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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION :
450 Fifth Street, N.W. :
Washington, D.C. 20549, :

Plaintiff, :

v. :

SOLUCORP INDUSTRIES LTD.; :
JOSEPH S. KEMPROWSKI; :
PETER R. MANTIA; :
JAMES G. SPARTZ; :
ROBERT KUHN; :
VICTOR HERMAN; :
ARLE PIERRO; AND :
W. BRYAN FAIR :

Defendants. :

99 C.A. No. _____

COMPLAINT

Plaintiff Securities and Exchange Commission ("SEC") alleges:

NATURE OF THE ACTION

1. Senior executive officers and directors of Solucorp Industries Ltd., a Canadian company which develops, markets and licenses products used in decontaminating soil, engaged in a deliberate and systematic scheme to defraud investors. Senior management orchestrated this

scheme by publicly disseminating materially false and misleading press releases, periodic reports and correspondence with shareholders, including shareholders in the United States, over at least a four year period. In the press releases, periodic reports and correspondence with shareholders, Solucorp falsely claimed to have hundreds of millions of dollars of contracts which, in fact, did not exist or were subject to undisclosed material contingencies. Solucorp also failed to disclose material changes to contracts that did exist. Further, senior management falsified Solucorp's financial statements by improperly recognizing as revenue license fees that were subject to material contingencies.

2. The defendants involved are Joseph S. Kemprowski ("Kemprowski"), a former officer and director of, and currently consultant to, Solucorp; Peter R. Mantia ("Mantia"), the president and a director of Solucorp; James G. Spartz ("Spartz"), a vice president and a director of Solucorp; Robert Kuhn ("Kuhn"), a former vice president of Solucorp; and Victor Herman, CPA ("Herman), the former chief financial officer of Solucorp's two principal operating subsidiaries and the preparer of Solucorp's consolidated financial statements.

3. In at least ten press releases, several regulatory filings, an annual report and a letter to shareholders, Solucorp claimed to have contracts that would generate over \$350 million in revenues, when, in fact, the contracts did not exist or were subject to undisclosed material contingencies; materially overstated revenues for existing contracts by publicly claiming to have contracts that would generate over \$7 million in revenues, when, in fact, the contracts actually provided for the company to receive closer to \$3 million; and failed to timely announce the termination or postponement of previously announced material contracts.

4. Solucorp's improper recognition of license fees resulted in its filing with the SEC periodic, transition and interim reports, including financial statements, on five occasions from December 1997 through April 1999, which overstated revenue by amounts ranging from 28% to 55%.

5. By engaging in the transactions, acts, practices and courses of business alleged herein, defendant Solucorp violated the antifraud, books and records and internal controls provisions of the federal securities laws. Kemprowski, Mantia, Spartz, Kuhn and Herman violated the antifraud provisions of the federal securities laws. Mantia and Herman committed violations of the books and records and internal controls provisions, and Mantia lied to Solucorp's auditors in violation of the federal securities laws.

6. Kemprowski, Mantia and Herman benefited from the financial fraud when they sold Solucorp securities while in possession of material, non-public information relating to the aforementioned disclosure or accounting fraud.

7. Further, Kemprowski, Mantia, Spartz, Arle Pierro, a senior vice president and director of Solucorp, and W. Bryan Fair, a director of Solucorp, failed to disclose their equity ownership in Solucorp as of February 20, 1998, the effective date of Solucorp's registration with the SEC, and to timely disclose changes in that ownership.

JURISDICTION

8. The defendants, directly and indirectly, have engaged in, and unless restrained and enjoined by this Court will continue to engage in, transactions, acts, practices and courses of business that violate the following provisions of the federal securities laws:

(a) as to Solucorp, Kemprowski, Mantia, Spartz, Kuhn and Herman, Section 10(b) of the Exchange Act [15 U.S.C. § 78(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5];

(b) as to Solucorp, Kemprowski, Mantia and Herman, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

(c) as to Solucorp, Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1, 13a-10 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-10 and 240.13a-13];

(d) as to Kemprowski, Mantia, Spartz, Pierro and Fair, Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rules 16a-2 and 16a-3 [17 C.F.R. §§ 240.16a-2 and 240.16a-3];

(e) as to Mantia and Herman, Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1]; and

(f) as to Mantia, Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2].

9. The SEC seeks a judgment permanently enjoining all defendants from future violations of the securities laws and brings this action pursuant to Sections 20(b), 20(d) and 20(e) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b), 77t(d) and 77t(e)] and Sections 21(d) and 21(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d) and 78u(e)]. The SEC also seeks civil penalties against defendants Kemprowski, Mantia, and Herman pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and against defendants Kemprowski, Mantia, Herman, Spartz, Kuhn, and Pierro pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The SEC seeks disgorgement of profits, with prejudgment interest, by defendants Kemprowski, Mantia and Herman for trading while in

possession of material non-public information concerning the fraud. Further, the SEC seeks an order pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] permanently prohibiting Kemprowski and Mantia from acting as an officer or director of an issuer that has a class of securities registered with the SEC pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78] or that is required to file reports with the SEC pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

10. 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].

11. In connection with the transactions, acts, practices and courses of business described in the Complaint, each of the defendants, directly and indirectly, has made use of any means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange.

