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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**
13

14 **SECURITIES AND EXCHANGE**
15 **COMMISSION,**

16 **Plaintiff,**

17 **vs.**

18 **JOSEPH MILANOWSKI, an individual,**
19 **Defendant.**

Case No.

**COMPLAINT FOR VIOLATIONS
OF THE FEDERAL SECURITIES
LAWS**

20
21 Plaintiff Securities and Exchange Commission ("Commission") alleges as
22 follows:

23 **JURISDICTION AND VENUE**

24 1. This Court has jurisdiction over this action pursuant to Sections 20(b),
25 20(d)(1), and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§
26 77t(b), 77t(d)(1), & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27 of
27 the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d)(1),
28 78u(d)(3)(A), 78u(e), & 78aa. Defendants have, directly or indirectly, made use of

1 the means or instrumentalities of interstate commerce, of the mails, or of the
2 facilities of a national securities exchange in connection with the transactions, acts,
3 practices, and courses of business alleged in this complaint.

4 2. Venue is proper in this district pursuant to Section 22(a) of the
5 Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C.
6 § 78aa, because certain of the transactions, acts, practices, and courses of business
7 constituting violations of the federal securities laws occurred within this district.

8 SUMMARY

9 3. This matter involves an offering fraud perpetrated by Joseph
10 Milanowski, the former President of USA Commercial Mortgage Company, dba
11 USA Capital (“USA Capital”), a mortgage broker based in Las Vegas, Nevada.
12 USA Capital raised over \$960 million from approximately 6,800 investors through
13 various investments in real estate loans. Milanowski’s fraud related to one of USA
14 Capital’s investment vehicles, the USA Capital Diversified Trust Deed Fund (the
15 “Fund”), which from May 2000 to September 2005 raised \$150 million from 1,900
16 investors.

17 4. Contrary to the representations to the Fund investors, Milanowski
18 used the vast majority of the Fund’s offering proceeds to make unsecured loans to
19 entities affiliated with him, which entities eventually defaulted on the loans. As a
20 result of Milanowski’s misuse of the Fund’s money and the large number of
21 defaulted loans, USA Capital, certain of its affiliates, and the Fund filed for
22 Chapter 11 bankruptcy in April 2006 and Fund investors lost over half of their
23 investments.

24 THE DEFENDANT

25 5. **Joseph Milanowski**, age 46, is a resident of Las Vegas, Nevada. He
26 was the President and COO of USA Capital from 1998 to April 2006 and a director
27 from 1998 to March 2007. He was affiliated with a registered broker-dealer, USA
28 Securities, LLC, from September 2001 to December 2005 and held Series 22, 39,

1 and 63 NASD licenses. He has no disciplinary history. He was an owner and the
2 sole manager of USA Investment Partners, LLC (“USAIP”) from November 1,
3 1999 until May 1, 2001 and from August 2005 to March 28, 2007, when it was
4 forced into involuntary bankruptcy. Because USAIP was the manager of USA
5 Capital Realty Advisors, LLC, which (in addition to managing the unregistered
6 Fund) also managed a registered fund offered by USA Capital, Milanowski was the
7 sole manager, or functional equivalent of an officer, of the registered and publicly
8 reporting fund.

9 RELATED ENTITIES

10 6. USA Capital Diversified Trust Deed Fund (the “Fund”) is a Nevada
11 limited liability company headquartered in Las Vegas, Nevada. The Fund was not
12 a registered investment company. The Fund has been under new management
13 since April 13, 2006, when it filed for Chapter 11 bankruptcy. Currently, the Fund
14 has no operations other than winding down under bankruptcy court supervision.

15 7. USA Commercial Mortgage Company, dba USA Capital was a
16 Nevada limited liability company, headquartered in Las Vegas, Nevada. USA
17 Capital was a mortgage broker licensed by the state of Nevada, and it originated
18 and serviced the loans made by the Fund. USA Capital has been under new
19 management since it filed for Chapter 11 bankruptcy on April 13, 2006. Currently,
20 USA Capital has no operations other than winding down under bankruptcy court
21 jurisdiction.

