

JUN 03 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By: *[Signature]* Deputy Clerk

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

FREDERICK J. BARTON,
BARTON ASSET
MANAGEMENT, LLC, and
TWINSPAN CAPITAL
MANAGEMENT, LLC

Defendants.

Civil Action No.

1 08 - CV - 1917

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The plaintiff, Securities and Exchange Commission ("Commission" or "Plaintiff"), files this Complaint and alleges the following:

SUMMARY

1. Plaintiff brings this action to enjoin violations of the federal securities laws and to obtain disgorgement, prejudgment interest, and civil penalties from Frederick J. Barton ("Barton"), a former representative of a large registered broker-dealer, as well as two Georgia limited liability companies controlled by

Barton: Barton Asset Management, LLC (“Barton Asset Management”) and TwinSpan Capital Management, LLC (“TwinSpan”).

2. Between approximately May 1999 and December 2003, Barton, acting individually or through Barton Asset Management, fraudulently misappropriated almost the entire life savings of R.F. R.F. was a single, elderly customer of the broker-dealer employing Barton, who suffered from diminished mental capacity and Alzheimer’s disease. Barton tricked R.F. into selling the securities in her brokerage account and providing him and Barton Asset Management with the proceeds of those sales.

3. Later, between October 2004 and October 2005, Barton and TwinSpan, an investment adviser, engaged in a fraudulent private placement, ostensibly to raise funds to grow TwinSpan. Barton and TwinSpan raised \$1.515 million from ten investors, falsely representing to all of them in a private placement memorandum that the funds raised would only be used upon reaching a minimum offering amount and then, would only be used for TwinSpan’s general corporate purposes.

4. Despite these representations, Barton and TwinSpan diverted at least \$493,100 from the offering for Barton’s own personal use. Additionally, without

disclosure to investors, Barton and TwinSpan used a substantial portion of the offering proceeds in advance of reaching the minimum offering amount in violation of the terms of the private placement.

5. Finally, between October 2006 and January 2007, Barton and TwinSpan misappropriated \$685,000 from an investment advisory client of TwinSpan, J.C. First, acting through TwinSpan, Barton forged J.C.'s signature on four wire-transfer authorizations and used them to transfer \$185,000 of J.C.'s assets under TwinSpan's management to a bank account in the name of Barton Asset Management. These transfers were made without J.C.'s knowledge or approval. Shortly thereafter, Barton borrowed an additional \$500,000 from J.C., ostensibly to fund TwinSpan's business plan, without disclosing to her that he had previously misappropriated \$185,000 of her funds.

6. Defendants Barton, Barton Asset Management and TwinSpan, by virtue of their conduct, directly or indirectly, have engaged in and, unless enjoined, will engage in violations of Section 17(a) 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], and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (“Advisers Act”)[15 U.S.C §§ 80b-6(1) and 80b-6(2)].

7. Additionally, Defendants Barton and TwinSpan, by virtue of their conduct, directly or indirectly, have engaged in and, unless enjoined, will engage in violations of Rule 10b-9 under the Exchange Act [17 C.F.R. § 240.10b-5].

JURISDICTION AND VENUE

8. The Commission brings this action pursuant to Sections 20(b), (c) and (d) of the Securities Act [15 U.S.C. §§ 77t(b)-(d)], Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d)-(e)], and Sections 209(d) and 209(e) of the Advisers Act [15 U.S.C. §§ 80b-9(d)-(e)], to enjoin the Defendants from engaging in the transactions, acts, practices and courses of business alleged in this Complaint, and the transactions, acts, practices and courses of business of similar purport and object, for disgorgement of illegally obtained funds and other equitable relief, and for civil money penalties.

9. The Court has jurisdiction over this action pursuant to Section 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. §§77t(b), 77t(d) and 77v(a)],

Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§78u(d), 78u(e) and 78aa], and Section 214 of the Advisers Act [15 U.S.C. §80b-14].