THE DEFENDANTS

12. Solucorp Industries Ltd., incorporated in the Yukon Territory and headquartered in West Nyack, New York, engages in the treatment and disposal of contaminated soil and in developing, marketing and licensing of products for use in environmental cleanups, including its Molecular Bonding System ("MBS"). Solucorp's securities traded on the Vancouver Stock Exchange ("VSE") until December 1995, when the VSE suspended trading. Solucorp voluntarily delisted its securities from the VSE on August 6, 1996, after an eight-month trading suspension. Solucorp's securities began trading on the National Association of Securities Dealers ("NASD") Over-the-Counter Bulletin Board ("OTCBB") on August 6, 1996. Solucorp registered its securities with the SEC under Section 12(g) of the Exchange Act [15 U.S.C. §

781(g)], effective February 20, 1998. The SEC suspended trading in Solucorp's securities on May 1, 1998 pursuant to Section 12(k) of the Exchange Act [15 U.S.C. § 78k].

13. Kemprowski, age 52, held the title of officer and director of Solucorp until the VSE compelled him to resign in November 1994. Kemprowski then held the title of officer and director of Solucorp's subsidiary, EPS Environmental, Inc., until 1996, when the VSE again compelled him to resign. Although officially designated a consultant to Solucorp, Kemprowski has continued to serve as a *de facto* officer of Solucorp since May 1996. Kemprowski is a U.S. citizen and resides in Upper Nyack, New York.

14. Mantia, age 52, has been the president and a director of Solucorp since February 1995. Mantia is a U.S. citizen and resides in Suffern, New York.

15. Spartz, age 47, has been a senior vice president of Solucorp since December 1992, except for the period from October 1994 through February 1995 when he served as president of Solucorp. He has been a director of Solucorp since December 1992. Spartz is a U.S. citizen and resides in Ramsey, New Jersey.

16. Kuhn, age 44, was a vice president of sales and marketing at Solucorp from August 1994 until his resignation in the fall of 1999. Kuhn is a U.S. citizen and resides in New Jersey.

17. Herman, a CPA, age 58, was the chief financial officer of Solucorp's chief operating subsidiaries from September 1995 until his resignation in early 1999. Beginning with the quarter ended December 31, 1995, Herman was responsible for preparing the financial statements of the holding company, Solucorp, and signed quarterly filings with the SEC in 1998 as Solucorp's chief financial officer and principal accounting officer. Herman is a U.S. citizen.

18. Arle Pierro, age 50, has been a senior vice president and a director of Solucorp since March 1994. Pierro is married to Kemprowski and is Mantia's sister-in-law. Pierro is a U.S. citizen and resides in Upper Nyack, New York.

19. W. Bryan Fair, age 41 and a Canadian citizen and resident of British Columbia, has been a director of Solucorp since June 1992.

FACTS

A. SOLUCORP DISSEMINATED MATERIALLY FALSE AND MISLEADING INFORMATION ABOUT CONTRACTS

20. Solucorp's materially false and misleading misrepresentations and omissions include the following:

21. IEM/Sealand Inc. contract

(a) In a July 6, 1995 press release, Solucorp announced that it had received a "purchase order from IEM/Sealand Inc. to remediate a minimum of 15,000 tons of heavy metal contaminated soils in Waterbury, Connecticut" utilizing MBS. The release further stated that the "purchase order contracts for the remediation of 15,000 tons of soil . . . and including disposal will result in revenues of \$74,000 per day for a minimum 25-day remediation period resulting in total revenues of \$1.85 million"

(b) In fact, under the terms of its written contract with IEM/Sealand, Inc., Solucorp could anticipate *at most* \$684,000 for remediating 15,200 tons of soil. The written contract expressly provided that "IEM SEALAND Corporation [was] to provide transportation and disposal of treated soils." Solucorp merely had an oral assurance that IEM/Sealand, Inc. anticipated putting the transportation and disposal work out to bid at a later date and, if

Solucorp's bid was competitive, Solucorp would be awarded the contract. In fact, IEM/Sealand, Inc. performed the transportation and disposal work itself.

(c) Kemprowski, Mantia, Spartz and Kuhn formed a core group drafting, reviewing and disseminating press releases. Solucorp issued the July 6, 1995 press release notwithstanding that the undisclosed contract terms and contingencies affecting its ability to obtain a contract to do transportation and disposal work were known to Kuhn, who negotiated the contract, and to Mantia, who signed the contract.

(d) Solucorp completed its remediation of soil at the Waterbury, Connecticut site on October 5, 1995. Total tonnage remediated was 3,854. Solucorp knew that this was the total tonnage. Solucorp further knew that IEM/Sealand, Inc. would be handling the transportation and disposal work at the site, and not awarding the work to Solucorp.

(e) Solucorp announced in an October 5, 1995 press release that it had "successfully completed" its remediation project for IEM/Sealand, Inc. in Connecticut. Solucorp failed to disclose, however, that it would not receive the \$1.85 million previously announced because it had remediated only 3,854 of the initially announced 15,000 ton minimum and would not provide \$1.2 million in transportation and disposal services.

(f) [redacted] who reviewed for accuracy all press releases signed by him, knew at the time that the actual tonnage fell far short of the 15,000 tons announced in the July 6, 1995 press release and that IEM/Sealand, Inc. was handling transportation and disposal. Nevertheless, he signed the October 5, 1995 press release and ordered its dissemination, although he knew, or was reckless in not knowing, that it was materially false and misleading.

22. **NHD, Inc. contract**

(a) Solucorp announced in an October 11, 1995 press release that it had “signed a contract with LCM Corporation . . . to remediate . . . 4,000 tons of copper bottom ash . . . which will result in revenues of CDN\$626,400 [approximately \$460,000 U.S.] to the Company.”

