

1 MARC J. FAGEL (CA BAR NO. 154425) (fagelm@sec.gov)
2 MICHAEL S. DICKE (CA BAR NO. 158187) (dickem@sec.gov)
3 JOHN S. YUN (CA BAR NO. 112260) (yunj@sec.gov)
4 KRISTIN A. SNYDER (CA BAR NO. 187175) (snyderk@sec.gov)
5 CAMERON P. HOFFMAN (CA BAR NO. 229316) (hoffmanc@sec.gov)

6 Attorneys for Plaintiff
7 SECURITIES AND EXCHANGE COMMISSION
8 44 Montgomery Street, Suite 2600
9 San Francisco, California 94104
10 Telephone: (415) 705-2500
11 Facsimile: (415) 705-2501

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF IDAHO**

14 SECURITIES AND EXCHANGE COMMISSION,
15 Plaintiff,
16 vs.
17 WILLIAM JACOBSON,
18 Defendant.

Case No.

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER RELIEF

19 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

20 **SUMMARY OF THE ACTION**

21 1. This case involves illegal stock distribution schemes and fraudulently
22 misleading disclosures by William Jacobson, the former Chairman, CEO and President of Atlas
23 Mining Company, an Idaho public company that is now known as Applied Minerals, Inc. From 2002
24 to 2005, Jacobson tried to keep the struggling company afloat by orchestrating multiple schemes
25 whereby Atlas Mining improperly sold millions of shares of stock to public investors while evading
26 the disclosure and registration requirements of the federal securities laws. To conceal these improper
27 sales, Jacobson made false statements in Atlas Mining's public filings about the unlawful stock
28 issuances and fabricated documents to make the transactions appear legitimate.

1 2. From 2002 to 2005, Jacobson caused Atlas Mining to distribute millions of
2 shares of stock to the public, without proper registration, under a provision of the securities laws
3 available only for issuances to company employees and consultants. Specifically, Jacobson caused
4 the company to improperly issue the shares to ineligible recipients, including family members who
5 did no work for the company and affiliated companies he controlled. The shares were then resold to
6 the public, with proceeds returning to the company, in violation of the federal securities laws.

7 3. Similarly, when a 2003 time-limited public offering failed to raise sufficient
8 capital, Jacobson unlawfully “parked” 9.9 million shares of the 10 million share offering in the names
9 of his friends, family members and affiliates. These shares, too, were subsequently resold to the
10 public with the proceeds flowing back to Atlas Mining.

11 4. These improper transactions allowed Atlas Mining to obtain financing for its
12 struggling operations without providing investors with the complete and timely disclosures mandated
13 by the federal securities laws.

14 5. In connection with these improper transactions, Jacobson caused Atlas
15 Mining’s public filings and books and records to be inaccurate, caused the company’s internal
16 controls to be deficient, failed to implement effective financial controls and falsely certified the
17 company’s SEC filings.

18 6. Accordingly, Jacobson violated Sections 5(a), 5(c) and 17(a) of the Securities
19 Act of 1933 (the “Securities Act”) [15 U.S.C. §§ 77e, 77q(a)], and Sections 10(b) and 13(b)(5) of the
20 Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78j(b), 78m(b)(5)] and Rules 10b-
21 5, 13a-14 and 13b2-1 [17 C.F.R. §§ 240.10b-5, 240.13a-14, 240.13b2-1] thereunder. Jacobson also
22 aided and abetted Atlas Mining’s violation of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the
23 Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A), 78m(b)(2)(B)] and Rules 12b-20, 13a-1, and
24 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-13] thereunder.

25 7. The Commission seeks an order enjoining Jacobson from future violations of
26 the federal securities laws; imposing a civil money penalty; barring him from serving as an officer or
27 director of any issuer; and barring him from participating in an offering of penny stock, which
28

1 typically are speculative securities of very small companies that generally trade at prices below \$5
2 per share.