10. The Defendants, directly and indirectly, have made use of the mails, the means and instrumentalities of transportation and communication in interstate commerce, and the means and instrumentalities of interstate commerce, in connection with the transactions, acts, practices, and courses of business alleged in the Complaint.

11. Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 209 of the Advisers Act [15 U.S.C. § 80b-9], because certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act, Exchange Act and Advisers Act have occurred within the Northern District of Georgia. Among other things, Barton resided within, and Barton Asset Management and TwinSpan maintained their offices and principal place of business within the Northern District of Georgia during the relevant time period. Furthermore, investors in the Northern District of Georgia were solicited in that

district to sell or purchase, and did sell or purchase, investments and purported investments, as set forth in this Complaint.

THE DEFENDANTS

12. **Frederick J. Barton**, age 47, previously of Atlanta, Georgia, is the founder, principal control person, and, through Barton Asset Management, the majority owner of TwinSpan. From 1988 until 2002, Barton was employed by a large broker-dealer (hereinafter, “the broker-dealer,” “the brokerage firm,” or “the firm”) as a registered representative in that firm’s Atlanta office. From 1994 through 2002, Barton also served as branch manager of the Atlanta branch office of the broker-dealer. On information and belief, Barton recently relocated to Baldwin, Missouri.

13. **Barton Asset Management, LLC**, is a Georgia limited liability company founded by Barton in 2002. Barton is its sole member.

14. **TwinSpan Capital Management, LLC**, is a Georgia limited liability company based in Atlanta, Georgia. TwinSpan was formed in 2003. Barton Asset Management (and, through it, Barton) owns the majority of TwinSpan. TwinSpan was registered with the Commission as an investment adviser from September 2005

to June 2007. As of May 2007, TwinSpan had approximately 77 clients and \$8.5 million under management.

FACTS

A. **Barton and Barton Asset Management Fraudulently Misappropriated \$970,000 from R.F.**

15. Barton, acting individually or through Barton Asset Management, depleted the brokerage and bank accounts of R.F., a customer of the brokerage firm, in 11 separate transactions over a five year time period. Barton accomplished these fraudulent misappropriations through a series of misrepresentations to R.F. that her assets were being either (i) transferred to an interest yielding bank instrument for R.F.'s benefit or (ii) transferred from R.F.'s brokerage account to an account in her name at Barton Asset Management.

(1) **Barton Misappropriated \$520,000 from R.F. Before He was Terminated by the Broker-Dealer**

16. R.F. was a brokerage customer of the firm from 1995 until 2005. Barton was her registered representative from 1995 until his termination from the firm in 2002.

17. R.F. began showing signs of diminished mental capacity in 1999, when she was in her mid-eighties. Subsequently, in 2001, she was diagnosed with Alzheimer's disease.

18. By August 2001, Barton was aware that R.F. had been diagnosed with Alzheimer's disease.

19. From May 1999 to September 2002, while employed at the broker-dealer, Barton defrauded R.F. of a total of \$520,000 in seven separate transactions. At least three of these transactions took place after Barton learned that R.F. had been diagnosed with Alzheimer's disease.

20. In each of the first six transactions, Barton obtained the funds by first persuading R.F. to sell securities in her brokerage account or make redemptions in her money market account. Next, Barton caused the brokerage firm to wire the proceeds or those sales or redemptions to R.F.'s bank account. Finally, Barton tricked R.F. into signing checks payable to him.

21. In the seventh transaction, in September 2002, Barton tricked R.F. into signing a check made out to him for \$20,000. Unlike the first six transactions, this transfer was not funded by the sale of securities in R.F.'s brokerage account.

22. In each of the first six transactions, Barton made fraudulent misrepresentations to R.F. in order to deceive her into selling her securities and giving him the proceeds of the sales. In the seventh transaction, Barton made fraudulent misrepresentations to R.F. in order to deceive her into signing a check made out to him for \$20,000. Specifically, Barton falsely represented to R.F. that her assets were being used to fund an investment in her name or for her benefit.