(b) In fact, \$626,400 (Cdn.) was the maximum amount payable to the general contractor, NHD, Inc., not Solucorp. Further, the general contract provided for a range of 1,300 to 4,000 tons of soil to be remediated. Under the terms of its subcontract, Solucorp stood to earn only \$71,500 (U.S.) to \$220,000 (U.S.), depending on total tonnage remediated. Solucorp ultimately remediated only 1,500 tons and earned \$82,000 (U.S.) in revenue.

(c) Kuhn, whose self-acknowledged role it was to bring misstatements to management’s attention as a member of a core group reviewing press releases, negotiated Solucorp’s subcontract and was in possession of information on the basis of which he knew, or was reckless in not knowing, that the October 11, 1995 press release was materially false and misleading at the time it was issued.

(d) Spartz reviewed for accuracy, signed and ordered the dissemination of the October 11, 1995 press release and was reckless in not knowing that it was materially false and misleading.

23. **OENJ Corporation contract**

(a) Solucorp also claimed in the same October 11, 1995 press release that it had a contract with OENJ Corporation “to provide on-site remediation of 1,400 tons of soil . . . which will result in revenues of CDN\$349,650 [approximately \$258,000 U.S.] to the

Company.” The press release failed to disclose that: (i) Solucorp’s performance was contingent on Solucorp proving the efficacy of a subcontractor’s treatment in a pilot test and obtaining the necessary permits (a process that was never completed); and (ii) Solucorp would receive air space rights at a disposal facility as consideration for its services which it would need to sell before realizing any revenue.

(b) Spartz reviewed for accuracy, signed and ordered the dissemination of the October 11, 1995 press release. He knew, or was reckless in not knowing, that the release was materially false and misleading at the time it was issued.

(c) Under the terms of its agreement with Solucorp, OENJ Corporation had the right to remove the waste as it so desired if Solucorp had not commenced treatment within a certain time frame. Treatment never commenced. In March 1996, OENJ Corporation informed Charles Ludwig, a vice president of marketing at Solucorp, that it had elected to transport and dispose of the soil rather than have it remediated by Solucorp.

(d) Notwithstanding that Ludwig, an officer and agent of Solucorp, knew in March 1996 that the contract announced by Solucorp in October 1995 would not be performed, Solucorp never apprised the public until disclosing over two years later in an August 11, 1998 press release that, “the [OENJ] project was never performed of. Therefore, Solucorp will not render its services for that project.” (Emphasis added). This statement was false and misleading because Solucorp in fact knew as of early 1996 that it would not be performing the contract. Solucorp reiterated this false statement in a quarterly filing with the SEC on August 17, 1998 and in both a March 18, 1999 press release and Form 8-K filing with the SEC.

24. **Purported Puerto Rico contract**

(a) Solucorp falsely claimed in an October 31, 1995 press release to have received "its first contract from its office in Santurce, Puerto Rico for \$850,000 for Occupational Safety and Health Training of 2000 students in Puerto Rico with the School of Engineers, Department of Continuing Education, San Juan, Puerto Rico." In fact, no such contract existed.

(b) Mantia signed and ordered the dissemination of the press release even though he knew, or was reckless in not knowing, that the release was materially false and misleading.

25. **IDM Environmental Corp. contract**

(a) Solucorp announced in a November 22, 1995 press release that IDM Environmental Corp. ("IDMC") had issued to it a "\$50 million U.S. contract [with profits to be shared equally] . . . for utilization of the MBS soil remediation technology at the Los Alamos National Laboratory (LANL) site in New Mexico, USA. IDMC is under a task order contract . . . with the U.S. Department of Energy . . . for dismantling, demolition and remediation at the Los Alamos site." The release further stated that IDMC had elected to use MBS at the LANL site through December 1997, and "[a]ctivities at the LANL site are scheduled to commence the first quarter of 1996."

(b) In fact, IDMC had no assurance of getting any soil remediation work using MBS at Los Alamos, let alone \$50 million worth.

(c) Mantia, who signed the November 22, 1995 agreement with IDMC, thought it was "fantasyland" for IDMC to propose such a contract to Solucorp. Yet, Solucorp

failed to inquire into the basis for the \$50 million figure. Had Solucorp made inquiries, it would have learned that there was no basis for the claim.

(d) Spartz, who reviewed the November 22, 1995 press release for accuracy and ordered its dissemination, knew, or was reckless in not knowing, that the release was materially false and misleading.

(e) Solucorp reiterated that it had been issued a \$50 million contract in quarterly filings with the British Columbia Securities Commission ("BCSC") on May 29, 1996, June 12, 1996 and October 31, 1996 and in its 1996 Annual Report filed with the BCSC on November 26, 1996. Solucorp mailed the quarterly filings and Annual Report to its shareholders, including shareholders in the United States.

(f) Herman drafted the text in each of the aforementioned filings relating to the purported \$50 million contract based on the false November 22, 1995 press release. Herman described the \$50 million contract in each filing even though he regarded the existing agreement between the parties as too prospective to support the claim, and he also believed that the agreement lacked essential contract terms. Indeed, believing that the November 22 press release must be based on documentation other than the November 22 agreement, Herman asked Kuhn for the supplementary information only to determine if the contract was still under negotiation. But only did Herman proceed to disclose improperly in the filings that there was a \$50 million contract, he continued to claim improperly for another year, through the filing of the Annual Report in November 1996, that the contract was expected to take two years to complete, without any regard to the December 1997 expiration of the parties' agreement.

