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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

WARREN D. NADEL,
WARREN D. NADEL & CO., and
REGISTERED INVESTMENT ADVISERS, LLC

Defendants.

CV 11 - 0215

11 Civ. ( ) HURLEY, J.

ROBINSON, M.J.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Securities and Exchange Commission, as and for its Complaint against defendants Warren D. Nadel ("Nadel"), Warren D. Nadel & Co. ("WDNC") and Registered Investment Advisers, LLC ("RIA") (collectively, the "Defendants"), alleges as follows:

SUMMARY

1. From the beginning of 2007 at the latest through 2009 (the "Relevant Period"), Defendants fraudulently induced clients of RIA, an investment advisory firm, to invest tens of millions of dollars in what Defendants described as a liquid, cash management investment program in which RIA clients would buy and sell preferred utility secur-

ities in the open market and hold them for short periods of time in order to generate either dividend income or capital appreciation, depending on the client's goal (the "Strategy"). In exchange, Defendants' clients were required to pay trading commissions and investment management fees, which amounted to over $8 million in total during the Relevant Period alone.

2. Defendants' conduct was fraudulent. In numerous communications with clients and prospective clients, Defendants deliberately overstated the value and liquidity of client holdings in the Strategy. They succeeded in doing so by concealing critical information about the way they were supposedly executing the Strategy. For example, Defendants informed clients repeatedly (orally and in writing) that they were executing open-market transactions on the clients' behalf. The vast majority of transactions, however, were not executed on the open market. Most simply consisted of trades between advisory client accounts controlled by Defendants at inflated prices made up by Nadel himself. By shuffling securities back and forth between advisory client accounts at inflated prices, Defendants created the false impression that there was a liquid market for these securities and that the market prices for the securities were consistent with the inflated values that Defendants reported to RIA clients. To further induce investors to join and stay in the Strategy, Defendants also deliberately overstated (by more than twice) the amount of assets that RIA had under management.

3. By means of these misrepresentations and omissions, Defendants attracted and maintained RIA clients, and obtained from them, more than $6 million in commissions and at least $2.4 million in advisory fees during the Relevant Period. Meanwhile,

RIA's clients suffered substantial losses on what Defendants had falsely represented to be a liquid, cash management program.

VIOLATIONS

4. Based on the conduct alleged in this Complaint:

   a. Defendant Nadel violated 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]; aided and abetted violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q] and Rules 10b-10 and 17a-4 thereunder [17 C.F.R. §§ 240.10b-10 and 204.17a-4]; violated Sections 206(1), (2) and (3) and 207 of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-6 and 80b-7]; and aided and abetted violations of Section 204 [15 U.S.C. § 80b-4] and Rule 204(2)-(a)(3) thereunder [17 C.F.R. § 204-2(a)(3)];

   b. Defendant WDNC violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 17(a) of the Exchange Act [15 U.S.C. § 78j(b) and 78q] and Rules 10b-5, 10b-10 and 17a-4 thereunder [17 C.F.R. §§ 240.10b-5, 240.10b-10 and 204.17a-4]; and

   c. Defendant RIA violated 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 thereunder [17 C.F.R. §§ 240.10b-5]; and Sections 204, 206(1), (2), and (3) and 207 of the Advisers Act [15 U.S.C. § 80b-4, 80b-6 and 80b-7] and Rule 204(2)-(a)(3) thereunder [17 C.F.R. § 204-2(a)(3)].

JURISDICTION AND VENUE

5. The Commission brings this action pursuant to the authority conferred by Section 20 of the Securities Act [15 U.S.C. § 77t], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9] seeking permanent injunctions against Nadel, WDNC and RIA.

6. The Commission also seeks final judgments requiring the Defendants to disgorge any ill-gotten gains and to pay prejudgment interest thereon and ordering the Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9].

7. This Court has jurisdiction pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 77u(e) and 78aa] and Section 214 of the Advisers Act [15 U.S.C. § 80b-14].

8. Defendants, directly or indirectly, singly or in concert, made use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the transactions, acts, practices, and courses of business alleged herein.

9. Venue lies in this District 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 214 of the Advisers Act [15 U.S.C. § 80b-14]. Defendants reside and transact business in the Eastern District of New York.

THE DEFENDANTS

10. **Nadel**, age 59, is a resident of Upper Brookville, New York. Nadel controls both WDNC and RIA. He is and at all relevant times was the president, chief executive officer and chief compliance officer of WDNC and the president of RIA. Nadel holds Series 1, 3, 7, 24 and 63 licenses.