3 **AUTHORITY TO BRING THIS ACTION**

4 8. The Commission brings this action pursuant to Section 20(b) of the Securities
5 Act [15 U.S.C. § 77t(b)] and Section 21(d) of the Exchange Act [15 U.S.C. §§ 78u(d)].

6 9. Jacobson directly engaged in transactions, acts, practices and course of
7 business that constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities Act, and Sections
8 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14 and 13b2-1 thereunder, and also
9 aided and abetted Atlas Mining's violation of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the
10 Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder.

11 10. Jacobson will, unless enjoined, continue to engage in the acts, practices and
12 courses of business alleged herein, or in transactions, acts, practices and courses of business of
13 similar purport and object.

14 **JURISDICTION AND VENUE**

15 11. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d),
16 and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)] and Sections 21(d), 21(e),
17 and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

18 12. Jacobson, directly or indirectly, made use of the means or instrumentalities of
19 interstate commerce, or of the mails, or of the facilities of a national securities exchange in
20 connection with the transactions, acts, practices and courses of business alleged herein.

21 13. Venue in this District is proper pursuant to Section 22(a) of the Securities Act
22 [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Jacobson engaged in
23 the acts, practices and courses of business alleged herein in the District of Idaho.

24 **DEFENDANT**

25 14. Defendant William Jacobson, age 63, resides in Missoula, Montana. Jacobson
26 was Chairman, CEO and President of Atlas Mining from August 1997 to July 2007; Chairman from
27 July 7, 2007 to November 30, 2007; and Chairman, interim CEO and President from November 30,
28

1 2007 to June 27, 2008. In February 2009, Jacobson became Director and CEO of another penny
2 stock issuer, but was replaced as CEO in July 2009.

3 15. In sworn testimony during the Commission's investigation, Jacobson declined
4 to answer questions based on the protections afforded to him by the Self-Incrimination Clause of the
5 Fifth Amendment.

6 **RELATED ENTITY**

7 16. Atlas Mining Company (now known as Applied Minerals, Inc.) is a small
8 mining company incorporated in Delaware and currently headquartered in New York, New York.
9 Throughout the relevant period, however, Atlas Mining was incorporated in Idaho and headquartered
10 in Osburn, Idaho. Atlas Mining's common stock is registered with the Commission pursuant to
11 Section 12(g) of the Exchange Act and, at all relevant times, was quoted on the OTC Bulletin Board
12 under the ticker symbol ALMI. From at least 1997 through the end of 2007, Atlas Mining issued
13 penny stock.

14 **JACOBSON CAUSED ATLAS MINING TO ISSUE MILLIONS OF SHARES OF STOCK**
15 **TO INELIGIBLE RECIPIENTS**

16 17. SEC Form S-8 is an abbreviated form of registration statement that may be
17 used to register an issuance of shares to employees and certain types of consultants. Form S-8 does
18 not provide the extensive disclosures or Commission review required for a registration statement used
19 for a public offering of securities. A company can issue S-8 shares as part of a benefit plan to
20 consultants only if they are natural persons who provide "bona fide services to the registrant" and
21 such services "are not in connection with the offer or sale of securities in a capital-raising transaction,
22 and do not directly or indirectly promote or maintain a market for the registrant's securities."
23 General Instructions to Form S-8 at A.1(a)(1).

24 18. Atlas Mining filed a Form S-8 registration statement with the Commission on
25 August 27, 2002. The Form S-8 was amended on July 8, 2003, and again on September 15, 2004.
26 The registration statement and amendments were signed by Jacobson as CEO and Chairman of Atlas
27 Mining.
28

1 19. Atlas Mining's Form S-8 registration statement and amendments specifically
2 incorporated Atlas Mining's 2002 Consultant Stock Plan. The 2002 Consultant Stock Plan provided
3 that S-8 shares were to be issued only to "consultants" of the company for bona fide consulting
4 services.

