

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

FILED
03 SEP 15 PM 2:29
CLERK U.S. DISTRICT COURT
S.D. OF FLA. - MIA.

SECURITIES AND EXCHANGE COMMISSION 03-61747

Plaintiff,

v.

JAMES MULHEARN, DAMIAN DELGADO
and ADRIAN BALBOA,

Defendants.

CIV. MARTINEZ

MAGISTRATE JUDGE
DUBÉ

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

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

INTRODUCTION

1. The Commission brings this action to permanently restrain and enjoin Defendants James Mulhearn ("Mulhearn"), Damian Delgado ("Delgado") and Adrian Balboa ("Balboa") (collectively "Defendants") from violating the federal securities laws in connection with their unregistered, fraudulent offering and sale of securities issued by Safetynet Industries, Inc. ("Safetynet"). From approximately November 2001 through December 2002, Safetynet, through its chief executive officer ("CEO"), Mulhearn, and its two primary in-house sales agents, Delgado and Balboa, raised more than \$600,000 by materially misleading investors about, among other things, raising money to further develop and market Safetynet's proprietary medical alert messaging products. Contrary to Defendants' representations, Safetynet never operated a legitimate business, never developed proprietary medical alert message products and never sold or marketed any of its alleged products. Instead of developing Safetynet's business, Defendants

misappropriated hundreds of thousands of dollars of investors' funds for their own personal use. Unless permanently enjoined, the Defendants will continue to violate the federal securities laws in the future.

DEFENDANTS

2. Defendant Mulhearn, age 31, is the founder and CEO of Safetynet. Mulhearn resides in Coral Springs, Florida and is currently licensed to sell securities by the National Association of Securities Dealers (the "NASD") as a registered representative. From no later than January 2002, Mulhearn acted as CEO of Safetynet and lead efforts, on behalf of the company, to sell its stock to the investing public.

3. Defendant Balboa, age 26, resides in Coconut Creek, Florida and is currently licensed to sell securities by the NASD as a registered representative. From November 2001 until approximately March 2003, Balboa worked as a sales agent for Safetynet's securities offering and purportedly worked on Safetynet's product development. On July 14, 2003, Balboa entered a guilty plea to criminal violations in connection with Defendants activities involving the offer and sale of Safetynet stock.

4. Defendant Delgado, age 29, resides in Boca Raton, Florida and during the relevant time frame was not licensed to sell securities by the NASD as a registered representative. From November 2001 through September 2002, Delgado worked as a sales agent for Safetynet's securities offering and purportedly worked on Safetynet's product development. Delgado has not worked for a broker-dealer, in any capacity, since October 2001.

ISSUER INVOLVED

5. Safetynet, a Delaware corporation, was formally formed in January 2002 but

began raising money as early as November 2001. Safetynet's principal place of business was in Coral Springs, Florida. Safetynet was dominated and controlled by Mulhearn, its founder and CEO. Safetynet purported to be in the business of medical alert messaging. Safetynet is now defunct.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d) and 77v(a), and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e) and 78aa.

7. Certain of the acts and transactions constituting violations of the Securities Act and the Exchange Act have occurred within the Southern District of Florida. Defendants reside in the Southern District of Florida. Safetynet's principal office was located within the Southern District of Florida, and Defendants have engaged in many of the acts and practices complained of herein within the Southern District of Florida.

8. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business complained of herein.

OVERVIEW OF THE FRAUDULENT SCHEME

9. Defendants solicited investors by telling them that Safetynet sold a patented medical alert emblem called a "Medical Alert Message Kit," consisting of temporary tattoos to be applied to a patient's skin in order to prevent medical errors. Defendants also told investors

that Safetynet was developing an Internet connected medical database containing patient information that medical personnel could access by scanning a bar-coding device incorporated into the temporary tattoo. Defendants directed investors to Safetynet's website, which promoted its alleged products. In reality, Safetynet never operated a legitimate business, never developed proprietary medical alert message products and never sold or marketed any of its alleged products.

10. In offering and selling the securities, Defendants made numerous material misrepresentations and omissions to prospective and actual investors regarding, among other things, Safetynet's business operations, projected revenues and profitability, use of investor proceeds and projected rate of return on the investment. In addition, Mulhearn misappropriated much of the monies raised for his personal use and Balboa and Delgado collectively received over \$100,000 in undisclosed commissions and bonuses.

11. From November 2001 to December 2002, Defendants helped sell more than \$600,000 of Safetynet common stock (in an integrated offering that was designed to raise \$4 million) to approximately 17 investors nationwide. No registration statement was filed or was in effect with the Commission in connection with the securities offered by Safetynet.