26. Poland contracts

(a) Solucorp securities traded on the VSE until December 1995, when the VSE suspended trading due to concerns about, among other things, Solucorp's accounting treatment of a third-party contract in its 1995 year-end financial statements. Solucorp then sought a market maker to make an application to the NASD to make a market in Solucorp securities on the NASD OTCBB. The market maker M.H. Meyerson & Co., Inc. submitted an application in March 1996.

(b) In anticipation of Solucorp securities beginning to trade on the NASD OTCBB, Solucorp claimed in an April 17, 1996 press release that the United Nations ("UN") and the European Union ("EU") had "budgeted approximately \$345,000 from their general fund to the Company" for testing of Solucorp's MBS in Poland when, in fact, Solucorp knew that this amount had been budgeted for the testing of several technologies and that it would receive no more than \$127,000.

(c) Solucorp reiterated this false claim in a quarterly report filed with the BCSC on May 29, 1996 and mailed to shareholders, including shareholders in the United States.

(d) Solucorp further claimed in the same April 17, 1996 press release on Poland that it would be conducting an extensive hazardous waste cleanup for the UN and EU separate remediation project on a 25-acre industrial site for the EU. Solucorp failed to disclose that immediate authorization was anticipated with respect to pilot projects only, and whether the EU and UN proceeded with the full-fledged cleanups was contingent on the availability of funds.

(e) Kuhn was Solucorp's representative in Poland and reviewed the April 17, 1996 press release prior to its dissemination. Kuhn knew at the time the release was drafted that

the \$345,000 was budgeted among three technologies. Kuhn also knew that the EU project was subject to contingencies that were not disclosed in the draft release. Thus, Kuhn knew, or was reckless in not knowing, that the release was materially false and misleading.

27. **IDM Environmental Corp. contract**

(a) After an eight-month trading suspension on the VSE, Solucorp voluntarily delisted its securities from the VSE on August 6, 1996 and began trading on the NASD's OTCBB on the same day.

(b) In anticipation of its commencing trading on the OTCBB, Solucorp mailed a letter to shareholders dated August 2, 1996 describing business developments over the course of the preceding eight months.

(c) The letter reported that, "Solucorp has received a joint contract with IDM Environmental to provide up to \$300 million, over 10 years, of heavy metal remediation services in one of the largest military base cleanups ever contracted."

(d) In fact, this statement was false because Solucorp had not received any joint contract with IDM to provide up to \$300 million of heavy metal remediation services. In a press release and Form 8-K dated March 18, 1999, Solucorp ultimately conceded that it "does not know of any such \$300 million contract."

(e) Mantia signed the August 2, 1996 letter to shareholders and caused it to be disseminated even though he knew, or was reckless in not knowing, that the letter was materially false and misleading.

28. **Doe Run contract**

(a) On November 27, 1996, Solucorp issued a press release announcing that its completion of testing at the Doe Run Lead Recycling Facility ("Doe Run") "provides remediation revenues of \$1.68 million per year for three years and machinery leasing revenues of \$180,000" under remediation and machinery leasing agreements with Doe Run. Thus, according to the press release, the total revenue anticipated under the two agreements was \$5.22 million over three years.

(b) In fact, Solucorp's machinery-leasing agreement with Doe Run provided for Solucorp to receive only \$55,000 per year, for a total of \$165,000 over three years instead of \$180,000. Further, under the terms of its amended remediation contract with Doe Run, Solucorp anticipated receiving approximately \$525,000 per year. Thus, Solucorp anticipated receiving \$1.74 million over three years instead of \$5.22 million.

(c) Mantia signed the press release and ordered its dissemination even though he knew, or was reckless in not knowing, that the release was materially false and misleading.

29. **Scotland contract**

(a) In the "Message to Shareholders" placed prominently at the front of its 1996 Annual Report, filed with the BSEC on November 26, 1996 and disseminated to shareholders, Solucorp stated that a licensee had announced two contracts to perform services in Scotland and Portugal beginning in January 1997 which "will generate a minimum royalty income [for Solucorp] of between \$10.0 and \$14.0 million." The same claim was reiterated in the "Corporate Profile," also placed at the front of the Annual Report.

(b) Of the \$10 to \$14 million in royalties, approximately \$9 to \$13 million was attributable to the licensee's purported contract in Scotland. The remaining \$1 million was attributable to the licensee's contract in Portugal.

(c) Solucorp failed to disclose that the licensee had not yet been awarded a contract to provide services in Scotland beyond performing tests for 18,000 pounds sterling [approximately \$30,000 U.S.]. Solucorp also failed to disclose in its Annual Report that whether the licensee ultimately secured a remediation contract in Scotland was dependent on, among other things, the availability of funding. Solucorp disclosed in its March 18, 1999 press release and Form 8-K filed with the SEC that no remediation contract had yet been awarded due to a lack of funding.

(d) Solucorp disseminated the 1996 Annual Report, notwithstanding that Solucorp's outside counsel had advised Mantia and Spartz to revise the draft Message to Shareholders and Corporate Profile to disclose the contract terms and any material contingencies to which the licensee's contracts in Scotland and Portugal were subject. Spartz responded to counsel in writing that Solucorp had run out of time for making changes and had to get the report to the printers.

(e) Mantia signed the Message to Shareholders even though he knew, or was reckless in not knowing, that the Message to Shareholders was materially false and misleading.

