IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	**Case No.: 11-CV-2945**
EVOLUTION CAPITAL ADVISORS, LLC, EVOLUTION INVESTMENT GROUP I, LLC, AND DAMIAN OMAR VALDEZ,	§	
	§	
Defendants,	§	
	§	

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") files this Complaint against defendants Damian Omar Valdez, Evolution Capital Advisors, LLC ("Evolution Capital"), and Evolution Investment Group I, LLC ("EIGI") (collectively, "Defendants"), and alleges:

SUMMARY

1. From February 2008 through at least August 2010, Damian Omar Valdez, Evolution Capital and EIGI raised approximately $10.1 million, from more than 80 investors, in two fraudulent offerings of Redeemable Secured ("Notes"). While conducting the offerings, Defendants claimed that the Notes were backed by a safe, secure portfolio of loan assets guaranteed by the United States government. But in truth, most of the assets in the portfolio were not guaranteed by the U.S. government or anyone else.

2. Evolution Capital was the issuer in the first secured note offering (the "C1/D1" offering), which promised 9% returns for three year investments (C1 class) or 10% for five year

investments (D1 class). EIGI, a "special purpose subsidiary" of Evolution Capital, was the issuer in the second secured note offering (the "C2/D2" offering), which promised 7% returns for three year investments (C2 class) or 7.5% for five year investments (D2 class).

3. In conducting the Note offerings, Defendants solicited investors using confidential private placement memoranda referred to in this Complaint as the C1/D1 PPM and the C2/D2 PPM. Defendants made a number of materially false statements and omissions in these PPMs. Most significantly, Defendants claimed that the Notes would be used to purchase a portfolio of safe, low-risk debt obligations "guaranteed by the full faith and credit of the United States Government." Instead of investing the funds as promised, Defendants purchased Small Business Administration interest only strips ("SBA IO Strips"), which entitle holders to only a portion of the interest paid on an SBA loan or groups of loans. That is, the asset underlying the strips is interest paid on the loans, not the guaranteed principal. If the borrower prepays or defaults on the SBA loan underlying the strip, interest payments stop and the value of the strip in effect falls to zero.

4. Although the U.S. government guarantees repayment of the principal of SBA loans, it only guarantees a small amount of interest from the date of default – typically 120 days or less. Thus, SBA IO Strips are not guaranteed by the U.S. government or anyone else, and are subject to significant prepayment and default risks. Defendants did not reveal these significant risks to their investors.

5. The undisclosed default and prepayment risks were material and real. Records produced to the SEC confirm that at least 19% of the SBA IO Strips purchased for the Evolution

Capital / EIGI investment portfolio have prepaid or defaulted. Evolution Capital's Chief Compliance Officer puts the number even higher, at fully 25% of the SBA IO Strips having prepaid or defaulted. Likewise, Defendants' 2010 financial statements disclose that EIGI lost more than $1 million because of early pay-offs and defaults on SBA IO Strips.

6. In the PPMs, Defendants also promised investors that they would use "substantial leverage" to maximize the returns of Defendants' investment portfolio. Before commencing the C1/D1 offering, Valdez tried to obtain financing, but failed. So Valdez knew or must have known that there was substantial risk that Defendants would not be able to obtain financing. In fact, Defendants never secured financing for either offering. Valdez also knew or must have known that leverage was essential to generate adequate returns to repay investors. Yet, Valdez and Evolution Capital never disclosed these considerable risks.

7. Defendants further harmed investors by using offering proceeds to pay themselves more than $2.4 million in so-called management fees and expenses. Many of the expenses appear completely unrelated to Defendants' business – managing investments for the benefit of investors. For example, Evolution Capital has paid thousands for Valdez's unrelated travel (including trips to China and the Bahamas, where Valdez reportedly has a family residence), entertainment, dining, cellular telephone bills, cable bills, and other utilities.