11. **WDNC** is and at all relevant times was a broker-dealer registered with the Commission since October 29, 1987, with a principal place of business Glen Cove, NY. Nadel used WDNC to execute trades as part of his fraudulent scheme, and charged customers commissions for these trades.

12. **RIA** is and at all relevant times was an investment adviser, registered with the Commission since January 5, 2004, with a principal place of business Glen Cove, NY. Nadel lured clients into becoming and remaining Strategy investors, and charged them monthly asset management fees.

FACTS

13. Nadel represented the Strategy to existing and prospective clients as one that consisted of investing in preferred utility stocks, traded either on over-the-counter markets or on exchanges such as the NYSE, AMEX and NASDAQ. Nadel offered Strategy investors three purported investment options: (i) to invest for capital appreciation by buying and selling preferred utility securities before their ex-dividend date; (ii) to invest for dividend income by buying before and selling after the ex-dividend date at a capital loss that could be used to offset a company's existing capital gains; or (iii) to invest for both of these objectives.

14. Nadel falsely touted the Strategy to prospective and existing advisory clients

in written materials and oral communications as a conservative and liquid cash management investment program that was "tax advantaged [and] low risk."

15. Nadel marketed the Strategy as an alternative to CDs, Treasury Bills and Eurobonds primarily to corporate treasurers or CFOs seeking "enhanced treasury department performance." In a marketing document that Defendants disseminated to investors during the Relevant Period, for example, Defendants described the Strategy as follows:

> [T]his unique concept in cash management provides a competitive alternative to fully taxable investments such as CDs, Treasury Bills and Eurobonds. Close and effective management of a three-part portfolio plan strives to achieve a superior return on short term preferred stock investments, *without sacrificing liquidity. By carefully timing entry into and departure from the marketplace*, qualifying corporations are currently able to capture seven or eight quarterly dividends each year, while benefitting from a 70% Federal tax exclusion on such income. (Emphasis added).

16. RIA's Form ADV also assured investors that the Strategy was liquid, representing that it required no minimal period of commitment and that clients "will be entitled to withdraw from an account at any time." In other written materials, Nadel assured clients that "90 day liquidity is available."

17. In order to work, Defendants' Strategy required that the market have sufficient liquidity to permit frequent purchases and sales of substantial quantities of preferred utility stocks. By 2007 at the latest, however, Nadel knew that the market for the preferred utility stocks underlying the Strategy was not sufficiently liquid to allow for execution of the Strategy, at attractive prices, in the manner Nadel was representing to clients and prospective clients.

18. Nadel fraudulently concealed these market conditions by avoiding the market almost entirely and instead cross-trading securities between his advisory clients' accounts at prices that Nadel determined himself and that almost always substantially exceeded the

actual market price. Using his control over advisory client accounts, Nadel effectuated these cross-trades either by causing one advisory client account to sell securities to another advisory client account (with his broker-dealer WDNC acting as agent to both of the clients involved in the trade) or by causing one advisory client account to sell securities to WDNC and then having WDNC re-sell them to another advisory client account. This scheme was extensive and long-lasting: Between 2007 and 2009, of at least 11,250 trades for Strategy clients, approximately 90% of them were cross-trades back and forth between Strategy clients, rather than open-market transactions.

19. By avoiding the open market and shuffling securities back and forth between advisory client accounts, Nadel was able to dictate the prices for the trades and create the illusion that there was a genuine and liquid market for the securities at these artificially inflated prices. In so doing, Defendants were able to induce Strategy clients to join and stay with RIA and bilk them out of millions of dollars in brokerage commissions and advisory fees.

20. One of the reasons that Nadel was able to accomplish this fraudulent scheme was that he and RIA used the broker-dealer he also owned and controlled, WDNC, to execute transactions for the Strategy clients. In RIA's Form ADV and in other written materials he provided to clients, Nadel represented that he and RIA would use WDNC as the broker because WCNC would "deal with such other brokers or dealers as can provide the best execution for the orders on behalf of the accounts," and that WDNC provided the "best combination of services provided for costs levied."

