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3:98-CV-01471 SEC V. LYONS

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SOUTHERN DISTRICT OF CALIFORNIABY: *J. Sch* DEPUTY

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UNITED STATES DISTRICT COURT**SOUTHERN DISTRICT OF CALIFORNIA**

'98 CV 1471J RBB

SECURITIES AND EXCHANGE COMMISSION,

Case No.

Plaintiff,

COMPLAINT FOR VIOLATIONS OF THE
FEDERAL SECURITIES LAWS

v.

TIMOTHY J. LYONS,

Defendant.

Plaintiff Securities and Exchange Commission

("Commission"), for its complaint against defendant Timothy J. Lyons
 ("Lyons"), alleges as follows:

JURISDICTION

1. This Court has jurisdiction over this action pursuant
 to Sections 21(d)(3)(A), 21(e) and 27 of the Securities Exchange Act
 of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d)(3)(A), 78u(e) & 78aa]
 and Sections 209(e)(1) and 214 of the Investment Advisers Act of
 1940 ("Advisers Act") [15 U.S.C. §§ 80b-9(e)(1) & 80b-14].

SUMMARY

2. From at least 1991 through at least July 1995, Lyons,
 a trader and portfolio manager at two investment adviser firms

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1 registered with the Commission, fraudulently allocated profitable
2 stock trades to his personal accounts at the expense of client
3 accounts. Lyons made these fraudulent allocations when he was
4 employed at Nicholas-Applegate Capital Management, a California
5 Limited Partnership ("NACM"), from 1991 through July 1993 as head
6 trader, and when he was majority owner of and portfolio manager at
7 Lyons Capital Partners ("LCP") from August 1993 through at least
8 July 1995. By allocating profitable trades to his personal
9 accounts, Lyons generated net profits for himself of approximately
10 \$929,601.30. In making the fraudulent allocation of profitable
11 trades to himself, Lyons also breached his fiduciary duty to his
12 clients by failing to disclose his conflict of interest in favoring
13 his personal accounts over their accounts in allocating the trades.
14 Moreover, from approximately 1991 through July 1993, Lyons failed to
15 report completely and accurately his personal trading to NACM,
16 rendering NACM's books and records inaccurate, and many of Lyons'
17 fraudulent allocations undetectable.

18 3. Lyons, by engaging in the above conduct, has violated
19 the antifraud provisions of Section 10(b) of the Exchange Act [15
20 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5],
21 and Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§
22 80b-6(1) & 80b-6(2)], and aided and abetted NACM's violations of the
23 books and records provisions of Section 204 of the Advisers Act [15
24 U.S.C. § 80b-4] and Rule 204-2(a)(12) thereunder [17 C.F.R. §
25 275.204-2(a)(12)].

26 4. Therefore, the Commission seeks: (a) a permanent
27 injunction prohibiting Lyons from future violations of the above
28 statutory and regulatory provisions; (b) an order that Lyons

1 | disgorge his ill-gotten gains together with prejudgment interest
2 | thereon; and (c) an order that Lyons pay civil penalties.

3 | **THE DEFENDANT**

4 | 5. Timothy J. Lyons ("Lyons") resides in Rancho Santa
5 | Fe, California. From approximately 1985 through July 1993, Lyons
6 | was NACM's head trader. From 1991 through July 1993, Lyons acted as
7 | portfolio manager as well as the trader for NACM's Employee Plan, a
8 | defined contribution profit sharing retirement plan (the "NACM
9 | Employee Plan") under the Employment Retirement Income Security Act
10 | ("ERISA"). In approximately August 1993, Lyons formed, with NACM's
11 | former compliance officer, Lyons Capital Partners ("LCP"), a
12 | Commission-registered investment adviser. From approximately August
13 | 1993 until July 1996, Lyons owned 70% of LCP and was its Managing
14 | Partner, Chief Investment Officer and Chief Executive Officer.
15 | During this period, Lyons acted as the head trader and portfolio
16 | manager for all of LCP's clients' accounts.

17 | **RELATED ENTITIES**

18 | 6. Nicholas-Applegate Capital Management, a California
19 | Limited Partnership ("NACM") is, and was at all times relevant to
20 | this action, registered with the Commission as an investment
21 | adviser. At all relevant times, NACM's principal place of business
22 | has been San Diego, California. NACM acted as the NACM Employee
23 | Plan's investment adviser. NACM has consented to an issuance by the
24 | Commission of an Order Instituting Public Administrative And Cease
25 | And Desist Proceeding, Making Findings And Imposing Remedial
26 | Sanctions ("Order"), without admitting or denying the findings in
27 | the Order. In the Order, the Commission finds, among other things,
28 | that NACM failed reasonably to supervise Lyons, within the meaning

1 of Section 203(e)(6) of the Advisers Act, with a view toward
2 preventing Lyons' violations of the antifraud provisions of Section
3 10(b) of the Exchange Act and Rule 10b-5 thereunder and Sections
4 206(1) and 206(2) of the Advisers Act, and Lyons' aiding and
5 abetting violations of the recordkeeping provisions of Section 204
6 of the Advisers Act and Rule 204-2(a)(12) thereunder.