8. Defendants' financial condition is dire. They have incurred substantial default and prepayment losses on their risky SBA IO Strip investments, withdrawn exorbitant fees, and failed to secure the promised financing. Defendants also took $2.7 million from C2/D2 investors to pay-off C1/D1 investors. In other words, they made Ponzi payments.

9. As a consequence of this misconduct, EIGI's assets were, as of December 31, 2010, at least $1.1 million less than the amount owed to C2/D2 Note holders. EIGI's financial statements also reveal $300,000 in "short-term investments," which are in truth undisclosed loans to Evolution Capital. So EIGI is, in all likelihood, more than $1.4 million in the hole.

10. Defendants' conduct is egregious. They lied when they told investors that Note proceeds would be invested in safe government guaranteed assets. Also, they failed to disclose that investor funds would be used to purchase risky SBA IO Strips. Nor did they disclose adequately the risks associated with the strips, including prepayment risks, default risks, and the lack of government guarantees. What is more, Defendants failed to secure the promised leverage, or even disclose the substantial risk that leverage would not be available. Finally, Defendants greatly harmed investors by paying themselves excessive management fees and expenses totaling more than $2.4 million.

11. To protect investors from more harm, the Commission brings this securities enforcement action seeking preliminary and permanent injunctions against Defendants, enjoining them from further violations of the antifraud provisions of the federal securities laws and requiring disgorgement of ill-gotten gains, plus prejudgment interest and civil money penalties. To prevent additional asset dissipation, the Commission also seeks an asset freeze, an accounting and other incidental relief, as well as the appointment of a receiver to take possession and control of Defendants' assets.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action under Section 22(a) of the Securities Act of 1933 [15 U.S.C. § 77v(a)] (the "Securities Act"), Section 27 of the Securities Exchange Act of 1934 [15 U.S.C. § 78u and 78aa] ("Exchange Act"), and Section 214 of the Investment Advisers Act of 1940 [15 U.S.C. § 80b] ("Advisers Act"). Defendants have, directly or indirectly, with scienter, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, transactions, practices, and courses of business described in this Complaint.

13. Venue is proper in this district under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b]. Certain of the acts, transactions, practices, and courses of business constituting the violations alleged in this Complaint occurred in the Southern District of Texas and certain of the defendants and victims are located in this district.

PARTIES

14. **Evolution Capital Advisers, LLC,** the issuer in the first (or C1/D1) secured note offering, is a Delaware limited liability company registered in the State of Texas, with its principal office in The Woodlands, Texas, and an office in New York, New York. Evolution Capital is owned and controlled by its founder and managing member, Valdez. Evolution Capital was a Commission-registered investment adviser from April 3, 2008 until June 8, 2010, when it withdrew its registration. According to the Note offering documents, Evolution Capital

was formed to invest solely in debt obligations guaranteed by agencies of the United States and backed by the full faith and credit of the United States Government.

15. **Evolution Investment Group I, LLC,** the issuer in the second (or C2/D2) secured note offering, is a Delaware limited liability company established in May 2008. EIGI is described in offering documents as a "special purpose subsidiary of Evolution Capital Advisors, LLC" created to issue notes and manage a portfolio of U.S. Government Guaranteed Loans backed by the unconditional, full faith and credit of the United States Government. At all relevant times, Valdez controlled EIGI through his ownership and control over Evolution Capital, which in turn owns and controls EIGI. Evolution Capital acts as the investment manager and administrator for EIGI. In short, Evolution Capital runs EIGI's business by administering its day to day operations (e.g., marketing, sales and client support functions) and its investment process.

16. **Damian Omar Valdez** is the founder, owner, and managing member of Evolution Capital Advisors, LLC. Through Evolution Capital, Valdez controls its subsidiaries, including EIGI. And as Chief Investment Officer and Co-Portfolio manager, Valdez oversees and manages Evolution Capital and EIGI's investment activities. He is also the co-founder and President of Sinoaccess Investment, Inc., which purportedly invests in China. During the SEC's investigation, Valdez invoked his Fifth Amendment right against self incrimination, and refused to answer any substantive questions regarding Evolution Capital and EIGI.