21. As Nadel well knew, these statements were false. Nadel and RIA did not use WDNC to obtain "best execution" from other brokers or because WDNC provided the

"best combination" of services. In fact, Nadel almost never dealt with other brokers or dealers. Indeed, almost all of the transactions that Nadel executed on behalf of Strategy clients consisted of internal cross-trades between the various advisory clients at prices determined by Nadel himself. Nadel's true reason for using WDNC was to generate brokerage commissions for the Defendants' benefit and to conceal from his clients that these transactions were not executed either on the open market or at prevailing market prices.

22. Defendants never told RIA clients that virtually all Strategy transactions were between and among the RIA clients. This is so even though Nadel and RIA were under fiduciary and statutory obligations to notify clients in writing before the completion of *each* transaction in which an affiliate of RIA acted as broker and to obtain the clients' consent before the completion of *each* such transaction.

23. As noted above, Defendants also deceived RIA clients through explicit misrepresentations in marketing and registration materials that falsely described how the Strategy was liquid, and involved transacting with the marketplace using WDNC's expertise in dealing with other brokers.

24. Defendants also deceived RIA clients through trade confirmations sent to clients on the thousands of trades executed during the Relevant Period. These trade confirmations were prepared using information reported by Defendants to WDNC's clearing firm, and Defendants regularly reviewed those confirmations when they were disseminated to their clients.

25. Almost all of the trade confirmations sent to RIA Strategy clients during the Relevant Period misleadingly reported that the trades were executed with the market. In some cases, the trade confirmations falsely reported that WDNC had acted as clients'

agent in "over the counter" transactions, without disclosing that the other party was another advisory client of RIA (or even that the other party was another WDNC customer). In other cases, trade confirmations falsely indicated only that the other party to the transaction was a *WDNC* customer and did not report that the WDNC customer was also an RIA advisory client.

26. Defendants falsely reported that WDNC acted as agent on transactions for which WDNC in fact acted as principal, buying securities directly from the client or selling securities directly to the client.

27. These misrepresentations and omissions were material. They were all designed to, and did, create the illusion for RIA clients that the Strategy was being executed, and its price and liquidity tested, by the open market. These misrepresentations and omissions were essential to Nadel's scheme: Had Nadel properly disclosed the nature of each cross-trade and sought client consent, clients would have learned that this supposedly conservative, short term and liquid cash management investment Strategy was essentially a sham because there was, in fact, no liquid market for most of these securities at the reported prices, and actual market prices, as reflected in actual market transactions, were in most instances significantly less than the prices Defendants were claiming.

28. By misrepresenting to advisory clients that he was executing market transactions, Nadel materially misrepresented to these clients the value and liquidity of their holdings. In RIA's Form ADV, Defendants represented that RIA would provide clients each month with a "Monthly Cumulative Performance Report," in which each stock position would be "marked to market," and in any transactions with either WDNC as a prin-

cipal-counterparty, or with another brokerage customer of WDNC as the counterparty, the securities would be priced "at the then prevailing market value."

29. In other communications with clients, Nadel claimed that he was able to arrive at valuations of these stock positions by using an expertise he had gained in more than 20 years of experience in the market. Nadel claimed that he would contact market makers in the various security positions as of months' end to obtain the so-called "inside market" (highest bid and lowest offer), which enabled him to compute the mid-point value for the security in question.

30. These were all lies. Nadel did not set the prices or values of RIA clients' holdings based on the "prevailing market value," or on his computations of mid-market values after contacting market makers. On the contrary, Nadel himself set these generally inflated prices and values, for the purpose of keeping his clients invested in the Strategy, so that he could perpetuate his scheme and continue to receive his commissions and fees.

31. To Defendants' clients, Nadel's valuations appeared to be supported by what Nadel represented were market prices on transactions he executed in their portfolios. The prices at issue – those reported on the misleading trade confirmations, and those stated in Nadel's monthly reports – were fictitious and designed to perpetuate Defendants' false scheme.

32. Indeed, on occasions when his clients questioned him about the difference between his valuations and those contained in the clearing firm's monthly statements or in independent pricing service reports, Nadel purported to justify his prices and values by touting his expertise and his contacts with market makers. As Nadel wrote to one client

in an email dated July 10, 2008, his prices were validated "by the subsequent transactions that occur at or about these prices in our client portfolios." This email was a lie. Nadel of course knew that his transactions were not market transactions and thus did not provide any independent verification of the values he reported to his clients.