**DEFENDANTS' MATERIAL MISREPRESENTATIONS AND OMISSIONS IN
CONNECTION WITH SAFETYNET'S OFFERING**

12. Safetynet solicited investors primarily through Defendant Mulhearn and three in-house sales agents, Delgado, Balboa and Chris Mulhearn (Defendant Mulhearn's brother who is deceased). Defendants solicited investors via telephone and in-person at their homes. Most of the individuals who invested in Safetynet were clients of broker-dealers that had previously employed Delgado and Balboa. Many investors were elderly, unsophisticated and at least one

investor suffers from Alzheimer's disease.

13. Defendants provided prospective investors with offering materials, including, among other things, Subscription Agreements, Confidential Private Placement Memorandums, dated May 1, 2002 ("PPM") and a Business Plan (collectively "Offering Materials").

14. Mulhearn as CEO of Safetynet was responsible for ensuring that the Offering Materials were materially accurate and controlled what information Safetynet included in its Offering Materials. Mulhearn knew that the Offering Materials were materially misleading because, among other reasons, as CEO he knew that Safetynet was not running a legitimate business and that he was paying Delgado, Balboa and himself hundreds of thousands of dollars in unauthorized compensation.

15. Delgado and Balboa had firsthand knowledge that the Offering Materials were materially misleading because, among other reasons, they worked on Safetynet's alleged product development, which gave them knowledge that Safetynet was not operating a legitimate business, and they received hundreds of thousands of dollars of unauthorized commission based compensation.

16. Based on this knowledge, Defendants knew or were reckless in not knowing that the Offering Materials, as well as oral statements made by them to investors, contained material misrepresentations and omissions regarding, among other things, Safetynet's business operations and financial projections, the expected rate of return of Safetynet's shares, the use of investors' proceeds and the amount of commissions that Safetynet would pay to sales representatives.

A. Defendants' Material Misrepresentations and Omissions in Connection with Safetynet's Business and Future Profitability

17. Defendants misled investors into believing that Safetynet operated a legitimate business. For instance, Defendants told investors, both orally and through the Offering Materials, that Safetynet sold a patented medical alert emblem for \$39.95, called a "Medical Alert Message Kit," consisting of temporary tattoos to be applied to a patient's skin in order to prevent medical errors. In reality, as Defendants knew, or were reckless in not knowing, that the primary component of the Medical Alert Message Kit (the allegedly patented emblem) was no different than a ten cent children's temporary tattoo and was such a sham that Safetynet did not even sell a single kit.

18. Defendants orally told investors that the company was developing a medical database accessible through the Internet. The Business Plan and PPM included in the Offering Materials also similarly stated that Safetynet was "currently in the process of finalizing the functionality design phase of the database." In fact, as Defendants knew, or were reckless in not knowing, that Safetynet was not in the process of finalizing the functionality design phase of the database because, among other reasons, no such database existed and the company lacked the scanning capabilities required to make the database work.

19. The Business Plan included in the Offering Materials stated that Safetynet had "oral acceptance from several hospitals in the South Florida area that have agreed to use our emblems on a trial basis." In fact, as Defendants knew, or were reckless in not knowing, that not a single hospital ever agreed to use Safetynet's products.

20. The Business Plan included in the Offering Materials also contained intentionally and recklessly misleading and baseless financial projections. The Business Plan, projected \$6.3

million in sales and \$3 million net profits in its first year of operations, \$18.8 million in sales with net profits of \$9.2 million in its second year, and \$37.6 million in sales with net profits of \$18 million in its third year ("Projections"). Defendants knew, or were reckless in not knowing, that the Projections were materially misleading, were baseless and were false when made because Safetynet was a start-up company with virtually no assets, with no legitimate business and with no chance to succeed due to Defendants' misappropriation of investors' funds. In fact, due to Defendants' actions, all investors' funds were exhausted without Safetynet ever generating any customers or revenues.

B. Defendants' Material Misrepresentations and Omissions in Connection with the Expected Rate of Return of Safetynet's Shares.

21. During the summer and fall of 2002, Defendants misled investors into believing that within weeks Safetynet would acquire a public company and complete a reverse merger that would enable Safetynet's shares to trade publicly on the Over the Counter ("OTC") Bulletin Board. Contrary to these representations, during the summer and fall of 2002, Safetynet had neither identified any public companies with which to merge nor entered into preliminary discussions with any company regarding a reverse merger.

22. Defendants also fraudulently represented to investors that once Safetynet completed the reverse merger and the stock traded publicly, investors could expect returns from 100% to 300%. Defendants' claims that investors could expect these outlandish returns were baseless because Safetynet had few assets, no revenue and no realistic way to generate future revenue due to Defendants misappropriation of investors' funds.