FACTS

EVOLUTION'S GOVERNMENT GUARANTEED LOAN PROGRAM AND SECURED NOTE OFFERINGS

17. Valdez purportedly formed Evolution Capital to "invest solely in debt obligations guaranteed by agencies of the United States and backed by the "full faith and credit of the United States Government." Later, Valdez formed EIGI for the stated purpose of investing in a portfolio of debt obligations guaranteed by the full faith and credit of the United States Government and its agencies.

18. From February 2008 through at least August 2010, Damian Omar Valdez, Evolution Capital and EIGI raised approximately $10.1 million in total, from more than 80 investors, in two fraudulent offerings of "Redeemable Secured Notes." Both offerings were purportedly backed by a portfolio of safe and secure "U.S. Government guaranteed loan assets."

19. Evolution Capital was the issuer in the first secured note offering (the "C1/D1" offering). EIGI, a "special purpose subsidiary" of Evolution Capital, was the issuer in the second secured note offering (the "C2/D2" offering). Proceeds from both note offerings and related investments were commingled.

The First "C1/D1" Secured Note Offering

C1/D1 Offering Summary

20. In early 2008, Evolution Capital commenced the C1/D1 Offering, a $100 million offering of "Evolution Capital Redeemable Secured Notes" purportedly secured by a portfolio of Small Business Administration and other U.S. Government loans guaranteed by the full faith and

credit of the United States government. Evolution Capital promised returns of 9% for three years (C1 class) or 10% for five years (D1 class). The C1/D1 Offering raised approximately $4.7 million from 49 investors between February 2008 and August 2008.

21. Valdez, as the Managing Member and majority owner of Evolution Capital, controlled all aspects of the C1/D1 Offering, and Evolution Capital's conduct, management and policies, including the conduct of Evolution Capital's employees and representatives.

22. As described in greater detail below, the C1/D1 Offering PPM included numerous material misrepresentations and omitted material facts regarding, among other things, use of proceeds to purchase government guaranteed assets, the risk profile of the SBA IO Strips purchased, and the use of leverage to maximize returns. Valdez drafted the C1/D1 PPM with knowledge of these false statement and omissions.

Fraudulent Statements and Omissions in the C1/D1 Offering

The Government Guaranteed Investment Portfolio

23. Valdez and Evolution Capital promised to use C1/D1 investor funds to purchase a portfolio of safe, low-risk debt obligations "guaranteed by the full faith and credit of the United States Government."

24. Among other things, the C1/D1 PPM represented that proceeds from the sale of the C1/D1 Notes would be used:

> "to purchase and manage a portfolio of guaranteed portions of loans secured by tangible assets pledged by their borrowers, such as real estate and business assets, and guaranteed by the United States Small Business Administration and United

States Department of Agriculture, backed by the full faith and credit of the United States Government."

25. The C1/D1 PPM also touted "safety of principal" as Evolution Capital's first investment objective, and included among the "major advantages" for investors "[s]afety of principal because the Notes are secured by a portfolio of debt obligations guaranteed by the full faith and credit of the United States Government."

26. Despite these representations and assurances, Defendants used approximately $4 million of the $4.7 million from the C1/D1 Offering to make speculative bets on SBA IO Strips, which entitle holders to receive only a portion the interest paid on an SBA loan or groups of loans. That is, the asset underlying the strips is interest paid on the loans, rather than the guaranteed principal. While the U.S. government guarantees repayment of the principal of SBA loans, it only guarantees a small amount of interest from the date of default – typically 120 days or less.

27. SBA IO Strips are subject to significant default and prepayment risks. If the borrower prepays or defaults on the loan underlying the strip, interest payments stop and the value of the strip in effect falls to zero. So if, for example, a 25-year SBA loan underlying an IO Strip prepays or defaults during the first year of the loan, the IO Strip holder will likely receive a small fraction (less than $1/25^{th}$) of the expected interest income.