7 7. Lyons Capital Partners ("LCP") was an investment
8 adviser firm registered with the Commission which was located in San
9 Diego, California. Lyons and his partner formed LCP in
10 approximately August 1993. In 1996, Lyons sold his ownership
11 interest in LCP to his partner, who then formed a new investment
12 advisory firm.

13 **LYONS FRAUDULENTLY ALLOCATED PROFITABLE TRADES**
14 **TO HIS PERSONAL ACCOUNTS WHILE AT NACM**

15 8. From at least 1991 through July 1993, Lyons engaged
16 in a day trading (buying and selling a security on the same day)
17 investment strategy for a portion of the NACM Employee Plan's
18 portfolio and also actively day traded the following personal
19 securities trading accounts (collectively referred to as Lyons'
20 "personal accounts"):

- 21 a. From 1991 through December 1992, Lyons day
22 traded through at least the following brokerage
23 accounts: One account held at Donaldson Lufkin
24 & Jenrette ("DLJ") (Account No. 227-05677
25 entitled the Lyons Family Trust); and one
26 account held at Cantor Fitzgerald & Company,
27 Inc. ("Cantor") (Account No. 11889775, entitled
28 3 NAGM Lyons).

1 b. In November and December 1992, Lyons established
2 and began trading in three additional personal
3 accounts in his wife's maiden name, Arlyne
4 Ignacio. These personal accounts were held at
5 Cantor (Account No. 11033278 entitled 3 NAGM AI
6 and Account No. 32445588 entitled Arlyne
7 Ignacio) and at DLJ (Account No. 227-039831
8 entitled Arlene Ignacio). Lyons instructed
9 Cantor to mail confirmations for trades in his
10 wife's account to her parents' address in
11 Torrance, California, even though she resided
12 with him in the San Diego area. Lyons never
13 reported these trades to NACM, as required by
14 NACM.

15 9. In mid-1992, NACM commenced an investigation into
16 Lyons' day trades. The investigation was conducted by NACM's then
17 compliance officer. NACM uncovered no wrongdoing by Lyons as a
18 result of its investigation. Nevertheless, on December 24, 1992,
19 after NACM concluded its investigation into Lyons' day trading, NACM
20 banned day trading by its employees in accounts they controlled in
21 which they had a personal interest. In spite of being informed of
22 this ban, Lyons continued to day trade in his personal accounts, and
23 continued not to report the existence of these accounts, or of his
24 trades in these accounts, to NACM.

25 *

26 *

27 *

28 *

A. Lyons Allocated Profitable Day Trades To His Personal Accounts And Unprofitable Day Trades To The NACM Employee Plan

10. From at least 1991 through July 1993, the day trades in Lyons' personal accounts were executed through DLJ and Cantor. Lyons also actively day traded on behalf of the NACM Employee Plan at DLJ through an account entitled NACM Profit Sharing Plan (Account No. 227-027323) and at Cantor through an account entitled 3 NAGM 55 (Account No. 1162012).

11. At all times relevant to this action, Cantor permitted its institutional clients to allocate trades later in the day after their orders had been executed. Although neither Lyons nor his wife was ever a client of NACM, the above described personal accounts of Lyons were instead classified as NACM institutional accounts and/or treated as institutional client accounts. Because Lyons' personal accounts at Cantor were treated as institutional client accounts, he was permitted to allocate day trades later in the day, after he had sold the stock purchased earlier in the day and determined whether the trades were profitable.

12. At all times relevant to this action, when Lyons placed trades at DLJ, DLJ typically recorded such trades under the name of its sales representative. Accordingly, later in the day, after Lyons had determined whether the transactions were profitable because he had either sold the stock purchased earlier in the day or the stock price had increased, Lyons instructed DLJ to allocate the trades to either the NACM Employee Plan or to Lyons' and his wife's personal accounts.

13. While Lyons was head trader at NACM, it was NACM's

1 practice to record into its database buys and sells of the same
2 security within the same day after both the buy and sell were
3 executed and the order tickets received by the trading desk. As the
4 trader and portfolio manager for the NACM Employee Plan, Lyons knew
5 whether a purchase and sale of a security within the same day was
6 profitable or unprofitable before he informed the trading desk of
7 the purchase and sale and such trade was recorded into NACM's
8 database.

9 14. If a day trade was profitable, Lyons usually
10 allocated it to one of his or his wife's personal accounts and did
11 not report it to NACM's trading desk for recording into its
12 database. Conversely, if a day trade was unprofitable, Lyons
13 allocated it to an NACM Employee Plan account and caused it to be
14 recorded into NACM's database. Lyons never caused to be disclosed
15 to the NACM Employee Plan that he was simultaneously day trading in
16 the NACM accounts and in personal accounts held in his wife's name
17 and that he thus had a conflict of interest.