30. Portugal contract

(a) Solucorp announced in a November 5, 1996 press release that the general contractor on a project in Portugal, from whom a Solucorp licensee was seeking work, had been "awarded a \$150 million (U.S.) design, remediation and construction contract by the Portugal

government [and] had specified Solucorp's MBS® process as the technology for the cleanup . . ." of contaminated soil ranging from 200,000 to 900,000 tons. The release further stated that the remediation of 200,000 tons would result in "\$1 million (U.S.) in royalty, plus an estimated \$1.5 million (U.S.) in profits to Solucorp"

(b) As mentioned in paragraph 30(a) above, Solucorp subsequently announced in its 1996 Annual Report that its licensee had a contract in Portugal that "will" result in royalties to Solucorp. The amount of the anticipated royalties was approximately \$1 million.

(c) The general contractor's \$150 million contract, and hence the licensee's subcontract, terminated in early 1997, a couple of months after Solucorp issued its November 5, 1996 press release and 1996 Annual Report. Solucorp failed to disclose that the contract had been terminated. In November 1997, when Solucorp filed its 1997 year end report with the BCSC (for the period ending June 30, 1997, formerly the end of Solucorp's fiscal year), Solucorp revealed that a letter of intent had been "issued" and "formal contractual agreements and other arrangements are currently in various stages of completion" for the \$150 million contract that Solucorp had previously claimed had been awarded. Solucorp later disclosed in its March 18, 1999 press release and Form 8-K filed with the SEC that it had no expectation of doing *any* work on the Portugal project.

31. **Purported June 4, 1997 Smart International Ltd. licensing agreement**

(a) Solucorp announced in a press release dated June 5, 1997, that Smart International Ltd. ("Smart"), a privately-held Hong Kong company, had signed an exclusive, five-year licensing agreement for the right to produce, market and apply MBS in China.

Solucorp also announced that Smart would pay a \$2 million license fee during the first year of the license.

(b) The June 5, 1997 release failed to disclose that the entire agreement was merely preliminary, and payment of the initial license fee was contingent on, among other things: (1) Smart conducting a market survey of China to determine that a market existed to support payment of the fee; and (2) Smart securing remediation jobs using MBS from which it could finance the fee or, alternatively, on Solucorp securing remediation jobs using MBS which would require it to purchase chemicals from Smart, thus providing Smart with funds to pay the license fee.

(c) Kemprowski, who knew about the contingencies, assisted in preparing the press release. He knew, or was reckless in not knowing, that the press release was materially false and misleading in failing to disclose the contingencies.

32. Remediation contracts in China

(a) **Reservoir and battery plant contracts:** Solucorp announced in a press release dated December 12, 1997 that Smart and Solucorp had been “rewarded with two major contracts” in China. The contracts related to projects described more fully in a November 20, 1997 press release. One project involved designing a system at a plant in China for “full implementation by March-April 1998,” which “Solucorp-Smart estimate[d] . . . will result in revenues of \$400,000 per month once the system is operational.” The second involved the “testing and associated operations for remediation” of irrigation fields which was “valued in excess of U.S.\$125 million [and], will take two years to complete.” Solucorp further stated that,

“[f]unding for this vast [second] project is established, and revenues will commence in the first quarter of 1998.”

(b) Both projects were subsequently canceled or postponed indefinitely in the spring of 1998. Solucorp failed to apprise the public until one year later on March 18, 1999, when it announced in a press release and a Form 8-K filed with the SEC that the irrigation project had been postponed indefinitely and that it had no contracts in China.

(c) **Sites in Northern China:** Solucorp announced in a March 25, 1998 press release that it was “already contracted for the remediation of soils, slags and sludges at . . . sites in Northern China . . .,” when no such contract(s) existed.

(d) **Nan Yang Iron Co.:** In the same March 25, 1998 press release, Solucorp announced that it was also contracted to perform remediation work at yet another facility in China, the Nan Yang Iron Co. In an August 4, 1998 press release, Solucorp announced that it would be proceeding with the installation of a remediation system at the facility. Solucorp failed to apprise the public when, two to three weeks later, it was informed that the project had been postponed indefinitely. Solucorp eventually apprised the public on March 18, 1999, when it announced in a press release and a Form 8-K filed with the SEC that the project had been postponed indefinitely and that it had no contracts in China.

(e) Kemprowski was Solucorp’s principal contact person with Smart and integrally involved in the preparation of press releases relating to activities in China. He was also provided with copies of all Solucorp press releases. He knew, or was reckless in not knowing, that the March 25, 1998 press release was materially false and misleading in referring to projects under contract in northern China that did not exist. Kemprowski further knew, or was

reckless in not knowing, that it was materially false and misleading not to timely apprise the public of the indefinite postponement and cancellation of other China contracts.

B. SOLUCORP FILED MATERIALLY FALSE FINANCIAL STATEMENTS FOR THE QUARTER ENDED SEPTEMBER 30, 1997

33. Solucorp filed a registration statement with the SEC on December 22, 1997, using Form 10-SB, which included unaudited financial statements for the quarter ended September 30, 1997.

34. Included in the revenue reported in the unaudited financial statements for the quarter ended September 30, 1997 were \$500,000 in accrued license fees payable by Smart. This comprised 40% of Solucorp's reported revenues for the quarter.

35. As of September 30, 1997, payment of the license fee was subject to material contingencies. Because of these contingencies, Solucorp's revenue recognition was not in conformity with Generally Accepted Accounting Principles ("GAAP"), and its financial statements were materially misstated.

36. The only agreement between Solucorp and Smart as of September 30, 1997 relating to the licensing of Smart was an "agreement in principle" dated June 4, 1997 (the "June 4 agreement"), which set forth some, but not all of the terms of a licensing agreement which was to be finalized within six months. The agreement provided that Smart would obtain a license for the marketing and use of MBS in China, and specified \$2 million as a "license and signing-on fee" payable during the first year.