28. The undisclosed default and prepayment risks were material and real. Records produced to the SEC confirm that at least 19% of the SBA IO Strips purchased for the Evolution Capital / EIGI investment portfolio have prepaid or defaulted. Evolution Capital's Chief

Compliance Officer puts the number even higher, at fully 25% of the SBA IO Strips having prepaid or defaulted. Likewise, Defendants' 2010 financial statements reveal that EIGI lost more than $1 million because of early pay-offs and defaults on SBA IO Strips.

Use of Leverage in the C1/D1 Offering

29. In the C1/D1 PPM, Defendants also promised investors that Evolution Capital would use "substantial leverage" to "maximize" the returns generated by Evolution Capital's portfolio of (purportedly government guaranteed) assets. According to the C1/D1 PPM:

> [Evolution Capital] will utilize the proceeds from this offering and a credit facility and or facilities to be obtained from a bank or other financial institution (the "Credit Facility" and or "Credit Facilities") to finance the purchase of SBA, USDA, and other U.S. Government Guaranteed Loans. Management will decide in its sole discretion the ratio of Secured Note proceeds and Credit Facility proceeds that will be utilized to finance the acquisition of the Loan portfolio. Presently, management estimates that 10% to 20% of the Loan portfolio purchase price will be derived from the sale of Notes and 80% to 90% from the proceeds of the Credit Facility. . . . In order to maximize returns generated from the investment of the Note proceeds, substantial leverage will be utilized. Given the explicit "full faith and credit" U.S. government guarantee of the Loans, the Company's investment program can support significant leverage (i.e. of up to 10x or more).

30. The C1/D1 PPM also disclosed the importance of obtaining the promised leverage:

> "The leverage from the Credit Facility is expected to enable the Company to pay debt service on the Notes and earn management fees and a profit on its Loan purchase and trading business. In this regard, management expects the cash flow from Loan payments and the anticipated profits from the resale of Loans in its portfolio to exceed the debt service on the Notes and the Credit Facility."

31. But before commencing the C1/D1 offering, Valdez tried to obtain financing, and failed. So Valdez knew or must have known that there was substantial risk that Evolution Capital (and later EIGI) would not be able to acquire the promised financing. In fact, Valdez and the other Defendants never secured a credit facility to support either note offering.

32. The inability to secure financing should have come as no surprise to Defendants. Valdez knew or should have known that "the explicit 'full faith and credit' U.S. government guarantee" of the loan portfolio was vital to Evolution Capital's chances to obtain significant leverage.

33. So Valdez knew, or at minimum must have known, of the substantial risk that Evolution Capital would not get the promised financing, and that without that financing Evolution would likely be unable to pay investors the promised interest and principal. Yet, Valdez and Evolution Capital never informed C1/D1 investors about these substantial risks.

The Second "C2/D2" Secured Note Offering

C2/D2 Offering Summary

34. In late 2008, Valdez and Evolution Capital began a second secured note offering, the C2/D2 offering, through EIGI, a new "special purpose subsidiary of Evolution Capital." The C2/D2 Offering PPM promised returns of 7% for three year investments (C2 class) or 7.5% for five year investments (D2 class). Between December 2008 and August 2010, the C2/D2 Offering raised at least $5.4 million from approximately 33 investors.

35. At all relevant times, Valdez was the Managing Member of Evolution Capital and majority owner of Evolution Capital and EIGI. Through Evolution Capital, he controlled all aspects of the C2/D2 Offering, and EIGI's conduct, management and policies, including the conduct of Evolution Capital and EIGI's employees and representatives.

36. As described in greater detail below, the C2/D2 Offering PPM included numerous material misrepresentations and omitted material facts regarding, among other things, use of proceeds to purchase government guaranteed assets, the risk profile of the investment portfolio, the use of leverage to maximize returns, and the source of funds used to repay investors. Valdez drafted and reviewed the C2/D2 PPM with knowledge of these false statement and omissions.