23. During the fall of 2002, Defendant Mulhearn also told at least one investor that Safetynet had hired an accounting firm to conduct a full audit of the company, which he expected to be completed “next week,” and that several brokerage firms had agreed to act as market makers for Safetynet stock. In actuality, no audit firm had signed a contract or performed any audit work. Furthermore, no brokerage firm agreed to act as a market maker for Safetynet’s stock.

C. Defendants’ Material Misrepresentations and Omissions in Connection with the Use of Investors’ Proceeds.

24. The Offering Materials represented that Safetynet would use virtually all of the funds received from investors for the company’s general working capital, including marketing, office equipment, office lease, payroll, advertising, and manufacturing. Defendants knew this was false because virtually none of the funds raised were used for legitimate business expenses since Defendants misappropriated hundreds of thousands of dollars from Safetynet’s general working capital.

25. The PPM included in the Offering Materials, stated “on sales made directly to investors by officers or directors of the Company, no commission or any other form of remuneration will be paid.” Mulhearn as CEO of Safetynet (an officer), therefore, should not have received any commissions or any other form of remuneration based on his stock sales to investors. Nonetheless, Mulhearn misappropriated investors’ funds and used them for personal expenses such as jewelry, his wife’s car payments, personal income taxes, childcare, groceries, restaurant bills and boating-related expenses that exceeded \$85,000. Mulhearn also withdrew approximately \$20,000 in cash from the Safetynet account and wrote himself checks in excess of

\$25,000 purportedly as “salary” that was similarly unauthorized under the express terms of the Offering Materials. Mulhearn also transferred \$35,000 from the Safetynet account to the bank account of another defunct company controlled by Mulhearn for “marketing” expenses. Mulhearn has admitted that the defunct company never performed any marketing for Safetynet.

26. Defendants misrepresented the amount of commissions that Mulhearn would pay Delgado and Balboa. The PPM included in the Offering Materials, stated that Safetynet “may” offer its shares through broker-dealers who are members of the NASD and specified that for these sales “the Company may pay a commission of 10% of the principal amount...” Safetynet did not offer its shares through any broker-dealer who authorized such sales because, among other reasons, Mulhearn and Balboa were not authorized, by the broker-dealer that they worked at, to sell Safetynet stock. Additionally, Defendant Delgado was never associated with any broker-dealer during the time he was selling Safetynet stock. Therefore, Defendants knew, or were reckless in not knowing, that they should not have been paid any commissions because Safetynet never offered any of its shares through any broker-dealer who authorized Safetynet stock sales. Nevertheless, Defendants were paid hundreds of thousands of dollars of commissions. For instance, Safetynet’s bank records indicate that over \$125,000 in investors’ funds (which represented over 20% of the principal amount raised) was used to pay transaction-based commissions and bonuses to Balboa and Delgado.

CAUSES OF ACTION

COUNT I

**SALE OF UNREGISTERED SECURITIES IN VIOLATION OF
SECTIONS 5(a) AND 5(c) OF THE SECURITIES ACT**

(Against All Defendants)

27. The Commission repeats and realleges paragraphs 1 through 26 of this Complaint.

28. No registration statement was filed or in effect with the Commission pursuant to the Securities Act and no exemption from registration exists with respect to the securities and transactions described herein.

29. Since a date unknown but since at least November 2001 through December 2002, Defendants Mulhearn, Delgado, and Balboa directly and indirectly: (a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities as described herein, through the use or medium of a prospectus or otherwise; (b) carried securities or caused such securities, as described herein, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; and/or (c) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise, as described herein, without a registration statement having been filed or being in effect with the Commission as to such securities.

30. By reason of the foregoing, Defendants Mulhearn, Delgado and Balboa directly and indirectly, have violated, and unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

COUNT II

**FRAUD IN VIOLATION OF
SECTION 17(a)(1) OF THE SECURITIES ACT**

(Against All Defendants)

31. The Commission repeats and realleges paragraphs 1 through 26 of the Complaint.

32. Since a date unknown but since at least November 2001 through December 2002, Defendants Mulhearn, Delgado, and Balboa, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by use of the mails, in the offer or sale of securities, as described herein, knowingly, willfully or recklessly employed devices, schemes or artifices to defraud.

33. By reason of the foregoing, Defendants Mulhearn, Delgado and Balboa, directly and indirectly, violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

COUNT III

**FRAUD IN VIOLATION OF SECTION 10(b)
OF THE EXCHANGE ACT AND RULE 10b-5 PROMULGATED THEREUNDER**

(Against All Defendants)

34. The Commission repeats and realleges paragraphs 1 through 26 of its Complaint.

35. Since a date unknown but since at least November 2001 through December 2002, Defendants Mulhearn, Delgado, and Balboa, directly and indirectly, by use of the means and instrumentality of interstate commerce, and of the mails, and of any facility of any national securities exchange, in connection with the purchase or sale of the securities, as described herein, knowingly, willfully or recklessly: (a) employed devices, schemes or 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 the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices and courses of business which have operated as a fraud upon the purchasers of such securities.

