated by reference.
- 29. From approximately September 1995, through March 1999, Defendant Gibbons, in the offer and sale of securities, namely, stock and promissory notes issued by the Gibbons Companies, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud, as more fully described in Paragraph 30 below.

30. In the offer and sale of securities, and as part of a scheme to defraud, Defendant Gibbons made untrue statements of material facts and omitted to state material facts to investors and prospective investors, concerning, among other things, the use of investor funds, the risk involved in the investments, the liquidity of the investments, and the expected return on the investments, as more fully described in Paragraphs 11 through 27 above.

- 31. Defendant Gibbons knew or was reckless in not knowing of the facts and circumstances described in Paragraphs 28 through 30.
- 32. By reason of the activities described in Paragraphs 28 through 31, Defendant Gibbons violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT II

Violations of Section 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]

- 33. Paragraphs 1 through 27 are realleged and incorporated by reference.
- 34. From approximately September 1995 through March 1999, Defendant Gibbons, in the offer and sale of securities, namely, stock and promissory notes issued by the Gibbons Companies, by the use of the means and instruments of transportation and communication in interstate commerce and by the 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; and engaged in transactions, practices and courses of business which operated and would operate as a

O problem to the street contracts

fraud and deceit upon purchasers and prospective purchasers of the securities, all as more fully described in Paragraphs 11 through 27 and 30 above.

35. By reason of the activities described in Paragraphs 33 and 34, Defendant Gibbons violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT III

Violations of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

- 36. Paragraphs 1 through 27 are realleged and incorporated by reference.
- 37. From approximately September 1995 through March 1999, Defendant Gibbons, in connection with the purchase and sale of securities, namely stock and promissory notes issued by the Gibbons Companies, by the use of the means and instrumentalities of interstate commerce and by the use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud; made untrue statements of a 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, or courses of business which operated as a fraud or deceit upon persons, as more fully described in Paragraphs 11 through 27 and 30 above.
- 38. Defendant Gibbons knew or was reckless in not knowing of the facts and circumstances described in paragraphs 36 and 37 above.

39. By reason of the activities described in Paragraphs 36 through 38, Defendant Gibbons violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

- A. Find that Gibbons committed the violations alleged above.
- B. Grant an Order of Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining Defendant Gibbons, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of the Order of Permanent Injunction by personal service or otherwise, and each of them, directly or indirectly, from engaging in acts, transactions, practices or courses of business which violate Sections 17(a)(1), 17(a)(2), or 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1), 77q(a)(2), and 77q(a)(3)] or Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. Sect. 240.10b-5] promulgated thereunder, and from engaging in acts, transactions, practices, or courses of business of similar purport and object, in connection with the offer, purchase, or sale of the securities of any issuer.
- C. Grant an Order requiring Defendant Gibbons to disgorge any and all profits and monies received as a result of his illegal conduct as alleged herein, including prejudgment interest.

D. Grant an Order imposing upon Defendant Gibbons appropriate civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d) and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

O describerado de la como de la lacidade de la como de

- E. Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.
- F. Grant such other and additional relief as this Court may deem appropriate.

Dated: April 12, 2000

Respectfully submitted,

Jane E. Jarcho, IL ID # 06193642

James A. Davidson, IL ID # 06286786

Howard J. Rosenburg, IL 10#06256596

Attorneys for Plaintiff

United States Securities and

Exchange Commission

500 West Madison Street, Suite 1400

Chicago, IL 60661

(312) 353-7390

JS 44 (Rev. 12/96)

DATE

CIVIL COVER SHEET

te in Antologia statistica proportion de la companie de la companie de la companie de la companie de la compan La companie de la co