22 8. USA Securities, LLC is a Nevada limited liability company and was
23 registered as a broker-dealer from May 2002 to February 2006. From March 1999
24 to April 13, 2006, USA Securities was managed by Milanowski. USA Securities
25 solicited investors in the registered fund only. USA Securities has been under new
26 management since it filed for Chapter 11 bankruptcy on April 13, 2006. Currently,
27 USA Securities has no operations other than winding down under bankruptcy court
28 supervision.

1 9. **USA Investment Partners, LLC** (“USAIP”) is a Nevada limited
2 liability company, headquartered in Las Vegas, Nevada. It was owned and
3 managed, directly or indirectly, by Milanowski and his partner from 1999 to March
4 28, 2007, when it was placed into involuntary bankruptcy by one of its business
5 partners. USAIP was the manager of USA Capital Realty Advisors, LLC, the
6 manager of the Fund from its inception until April 13, 2006. USA Capital owned a
7 100% interest in USAIP from May 2001 to August 2005 and was the manager of
8 USAIP from November 1999 to June 2004. The USAIP bankruptcy proceeding is
9 pending in the District of Nevada, and control of the company is currently vested
10 with a court-appointed trustee.

11 **THE DEFENDANT’S FRAUDULENT CONDUCT**

12 A. **Defendant Offered and Sold Securities**

13 1. **USA Capital’s Business**

14 10. USA Capital made loans to developers to finance the construction of
15 real estate projects. USA Capital and its broker-dealer, USA Capital Securities,
16 funded these loans by raising money from investors. As of April 13, 2006, USA
17 Capital had raised \$962 million, net of redemptions, from 6,800 investors. In
18 addition to the Fund, USA Capital raised \$66.7 million from 1,300 investors
19 through a registered securities offering, and \$745 million from 3,600 investors who
20 invested directly in various USA Capital loans. USA Capital was to service the
21 loans by collecting the monthly payments from the borrowers and, after deducting
22 servicing fees, remitting the interest and principal payments to the investors in the
23 loan.

24 2. **The Fund’s Offering**

25 11. From approximately May 2000 to September 27, 2005, the Fund
26 raised \$150 million, net of redemptions, from 1,900 investors. Although the Fund
27 stopped sales to new investors in the fourth quarter of 2004, the Fund allowed
28

1 members to reinvest their distributions in the Fund until September 27, 2005, when
2 USA Capital announced that it was liquidating the Fund.

3 12. Through a series of prospectuses dated from May 2000 to December
4 2004, the Fund made a continuous offering of membership units ranging in price
5 from \$5,000 - \$25,000 per unit. The maximum number of units increased over the
6 course of the offering from approximately 3,000 to 27,000 units. Milanowski
7 actively participated in the preparation of the Fund's prospectuses and was the
8 principal point of contact for the Fund's lawyers who prepared those documents.
9 USA Capital solicited investors for the Fund through brochures and a website,
10 www.safertrustdeeds.com. Milanowski was responsible for all of the content on
11 the website. The Fund's former CFO, marketing manager, and outside counsel all
12 testified as to Milanowski's role in the creation of the prospectuses and marketing
13 materials.

14 3. The Fund's Offering was Unregistered

15 13. The membership units in the Fund that were offered and sold by the
16 Defendant are securities in the form of investment contracts.

17 14. No registration statement has been filed with the Commission or is in
18 effect with respect to the Defendant's offer or sale of securities in the form of
19 investment contract.

20 15. The Fund claimed it was conducting an intrastate offering to Nevada
21 residents that was exempt from registration with the Commission pursuant to
22 Section 3(a)(11) of the Securities Act. However, the Fund was not "doing business
23 within" the state of Nevada as required by Section 3(a)(11) of the Securities Act.
24 Almost none of the Fund's purported operating revenues were derived from a
25 business or real property located inside the state of Nevada. The Fund's purported
26 operating revenues were interest payments on real estate loans. The Fund (the
27 lender) was domiciled in Nevada, but most of the purported borrowers and the
28 underlying real estate collateral were located in California, Utah, and Connecticut.