36. By reason of the foregoing, Defendants Mulhearn, Delgado and Balboa, directly or indirectly, 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, 17 C.F.R. § 240. 10b-5, thereunder.

COUNT IV

**FRAUD IN VIOLATION OF
SECTIONS 17(a)(2) AND 17(a)(3) OF THE SECURITIES ACT**

(Against All Defendants)

37. The Commission repeats and realleges paragraphs 1 through 26 of its Complaint.

38. Since a date unknown but since at least November 2001 through December 2002, Defendants Mulhearn, Delgado, and Balboa, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities, as described herein: (a) obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (b) engaged in transactions, practices and courses of business which operated as a fraud or deceit upon purchasers of such securities.

39. By reason of the foregoing, Defendants Mulhearn, Delgado and Balboa, directly and indirectly, violated and, unless enjoined, will continue to violate Sections 17(a)(2) and

17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77(q)(a)(3).

COUNT V

**FRAUD IN VIOLATION OF
SECTION 15(a)(1) OF THE EXCHANGE ACT**

(Against Defendant Balboa and Defendant Delgado)

40. The Commission realleges and repeats paragraphs 1 through 26 of this Complaint.

41. Since a date unknown but since at least November 2001 through December 2002, Defendant Balboa, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, effected transactions in securities, or induced or attempted to induce the purchase or sale of securities, without registering as a broker-dealer in accordance with Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o.

42. Since a date unknown but since at least November 2001 through September 2002, Defendant Delgado, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, effected transactions in securities, or induced or attempted to induce the purchase or sale of securities, without registering as a broker-dealer in accordance with Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o.

43. By reason of the foregoing, Defendant Balboa and Defendant Delgado, directly and indirectly, violated Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that Defendants Mulhearn, Delgado and Balboa committed the violations of the federal securities laws alleged herein.

II.

Permanent Injunctive Relief

Issue a Final Judgment of Permanent Injunction, permanently restraining and enjoining:

A. Defendant Mulhearn, his officers, agents, servants, employees, attorneys, and all persons in active concert or participation with him, and each of them, from violating: (i) Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c); (ii) Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a); (iii) 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; and (iv) Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77(q)(a)(3); and

B. Defendant Delgado and Defendant Balboa, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating: (i) Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c); (ii) Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a); (iii) 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; (iv) Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77(q)(a)(3); and (v) Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

III.

Disgorgement

Issue an Order requiring Defendants Mulhearn, Delgado and Balboa to disgorge all ill-gotten profits or proceeds that they have received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest.

IV.

Penalties

Issue an Order directing Defendants Mulhearn, Delgado and Balboa to pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78(d)(3).

V.

Penny Stock Bar

Issue an Order pursuant to the Court's equitable jurisdiction and Section 603 of the Sarbanes-Oxley Act of 2002 permanently enjoining Defendants Mulhearn, Delgado and Balboa from directly or indirectly participating in an offering of penny stock, as defined by Rule 3a51-1 under the Exchange Act, 17 C.F.R. § 240.3a51-1.

VI.

Accounting

Issue an Order requiring sworn accountings by Mulhearn, Delgado and Balboa of all profits or proceeds each has received, directly or indirectly, as a result of the conduct complained of herein.

VII.

Further Relief

Grant such other and further relief as the Court may deem just and appropriate.

VIII.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

September 16, 2003

By:



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JS 44 (Rev. 12/96)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Securities and Exchange Commission

DEFENDANTS

James Mulhearn, Damian Delgado, and Adrian Balboa

03-61747

CLERK OF COURT
03 SEP 16 2003
MAGISTRATE
DUDE
2:29

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

Broward

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

Broward

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Christopher E. Martin, Esq. (305) 982-6386
SEC, 801 Brickell Ave., Suite 1800, Miami, FL 33131

ATTORNEYS (IF KNOWN)

MAGISTRATE
DUDE

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 185 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS	A LABOR	B SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

15 U.S.C. §§ 77e(a) and 77e(c); 15 U.S.C. § 77q(a); 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5; 15 U.S.C. §§ 77q(a)(2) and 77q(a)(3); 15 U.S.C. § 78o(a)(1). Violations of the federal securities laws.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

Perm. Inj., Disgorgement, Penalties

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/16/03

Christopher E. Martin

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____