37. The June 4 agreement provided that the entire agreement was subject to Smart "[1] completing a Market Survey within sixty (60) days of [June 4, 1997], [2] and establishing viable operations and [3] agreeing [on] on-going financial arrangements with Solucorp within a

further four (4) months." Failure to satisfy these three contingencies would result in termination of the June 4 agreement.

38. Smart did not complete its market survey, as required by the June 4 agreement, until October 1997, after the close of the September 30, 1997 financial reporting period. The parties did not finalize the terms of their license agreement until on or after November 9, 1997, and did not memorialize their agreement in writing until on or after December 18, 1997.

39. In addition to the three contingencies mentioned above, Solucorp and Smart were aware of a fourth material contingency affecting Smart's payment of a license fee. Specifically, Smart's payment of a fee was contingent on Smart's securing remediation jobs in China using MBS from which it could finance the fee or, alternatively, on Solucorp's securing remediation jobs using MBS which would require it to purchase chemicals used in MBS from Smart, thus enabling Smart to pay its license fee.

40. Kemprowski, Mantia and Herman knew, or were reckless in not knowing, that Smart's payment of any license fee as of September 30, 1997 was subject to material contingencies. They further knew, or were reckless in not knowing, that the recognition of \$500,000 in license fees for the quarter was improper. Yet, Kemprowski, Mantia and Herman knowingly approved Solucorp's recognition of \$500,000 in license fees during the quarter ended September 30, 1997.

41. In a press release dated December 3, 1997, Solucorp repeated the materially false and misleading revenue figure from its financial statements for the quarter ended September 30, 1997. The release was materially false and misleading in implicitly representing that Solucorp's accrual of revenue was appropriate and in accordance with GAAP.

C. MANTIA BACKDATED THE EXCLUSIVE LICENSE AGREEMENT AND LIED TO THE AUDITORS

42. In connection with its reconciling the financial statements for September 30, 1997 from Canadian GAAP to U.S. GAAP for inclusion in its registration statement filed December 22, 1997 with the SEC, Solucorp's outside auditor, MacKay & Partners ("MacKay"), a Canadian accounting firm, reviewed the financial statements. Glenn Ohlhauser, a Chartered Accountant in Canada, was the MacKay partner overseeing the review. He alerted Herman on December 18, 1997 that the June 4 agreement was contingent and vague, and therefore could not support revenue recognition of the license fee during the quarter ended September 30, 1997. He further informed Herman that Solucorp's financial statements were materially overstated as a result, and should be restated. Ohlhauser reiterated his concerns to Herman and Solucorp's outside counsel on December 19, 1997. Solucorp and Herman refused to restate the company's September 30, 1997 financial statements.

43. During the week of December 18, 1997, Mantia then proposed to Smart that the parties memorialize the terms of an exclusive licensing agreement that the parties had been in the process of finalizing since November 9, 1997. The agreement was to supersede the June 4 agreement. At Mantia's direction, the effective date and signature dates of the agreement were backdated to September 15, 1997 (the "September 15 agreement"). This was done in an attempt to support Solucorp's improper recognition of the Smart license fee during the quarter ended September 30, 1997.

44. Solucorp changed its fiscal year-end from June 30 to December 31 in late 1997. On April 15, 1998 Solucorp filed a Form 10-K with the SEC for the six-month transition period ended December 31, 1997 that included audited financial statements for the six-month period.

45. It was in February or early March of 1998 that Solucorp first provided to Ohlhauser a copy of the September 15 agreement during MacKay's audit of Solucorp's financial statements for the six-month transition period ended December 31, 1997. Although he backdated the September 15 agreement, Mantia provided a false management letter to MacKay in connection with the audit. That letter falsely stated that Solucorp was not aware of any illegal acts. This letter was false because Mantia had backdated the September 15 agreement for purposes of supporting Solucorp's improper recognition of revenue during the quarter ended September 30, 1997.

46. The letter also falsely denied that there were "material transactions that have not been properly recorded in the accounting records underlying the financial statements" In fact, this statement was false because Solucorp had improperly recorded the Smart license fee even though the fee was contingent on Smart and/or Solucorp securing remediation jobs using MBS from which the license fees could be financed.

47. Mantia signed the false management letter on behalf of Solucorp. In signing and providing the letter to the auditors, Mantia knowingly made misrepresentations and lied to the auditors.

27. **SOLUCORP CONSENTED TO FILE
MATERIALLY MISSTATED FINANCIAL STATEMENTS**

48. Of the four contingencies, described in paragraphs 37 through 39 above, affecting Solucorp's recognition of the Smart license fee during the quarter ended September 30, 1997, all but one was resolved by the close of the six-month transition period ended December 31, 1997. The fourth contingency continued to exist at least through December 31, 1998. Specifically, Smart's payment of a license fee continued to be contingent either on Smart's obtaining

remediation jobs using MBS in China or on Solucorp's obtaining remediation jobs using MBS, on the basis of which Solucorp could purchase chemicals used in MBS from Smart, thereby enabling Smart to pay the license fee or offset amounts the parties owed each other.

49. Solucorp filed a Form 10-K with the SEC on April 15, 1998 for the six month transition period ended December 31, 1997. Included in the revenue reported for the six-month period was \$1,090,909 in accrued license fees payable by Smart, only \$500,000 of which had been paid as of December 31, 1997. In improperly accruing the license fee notwithstanding the material contingency, Solucorp overstated revenue by 28%.