1 **B. The Fund's Misrepresentations to Investors**

2 16. USA Capital made representations to potential and existing investors
3 about the Fund in its prospectuses, various sales materials, and monthly account
4 statements. The Fund's prospectuses represented that an estimated 99.5% of the
5 offering proceeds would be used to make mortgage loans and the remaining .5%
6 would be used for the Fund's reserves and working capital. The prospectuses
7 further represented that the Fund would invest only in loans that met the following
8 criteria:

- 9 a. The loans had to be secured by first deeds of trust on real property;
10 b. No loans would be to the Fund's manager, USA Capital Realty
11 Advisors LLC, or its affiliates; and
12 c. Once the Fund had \$100 million invested, which occurred in early
13 2003, the Fund would:
14 i. not make any loan in excess of \$20 million;
15 ii. not make any loan that would exceed 15% of its total then
16 outstanding loans; or
17 iii. have no more than 25% of its outstanding loans made to a
18 single borrower or affiliates of that borrower.

19 17. In the Fund's sales materials, USA Capital touted the high return and
20 safety of an investment in the Fund. In brochures and on its website, USA Capital
21 variously represented to investors that:

- 22 a. Investments in the Fund would be secured by "First Deeds of
23 Trust;"
24 b. The Fund historically paid a 12% to 13% rate of return on
25 investment and had a "Projected Yield of 10% to 12%;"
26 c. "The Fund concentrat[ed] on providing double-digit returns while
27 focusing on protection of principal;"
28 d. "Since 1989, USA Capital has placed over \$1 billion in trust deeds
 on behalf of clients without ever losing a dime of investor's
 principal;"

- e. The Fund was “commit[ted] to the safety and preservation of capital;”
- f. The Fund reduced the risk of investing in trust deeds by diversifying – i.e., investing in “many loans, covering many different properties in various markets, with multiple borrowers, much like a mutual fund holds a basket of stocks. If a particular loan defaults, the impact to an investor is minimized.”

18. USA Capital sent account statements sent to each Fund investor, including those reinvesting their monthly distributions. The account statements stated the “dividend” paid to the investor for the month and the annualized rate of return for that month, which was between 8.98% and 12.37%. Milanowski was responsible for supervising the accounting function at USA Capital, and the account statements were prepared by the accounting department under his supervision.

19. The account statements also included an attachment that contained information about the loans in which the Fund had invested. The attachment listed each of the Fund’s loans, specified that the loan was secured by a first deed of trust, and identified the property that secured the loan. The attachment did not indicate whether the loans were performing (i.e., being repaid in accordance with their terms) nor did it list the outstanding loan balances. By not providing this information in the account statements, USA Capital created the impression that the loans were performing and the distributions to investors were interest payments, thus inducing them to continue to invest, either in the form of new money or reinvestment of distributions from the Fund. As discussed in detail below, this impression was false, because the loans were not performing, and the distributions were not payments of interest. These loan portfolio updates were prepared at Milanowski’s direction.

C. Defendant's Misappropriation and Misuse of the Fund's Offering Proceeds

20. Contrary to USA Capital's representations to Fund investors, Milanowski misappropriated and misused most of the Fund's offering proceeds to make unsecured loans to entities affiliated with him. As of November 30, 2006, the Fund had 23 loans originated and serviced by USA Capital with outstanding balances, excluding unpaid interest, totaling \$92,306,536. Of that amount, \$86.9 million, or 94% of the Fund's outstanding portfolio balance, was in loans that were not secured by first trust deeds, loans that were made to USA Capital affiliates, and/or loans that did not meet the Fund's loan diversification criteria. These loans are charted and discussed in detail below. As also discussed below, Milanowski was principally responsible for USA Capital's making these improper loans.

21. Moreover, as also shown on the chart below and undisclosed to investors, these improper loans became non-performing or defaulted during the Fund's offering. As a result, the Fund sustained substantial losses and declared bankruptcy on April 13, 2006, and according to the bankruptcy court's December 19, 2006 approved plan of reorganization, the Fund investors will receive only \$.25 to \$.46 cents for every dollar they invested. Thus, USA Capital falsely represented in its brochures and on its website that investors would likely have double-digit returns, that it was committed to the protection of investor principal, and that the investments were diversified and therefore less risky.