Fraudulent Statements and Omissions in the C2/D2 Offering

The Government Guaranteed Investment Portfolio

37. Defendants made false statements and omitted material facts to convince C2/D2 Offering investors that nearly all their funds would be used to purchase safe, government-guaranteed debt obligations.

38. Specifically, the C2/D2 Offering PPM assured investors that:

> [EIGI] was formed primarily to invest in a portfolio of interests in debt obligations guaranteed by the full faith and credit of the United States Government, its agencies or instrumentalities, assignments of interest in such obligations, and commitments to purchase such obligations. These guaranteed debt obligations will consist of the guaranteed portion of floating-rate loans guaranteed by the U. S. Small Business Administration under the SBA 7(a) program, the U.S. Department of Agriculture, and may also consist of other portions of loans that are guaranteed by the United States Government under various government guaranteed loan programs ("Guaranteed Debt Obligations").

39. The C2/D2 PPM promised that 100% of net proceeds would be invested in government guaranteed assets:

> In pursuing its objective of earning the highest level of current income consistent with safety, liquidity, and preservation of capital Evolution Investment Group I, LLC (the "Company") has been formed to invest 100% of the net proceeds of the Offering (plus any borrowings for investment purposes) in a portfolio of interests in United States ("U.S.") Government guaranteed floating rate bank loans and other debt obligations issued or guaranteed by the full faith and credit of the U.S. Government, its agencies or instrumentalities . . .

40. Like the PPM used in the first offering, the C2/D2 PPM touted "safety of principal" as Evolution Capital's first investment objective, and included among the "major

advantages" for investors "[s]afety of principal because the Notes are secured by a portfolio of debt obligations guaranteed by the full faith and credit of the United States Government." And the "Use of Proceeds" section of the C2/D2 PPM made clear that investor funds were to be used to purchase only Guaranteed Debt Obligations.

41. Although the C2/D2 Offering PPM contained a general (but grossly inadequate) description of SBA IO Strips and how they work, it did not disclose that *any* C2/D2 offering proceeds would be invested in SBA IO Strips or any other assets that are not guaranteed by the United States government. Rather, the PPM plainly stated the opposite: that C2/D2 proceeds would be invested exclusively in debt obligations guaranteed by the full faith and credit of the United States Government.

42. If that were not bad enough, the C2/D2 Offering PPM's general description of SBA IO Strips was grossly inadequate and misleading for additional reasons. The PPM did not disclose the substantial default and prepayment risks inherent in SBA IO Strips. And while the C2/D2 Offering memo discloses that the "SBA guarantees ultimate payment of interest to the registered holder of the [IO strip]…limited to a specified time period," the PPM omits a key detail: that the guaranteed "specified time period" only covers a few months of interest, rather than the full life of the SBA loans. Many of the strips purchased by Defendants had 25 year maturities.

43. The C2/D2 PPM also did not disclose that the estimated default rate of the IO strips purchased by Evolution was approximately 15%. And there is no disclosure regarding the

substantial losses Evolution Capital had already incurred on SBA IO Strips purchased using C1/D1 funds.

44. Notwithstanding the representations and assurances in the C2/D2 Offering PPM, less than half of the $5.4 million raised in the C2/D2 Offering was invested in U.S. government guaranteed debt obligations. EIGI invested $640,000 in SBA IO Strips and only about $1.9 million in a trust which did invest in guaranteed SBA loans. As discussed below, Defendants used the roughly $2.7 million in remaining C2/D2 proceeds to make Ponzi-like payments to C1/D1 investors.

Use of Leverage in the C2/D2 Offering

45. Like the PPM used in the first offering, the C2/D2 Offering PPM was misleading because it gave the false impression that EIGI would use leverage to achieve the promised returns. While the PPM states in one place that it "may" utilize funding from a credit facility, the PPM also says that "substantial leverage will be used," and cites to the "anticipated credit facility."