33. Nadel's misrepresentations -- including the written marketing materials and false trade confirmations discussed above -- also materially misled his clients about the Strategy's liquidity. Each false trade confirmation that purported to report a market transaction, and each monthly performance report that purported to be based on prevailing market prices (and substantiated by market transactions), falsely conveyed that there was a liquid market for those quantities of securities at those prices. Defendants thereby provided clients with false assurance of the value of their securities and the false impression that the securities could readily be sold for the reported values.

34. These false statements were consistent with Nadel's marketing materials, which characterized the Strategy as a short-term, liquid cash management investment. In reality, however, by 2007 at the latest, Nadel knew that the market for the securities he used in the Strategy had become illiquid at the inflated prices Nadel had set and reported to clients.

35. The *only* times Nadel revealed the illiquidity of the Strategy to his clients were when they tried to exit it. Then and only then would Nadel tell such clients that exiting the Strategy at prices equivalent to those he had been reporting to them all along would take an extended period of time.

36. Nadel also intentionally misled clients about RIA's assets under management by representing in written marketing materials that he managed over $400 million in as-

sets. In fact, as Nadel knew, Defendants managed less than a third of this amount during the Relevant Period, and Nadel knew this when he misrepresented this fact to his clients.

37. Throughout the Relevant Period, Defendants also failed to maintain any contemporaneous records of the manner in which they purportedly valued their clients' holdings, and failed to maintain any order tickets reflecting the transactions executed on behalf of their Strategy clients.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act
(Defendants Nadel, RIA and WDNC)

38. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

39. Nadel, RIA and WDNC, directly and indirectly, singly and in concert, knowingly or recklessly, by the use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or by the use of the mails, in the offer or sale of securities: (a) have employed devices, schemes or artifices to defraud; (b) have obtained money or property by means of untrue statements of material fact, or 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; or (c) have engaged in transactions, acts, practices and courses of business which operated or would operate as a fraud or deceit upon purchasers of securities or other persons.

40. As described in the paragraphs above, Nadel, RIA and WDNC have violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

(Defendants Nadel, WDNC and RIA)

41. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

42. Nadel, WDNC and RIA, directly or indirectly, singly or in concert, knowingly or recklessly, by use of the means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the purchase and sale of securities: (a) have employed devices, schemes and artifices to defraud; (b) have made untrue statements of material fact, and have omitted state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; or (c) have engaged in transactions, acts, practices and courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

43. As described in the paragraphs above, Nadel, WDNC and RIA, directly or indirectly, singly or in concert, have violated, are violating, and unless enjoined will again violate, 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.

THIRD CLAIM FOR RELIEF

Violations of Sections 206(1) and (2) of the Advisers Act
(Nadel and RIA)

44. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

45. As described above, Nadel and RIA directly and indirectly, singly and in concert, knowingly or recklessly, (1) have employed a device, scheme or artifice to defraud clients or prospective clients; and (2) have engaged in a transaction, practice or

course of business which operates as a fraud upon clients or prospective clients.

46. As described in the paragraphs above, Nadel and RIA, directly or indirectly, singly or in concert, have violated, are violating, and unless enjoined will again violate, Section 206(1) and 206(2) of the Advisers Act [15 U.S.C. § 80b-6].

FOURTH CLAIM FOR RELIEF

Violations of Section 206(3) of the Advisers Act
(Nadel and RIA)

47. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

48. As described above, Nadel and RIA directly and indirectly, singly and in concert, knowingly or recklessly, have acted as a principal for their own account knowingly to sell a security or to buy a security from a client, or have acted as a broker for a person other than such client, knowingly to effect a sale or purchase of a security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which they are acting and obtaining the consent of the client to such transaction.

49. As described in the paragraphs above, Nadel and RIA, directly or indirectly, singly or in concert, have violated, are violating, and unless enjoined will again violate, Section 206 (3) of the Advisers Act [15 U.S.C. § 80b-6].

FIFTH CLAIM FOR RELIEF

Violations of Section 207 of the Advisers Act
(Nadel and RIA)

50. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

51. As described above, Nadel and RIA directly and indirectly, singly and in concert, knowingly or recklessly, made false statements of material fact in a report, Form ADV, filed with the Commission.

52. As described in the paragraphs above, Nadel and RIA violated Section 207 of the Advisers Act [15 U.S.C. § 80b-7].

SIXTH CLAIM FOR RELIEF

Violations of and Aiding and Abetting Violations of Rule 10b-10 of the Exchange Act
(Defendants WDNC and Nadel)

53. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

54. As described above, WDNC directly and indirectly, singly and in concert, knowingly or recklessly, provided confirmations to customers that did not reflect WDNC's role in the transaction as principal or as the agent of both parties to transactions between advisory clients from at least March 2008 forward.