Loan	Date of Loan	Amount of Loan (principal only)	Secured by Trust Deed	Improperly Made to Affiliate	Diverse	Date Became Non-Performing or Defaulted
10-90, Inc.	4/02-11/04	\$55.9mm	No	Yes	No	04/05
Sheraton	9/17/99	\$3.7mm	No (as of 10/14/05)	Maybe	Yes	1/20/03
Epic	6/26/00	\$13mm	No (as of	Maybe	Yes	9/8/2003

Loan	Date of Loan	Amount of Loan (principal only)	Secured by Trust Deed	Improperly Made to Affiliate	Diverse	Date Became Non-Performing or Defaulted
			9/15/03)			
Colt #1	7/10/03	\$1.5mm	No	Yes	No	7/10/04 (per unsigned loan agmt)
Colt #2	Not known – No loan document	\$3.1mm	No	Yes	No	No loan documents
Colt CREC	9/26/03	\$3.7mm	No	Yes	No	9/26/06 (per unsigned loan agmt)
Fiesta	1/10/05	\$6mm	No	Maybe	Yes	1/10/06
Total		\$86.9mm	\$86.9mm	\$64.2mm	\$64.2mm	\$86.9mm

1. Ninety-Four Percent of the Fund's Loan Portfolio Was Not Secured By First Trust Deeds

22. As set forth in the chart above, contrary to the representations in the Fund's prospectuses, sales materials, and account statements, up to \$86.9 million, or 94%, of the Fund's \$92.3 million outstanding loan portfolio was not secured by a trust deed. Two of the loans, the 10-90 and Fiesta loans, were never secured by any real property and were instead evidenced by promissory notes. The three Colt loans were also never secured by real property and were merely documented by a schedule attached to a memorandum of agreement between USA Capital and a partner of the borrower that listed the loans, and, for the Colt #1 and the Colt CREC loans, unsigned promissory notes.

23. The Sheraton and Epic loans were originally secured by real property, but both loans became unsecured during the Fund's offering. The Sheraton and Epic loans went into default, and USA Capital foreclosed on properties that secured the loans. As a result of the foreclosures, there was no real property securing the Sheraton \$3.7 million and Epic \$13 million outstanding loan balances.

1 **2. Over Half of the Fund's Loan Portfolio Was to USA**
2 **Capital Affiliates and Violated the Fund's Loan**
3 **Diversification Standards**

4 24. As also set forth in the chart above, contrary to the representations in
5 the Fund's prospectuses, at least \$64.2 million, or nearly 70%, of the Fund's \$92.3
6 million loan portfolio were loans made to affiliates of USA Capital and/or
7 Milanowski. These loans also violated the Fund's stated loan diversification
8 standards.

9 25. The Fund's largest loan, \$55.9 million in principal, was made to 10-
10 90. Although the 10-90 loan was nominally a loan to a third party, it actually was
11 a loan to an affiliate because 10-90 was controlled by Milanowski and the Fund's
12 monies went to USAIP. The incorporator and the titular principal of 10-90
13 testified that he incorporated 10-90 at Milanowski's behest and that Milanowski
14 told him that the purpose of 10-90 was to "borrow money" from the Fund for
15 USAIP. Milanowski also asked 10-90's principal to set up an entity named
16 Mountain Vista to route the money from 10-90 to USAIP, further obscuring the
17 money trail from the Fund to USAIP. Thus, Milanowski had 10-90 created in an
18 effort to hide the fact that he was loaning Fund money to the affiliated entity,
19 USAIP. Milanowski then signed a January 1, 2005 document on behalf of the
20 Fund relieving 10-90 of any obligation to repay the funds transferred to it.

21 26. Moreover, of the total \$55.9 million in transfers attributed to the 10-
22 90 loan, only \$23.3 million was received by 10-90. 10-90's bank records show
23 that its principal then immediately transferred this same \$23.3 million back to
24 USAIP. The remaining loan principal from the \$55.9 million 10-90 loan was paid
25 directly to other persons or entities, the majority of which were in some way
26 affiliated with USAIP and/or Milanowski. Approximately \$7.8 million went
27 directly to USAIP or to entities in which USAIP had an ownership interest.
28 Another almost \$9.3 million went to a developer that was a partner with USAIP in

1 other real estate projects that were borrowers of USA Capital. Another \$11.4
2 million was used to pay investors who invested directly in other USA Capital
3 loans. The ultimate recipients of the remaining \$4.01 million could not be
4 determined. Milanowski directed the transfer of investor funds from the Fund to
5 10-90 and USAIP.