46. And by the time the C2/D2 offering commenced, Valdez knew or must have known – based on his inability to obtain financing to support the C1/D1 offering – that there was substantial risk that Defendants would not be able to obtain the leverage needed for the C2/D2 offering. Ultimately, Evolution Capital and EIGI never acquired a credit facility for the benefit of C2/D2 note holders.

47. Thus, EIGI's disclosure about its use of leverage for the C2/D2 offering is misleading because it strongly implies that leverage will be used, while failing to disclose prior failures to secure leverage.

Ponzi Payments to C1/D1 Investors

48. Evolution Capital and EIGI used approximately $2.7 million, or more, of the C2/D2 proceeds to make Ponzi payments to C1/D1 investors. In other words, Defendants took $2.7 million from C2/D2 investors, and used it to pay-off C1/D1 investors.

49. The C2/D2 Offering PPM did not reveal the Defendants' plan to use C2/D2 proceeds for Ponzi payments. Rather, C2/D2 investors were led to believe that nearly all their funds would be used to purchase safe, government guaranteed debt obligations.

EXCESSIVE MANAGEMENT FEES AND EXPENSES

50. Valdez and Evolution Capital have withdrawn more than $2.4 million from EIGI's and Evolution Capital's accounts for so-called management fees and expenses. In some months, Evolution Capital and Valdez paid themselves as much as $100,000 in "fees and expenses." And many of the expenses appear to be completely unrelated to Defendants' business – i.e., managing investments for the benefit of the C1/D1 and C2/D2 investors.

51. For example, from at least January 2009 to January 2010, Evolution Capital paid almost $4,000 a month for Valdez's Houston apartment. Evolution Capital also paid more than $160,000 in rent for a New York property owned by Valdez's brother. And Evolution Capital has paid thousands for Valdez's unrelated travel (including trips to China and the Bahamas,

where Valdez reportedly has a family residence), entertainment, cellular telephone bills, cable bills, and other utilities.

52. Evolution Capital also continues to pay nearly $10,000 a month to its Chief Compliance Officer, more than $10,000 a month to its investment officer (even though he has not purchased any IO strips or other investments for the benefit of Evolution Capital and EIGI note investors since August 2009), and another $7,500 a month to an employee who was supposedly hired to find additional investors, but has failed to find a single one.

53. In recent months, Evolution Capital has continued to withdraw excessive management fees, further depleting assets available to repay investors. In March, April, and May 2011, Evolution Capital took nearly $300,000 in fees and used about $1.4 million to redeem C1/D1 Notes, while receiving less than $300,000 in additional interest payments on the strips. As of May 31, 2011, EIGI and Evolution Capital had less than $400,000 in cash on deposit at U.S. Bank. Defendants continued using investor funds to pay excessive fees and expenses that will only further harm C2/D2 note holders.

DEFENDANTS' DIRE FINANCIAL CONDITION

54. Defendants are in dire financial straits. They have incurred substantial default and prepayment losses on risky SBA IO Strip investments, withdrawn exorbitant fees, and failed to secure the promised financing. They also used approximately $2.7 million, or more, of the C2/D2 proceeds to make Ponzi payments to C1/D1 investors.

55. As a consequence of Defendants' misconduct, EIGI's assets were, as of December 31, 2010, at least $1.1 million less than the amount owed to C2/D2 note holders. EIGI's financial

statements also reveal $300,000 in "short-term investments," which are in truth undisclosed loans to Evolution Capital. So EIGI is, in all likelihood, more than $1.4 million in the hole.

CLAIMS

FIRST CLAIM
Direct Violations of Section 17(a) of the Securities Act
(As to Defendants Evolution Capital and EIGI)

56. Plaintiff Commission repeats and incorporates paragraphs 1 through 55 of this Complaint by reference.

57. Defendants Evolution Capital and EIGI, directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

58. Defendants Evolution Capital and EIGI acted with scienter. Acting through Valdez, Evolution Capital and EIGI made the referenced misrepresentations and omissions intentionally, knowingly or with severe recklessness. Defendants Evolution Capital and EIGI were also negligent in making the representations and omissions alleged herein.