23. Despite his false representations to R.F. that her money would be invested, Barton deposited each of the checks he received from R.F. into his personal bank account at Mountain National Bank. Later, Barton spent the money for his own purposes, including paying private school tuition for his children, funding his own investment portfolio, and servicing credit card debt.

(2) **Barton and Barton Asset Management Misappropriated an Additional \$450,000 from R.F. in 2003, after he Left the Brokerage Firm**

24. In late 2002, Barton's employment was terminated by the broker-dealer for his failure to repay a \$100,000 loan he had previously received from the firm.

25. From January through December 2003, after he was terminated by the broker-dealer, Barton defrauded R.F. of an additional \$450,000 in five more transactions.

26. In each case, Barton falsely represented to R.F. that he, through Barton Asset Management, would serve as her investment adviser and would use the money to fund an advisory account. In fact, no such account ever existed, and Barton had no intention of opening such an account. Through these fraudulent misrepresentations, Barton tricked R.F. into signing five checks to the order of Barton Asset Management, LLC.

27. Barton and Barton Asset Management continued their fraudulent misappropriations from R.F. until only \$95 remained in her brokerage account in December 2003.

28. As a result of the fraudulent misappropriations of Barton and Barton Asset Management, R.F. had insufficient funds to pay for her care and was left to take out a reverse mortgage on her home.

29. R.F. died in February 2007, at 92 years of age.

B. The Fraudulent Twinspan Offering

30. From October 2004 to October 2005, TwinSpan and Barton raised \$1.515 million from 10 investors, including an investment advisory client of TwinSpan, in a private placement offering.

31. In connection with this offering, TwinSpan and Barton distributed a “Confidential Private Offering Memorandum,” dated November 30, 2004 (“POM”).

32. The POM made at least two material misrepresentations.

33. First, according to the POM, TwinSpan was to use the offering proceeds to grow its investment advisory business and pay business expenses.

34. Second, Twinspan was to use the proceeds only after it raised a minimum amount of \$250,000.

35. The POM stated explicitly that TwinSpan would use the funds for general corporate purposes including, the reduction and/or elimination of lines of credit, the opening of a branch in South Carolina, new product development, working capital, and sales, growth, and acquisitions.

36. In contravention of the POM, Barton and TwinSpan diverted or misappropriated a total of \$493,100 from the offering proceeds. At least some of these misappropriations took place while the offering was still ongoing.

37. Barton did not disclose to investors or prospective investors his diversion, misuse, or misappropriation of TwinSpan funds.

38. Barton also acted in contravention to the POM by using proceeds from the offering to provide two loans to TwinSpan employees.

39. Barton caused TwinSpan to loan two employees \$53,750 from the proceeds of the offering.

40. Barton did not disclose the loans to investors or prospective investors.

41. The POM set a restriction as to when TwinSpan could use the offering proceeds. TwinSpan could only use the offering proceeds when it had raised a minimum offering of \$250,000.

42. However, TwinSpan used funds in advance of reaching the minimum offering.

43. Specifically, prior to reaching the minimum offering amount, Barton directed \$101,700 of the offering proceeds to his own personal account as "return

of capital”. This \$101,700 was only a portion of the \$493,100 of TwinSpan funds misappropriated by Barton.

44. Barton provided the POM to a TwinSpan advisory client who made two investments in the offering. Almost immediately upon receipt of the offering proceeds from the TwinSpan advisory client, Barton and TwinSpan used the proceeds in violation of the POM.

45. The first investment made by the TwinSpan advisory client was on October 8, 2004 for \$60,000. On the same day, TwinSpan paid Barton two “return[s] of capital” for an aggregate of \$6,000. At this point, TwinSpan had raised only \$120,000, well below the \$250,000 minimum.

46. On February 7, 2005 the TwinSpan advisory client made a second investment of \$140,000. On the same day, TwinSpan paid Barton an undisclosed additional \$60,000 in what was described as a “return of capital.”

C. Barton and TwinSpan Misappropriated \$685,000 from an Advisory Client of TwinSpan, J.C.

47. Between October 2006 and January 2007, Barton, acting through TwinSpan, fraudulently diverted \$185,000 from J.C., an advisory client of TwinSpan, for his own benefit.