5 20. Between 2002 and late 2005, Jacobson caused Atlas Mining to improperly
6 issue approximately 14.6 million S-8 shares to recipients who were ineligible to receive them.
7 Jacobson directly controlled and oversaw the S-8 issuances, making all decisions about the recipients
8 of the shares and how many shares they would receive.

9 21. Specifically, Jacobson caused the company to issue S-8 shares to family
10 members who did not provide any services to Atlas Mining. For example, 250,000 S-8 shares were
11 issued to Jacobson's wife, yet Mrs. Jacobson never performed any work for Atlas Mining. Similarly,
12 500,000 S-8 shares were issued to Jacobson's son, who also performed no work for the company in
13 exchange for the shares. Thus, Form S-8 could not be used to register the issuance of the shares to
14 his wife and son because they provided no services to the company in exchange for the shares.

15 22. At Jacobson's direction, the Atlas Mining S-8 shares issued to Jacobson's wife
16 and son were subsequently sold to investors and the proceeds from those sales were returned to Atlas
17 Mining. These subsequent resales constituted capital-raising, which is strictly prohibited by
18 Form S-8.

19 23. Jacobson also caused the company to issue millions of shares of S-8 stock to
20 entities, including an affiliated mining company he controlled that had no employees or operations at
21 the time. These shares were subsequently sold to investors with some of the proceeds ultimately
22 returned to Atlas Mining.

23 24. Form S-8 could not be used to register the issuances of millions of shares of
24 stock to entities because the issuances directly violated the Form S-8 requirement that the shares only
25 be issued to natural persons. Additionally, the subsequent resales constituted capital-raising which is
26 strictly prohibited by Form S-8.

27 25. Jacobson also caused Atlas Mining to issue millions of S-8 shares to
28 individuals who were stock promoters or otherwise engaged in capital-raising efforts for Atlas

1 Mining. Form S-8 could not be used to register these shares because Form S-8 expressly requires
2 that the services for which the shares are issued “are not in connection with the offer or sale of
3 securities in a capital-raising transaction, and do not directly or indirectly promote or maintain a
4 market for the registrant’s securities.”

5 26. Because Atlas Mining’s issuance of 14.6 million shares to individuals who
6 provided no services to the company, affiliated entities, promoters, and consultants engaged in
7 capital-raising could not be validly registered on Form S-8, there was no valid registration statement
8 in effect when Atlas Mining issued shares to these parties. Additionally, no exemption from
9 registration applied.

10 27. To conceal his improper issuances of S-8 stock, Jacobson falsified documents.
11 In or around September 2004, Jacobson created a questionnaire to send to the previous recipients of
12 the improperly issued S-8 stock. He requested that these recipients “confirm” that they were natural
13 persons hired to provide bona fide services for Atlas Mining that were not in connection with capital-
14 raising or stock promotion. From October 2004 to at least November 2005, Jacobson sent the
15 questionnaire to individuals even though he knew, or was reckless in not knowing, that they had
16 improperly received S-8 stock and could not truthfully provide the requested confirmation.

17 **JACOBSON ORCHESTRATED A “PARKING” SCHEME TO SELL**
18 **MILLIONS OF UNREGISTERED SHARES**

19 28. On January 29, 2003, Atlas Mining filed a registration statement with the
20 Commission on SEC Form SB-2, followed by a final prospectus filed on February 6, 2003. The
21 documents registered an offering of 10 million shares of Atlas Mining common stock at \$0.10 per
22 share, and noted that the company was selling the shares directly to investors. The offering was time-
23 limited, and would automatically expire after 180 days.

24 29. Jacobson signed the registration statement as Atlas Mining’s President and
25 CEO.