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.) **DEFENDANTS** i. (a) PLAINTIFFS Alan C. Gibbons U.S. Securities and Exchange Commission 18 Cook COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (IN U.S. PLAINTIFF CASES DNLY) (EXCEPT IN U.S. PLAINTIFF CASES) IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. NOTE: ATTORNEYS HE KNOWN (C) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER ڊ آ Jane E. Jarcho, James A. Davidson, Howard J. Rosenburg MAGISTRATE JUDGE DENLOW U.S. Securities and Exhange Commission $\langle \rangle$ 500 W. Madison Street, Suite 1400 Chicago, Illinois 60661-2511 CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF (PLACE AN "X" IN ONE BOX ONLY) IL BASIS OF JURISDICTION AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only) PTF DEF Incorporated or Principal Place 4 **D** 4 □ 3 Federal Question Citizen of This State 1 XXX U.S. Government of Business in This State (U.S. Government Not a Party) Plaintiff Citizen of Another State D 2 D 2 Incorporated and Principal Place D 5 D 2 U.S. Government D 4 Diversity of Business In Another State (Indicate Citizenship of Parties Defendant in Item III) -□6 □6 Citizen or Subject of a D 3 D 3 Foreign Nation Foreign Country (PLACE AN "X" IN ONE BOX ONLY) Appeal to District IV. ORIGIN Judge from Transferred from ☐ 6 Multidistrict 🛘 - Magistrate D 3 Remanded from □ 4 Reinstated or p s another district XXXXinginal Proceeding D 2 Removed from Litigation Judamera Appellate Court Reopened (specify) State Court (PLACE AN "X" IN ONE BOX ONLY) V. NATURE OF SUIT BANKRUPTCY OTHER STATUTES FORFEITURE/PENALTY CONTRACT TORTS 422 Appeal 28 USC 158 ☐ 400 State Reapportionment PERSONAL INJURY PERSONAL INJURY ☐ 610 Agriculture 🗀 110 Insurance ☐ 410 Antitrust © 620 Other Pool 0 _____ © 625 Orug Related Setzure of Property 21 USC 881 ☐ 362 Personal Injury — Med Malpractice 120 Marine 310 Airplane 430 Banks and Banking 423 Withdrawal 25 USC 157 🗂 130 Miller Act 315 Airplane Product 1 450 Commerce/ICC Rates/erc 🗀 365 Personal Injury – Liabitor 140 Negotiable Instrument ff 460 Deponation Floored Clability €30 Ocuerta×t m dao Assautt Dick L& ☐ 150 Recovery of Oversayment PROPERTY RIGHTS ☐ 470 Racketeer Influenced and Slander 368 Aspestos Fersonal Injury Product Liability 646 B.B. & Truck A Enforcement of Judomer €SC Airline Recs Corrupt Organizations 151 Medicare Act 530 Federal Employers □ 820 Copyriants ☐ 810 Selective Service Securities/Commodities ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) [] 660 Occupational Listany 530 Palent PERSONAL PROPERTY Safety/meant 540 Manne 🗍 840 Tiademark Exchange 🖸 370 Otner Fraud = 345 Marine Product m 690 Other [] 878 Customer Challenge 12 USC 3410 Liabory STI Truth in Lending 133 Recovery of Overbayment St. Truth in Lending