48. Barton and TwinSpan forged J.C.'s signature on four wire transfer authorizations and wired portions of J.C.'s assets at TwinSpan to a bank account in the name of Barton Asset Management.

49. The wire transfers occurred without J.C.'s knowledge and took place in October 2006, November 2006, December 2006, and January 2007 in the amounts of \$60,000, \$40,000, \$50,000, and \$35,000 respectively, totalling \$185,000.

50. Barton forged at least two of the four wire transfers after learning that he was under investigation by Commission staff for his fraudulent misappropriations from R.F. and for his misconduct in connection with the TwinSpan offering.

51. All four wire transfers were funded by the unauthorized sale of securities in J.C.'s advisory account by Barton.

52. In February 2007, shortly after the last of the four fraudulent transfers, Barton approached J.C. and asked for a loan of \$500,000, which he represented he would use as funding for TwinSpan. J.C. had not discovered Barton's previous

transfers at the time he asked her for the \$500,000 loan, and he did not disclose them to her.

53. Based at least in part on this fraudulent omission on the part of Barton, J.C. agreed to the \$500,000 loan.

VIOLATIONS

FRAUDULENT MISAPPROPRIATIONS FROM R.F.

COUNT I

Violations of Section 17(a)(1) of the Securities Act **[15 U.S.C. § 77q(a)(1)]** **Fraudulent Misappropriations From R.F.**

54. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

55. From approximately May 1999 through December 2003, Defendant Barton, in the offer and sale of the securities described herein, 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 R.F., all as more particularly described above.

56. From approximately January through December 2003, Defendant Barton Asset Management, in the offer and sale of the securities described herein, 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 R.F., all as more particularly described above.

57. Defendants Barton and Barton Asset Management knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

58. While engaging in the course of conduct described above, Defendants Barton and Barton Asset Management acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

59. By reason of the foregoing, Defendants Barton and Barton Asset Management, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT II

Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]
Fraudulent Misappropriations from R.F.

60. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

61. From approximately May 1999 through December 2003, Defendant Barton, in the offer and sale of the securities described herein, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

a. obtained money and property by means of untrue statements of material fact and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

b. engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

62. From approximately January through December 2003, Defendant Barton Asset Management, in the offer and sale of the securities described herein, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

a. obtained money and property by means of untrue statements of material fact and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

b. engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,
all as more particularly described above.

63. By reason of the foregoing, Defendants Barton and Barton Asset Management, directly and indirectly, have violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT III

Violations of 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]
Fraudulent Misappropriations from R.F.

64. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

65. From approximately May 1999 through December 2003, Defendant Barton, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- a. employed devices, schemes, and artifices to defraud;
- b. made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

66. From approximately January through December 2003, Defendant Barton Asset Management, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- a. employed devices, schemes, and artifices to defraud;
- b. made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

67. Defendants Barton and Barton Asset Management knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, the Defendants Barton and Barton Asset Management

acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

68. By reason of the foregoing, Defendants Barton and Barton Asset Management, directly and indirectly, have violated and, unless 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].

COUNT IV

Violations of Section 206(1) of the Advisers Act **[15 U.S.C. § 80b-6(1)]** **Fraudulent Misappropriations from R.F.**

69. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

70. From approximately January through December 2003, Defendants Barton and Barton Asset Management, acting as investment advisers, by use of the mails and/or the means and instrumentalities of interstate commerce, directly and indirectly, employed devices, schemes, and artifices to defraud one or more advisory clients or prospective clients.

71. Defendants Barton and Barton Asset Management knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud. In engaging in such conduct, Defendants Barton and Barton Asset Management acted with scienter, that is, with an intent to deceive, manipulate or defraud with a severe reckless disregard for the truth.