18 15. From at least January 1991 through July 1993, while
19 Lyons engaged in day trading both in his personal accounts and in
20 NACM Employee Plan accounts, Lyons fraudulently allocated the
21 profitable day trades set forth in Exhibit 1 to his personal
22 accounts.

23 16. The trades set forth in Exhibit 1 resulted in a
24 profit to Lyons of approximately \$751,749.00. In contrast, during
25 the same period, Lyons allocated to the NACM Employee Plan
26 unprofitable day trades which resulted in losses to the NACM
27 Employee Plan of approximately \$332,518.00.

28 *

1 B. Lyons Failed To Report His Personal Trades Completely
2 And Accurately To NACM

3 17. NACM's Code of Ethics required Lyons to complete
4 monthly reports of his personal securities trading ("Personal
5 Securities Transaction Reports"), which among other things, required
6 him to report every transaction in a security in his or his wife's
7 accounts. Lyons knew that NACM's Code of Ethics required such
8 monthly reporting. Nevertheless, over 50% of Lyons' Personal
9 Securities Transaction Reports were incomplete or missing from
10 January 1991 through July 1993. Lyons' knowing and consistent
11 failure to provide to NACM his required completed monthly trading
12 reports resulted in NACM's maintaining incomplete books and records
13 of its employees' personal trading. Moreover, Lyons not only
14 knowingly failed to report trades he made in accounts in his wife's
15 name, he knowingly failed to disclose the existence of such accounts
16 to NACM, as required.

17 LYONS FRAUDULENTLY ALLOCATED PROFITABLE TRADES
18 TO HIS PERSONAL ACCOUNTS WHILE AT LCP

19 18. After Lyons resigned from NACM, he formed LCP in
20 approximately August 1993 with NACM's former compliance officer, who
21 was the individual NACM had directed to review and investigate
22 Lyons' personal trading activity at NACM. Lyons was LCP's head
23 trader and portfolio manager.

24 19. Lyons and his partner instituted no procedures at LCP
25 which prohibited employees, including Lyons, from day trading.
26 Furthermore, Lyons and his partner instituted policies and
27 procedures at LCP whereby trades were allocated and reported into
28 LCP's database at the end of the day.

20. At LCP, Lyons continued to day trade in both his personal and client accounts. From August 1993 through December 1993, Lyons continued to day trade in the same account at DLJ held in his wife's maiden name, set forth above. From January 1994 through July 1995, Lyons day traded through an account at Spear, Leeds & Kellogg ("Spear Leeds") (Account No. 4-3NK551-9) entitled the Lyons Family Trust. During the period from August 1993 through July 1995, Lyons also traded through accounts at Spear Leeds for the following LCP clients: 1) Merv Adelson (Account No. 4-3NA120-9); 2) Fred Applegate (Account No. 4-3NB120-9); 3) the Mosbacher Trust (Account No. 4-3NO120-9); 4) the Athena Fund (Account No. 3NF120-9); 5) the Rhino Fund (Account No. 4-3NJ120-9); 6) Harbinger Partners, L.P. (Account No. 4-3LM120-9); 7) Fairbanks Partners, L.P. (Account No. 4-3NC120-9); and 8) Nigro Karlin & Segal (Account No. 4-3NH120-9). Lyons never caused to be disclosed to the above LCP clients that he was simultaneously day trading in LCP client accounts and his personal accounts, and that he thus had a conflict of interest.

21. Prior to August 1995, Lyons made stock purchases without designating which account would receive the trade until after the sale, determining whether the transaction was profitable, was executed later in the day. In August 1995, following an examination conducted by the Commission, LCP changed its policy to require designation at the time each stock purchase was made of the account for which the stock was purchased. Each order ticket was also required to be time-stamped at the time the order was placed. Lyons essentially ceased trading in his personal accounts after LCP instituted these new policies.

1 *

2 22. From August 1993 through at least July 1995, while
3 Lyons engaged in day trading both in his personal accounts and in
4 the LCP clients accounts identified above, Lyons fraudulently
5 allocated the profitable day trades set forth in Exhibit 2 to his
6 personal accounts.

7 23. The trades set forth in Exhibit 2 resulted in a
8 profit to Lyons of approximately \$177,852.30. In contrast, during
9 the same period, Lyons allocated to LCP clients unprofitable day
10 trades which resulted in losses to LCP's clients of approximately
11 \$83,720.26.

12 **FIRST CLAIM**

13 **FRAUD IN CONNECTION WITH THE**

14 **PURCHASE OR SALE OF SECURITIES**

15 **Violations of Section 10(b) of the Exchange Act**

16 **and Rule 10b-5 thereunder**

17 24. Paragraphs 1 through 23 are realleged and
18 incorporated herein by reference.