26 30. Jacobson controlled the SB-2 offering and encountered difficulties selling the
27 shares to investors within the 180-day offering period. Toward the end of the offering period,
28 Jacobson explained to his assistant “that the time was going to expire” and that he “didn’t want to

1 lose the shares.” Accordingly, Jacobson instructed his assistant to have share certificates issued for
2 the unsold offering shares in the names of his friends, family, and an affiliated mining company he
3 controlled. He further required that the share certificates be returned directly to the company’s files,
4 in order to temporarily “park” the unsold shares in the names of sham purchasers so he could resell
5 them to legitimate investors in the future.

6 31. At Jacobson’s instruction, nearly all of the SB-2 shares were issued in the
7 names of Jacobson’s friends, family and affiliates, including the 18-year-old daughter of Jacobson’s
8 assistant, who was issued 900,000 shares. None of these parties paid for or received possession of
9 the shares issued in their names. To facilitate resale of the shares, Jacobson had the sham recipients
10 sign blank irrevocable powers of attorney ceding him authority to transfer the shares at his discretion.

11 32. Jacobson then continued to seek investors to buy the Atlas Mining SB-2 shares
12 after the expiration of the offering period. Once investors were located, Jacobson directed the
13 process of having the shares reissued in the names of these purchasers. For example, the shares
14 issued to his assistant’s daughter were later cancelled and reissued in the name of an unrelated third
15 party investor. The money received from the subsequent resales of the SB-2 shares was paid to Atlas
16 Mining with Jacobson controlling and overseeing each of the transactions.

17 33. In total, 9.9 million of the 10 million Atlas Mining SB-2 shares were “parked”
18 and resold by Jacobson. Atlas Mining ultimately received payments totaling \$805,000 for the parked
19 shares, after they were sold to investors.

20 34. Because the “parking” transaction did not comply with the reported terms of
21 the offering as detailed in the filed Form SB-2, the shares were issued in transactions that were not
22 covered by the registration statement. Likewise, the SB-2 registration statement did not cover the
23 subsequent re-sale transactions from the sham buyers to third parties after the expiration of the 180-
24 day offering period, and therefore, these transactions were also not registered. No registration
25 statement was filed for the true transactions that occurred, namely the parking of shares with sham
26 buyers and their subsequent resale after the expiration of the offering, no further amendment was
27 made to the filed SB-2 registration statement or prospectus to cover these transactions, and no
28 exemption from registration applied.

JACOBSON MADE FALSE STATEMENTS ABOUT THE SB-2 TRANSACTIONS

1
2 35. In addition, Jacobson caused Atlas Mining to make false or misleading
3 statements in its Form 10-K for the fiscal year ended December 31, 2003 regarding the company's
4 SB-2 offering. In the Form 10-K, which Jacobson signed, Atlas Mining made the following
5 representation regarding its SB-2 offering:

6 In anticipation of the cash needs for the upcoming year, we have completed an SB-2
7 filing with the Securities and Exchange Commission. . . . [T]he company was able to
8 sell up to 10,000,000 shares of common stock at a price of \$0.10 per share. These
9 shares have been sold and the company carries a subscription receivable as of
10 December 31, 2003 for uncollected proceeds of \$524,700. (emphasis added)

11 36. In reality, as of December 31, 2003, over 4 million of the 9.9 million "parked"
12 shares were still held in the names of Jacobson's friends, family members and affiliated entities, and
13 had not been sold to any legitimate purchasers. In addition, contrary to the representation in the Form
14 10-K, Atlas Mining had no subscribers who owed the company \$524,700.

15 37. Jacobson signed and certified Atlas Mining's 2003 Form 10-K, which
16 contained material misrepresentations that Atlas Mining had sold all of its SB-2 shares and was due
17 uncollected sale proceeds of \$524,700. However, as of December 31, 2003, Jacobson knew, or was
18 reckless in not knowing, that over 4 million of the 9.9 million offering shares were still "parked" and
19 that none of the sham recipients had paid (or intended to pay) for the shares.