6 27. The 10-90 loan also violated the Fund's diversification standards.
7 The \$55.9 million principal amount of the loan far exceeded the disclosed
8 maximum loan amount of \$20 million. Moreover, the loan constituted more than
9 50% of the Fund's loan portfolio, which was more than three times the disclosed
10 15% cap for any one loan and which was more than the 25% cap on loans made to
11 any single borrower or affiliates of that borrower.

12 28. The Fund also made loans totaling \$8.3 million in principal to another
13 affiliate, Colt Gateway LLC. USAIP owned 50% of that entity, but there was no
14 evidence that it contributed any money for that equity position. Moreover, because
15 the borrowers on the Colt and 10-90 loans were both affiliated through Milanowski
16 and USAIP, the combined Colt and 10-90 loans violated the Fund's disclosed 25%
17 cap on loans made to any single borrower or affiliates of that borrower.

18 **3. Ninety-Four Percent of the Fund's Portfolio Was Non-**
19 **Performing**

20 29. Although the account statements sent to investors listed the loans in
21 the Fund's portfolio, the account statements failed to disclose that, as shown on the
22 above chart, 94% of Fund's portfolio was non-performing.

23 30. 10-90 never made a single payment on \$55.9 million loan from the
24 Fund. By USA Capital's bankruptcy on April 13, 2006, the unpaid interest on the
25 10-90 loan was \$21 million, for a total loan amount of \$76.9 million. In an
26 agreement effective as of January 1, 2005, the Fund, acting through Milanowski,
27 agreed to accept 10-90's assignment of the balance due on its loan to USAIP as full
28 satisfaction of the loan from Fund.

1 31. In 2003, USA Capital foreclosed on the non-performing Sheraton loan
2 and, in 2005, sold the property to a third party for \$6.2 million. At the time of the
3 sale, the outstanding principal balance on the loan was \$9.96 million. USA Capital
4 remitted the sales proceeds to the Fund and reduced the loan balance by that
5 amount. USA Capital, however, continued to carry the \$3.7 million shortfall in the
6 Fund's portfolio as a loan, even though the loan had been foreclosed on, the
7 collateral had been sold, and there was no possibility of future payments from the
8 borrower. Milanowski was the point of contact for USA Capital on the original
9 Sheraton Loan Agreement, and he signed the Sixth Amended Loan Agreement,
10 which extended the term of the loan and advanced additional monies, even though
11 no payments had ever been received on the loan.

12 32. Similarly, in January 2004, USA Capital foreclosed on the non-
13 performing \$13 million Epic loan and vested management and control of the
14 property with a USAIP affiliate named Tree Moss Partners, LLC. USA Capital
15 continued to carry the Epic loan in the Fund's loan portfolio, even though Tree
16 Moss never made any payments on the loan. Moreover, on February 23, 2006, two
17 months before the USA Capital bankruptcy filing, USA Capital recorded a
18 quitclaim deed purportedly dated September 15, 2003, transferring all of the
19 Fund's interest in the property to Tree Moss. There was no evidence that the Fund
20 received any compensation for the transfer of the property. Milanowski signed the
21 Epic loan documents, was a principal of Tree Moss (USAIP was the sole owner
22 and manger of Tree Moss), and, as managing partner of the Fund, signed the
23 September 15, 2003 assignment of the Epic property from the Fund to Tree Moss.

24 33. Colt Gateway never made any payments on its loans. As a result, by
25 November 30, 2006, the unpaid interest on the Colt loans was over \$4.8 million
26 and the total outstanding balance of the loans was \$13.1 million. Milanowski was
27 a principal of the borrower, was the principal point of contact for USA Capital on
28

1 the unsigned Colt promissory notes, and he signed the memorandum of agreement
2 that referenced all of the Colt loans.

3 34. Another of the non-performing loans in the Fund portfolio was the \$6
4 million unsecured Fiesta McNaughton loan. Pursuant to the terms of the loan
5 documents, no interest was due on the loan until maturity, at which point all
6 principal and interest became due. As of the date of the bankruptcy filing, the loan
7 was past due and non-performing, with a total amount due, including principal and
8 interest, of \$6,976,444. Milanowski was the recipient of the wire transfer
9 instructions for the Fiesta loan fundings.