19 25. Lyons, by engaging in the conduct described above,
20 directly or indirectly, in connection with the purchase or sale of
21 securities, by the use of means or instrumentalities of interstate
22 commerce, or of the mails, or of a facility of a national securities
23 exchange, with scienter:

- 24 a. employed devices, schemes or artifices to
25 defraud;
26 b. made untrue statements of material facts or
27 omitted to state material facts necessary in
28 order to make the statements made, in the light

1 of the circumstances under which they were made,
2 not misleading; or

3 c. engaged in acts, practices or courses of
4 business which operated or would operate as a
5 fraud or deceit upon other persons.

6 26. By reason of the foregoing, Lyons violated and,
7 unless enjoined, will continue to violate, Section 10(b) of the
8 Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17
9 C.F.R. § 240.10b-5].

10 **SECOND CLAIM**

11 **FRAUD ON INVESTMENT ADVISERS' CLIENTS**

12 **Violations of Sections 206(1) and 206(2)**
13 **of the Advisers Act**

14 27. Paragraphs 1 through 23 are realleged and
15 incorporated herein by reference.

16 28. Lyons, by engaging in the conduct described above,
17 directly or indirectly, by use of the mails or means or
18 instrumentalities of interstate commerce:

- 19 a. with scienter, employed devices, schemes or
20 artifices to defraud advisory clients or
21 prospective clients; or
22 b. engaged in transactions, practices, or courses
23 of business which operated or would operate as a
24 fraud or deceit upon clients or prospective
25 clients.

26 29. By reason of the foregoing, Lyons violated and,
27 unless enjoined, will continue to violate, Sections 206(1) and
28 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) & 80b-6(2)].

1 *

2 THIRD CLAIM

3 AIDING AND ABETTING BOOKS AND RECORDS VIOLATIONS

4 Section 204 of the Advisers Act and

5 Rule 204-2(a)(12) thereunder

6 30. Paragraphs 1 through 6 and 8 through 17 are realleged
7 and incorporated herein by reference.

8 31. NACM, by engaging in the conduct described in
9 paragraphs 8 through 17 above, made use of the mails or means or
10 instrumentalities of interstate commerce in connection with its
11 business as an investment adviser, and failed to make and keep true,
12 accurate and current books and records relating to its investment
13 advisory business, regarding every transaction in which its advisory
14 representative, Lyons, had any direct or indirect beneficial
15 ownership, as required by Section 204 of the Advisers Act and Rule
16 204-2(a)(12) thereunder. Lyons, by engaging in the conduct alleged
17 in paragraph 17 above, knowingly and substantially assisted NACM's
18 violations of Section 204 of the Advisers Act and Rule 204-2(a)(12)
19 thereunder.

20 32. By reason of the foregoing, Lyons aided and abetted
21 NACM's violations of, and unless enjoined, will continue to aid and
22 abet violations of or violate Section 204 of the Advisers Act and
23 Rule 204-2(a)(12)thereunder.

24 PRAYER FOR RELIEF

25 WHEREFORE, the Commission respectfully requests that this
26 Court:

27 I.

28 Issue findings of fact and conclusions of law that Lyons

1 engaged in the alleged violations.

2 II.

3 Enter a final judgment of permanent injunction, in a form
4 consistent with Fed. R. Civ. P. 65(d), enjoining Lyons from
5 violating Section 10(b) of the Exchange Act and Rule 10b-5
6 thereunder, and Sections 204, 206(1) and 206(2) of the Advisers Act
7 and Rule 204-2(a)(12) thereunder.

8 III.

9 Enter an order that Lyons disgorge all profits gained
10 directly or indirectly from his illegal conduct, together with
11 prejudgment interest thereon.

12 IV.

13 Enter an order that Lyons pay civil penalties pursuant to
14 Section 21(d)(3) of the Exchange Act and Section 209(e) of the
15 Advisers Act.

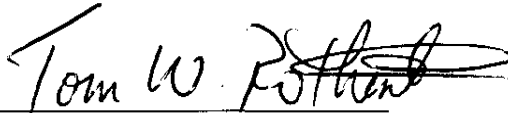
16 V.