380 Other Personal SOCIAL SECURITY LABOR of Veteran's Benefits 350 Mola Venicle □ 891 Agricultural Acts Property Damage 355 Motor Vehicle 160 Stockholders Suits 361 HIA (1395ff) ■ 892 Economic Stabilization Act ☐ 716 Fair Labor Standards Product Liability 385 Propeny Damage Product Liability 190 Other Contract ☐ 862 Black Lung (923) ☐ 693 Environmental Matters 360 Other Personal Injury 195 Contract Product Liability ☐ 863 DIWC/DIWW (405(g)) ☐ 720 Labor/Mgmt Relations ■ 894 Energy Atlocation Act B64 SSID THE XVI PRISONER PETITIONS B 895 Freedom of REAL PROPERTY CIVIL RIGHTS 730 Labor/Mgmt. Reporting & Disclosure Act B65 RSI (405(g)) Information Act 210 Land Condemnation 1 510 Motions to Vacate ☐ 900 Appeal of Fee Determination
Under Equal Access to Justice 441 Voting Sentence ☐ 442 Employment 220 Foreclosure 740 Railway Labor Act **FEDERAL TAX SUITS** HABEAS CORPUS: © 950 Constitutionality of State Statutes 443 Housing/ Accommodations 230 Rent Lease & Ejectment ☐ 530 General 240 Torts to Land 790 Other Labor Litigation 535 Death Penalty ☐ 870 Taxes (U.S. Plaintiff or Defendant) 2 890 Other Statutory Actions 245 Tod Product Liability 444 Wolfare \$40 Mandamus & Other 440 Other Civil Rights 290 All Other Real Property ☐ 791 Empl. Ret. Inc. Security Act #71 IRS - Third Party 26 USC 7609 I SSO CMI Rights 555 Prison Condition (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. VI. CAUSE OF ACTION DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.) Violations of Federal Securities Laws: Sections 17(a) of the Securities Act (15 U.S.C. § 77q(a)) and Section 10(b) of the Exchange Act (15 U.S.C. § 78j(b)) and Rule 10b-5 (17 C.F.R. § 240.10b-5) promulgated thereunder. CHECK YES only if demanded in complaint **DEMAND \$** VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DNO. D YES JURY DEMAND: COMPLAINT ☐ UNDER F.R.C.P. 23 is not a refiling of a previously dismissed action. VIII. This case previously dismissed by Judge is a refiling of case number

SIGNATURE OF ATTORNE OF RECORD

Case: 1:00-cv-02247 Document #: 1 Filed: 04/12/00 Page 12 of 12 PageID #:12

UNITED STATES DISTRICT COURT

In the Matter of

U.S. Securities and Exchange Commission

006 Num 2247

Alan C. Gibbons

v.

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR: JUDGE ANDERSEN

U.S. Securities and Exhange Commission

MAC	GISTRATE JUDGE DENLOW	115 115 115		5 E	<u>.</u>
(A)	(B)	CT &	7	i (3
SIGNATURE SIEN SIGNATURE	SIGNATURE JUMPACI WILL	UPO		=	
NAME Howard J. Rosenburg	NAME James A. Davidson	,			
FIRM U.S. Securities and Exhange Commission	FIRM U.S. Securities and Exhange	: Comr	nissic	n .	
STREET ADDRESS 500 West Madison Street, Suite 1400	street address 500 West Madison Street, Suite 1400				
CITY/STATE/ZIP Chicago, IL 60661-2511	CITY/STATE/ZIP Chicago, IL 60661-2	2511			
TELEPHONE NUMBER (312) 353-7390	TELEPHONE NUMBER (312) 353-7390				
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6256595	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	06206	5786		*
MEMBER OF TRIAL BAR? VES NO TXX	MEMBER OF TRIAL BAR?	YES	Ò	NO	₩X
TRIAL ATTORNEYS YES XX NO D	TRIAL ATTORNEY?	YES	XX	NO	
	DESIGNATED AS LOCAL COUNSEL?	YES		NO	
	(D)	-			•
SIGNATURE PEROC Stanto #	SIGNATURE				
NAME Jane E. Jarcho	NAME				
FIRM U.S. Securities and Exhange Commission	FIRM				
street address 500 West Madison Street, Suite 1400	STREET ADDRESS				
CITY/STATE/ZIP Chicago, IL 60661-2511	CITY/STATE/ZIP			 	
TELEPHONE NUMBER (312) 353-7390	TELEPHONE NUMBER				
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 06193642	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)				
MEMBER OF TRIAL BAR? YES XX NO	MEMBER OF TRIAL BAR?	YES		NO	
TRIAL ATTORNEY? YES XXX NO.	TRIAL ATTORNEY?	YES		NO	
DESIGNATED AS LOCAL COUNSEL? YES NO	DESIGNATED AS LOCAL COUNSEL?	YES	ī	NO -	