72. By reason of the foregoing, Defendants Barton and Barton Asset Management, directly or indirectly, have violated, and unless enjoined, will continue to violate Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT V

Violations of Section 206(2) of the Advisers Act **[15 U.S.C. § 80b-6(2)]** **Fraudulent Misappropriations from R.F.**

73. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

74. From approximately January through December 2003, Defendants Barton and Barton Asset Management, by use of the mails and/or the means and instrumentalities of interstate commerce, directly or indirectly, engaged in one or

more transactions, practices, or courses of business which operated as a fraud or deceit upon one or more advisory clients or prospective clients.

75. Defendants Barton and Barton Asset Management knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud. In engaging in such conduct, Defendants Barton and Barton Asset Management acted with scienter, that is, with an intent to deceive, manipulate or defraud with a severe reckless disregard for the truth.

76. By reason of the foregoing, Defendants Barton and Barton Asset Management, directly and indirectly, have violated, and unless enjoined, will continue to violate Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

FRAUD IN CONNECTION WITH THE TWINSPAN OFFERING

COUNT VI

Violations of Section 17(a)(1) of the Securities Act
[15 U.S.C. § 77q(a)(1)]
Fraud in Connection with the TwinSpan Offering

77. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

78. From approximately October 2004 through October 2005, Defendants Barton and TwinSpan, in the offer and sale of the securities described herein, 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 purchasers of such securities, all as more particularly described above.

79. Defendants Barton and TwinSpan knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

80. While engaging in the course of conduct described above, Defendants Barton and TwinSpan acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

81. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT VII

Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]
Fraud in Connection with the TwinSpan Offering

82. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

83. From approximately October 2004 through October 2005, Defendants Barton and TwinSpan, in the offer and sale of the securities described herein, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

a. obtained money and property by means of untrue statements of material fact and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

b. engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

84. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT VIII

Violations of Section 10(b) of the Exchange Act
[15 U.S.C. § 78j(b)] and Rules 10b-5 and 10b-9 thereunder
[17 C.F.R. §§ 240.10b-5 and 240.10b-9]
Fraud in Connection with the TwinSpan Offering

85. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

86. From approximately October 2004 through October 2005, Defendants Barton and TwinSpan, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- a. employed devices, schemes, and artifices to defraud;
- b. made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

c. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

87. Defendants Barton and TwinSpan knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, Defendants Barton and TwinSpan acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

88. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rules 10b-5 and 10b-9 thereunder [17 C.F.R. §§ 240.10b-5 and 240.10b-9].

COUNT IX

Violations of Section 206(1) of the Advisers Act
[15 U.S.C. § 80b-6(1)]
Fraud in Connection with the TwinSpan Offering

89. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

90. From approximately October 2004 through February 2005, Defendants Barton and TwinSpan, acting as investment advisers, by use of the mails and/or the means and instrumentalities of interstate commerce, directly and indirectly, employed devices, schemes, and artifices to defraud one or more advisory clients or prospective clients.

91. Defendants Barton and TwinSpan, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud. In engaging in such conduct, Defendants Barton and TwinSpan acted with scienter, that is, with an intent to deceive, manipulate or defraud with a severe reckless disregard for the truth.

92. By reason of the foregoing, Defendants Barton and TwinSpan, directly or indirectly, have violated, and unless enjoined, will continue to violate Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT X

Violations of Section 206(2) of the Advisers Act
[15 U.S.C. § 80b-6(2)]
Fraud in Connection with the TwinSpan Offering

93. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

94. From approximately October 2004 through February 2005, Defendants Barton and TwinSpan, by use of the mails and/or the means and instrumentalities of interstate commerce, directly or indirectly, engaged in one or more transactions, practices, or courses of business which operated as a fraud or deceit upon one or more advisory clients or prospective clients.

95. Defendants Barton and TwinSpan knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud. In engaging in such conduct, Defendants Barton and TwinSpan acted with scienter,

that is, with an intent to deceive, manipulate or defraud with a severe reckless disregard for the truth.

96. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated, and unless enjoined, will continue to violate Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

FRAUDULENT MISAPPROPRIATIONS FROM J.C.

COUNT XI

Violations of Section 17(a)(1) of the Securities Act

[15 U.S.C. § 77q(a)(1)]

Fraudulent Misappropriations from J.C.

97. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

98. From approximately October 2006 through January 2007, Defendants Barton and TwinSpan, in the offer and sale of the securities described herein, 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 purchasers of such securities, all as more particularly described above.

99. Defendants Barton and TwinSpan knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

100. While engaging in the course of conduct described above, Defendants Barton and TwinSpan acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

101. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT XII

Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act **[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]** **Fraudulent Misappropriations from J.C.**

102. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

103. From approximately October 2006 through January 2007, Defendants Barton and TwinSpan, in the offer and sale of the securities described herein, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

a. obtained money and property by means of untrue statements of material fact and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

b. engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

104. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT XIII

Violations of 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]
Fraudulent Misappropriations from J.C.

105. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

106. From approximately October 2006 through January 2007, Defendants Barton and TwinSpan, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- a. employed devices, schemes, and artifices to defraud;
- b. made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

107. Defendants Barton and TwinSpan knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, Defendants Barton and TwinSpan acted with scienter, that is, with an intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

108. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated and, unless 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].

COUNT XIV

Violations of Section 206(1) of the Advisers Act
[15 U.S.C. § 80b-6(1)]
Fraudulent Misappropriations from J.C.

109. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

110. From approximately October 2006 through January 2007, Defendants Barton and TwinSpan, acting as investment advisers, by use of the mails and/or the means and instrumentalities of interstate commerce, directly and indirectly, employed devices, schemes, and artifices to defraud one or more advisory clients or prospective clients.

111. Defendants Barton and TwinSpan, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud. In engaging in such conduct, Defendants Barton and TwinSpan acted with scienter,

that is, with an intent to deceive, manipulate or defraud with a severe reckless disregard for the truth.

112. By reason of the foregoing, Defendants Barton and TwinSpan, directly or indirectly, have violated, and unless enjoined, will continue to violate Section 206(1) of the Advisers Act [15 U.S.C. § 80b-6(1)].

COUNT XV

Violations of Section 206(2) of the Advisers Act
[15 U.S.C. § 80b-6(2)]
Fraudulent Misappropriations from J.C.

113. Paragraphs 1 through 53 are hereby realleged and are incorporated herein by reference.

114. From approximately October 2006 through January 2007, Defendants Barton and TwinSpan, by use of the mails and/or the means and instrumentalities of interstate commerce, directly or indirectly, engaged in one or more transactions, practices, or courses of business which operated as a fraud or deceit upon one or more advisory clients or prospective clients.

115. Defendants Barton and TwinSpan knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

In engaging in such conduct, Defendants Barton and TwinSpan acted with scienter, that is, with an intent to deceive, manipulate or defraud with a severe reckless disregard for the truth.

116. By reason of the foregoing, Defendants Barton and TwinSpan, directly and indirectly, have violated, and unless enjoined, will continue to violate Section 206(2) of the Advisers Act [15 U.S.C. § 80b-6(2)].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully prays for:

I.

Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, finding that Defendants Barton, Barton Asset Management and TwinSpan committed the violations alleged herein.

II.

Permanent injunctions enjoining Defendants Barton, Barton Asset Management and TwinSpan, 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, whether as principals or as aiders and abettors, from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], 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, and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

III.

Permanent injunctions enjoining Defendants Barton and TwinSpan, 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, whether as principals or as aiders and abettors, from violating Rule 10b-9 [17 C.F.R. § 240.10b-9] promulgated under the Exchange Act.

—IV.

An order requiring Defendants to provide an accounting of the use of proceeds of the sales of the securities described in this Complaint.

V.

An order requiring the disgorgement by the Defendants of all ill-gotten gains or unjust enrichment, with prejudgment interest, to effect the remedial purposes of the federal securities laws.

VI.

An order pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 203(e) of the Advisers Act [15 U.S.C. § 80b-3] imposing civil penalties against the defendants.

VII.

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 this 3rd day of June, 2008.

Respectfully submitted,

*by Alana R. Black
with express permission*

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