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

22 VI.

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

25
26 DATED: August 12, 1998


Tom W. Rothenbucher
Attorney for Plaintiff
Securities and Exchange Commission

28

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Personal Day Trades While at
NACM)

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Personal Day Trades While at LCP)

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LYONS' PROFITABLE PERSONAL DAY TRADES WHILE AT NACM

	TRADE DATE	STOCK	NO. SHARES	BUY PRICE	SALE PRICE	PROFIT	ACCOUNT	ACCOUNT #
1	03/19/91	Apple Computer	10,000	66.375	67.438	\$ 10,630.00	Lyons/DLJ	227-056777
2	06/12/91	Borland Intl Inc	9,000	50.110	51.347	\$ 11,133.00	Lyons/DLJ	227-056777
3	06/27/91	Borland Intl Inc	2,500	42.000	43.000	\$ 2,500.00	Lyons/DLJ	227-056777
4	07/02/91	Intel Corp	2,500	41.500	43.750	\$ 5,625.00	Lyons/DLJ	227-056777
5	07/10/91	Sun Microsystems Inc	4,000	30.000	30.875	\$ 3,500.00	Lyons/DLJ	227-056777
6	08/19/91	Preferred Health	12,500	14.000	14.570	\$ 7,125.00	Lyons/DLJ	227-056777
7	08/27/91	Intel Corp	10,000	51.167	52.250	\$ 10,830.00	Lyons/DLJ	227-056777
8	09/05/91	Cisco Systems Inc	8,000	41.625	42.250	\$ 5,000.00	Lyons/DLJ	227-056777
9	09/16/91	Intel Corp	3,000	41.500	41.625	\$ 375.00	Lyons/DLJ	227-056777
10	10/01/91	Apple Computer	5,000	49.750	50.750	\$ 5,000.00	Lyons/DLJ	227-056777
11	10/09/91	Intel Corp	3,750	38.750	39.250	\$ 1,875.00	Lyons/DLJ	227-056777
12	10/10/91	Intel Corp	5,000	40.750	41.125	\$ 1,875.00	Lyons/DLJ	227-056777
13	10/14/91	Apple Computer	5,000	49.000	50.000	\$ 5,000.00	Lyons/DLJ	227-056777
14	10/14/91	Lotus Development Corp	5,000	28.500	29.875	\$ 6,875.00	Lyons/DLJ	227-056777
15	10/25/91	50 Off Stores	4,000	20.500	21.750	\$ 5,000.00	Lyons/DLJ	227-056777
16	11/21/91	Biogen	4,000	37.500	40.000	\$ 10,000.00	Lyons/DLJ	227-056777
17	12/02/91	Biogen	5,000	37.250	38.275	\$ 5,125.00	Lyons/DLJ	227-056777
18	12/04/91	Costco Wholesale	3,000	50.750	51.750	\$ 3,000.00	Lyons/DLJ	227-056777
19	12/05/91	Biogen	3,000	40.250	41.250	\$ 3,000.00	Lyons/DLJ	227-056777
20	12/12/91	Intel Corp	5,000	42.750	43.250	\$ 2,500.00	Lyons/DLJ	227-056777
21	12/27/91	Cisco Systems Inc	5,000	63.250	64.250	\$ 5,000.00	Lyons/DLJ	227-056777
22	01/20/92	Costco Wholesale	5,000	57.000	58.250	\$ 6,250.00	Lyons/DLJ	227-056777
23	01/22/92	Symantec Corp	2,000	44.250	45.250	\$ 2,000.00	Lyons/DLJ	227-056777
24	01/22/92	Symantec Corp	5,000	42.250	43.750	\$ 7,500.00	Lyons/DLJ	227-056777
25	01/27/92	Costco	5,000	57.000	58.250	\$ 6,250.00	Lyons/DLJ	227-056777
26	01/28/92	Caere Corp	10,000	15.375	16.375	\$ 10,000.00	Lyons/DLJ	227-056777
27	01/30/92	Chiron Corp	5,000	56.000	57.650	\$ 8,250.00	Lyons/DLJ	227-056777
28	03/31/92	Intel Corp	5,000	53.000	54.250	\$ 6,250.00	Lyons/DLJ	227-056777
29	03/31/92	Seagate Technology	10,000	12.750	13.000	\$ 2,500.00	Lyons/DLJ	227-056777
30	04/02/92	Borland Intl Inc	3,000	51.500	52.500	\$ 3,000.00	Lyons/DLJ	227-056777
31	04/02/92	Borland Intl Inc	3,000	51.500	52.625	\$ 3,375.00	Lyons/DLJ	227-056777
32	04/10/92	Borland Intl Inc	5,000	51.500	53.500	\$ 10,000.00	Lyons/DLJ	227-056777
33	04/13/92	Apple Computer	5,000	55.250	56.750	\$ 7,500.00	Lyons/DLJ	227-056777
34	04/15/92	Centocor Inc	5,000	17.750	18.345	\$ 2,975.00	Lyons/DLJ	227-056777
35	04/21/92	Borland Intl Inc	3,000	52.000	54.000	\$ 6,000.00	Lyons/DLJ	227-056777
36	04/24/92	Centocor Inc	5,000	17.750	18.345	\$ 2,975.00	Lyons/DLJ	227-056777