20 38. Jacobson twice admitted that his conduct in parking the SB-2 shares was
21 improper. First, at the time the shares were parked in 2003, Jacobson told his assistant that the way
22 in which he was issuing the shares was not permissible. Additionally, during an October 2007 Atlas
23 Mining board meeting, Jacobson admitted that he had inappropriately issued SB-2 shares, including
24 parking shares with family and friends, to "keep the company alive."

25 39. Jacobson's false statements were material. In Atlas Mining's 2003 Form 10-K
26 containing the false and misleading statements regarding the SB-2 transactions, Atlas Mining
27 reported that it may be unable to continue as a going concern, and noted it had conducted the SB-2
28 offering to allow the company to continue operations. Thus, the statement regarding the uncollected
\$524,700 from the purported sale of SB-2 shares was materially false because there were more than 4

1 million unsold SB-2 shares as of the filing of the 2003 10-K, and there were no legitimate buyers who
2 owed the company \$524,700 for the shares.

3 40. Accordingly, at the time he signed and certified Atlas Mining's 2003 Form
4 10-K, containing the false statements about the sale of the SB-2 shares, Jacobson knew, or was
5 reckless in not knowing, that Atlas Mining's Form 10-K contained material misrepresentations.

6 **FALSE FILINGS AND CERTIFICATIONS OF ATLAS MINING'S FINANCIAL RESULTS**

7 41. On October 9, 2007, Atlas Mining filed a Form 8-K announcing that it
8 intended to restate its publicly-filed financial statements for 2004, 2005 and 2006, which Jacobson
9 had signed and certified at the time they were filed. On August 27, 2008, Atlas Mining filed a Form
10 8-K summarizing the results of an internal investigation and announcing that its publicly-filed
11 financial statements for the periods 2002 through the second quarter of 2007 could not be relied upon
12 due to numerous violations of the federal securities laws.

13 42. On July 15, 2009, Atlas Mining filed restated financial results for the first and
14 second quarters of 2007 as well as its delinquent quarterly report for the third quarter of 2007 and its
15 delinquent annual report for the fiscal year ended December 31, 2007. In its 2007 Form 10-K, Atlas
16 Mining restated its 2006 consolidated financial statements and corrected various items, including
17 errors in the valuation of stock issued under Atlas Mining's S-8 plan and realized and unrealized
18 gains and losses on available for sale securities, which related, in part, to the improper issuances of
19 Atlas Mining securities registered on Form SB-2.

20 43. As CEO and Principal Financial Officer of Atlas Mining, Jacobson was
21 required to certify that Atlas Mining's periodic filings (including its Forms 10-K and 10-Q), to the
22 best of his knowledge, included no material misstatements or omissions. Jacobson signed and
23 certified Atlas Mining's Forms 10-Q and Forms 10-K, from fiscal year 2003 through the second
24 quarter of 2007, even though the filings contained material misstatements about Atlas Mining's
25 issuance of SB-2 and S-8 stock and its related financial condition, including errors in the reporting of
26 the valuation of stock issued under Atlas Mining's S-8 plan, errors in the reporting of realized and
27 unrealized gains and losses on available for sale securities, and the false representation in the
28

1 company's 2003 Form 10-K that Atlas Mining expected to receive cash proceeds of \$524,700 from
2 the purported sale of the remaining "parked" SB-2 shares.

3 **INADEQUATE INTERNAL CONTROLS**

4 44. Additionally, Jacobson failed to implement an adequate system of internal
5 controls for Atlas Mining, resulting in significant internal controls deficiencies at the company while
6 Jacobson served as Chairman, CEO and President. For example, from 1997 to August 8, 2007, Atlas
7 Mining did not have a CFO, and Jacobson served as the chief accounting officer, in addition to his
8 role as Chairman, CEO and President. Because Atlas Mining lacked the necessary financial staff,
9 there was a lack of segregation of duties for the financial reporting process and a lack of effective
10 oversight and monitoring of the financial reporting and accounting functions. Atlas Mining also did
11 not maintain a checklist of procedures or any formal guidance to facilitate the period-end closing
12 process, all of which was overseen by Jacobson. Jacobson also failed to implement internal
13 accounting controls with respect to, among other things, stock issuances, accounting for stock
14 options, appropriate accounting procedures and personnel, and related party transactions.