59. For these reasons, Defendants Evolution Capital and EIGI violated, and unless restrained and enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. §

77q(a)].

SECOND CLAIM
Aiding and Abetting Violations of Violations of Section 17(a) of the Securities Act
(As to Defendants Valdez and Evolution Capital)

60. Plaintiff Commission repeats and incorporates paragraphs 1 through 55 of this Complaint by reference.

61. Defendant Evolution Capital and EIGI violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

62. Defendant Valdez aided and abetted Evolution Capital and EIGI's violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]. Valdez knowingly or recklessly provided substantial assistance to Evolution Capital and EIGI directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails: (a) employing devices, schemes or artifices to defraud; (b) obtaining money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in transactions, practices or courses of business which operate or would operate as a fraud or deceit. Therefore, Defendant Valdez aided and abetted Evolution Capital and EIGI's violations of, and unless enjoined will again aid and abet violations of, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

63. Defendant Evolution Capital aided and abetted EIGI's violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]. Acting through Valdez, Evolution Capital knowingly

or recklessly provided substantial assistance to EIGI directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails: (a) employing devices, schemes or artifices to defraud; (b) obtaining money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

THIRD CLAIM
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder
(As to Defendants Evolution Capital and EIGI)

64. Plaintiff Commission repeats and incorporates paragraphs 1 through 55 of this Complaint by reference.

65. Defendants Evolution Capital and EIGI, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails have: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

66. Defendants Evolution Capital and EIGI acted with scienter. Acting through Valdez, Evolution Capital and EIGI made the referenced misrepresentations and omissions intentionally, knowingly or with severe recklessness.

67. For these reasons, Defendants Evolution Capital and EIGI violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

FOURTH CLAIM
Aiding and Abetting Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder
(As to Defendants Valdez and Evolution Capital)

68. Plaintiff Commission repeats and incorporates paragraphs 1 through 55 of this Complaint by reference.

69. Defendants Evolution Capital and EIGI violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

70. Defendant Valdez aided and abetted Evolution Capital and EIGI's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]. Valdez knowingly or recklessly provided substantial assistance to Evolution Capital and EIGI in (a) employing devices, schemes, or artifices to defraud; (b) making untrue statements of material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaging in acts, practices, or course of business which operated and operate as a fraud or deceit upon any person. Therefore, Defendant Valdez aided and abetted Evolution Capital and

EIGI's violations of, and unless enjoined will again aid and abet violations of, Section 10(b) of the Exchange Act and Rule l0b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

71. Defendant Evolution Capital aided and abetted EIGI's violations of Section 10(b) of the Exchange Act and Rule l0b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]. Acting through Valdez, Evolution Capital knowingly or recklessly provided substantial assistance to EIGI in (a) employing devices, schemes, or artifices to defraud; (b) making untrue statements of material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaging in acts, practices, or course of business which operated and operate as a fraud or deceit upon any person. Therefore, Defendant Evolution Capital aided and abetted EIGI's violations of, and unless enjoined will again aid and abet violations of, Section 10(b) of the Exchange Act and Rule l0b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

FIFTH CLAIM
Controlling Person Liability under Section 20(a) of the Exchange Act
(As to Defendants Valdez and Evolution Capital)

72. Plaintiff Commission repeats and incorporates paragraphs 1 through 55 of this Complaint by reference.

73. Defendants Evolution Capital and EIGI violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

74. At all relevant times, Defendant Valdez directed and controlled Evolution Capital and EIGI's securities offerings, conduct, management and policies, including the conduct of their respective representatives. Valdez was therefore a controlling person of Evolution Capital and

EIGI and their respective representatives under Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)]. Defendant Valdez was also a culpable participant in the fraudulent conduct described in this Complaint, including intentionally, knowingly or recklessly drafting, creating or inducing many of the alleged material misrepresentations, misstatements, and omissions.