10 35. In addition to being responsible for making the non-conforming Fund
11 loans, Milanowski knew, or was reckless in not knowing, that the loans were non-
12 performing. He supervised the accounting function at USA Capital and the
13 calculation of distributions due to investors. In addition, USA Capital's former
14 CFO testified that the loan performance for each Fund loan was communicated
15 directly to Milanowski.

16 **FIRST CLAIM FOR RELIEF**

17 **UNREGISTERED OFFER AND SALE OF SECURITIES**

18 **Violations of Sections 5(a) and 5(c) of the Securities Act**

19 36. The Commission realleges and incorporates by reference paragraphs 1
20 through 35, above.

21 37. Defendant Milanowski, by engaging in the conduct described above,
22 directly or indirectly, made use of means or instruments of transportation or
23 communication in interstate commerce or of the mails, to offer to sell or to sell
24 securities, or to carry or cause such securities to be carried through the mails or in
25 interstate commerce for the purpose of sale or for delivery after sale.

26 38. No registration statement has been filed with the Commission or has
27 been in effect with respect to the offering alleged herein.

28 39. By engaging in the conduct described above, defendant violated, and

1 unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of
2 the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

3 **SECOND CLAIM FOR RELIEF**

4 **FRAUD IN THE OFFER OR SALE OF SECURITIES**

5 **Violations of Section 17(a) of the Securities Act**

6 40. The Commission realleges and incorporates by reference paragraphs 1
7 through 35, above.

8 41. Defendant Milanowski, by engaging in the conduct described above,
9 directly or indirectly, in the offer or sale of securities by the use of means or
10 instruments of transportation or communication in interstate commerce or by the
11 use of the mails:

- 12 a. with scienter, employed devices, schemes or artifices to
- 13 defraud;
- 14 b. obtained money or property by means of untrue statements of
- 15 material fact or by omitting to state a material fact necessary in
- 16 order to make the statements made, in the light of the
- 17 circumstances under which they were made, not misleading; or
- 18 c. engaged in transactions, practices, or courses of business which
- 19 operated or would operate as a fraud or deceit upon the
- 20 purchaser.

21 42. By engaging in the conduct described above, defendant violated, and
22 unless restrained and enjoined will continue to violate, Section 17(a) of the
23 Securities Act, 15 U.S.C. § 77q(a).

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THIRD CLAIM FOR RELIEF
FRAUD IN CONNECTION WITH THE
PURCHASE OR SALE OF SECURITIES

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

43. The Commission realleges and incorporates by reference paragraphs 1 through 35, above.

44. Defendant Milanowski, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon other persons.

45. By engaging in the conduct described above, defendant violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Issue findings of fact and conclusions of law that the defendant committed the alleged violations.

II.

Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d),

1 permanently enjoining defendant, and his officers, agents, servants, employees,
2 and attorneys, and those persons in active concert or participation with him, who
3 receive actual notice of the judgment by personal service or otherwise, and each of
4 them, from violating Sections 5(a), 15 U.S.C. § 77e(a), 5(c), 15 U.S.C. § 77e(c),
5 and Section 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c) and 77q(a),
6 and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5
7 thereunder, 17 C.F.R. § 240.10b-5.

8 **III.**

9 Order defendant to disgorge all ill-gotten gains from his illegal conduct,
10 together with prejudgment interest thereon.

11 **IV.**

12 Order defendant to pay civil penalties under Section 20(d) of the Securities
13 Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §
14 78u(d)(3).

15 **V.**

16 Retain jurisdiction of this action in accordance with the principles of equity
17 and the Federal Rules of Civil Procedure in order to implement and carry out the
18 terms of all orders and decrees that may be entered, or to entertain any suitable
19 application or motion for additional relief within the jurisdiction of this Court.

20 **VI.**

21 Grant such other and further relief as this Court may determine to be just and
22 necessary.

23
24 DATED: April 23, 2008



25 _____
26 Lynn M. Dean
27 Attorney for Plaintiff
28 Securities and Exchange Commission