LYONS' PROFITABLE PERSONAL DAY TRADES WHILE AT NACM

	TRADE DATE	STOCK	NO. SHARES	BUY PRICE	SALE PRICE	PROFIT	ACCOUNT	ACCOUNT #
37	05/01/92	Adobe Sys Inc	6,000	43.875	44.750	\$ 5,250.00	Lyons/DLJ	227-056777
38	05/15/92	Sun Microsystems Inc	5,000	27.324	28.000	\$ 3,380.00	Lyons/DLJ	227-056777
39	06/02/92	US Healthcare	5,000	53.000	54.000	\$ 5,000.00	Lyons/DLJ	227-056777
40	06/08/92	BMC Software	5,000	49.625	50.625	\$ 5,000.00	Lyons/DLJ	227-056777
41	06/11/92	US Healthcare	3,000	47.250	48.125	\$ 2,625.00	Lyons/DLJ	227-056777
42	06/22/92	BMC Software	3,000	45.750	47.000	\$ 3,750.00	Lyons/DLJ	227-056777
43	06/26/92	Intel Corp	6,000	54.250	54.750	\$ 3,000.00	Lyons/DLJ	227-056777
44	07/01/92	Synergen Inc	10,000	49.280	50.750	\$ 14,700.00	Lyons/DLJ	227-056777
45	07/08/92	Borland Intl Inc	8,000	37.562	38.000	\$ 3,504.00	Lyons/DLJ	227-056777
46	07/08/92	Cisco Systems Inc	10,000	45.500	45.837	\$ 3,370.00	Lyons/DLJ	227-056777
47	07/09/92	Cisco Systems Inc	5,000	46.166	46.750	\$ 2,920.00	Lyons/DLJ	227-056777
48	07/13/92	Microsoft Corp	5,000	70.000	71.000	\$ 5,000.00	Lyons/DLJ	227-056777
49	07/15/92	Microsoft Corp	7,000	71.875	72.000	\$ 875.00	Lyons/DLJ	227-056777
50	07/17/92	Cisco Systems Inc	10,000	48.313	48.938	\$ 6,250.00	Lyons/DLJ	227-056777
51	07/28/92	US Healthcare	5,000	53.468	54.250	\$ 3,910.00	Lyons/DLJ	227-056777
52	08/03/92	Microsoft Corp	10,000	72.750	73.625	\$ 8,750.00	Lyons/DLJ	227-056777
53	08/05/92	Gensia	5,000	40.125	41.375	\$ 6,250.00	Lyons/DLJ	227-056777
54	08/06/92	Chiron Corp	5,000	51.212	51.250	\$ 190.00	Lyons/DLJ	227-056777
55	08/07/92	Cisco Systems Inc	10,000	50.000	50.625	\$ 6,250.00	Lyons/DLJ	227-056777
56	08/10/92	Novell Inc	10,000	49.212	50.125	\$ 9,130.00	Lyons/DLJ	227-056777
57	08/24/92	Gensia	5,000	35.000	36.000	\$ 5,000.00	Lyons/DLJ	227-056777
58	08/25/92	Cisco Systems Inc	3,000	44.500	45.625	\$ 3,375.00	Lyons/DLJ	227-056777
59	08/25/92	Gensia	2,500	34.250	35.625	\$ 3,438.00	Lyons/DLJ	227-056777
60	08/28/92	Sci Med Life Sys Inc	3,000	53.250	55.000	\$ 5,250.00	Lyons/DLJ	227-056777
61	08/31/92	Sci Med Life Sys Inc	6,000	54.500	56.000	\$ 9,000.00	Lyons/DLJ	227-056777
62	09/11/92	Sci Med Life Sys Inc	5,000	56.782	57.375	\$ 2,965.00	Lyons/DLJ	227-056777
63	09/16/92	Cisco Systems Inc	6,000	52.875	54.000	\$ 6,750.00	Lyons/DLJ	227-056777
64	09/21/92	Borland Intl Inc	10,000	40.000	40.750	\$ 7,500.00	Lyons/DLJ	227-056777
65	10/01/92	Borland Intl Inc	5,000	40.125	41.500	\$ 6,875.00	Lyons/DLJ	227-056777
66	10/06/92	BMC Software	3,000	48.000	49.000	\$ 3,000.00	Lyons/DLJ	227-056777
67	10/13/92	Electronic Arts	10,000	30.625	31.375	\$ 7,500.00	Lyons/DLJ	227-056777
68	10/19/92	Chiron Corp	5,000	49.500	50.000	\$ 2,500.00	Lyons/DLJ	227-056777
69	10/22/92	Adaptec Inc	5,000	25.000	25.875	\$ 4,375.00	Lyons/DLJ	227-056777
70	10/30/92	Cisco Systems Inc	5,000	59.500	60.000	\$ 2,500.00	Lyons/DLJ	227-056777
71	11/11/92	Wellfleet	3,000	59.500	61.000	\$ 4,500.00	Lyons/DLJ	227-056777
72	11/18/92	Chiron Corp	3,000	53.750	55.333	\$ 4,749.00	Ignacio/CF	11033278