75. Defendant Valdez is therefore liable as a controlling person under Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)] for Evolution Capital and EIGI's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]. Unless enjoined, Valdez and the other Defendants will again engage in conduct that would render them liable, under Section 20(a) of the Exchange Act, for violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

76. At all relevant times, Evolution Capital controlled its subsidiary, EIGI, and EIGI's securities offerings, conduct, management and policies, including the conduct of its representatives. Evolution Capital was therefore a controlling person of EIGI and its representatives under Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)]. Valdez's conduct and scienter are imputed to Evolution Capital and EIGI. Therefore, Evolution Capital was a culpable participant in the fraudulent conduct described in this Complaint, including intentionally, knowingly or recklessly drafting, creating or inducing many of the alleged material misrepresentations, misstatements, and omissions.

77. Defendant Evolution Capital is therefore liable as a controlling person under Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)] for EIGI's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

Unless enjoined, Valdez and the other Defendants will again engage in conduct that would render them liable, under Section 20(a) of the Exchange Act, for violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

FIFTH CLAIM
Violations of Sections 206(1) and 206(2) of the Investment Advisers Act
(As to Defendants Valdez and Evolution Capital)

78. Plaintiff Commission repeats and incorporates paragraphs 1 through 55 of this Complaint by reference.

79. Defendants Valdez and Evolution Capital, as investment advisers, used the mails and means or instrumentalities of interstate commerce, directly and indirectly: (i) to employ devices, schemes or artifices to defraud clients or prospective clients; or (ii) to engage in transactions, practices and courses of business which operated as a fraud or deceit upon clients and prospective clients.

80. Defendants Valdez and Evolution Capital acted with scienter. They engaged in the referenced acts intentionally, knowingly or with severe recklessness.

81. For these reasons, Defendants Valdez and Evolution Capital violated and, unless enjoined, will continue to violate Sections 206(1) and 206(2) of the Investment Advisers Act [15 U.S.C. § 80b – 6(1), (2)].

RELIEF REQUESTED

The Commission respectfully requests that this Court:

I.

Preliminarily and permanently enjoin all Defendants, their agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating, directly or indirectly, 17(a) of the Securities Act, [15 U.S.C. § 77q(a)], Section 10(b) the Exchange Act, [15 U.S.C. § 78j(b)], and of Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, and Sections 206(1) and (2) of the Advisers Act [15 U.S.C. § 80b-6(1),(2)].

II.

Order each of the Defendants to disgorge an amount equal to the funds and benefits they obtained illegally as a result of the violations alleged, plus prejudgment interest on that amount.

III.

Order each of the Defendants to pay civil monetary penalties in an amount deemed appropriate by the Court under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)] for their violations of the federal securities laws.

IV.

Enter an Order freezing the Defendants' assets, and directing that all financial or depository institutions comply with the Court's Order.

V.

Order that Defendants file with the Court and serve upon Plaintiff, within ten days of the issuance of this order or, at minimum, three days before any hearing on the Commission's motion for preliminary injunction, whichever comes first, an accounting, under oath, detailing all of their assets and all funds or other assets received from investors and one another.

VI.

Order that Defendants be restrained and enjoined from destroying, removing, mutilating, altering, concealing or disposing of, in any manner, any of their books and records or documents relating to the matters set forth in the Complaint, or the books and records and such documents of any entities under their control, until further order of the Court.

VII.

Appoint a receiver for Defendants, for the benefit of investors, to marshal, conserve, protect and hold funds and assets obtained by Defendants and their agents, co-conspirators and others involved in this scheme, wherever such assets may be found.

VIII.

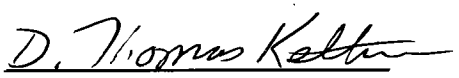
Order that the parties may commence discovery immediately, and that notice periods be shortened to permit the parties to require production of documents and the taking of depositions on 72 hours' notice.

IX.

Order any further relief that this Court may deem just and proper.

Dated: August 10, 2011

Respectfully Submitted,



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