55. As described in the paragraphs above, WDNC violated Rule 10b-10 under the Exchange Act [17 C.F.R. §§ 240.10b-10].

56. By reason of the activities herein described, Nadel knowingly or recklessly aided and abetted WDNC's violations of Rule 10b-10 under the Exchange Act [17 C.F.R. §§ 240.10b-10].

SEVENTH CLAIM FOR RELIEF

Violations of and Aiding and Abetting Violations of Section 204 of the Advisers Act and Rule 204-2 Thereunder
(Nadel and RIA)

57. The Commission realleges and incorporates by reference the allegations con-

tained in paragraphs 1 through 37.

58. As described above, RIA directly and indirectly, knowingly or recklessly, failed to make and/or keep true, accurate, complete, and current books and records, and to maintain certain other records for a period of five years, including memoranda concerning certain transaction details for the purchase and sale of any security. RIA failed to make and/or keep memoranda concerning certain transaction details for the purchase and sale of securities for the required five year period.

59. As described in the paragraphs above, RIA violated Section 204 of the Advisers Act [15 U.S.C. § 80b-4] and Rule 204(2)-2 [17 C.F.R. § 204-2(a)(3)] thereunder.

60. By reason of the activities herein described, Nadel knowingly or recklessly aided and abetted WDNC's violations of Section 204 of the Advisers Act [15 U.S.C. § 80b-4] and Rule 204(2)-2 [17 C.F.R. § 204-2(a)(3)] thereunder.

EIGHTH CLAIM FOR RELIEF

Violations and Aiding and Abetting Violations of Section 17(a) of the Exchange Act and Rule 17a-4 Thereunder
(WDNC and Nadel)

61. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 37.

62. As described above, WDNC directly and indirectly, knowingly or recklessly, failed to maintain, make and keep for proscribed periods such records and reports as the Commission, by rule, prescribes as necessary. Rule 17a-3(a)(6) under Section 17(a) of the Exchange Act requires a broker-dealer to make and keep current memorandums of brokerage orders. Rule 17a-4(b)(1) under Section 17(a) of the Exchange Act requires broker-dealers to preserve these records for three years. WDNC failed to make and/or

keep memoranda concerning transaction details for the purchase and sale of each security for the required three year period.

63. As described in the paragraphs above, WDNC violated Section 17(a) of the Exchange Act [15 U.S.C. § 78q] and Rule 17a-4 thereunder [17 C.F.R. § 204.17a-4].

64. By reason of the activities herein described, Nadel knowingly or recklessly aided and abetted WDNC's violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q] and Rule 17a-4 thereunder [17 C.F.R. § 204.17a-4].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests a Final Judgment:

I.

Permanently enjoining Nadel, his agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future direct or indirect violations of 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 thereunder [17 C.F.R. §§ 240.10b-5]; aiding and abetting violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q] and Rules 10b-10 and 17a-4 thereunder [17 C.F.R. §§ 240.10b-10 and 204.17a-4]; violating Sections 206(1), (2) and (3) and 207 of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-6 and 80b-7]; and aiding and abetting violations of Section 204 [15 U.S.C. § 80b-4] and Rule 204(2)-(a)(3) thereunder [17 C.F.R. § 204-2(a)(3)].

II.

Permanently enjoining WDNC, its agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future direct or indirect violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 17(a) of the Exchange Act [15 U.S.C. § 78j(b) and 78q] and Rules 10b-5, 10b-10 and 17a-4 thereunder [17 C.F.R. §§ 240.10b-5, 240.10b-10 and 204.17a-4].

III.

Permanently enjoining RIA, its agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future direct or indirect violations of 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 thereunder [17 C.F.R. §§ 240.10b-5]; and Sections 204, 206(1), (2), and (3) and 207 of the Advisers Act [15 U.S.C. § 80b-4, 80b-6 and 80b-7] and Rule 204(2)-(a)(3) thereunder [17 C.F.R. § 204-2(a)(3)].

IV.

Ordering Defendants to disgorge their ill-gotten gains and to pay prejudgment interest thereon.

V.

Ordering the Defendants to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9].

VI.

Such other and further relief as the Court deems appropriate.

Dated: New York, New York
January 13, 2011

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