LYONS' PROFITABLE PERSONAL DAY TRADES WHILE AT NACM

	TRADE DATE	STOCK	NO. SHARES	BUY PRICE	SALE PRICE	PROFIT	ACCOUNT	ACCOUNT #
73	11/19/92	MTC Electr Technologies Ltd	5,000	19.600	20.625	\$ 5,125.00	Ignacio/CF	11033278
74	12/04/92	MTC Electr Technologies Ltd	5,000	23.000	23.750	\$ 3,750.00	Ignacio/CF	11033278
75	12/07/92	Intel Corp	5,000	77.250	78.000	\$ 3,750.00	Ignacio/CF	11033278
76	12/09/92	Intel Corp	5,000	78.000	79.000	\$ 5,000.00	Ignacio/CF	11033278
77	12/16/92	Intel Corp	5,000	78.000	80.000	\$ 10,000.00	Ignacio/CF	11033278
78	12/18/92	MTC Electr Technologies Ltd	5,000	20.500	21.750	\$ 6,250.00	Ignacio/CF	32445588
79	12/23/92	Intel Corp	3,000	89.000	89.875	\$ 2,625.00	Ignacio/CF	32445588
80	01/13/93	Biogen	8,000	43.660	44.500	\$ 6,720.00	Ignacio/CF	32445588
81	01/20/93	Synergen	5,000	56.850	58.000	\$ 5,750.00	Ignacio/CF	32445588
82	01/26/93	Synergen	3,000	56.000	57.000	\$ 3,000.00	Ignacio/CF	32445588
83	01/27/93	Synergen Inc	6,000	55.125	56.000	\$ 5,250.00	Ignacio/CF	32445588
84	02/16/93	U.S. Healthcare	5,000	43.000	45.000	\$ 10,000.00	Ignacio/CF	32445588
85	02/17/93	Synergen Inc	7,400	44.000	45.190	\$ 8,806.00	Ignacio/CF	32445588
86	02/18/93	Amgen Inc	10,000	49.000	49.750	\$ 7,500.00	Ignacio/CF	32445588
87	02/22/93	Amgen Inc	5,000	41.000	42.250	\$ 6,250.00	Ignacio/CF	32445588
88	03/02/93	Biogen	5,000	30.250	31.250	\$ 5,000.00	Ignacio/CF	32445588
89	03/04/93	BMC Software Inc	5,000	51.960	53.208	\$ 6,240.00	Ignacio/CF	32445588
90	03/12/93	Chiron Corp	5,000	50.163	50.875	\$ 3,563.00	Ignacio/CF	32445588
91	03/18/93	Chiron Corp	20,000	52.150	53.378	\$ 24,550.00	Ignacio/CF	32445588
92	03/18/93	Wellfleet	10,000	42.938	43.500	\$ 5,625.00	Ignacio/CF	32445588
93	03/19/93	Chiron Corp	12,000	48.580	49.875	\$ 15,540.00	Ignacio/CF	32445588
94	03/23/93	BMC Software Inc	3,000	47.833	48.750	\$ 2,751.00	Ignacio/CF	32445588
95	04/14/93	BMC Software Inc	5,000	43.250	44.000	\$ 3,750.00	Ignacio/CF	32445588
96	04/14/93	US Healthcare	10,000	38.500	39.500	\$ 10,000.00	Ignacio/CF	32445588
97	04/22/93	Dell Computer Corp	5,000	29.625	30.375	\$ 3,750.00	Ignacio/CF	32445588
98	05/07/93	Cisco Systems Inc	6,500	48.750	49.000	\$ 1,625.00	Ignacio/CF	32445588
99	05/14/93	Chiron Corp	10,000	57.050	58.125	\$ 10,750.00	Ignacio/CF	32445588
100	05/19/93	BMC Software Inc	6,500	55.100	57.000	\$ 12,350.00	Ignacio/CF	32445588
101	05/24/93	Apple Computer Inc	10,000	57.750	58.375	\$ 6,250.00	Ignacio/CF	32445588
102	05/26/93	Novell	10,000	29.375	29.875	\$ 5,000.00	Ignacio/CF	32445588
103	06/01/93	Apple Computer Inc	5,000	56.750	57.500	\$ 3,750.00	Ignacio/CF	32445588
104	07/12/93	Intel	12,500	53.690	56.500	\$ 35,125.00	Ignacio/CF	32445588
105	12/18/92	MTC Electr Technologies Ltd	3,000	20.750	22.375	\$ 4,875.00	Ignacio/DLJ	227-039831
106	01/08/93	US Healthcare Inc	4,000	43.750	44.500	\$ 3,000.00	Ignacio/DLJ	227-039831
107	02/11/93	FHP Intl Corp	10,000	25.250	26.500	\$ 12,500.00	Ignacio/DLJ	227-039831
108	03/03/93	US Healthcare	5,000	44.500	45.625	\$ 5,625.00	Ignacio/DLJ	227-039831