15 **CLAIMS FOR RELIEF**

16 **FIRST CLAIM**

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

18 45. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

19 46. Defendant William Jacobson, with scienter, directly or indirectly:

- 20 a) employed devices, schemes, or artifices to defraud;
- 21 b) made untrue statements of material fact or omitted to state a material
22 fact necessary in order to make the statements made, in the light of the circumstances under which
23 they were made, not misleading; and
- 24 c) engaged in acts, practices, or courses of business which operated or
25 would operate as a fraud or deceit upon other persons in connection with the purchase or sale of
26 securities, by the use of means or instrumentalities of interstate commerce, of the mails, or the
27 facilities of a national securities exchange.
- 28

1 47. By reason of the foregoing, defendant William Jacobson violated, and unless
2 restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. §
3 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

4 **SECOND CLAIM**

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

6 48. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

7 49. Defendant William Jacobson, with scienter, directly or indirectly, in the offer
8 or sale of a security:

9 a) employed devices, schemes, or artifices to defraud;

10 b) obtained money or property by means of an untrue statement of a
11 material fact or an omission of a material fact necessary in order to make the statements made,
12 in light of the circumstances under which they were made, not misleading; and

13 c) engaged in transactions, practices, or courses of business which
14 operates or would operate as a fraud or deceit upon the purchaser

15 51. By reason of the foregoing, defendant William Jacobson violated, and unless
16 restrained and enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. §
17 77q(a)].

18 **THIRD CLAIM**

19 *Violations of Section 5 of the Securities Act*

20 52. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

21 53. Defendant William Jacobson, directly or indirectly, in the absence of any
22 applicable exemption:

23 a) Without a registration statement in effect as to a security, made use of
24 the means or instruments of transportation or communication in interstate commerce or of the
25 mails to sell such security through the use or medium of any prospectus or otherwise;

26 b) Without a registration statement in effect as to a security, carried or
27 caused to be carried through the mails or in interstate commerce, by the means or instruments
28 of transportation, a security for the purpose of sale or for delivery after sale; and

1 (c) Made use of the means or instruments of transportation or
2 communication in interstate commerce or of the mails to offer to sell or offer to buy through the use
3 or medium of any prospectus or otherwise any security, without a registration statement being filed
4 with the Commission as to such security, or while the registration statement was the subject of a
5 refusal order or stop order or (prior to the effective date of the registration statement) any public
6 proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

7 54. By reason of the foregoing, defendant William Jacobson violated, and unless
8 restrained and enjoined will continue to violate, Section 5 of the Securities Act [15 U.S.C. § 77e].

9 **FOURTH CLAIM**

10 *False Periodic Reports--Aiding and Abetting Issuer Violations of Section 13(a) of the Exchange Act
and Rules 12b-20, 13a-1, and 13a-13 Thereunder*

11 55. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

12 56. Atlas Mining filed with the Commission annual reports on Form 10-K for the
13 fiscal years 2003 through 2006, and quarterly reports on Form 10-Q for the first and second quarters
14 of 2007, that contained untrue statements of material fact and omitted to state material information
15 required to be stated therein or necessary in order to make the required statements made, in the light
16 of the circumstances under which they were made, not misleading, in violation of Section 13(a) of the
17 Exchange Act [15 U.S.C. § 78m(a)], and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§
18 240.12b-20, 240.13a-1, and 240.13a-13].

19 57. By engaging in the conduct described above, Defendant William Jacobson
20 knowingly provided substantial assistance to Atlas Mining's violations of Section 13(a) of the
21 Exchange Act [15 U.S.C. § 78m(a)], and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§
22 240.12b-20, 240.13a-1, and 240.13a-13].