50. Solucorp filed a Form 10-Q with the SEC on May 21, 1998 for the quarter ended March 31, 1998. Included in the revenue reported for the quarter was \$545,454 in accrued license fees, none of which was paid during the quarter. In improperly accruing the license fee notwithstanding the material contingency, Solucorp overstated revenue by 49%.

51. Solucorp filed a Form 10-Q with the SEC on November 16, 1998 for the quarter ended September 30, 1998. Included in the revenue reported for the quarter was \$500,000 in accrued license fees, none of which was paid during the quarter. In improperly accruing the license fee notwithstanding the material contingency, Solucorp overstated revenue by 55%.

52. Solucorp filed a Form 10-K with the SEC on April 15, 1999 for the fiscal year ended December 31, 1998. Included in the revenue reported for the twelve-month period were \$2 million in accrued license fees, of which only \$618,000 had been paid through offsets in May of 1998 for amounts owed by each party. In improperly accruing the license fee notwithstanding the material contingency, Solucorp overstated revenue by 33%.

53. Mantia and Herman knew, or were reckless in not knowing, that Smart's future payment of the license fee was subject to a material contingency through at least December 31, 1998, and that revenue recognition was improper. Yet, Herman prepared the financial statements for the reporting periods December 31, 1997 through September 30, 1998, and, together with Mantia, signed and caused to be filed the Forms 10-Q quarterly reports for the periods ended March 31, 1998 and September 30, 1998. Mantia also signed and caused to be filed the Form 10-K for the six-month transition period ended December 31, 1997 and the fiscal year ended December 31, 1998.

54. Solucorp included in press releases dated April 16, 1998, May 21, 1998 and November 18, 1998, the materially false and misleading financial information reported in its periodic, interim and transition reports for the six-month period ended December 31, 1997 and the quarters ended March 31, 1998 and September 30, 1998.

**E. KEMPROWSKI, MANTIA AND HERMAN
IMPROPERLY TRADE IN SOLUCORP SECURITIES**

55. While the scheme to fraudulently inflate Solucorp's revenue was ongoing and while in possession of material, non-public information concerning the scheme and the overstatement of Solucorp's reported revenue, Kemprowski, Mantia and Herman sold Solucorp stock for their own accounts. Kemprowski, Mantia and Herman were thereby able to avoid losses by selling Solucorp securities prior to any public disclosure of Solucorp's true financial condition.

56. Kemprowski also sold shares following Solucorp's announcement in a November 22, 1995 press release that IDMC had issued to it a \$50 million contract, notwithstanding that Kemprowski knew, or was reckless in not knowing, that the announcement was materially false

and misleading. Solucorp's per share price surged following the November 22, 1995 announcement. Kemprowski profited from selling shares during that period.

**F. KEMPROWSKI, MANTIA, SPARTZ, PIERRO
AND FAIR FAIL TO TIMELY FILE INSIDER TRADING REPORTS**

57. Solucorp registered its common stock with the SEC pursuant to Section 12(g) of the Exchange Act [15 U.S.C. § 781(g)], effective February 20, 1998.

58. At the time Solucorp registered its securities with the SEC, and up to the present, Kemprowski has been an "officer" of Solucorp. Nevertheless, Kemprowski failed to file a Form 3 reflecting his ownership interest in Solucorp as of February 20, 1998, and Forms 4 or Form 5 reflecting changes in his ownership of Solucorp securities.

59. Although Mantia was an officer and director of Solucorp as of February 20, 1998, the effective date of Solucorp's registration statement, Mantia failed to file a Form 3 reflecting his ownership of 17,500 shares of common stock and 210,000 options until April 30, 1999. Further, although he conducted over sixty transactions in Solucorp shares and options from March 1998 through February 1999, Mantia failed to file eleven Forms 4 for periods ranging from one month and three weeks to one year and three weeks. Mantia also failed to file a Form 5, which was due on February 15, 1999, filing instead delinquent Forms 4 on April 30, 1999. The combined value of Mantia's changes in ownership reported in the late Forms 4 for Solucorp exceeds \$940,000.

60. Although Spartz was an officer and director of Solucorp as of the effective date of Solucorp's registration statement, February 20, 1998, Spartz failed to file a Form 3 reflecting his ownership of 27,323 shares of common stock and 390,000 options until April 30, 1999. Further, although Spartz conducted over one hundred transactions in Solucorp shares and options from March 1998 through February 1999, he failed to file twelve Forms 4 for periods ranging from one

month and three weeks to one year and three weeks. Spartz also failed to file a Form 5, which was due on February 15, 1999, filing instead delinquent Forms 4 on April 30, 1999. The combined value of Spartz's changes in ownership reported in the late Forms 4 for Solucorp exceeds \$1.2 million.

61. Although Pierro was an officer and director of Solucorp as of the effective date of Solucorp's registration statement, February 20, 1998, Pierro failed to file a Form 3 reflecting her ownership of 503,375 shares of common stock (excluding 1,594,837 shares which were held in escrow and ultimately canceled) and 450,000 options until April 30, 1999. Further, although Pierro conducted over eighty transactions in Solucorp shares and options from March 1998 through February 1999, she failed to file ten Forms 4 for periods ranging from one month and three weeks to one year and three weeks. Pierro also failed to file a Form 5, which was due on February 15, 1999, filing instead delinquent Forms 4 on April 30, 1999. The combined value of Pierro's changes in ownership reported in the late Forms 4 for Solucorp exceeds \$1.7 million.

62. Although Fair was a director of Solucorp as of the effective date of Solucorp's registration statement, February 20, 1998, Fair failed to file a Form 3 reflecting his ownership of 8,070 shares of common stock and 57,000 options until May 10, 1999. Further, although Fair conducted over 100 transactions in Solucorp shares and options from March 1998 through October 1998, he failed to file five Forms 4 for periods ranging from seven months to one year and one month. Fair also failed to file a Form 5, which was due on February 15, 1999, filing instead delinquent Forms 4 on May 10, 1999. The combined value of Fair's changes in ownership reported in the late Forms 4 for Solucorp exceeds \$190,000.

FIRST CLAIM

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

63. Paragraphs 1 through 62 are hereby realleged and incorporated by reference.

64. By reason of the foregoing, Solucorp, Kemprowski, Mantia, Spartz, Kuhn and Herman violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

SECOND CLAIM

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

65. Paragraphs 1 through 62 are hereby realleged and incorporated by reference.

66. By reason of the foregoing, Solucorp, Kemprowski, Mantia and Herman violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM

Violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-10 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-10 and 240.13a-13] thereunder

67. Paragraphs 1 through 62 are hereby realleged and incorporated by reference.

68. As described in paragraphs 33 through 54, Solucorp failed to prepare its financial statements in accordance with GAAP and made material misrepresentations and omissions in periodic reports filed with the SEC.

69. By reason of the foregoing, Solucorp violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-10 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-10 and 240.13a-13].

FOURTH CLAIM

Violations of 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]

70. Paragraphs 1 through 62 are realleged and incorporated herein by reference.

71. Solucorp failed to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected its transactions and disposition of assets.

72. By reason of the foregoing, Solucorp violated Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

FIFTH CLAIM

Violations of 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)]

73. Paragraphs 1 through 62 are realleged and incorporated herein by reference.

74. Solucorp failed to maintain internal accounting controls sufficient to permit the preparation in conformity with GAAP of financial statements which were included in filings with the SEC.

75. By reason of the foregoing, Solucorp violated Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)].

SIXTH CLAIM

Violations of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1] thereunder

76. Paragraphs 1 through 62 are hereby realleged and incorporated by reference.

77. Mantia and Herman, through their role in the company's financial fraud, knowingly falsified or caused to be falsified Solucorp's books, records, or accounts and/or circumvented or failed to implement a system of internal accounting controls.

78. By reason of the foregoing, Mantia and Herman violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-2 [17 C.F.R. § 240.13b2-2] thereunder.

SEVENTH CLAIM

Violations of Rule 13b2-2 [17 C.F.R. § 240.13b2-2]

79. Paragraphs 1 through 62 are hereby realleged and incorporated by reference.

80. Mantia, while an officer and/or director of Solucorp, directly or indirectly, made or caused to be made materially false and misleading statements, or omitted to state or caused another person to omit to state material facts necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with an audit of Solucorp's financial statements required to be filed with the SEC.

81. By reason of the foregoing, Mantia violated Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2].

EIGHTH CLAIM

Violations of Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rule 16a-2 and 16a-3 [17 C.F.R. §§ 240.16a-2 and 240.16a-3] thereunder

82. Paragraphs 1 through 62 are hereby realleged and incorporated by reference.

83. Kemprowski, Mantia, Spartz, Pierro and Fair were all officers and/or directors of Solucorp, as defined in Rule 16a-1(f) of the Exchange Act [17 C.F.R. § 240.16a-1(f)], as of the effective date of Solucorp's registration statement, February 20, 1998 and after.

84. Kemprowski failed to file a Form 3 reflecting his ownership interest in Solucorp, and failed to file any Forms 4 or 5 reflecting changes in his ownership of Solucorp securities. Mantia, Spartz, Pierro and Fair failed to timely file a Form 3 reflecting his or her ownership

interest in Solucorp, and failed to timely file any Forms 4 or 5 reflecting changes in his or her ownership of Solucorp securities.

85. By reason of the foregoing, Kemprowksi, Mantia, Spartz, Pierro and Fair violated Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rules 16a-2 and 16a-3 thereunder [17 C.F.R. §§ 240.16a-2 and 240.16a-3].

PRAYER FOR RELIEF

WHEREFORE, the SEC respectfully requests that this Court:

I.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Solucorp, Kemprowski, Mantia, Spartz, Kuhn and Herman from violating 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];

II.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Solucorp, Kemprowski, Mantia and Herman from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

III.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Solucorp from violating Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-10 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-10 and 240.13a-13];

IV.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Solucorp from violating Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(a) and 78m(b)(2)(B)];

V.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Kemprowski, Mantia, Spartz, Pierro and Fair from violating Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rules 16a-2 and 16a-3 thereunder [17 C.F.R. §§ 240.16a-2 and 240.16a-3];

VI.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Mantia and Herman from violating Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. § 240.13b2-1];

VII.

Enter a Final Judgment of Permanent Injunction permanently restraining and enjoining Mantia from violating Rule 13b2-2 of the Exchange Act [17 C.F.R. § 240.13b2-2];

VIII.

Enter a Final Judgment requiring Kemprowski, Mantia and Herman to pay civil penalties under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Kemprowski, Mantia, Spartz, Kuhn, Herman and Pierro to pay civil penalties under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

IX.

Enter an Order requiring Kemprowski, Mantia and Herman to disgorge all profits realized from the unlawful trading alleged herein, with prejudgment interest;

X.

Enter an Order pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] permanently prohibiting Kemprowski and Mantia from acting as an officer or director of an issuer that has a class of securities registered with the SEC pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports with the SEC pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)]; and

XI.

Grant such other relief as this Court may deem just or appropriate.

Respectfully submitted,



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