23 58. By reason of the foregoing, defendant William Jacobson aided and abetted, and
24 unless restrained and enjoined will continue to aid and abet, violations of Section 13(a) of the
25 Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, and 13a-13 promulgated thereunder
26 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-13].
27
28

FIFTH CLAIM

Circumventing Internal Accounting Controls--Section 13(b)(5) of the Exchange Act and Rule 13b2-1 Thereunder

59. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

60. By engaging in the conduct described above, Defendant William Jacobson directly or indirectly, knowingly circumvented or failed to implement a system of internal accounting controls and knowingly falsified a book, record, or account described in Rule 13b2-1 of the Exchange Act [17 C.F.R. § 240.13b2-1].

61. By reason of the foregoing, Defendant William Jacobson violated and, unless restrained or enjoined, will continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 thereunder [17 C.F.R. § 240.13b2-1].

SIXTH CLAIM

Inaccurate Books and Records—Aiding and Abetting Violations of Section 13(b)(2)(A) of the Exchange Act

62. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

63. Based on the conduct alleged above, Atlas Mining violated Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)], which obligates issuers of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to make or keep books, records or accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the issuer's assets.

64. By engaging in the conduct described above, defendant William Jacobson knowingly provided substantial assistance to Atlas Mining's failure to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of the assets of Atlas Mining's assets.

65. By reason of the foregoing, defendant William Jacobson aided and abetted, and unless restrained and enjoined will continue to aid and abet, violations of 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

SEVENTH CLAIM

Inadequate Internal Accounting Controls—Aiding and Abetting Violations of Section 13(b)(2)(B) of the Exchange Act

66. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

67. Based on the conduct alleged above, Atlas Mining violated Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)], which obligates issuers of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to devise and maintain a sufficient system of accounting controls.

68. By engaging in the conduct described above, defendant William Jacobson knowingly provided substantial assistance to Atlas Mining's failure to devise and maintain a sufficient system of accounting controls.

69. By reason of the foregoing, defendant William Jacobson aided and abetted, and unless restrained and enjoined will continue to aid and abet, violations of 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)].

EIGHTH CLAIM

False Sarbanes-Oxley Certifications—Violations of Rule 13a-14 Under the Exchange Act

70. Paragraphs 1 through 44 are re-alleged and incorporated herein by reference.

71. As CEO and Principal Financial Officer of Atlas Mining, Jacobson was required to certify that Atlas Mining's periodic filings (including its Forms 10-K and 10-Q), to the best of his knowledge, included no material misstatements or omissions. Defendant William Jacobson, directly or indirectly, falsely certified annual reports and quarterly reports filed with the Commission under Section 13(a) of the Exchange Act from fiscal year 2003 through the second quarter of 2007, even though the filings contained material misstatements

72. By reason of the foregoing, defendant William Jacobson violated, and unless restrained and enjoined will continue to violate Rule 13a-14 under the Exchange Act [17 C.F.R. § 240.13a-14].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

I.

Issue an order permanently restraining and enjoining defendant William Jacobson and his agents, servants, employees, attorneys, and assigns, and those persons in active concert or participation with them, from violating Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], and Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Rules 10b-5, 13a-14 and 13b2-1 [17 C.F.R. §§ 240.10b-5, 240.13a-14, and 240.13b2-1], and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)], and Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13];

II.

Pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], prohibit defendant William Jacobson from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];

III.

Bar defendant William Jacobson from participating in an offering of penny stock, including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any penny stock;

IV.

Order defendant William Jacobson to pay a civil penalty pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]; and

V.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VI.

Grant such other relief as this Court may deem just and necessary.

Respectfully submitted,



Marc J. Fagel

Michael S. Dicke

John S. Yun

Kristin A. Snyder

Cameron P. Hoffman

Attorneys for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

Dated: December 22, 2009