LYONS' PROFITABLE PERSONAL DAY TRADES WHILE AT NACM

	TRADE DATE	STOCK	NO. SHARES	BUY PRICE	SALE PRICE	PROFIT	ACCOUNT	ACCOUNT #
109	04/22/93	US Healthcare	5,000	41.500	42.500	\$ 5,000.00	Ignacio/DLJ	227-039831
110	04/26/93	Intel Corp	5,000	86.125	87.250	\$ 5,625.00	Ignacio/DLJ	227-039831
111	04/28/93	Chiron Corp	5,000	50.500	51.000	\$ 2,500.00	Ignacio/DLJ	227-039831
112	06/17/93	Zilog Inc	30,000	24.525	25.700	\$ 35,250.00	Ignacio/DLJ	227-039831
113	06/18/93	President Riverboat Casino Inc	12,500	29.500	30.500	\$ 12,500.00	Ignacio/DLJ	227-039831
114	07/12/93	Intel Corp	15,000	54.188	56.625	\$ 36,555.00	Ignacio/DLJ	227-039831
115	07/15/93	Apple	10,000	35.750	36.000	\$ 2,500.00	Ignacio/DLJ	227-039831
116	07/22/93	Microsoft Corp	10,000	80.375	81.000	\$ 6,250.00	Ignacio/DLJ	227-039831
				GRAND TOTAL		\$751,749.00		

LYONS' PROFITABLE PERSONAL DAY TRADES WHILE AT LCP

	TRADE DATE	STOCK	NO. SHARES	BUY PRICE	SALE PRICE	PROFIT	ACCOUNT	ACCOUNT #
1	9/20/93	Synoptics Communicat	5000	26.000	26.625	\$ 3,125.00	Ignacio/DLJ	227-039831
2	9/24/93	Wellfleet	10000	48.125	48.662	\$ 5,370.00	Ignacio/DLJ	227-039831
3	9/27/93	U.S. HealthCare Inc.	5000	52.250	53.250	\$ 5,000.00	Ignacio/DLJ	227-039831
4	9/29/93	Wellfleet	5000	49.750	51.000	\$ 6,250.00	Ignacio/DLJ	227-039831
5	10/5/93	Wellfleet	7000	44.250	45.000	\$ 5,250.00	Ignacio/DLJ	227-039831
6	10/19/93	Club Car Inc.	2500	19.000	20.750	\$ 4,375.00	Ignacio/DLJ	227-039831
7	10/29/93	Newbridge Networks	3000	59.750	60.750	\$ 3,000.00	Ignacio/DLJ	227-039831
8	11/2/93	D S C Commn Corp	6000	66.250	67.125	\$ 5,250.00	Ignacio/DLJ	227-039831
9	11/11/93	Dreyfus Corp	3000	42.375	43.419	\$ 3,132.00	Ignacio/DLJ	227-039831
10	11/11/93	U.S. HealthCare Inc.	5000	54.188	55.000	\$ 4,062.50	Ignacio/DLJ	227-039831
11	11/16/93	Nexel Communications	5000	40.000	41.375	\$ 6,875.00	Ignacio/DLJ	227-039831
12	12/16/93	D S C Commn Corp	5000	56.000	56.875	\$ 4,375.00	Ignacio/DLJ	227-039831
13	12/21/93	Newbridge Networks	5000	50.375	51.250	\$ 4,375.00	Ignacio/DLJ	227-039831
14	12/22/93	Lotus Dev Corp	5000	55.625	56.250	\$ 3,125.00	Ignacio/DLJ	227-039831
15	2/25/94	Lotus Development Corp	5000	64.250	65.380	\$ 5,650.00	LFT/SpearLeeds	4-3NK551-9
16	2/28/94	Lotus Development Corp	4000	65.630	66.250	\$ 2,480.00	LFT/SpearLeeds	4-3NK551-9
17	3/1/94	Lotus Development Corp	3700	67.250	67.880	\$ 2,331.00	LFT/SpearLeeds	4-3NK551-9
18	3/8/94	Nexel Communications	2000	44.250	45.130	\$ 1,760.00	LFT/SpearLeeds	4-3NK551-9
19	3/9/94	Nexel Communications	2000	44.110	45.130	\$ 2,040.00	LFT/SpearLeeds	4-3NK551-9
20	3/14/94	Newbridge Networks	3000	57.690	58.840	\$ 3,450.00	LFT/SpearLeeds	4-3NK551-9
21	3/25/94	Resound Corp	3000	16.380	17.000	\$ 1,860.00	LFT/SpearLeeds	4-3NK551-9
22	3/28/94	Newbridge Networks	2500	60.210	61.380	\$ 2,925.00	LFT/SpearLeeds	4-3NK551-9
23	3/31/94	Cisco Systems Inc.	2500	33.250	34.250	\$ 2,500.00	LFT/SpearLeeds	4-3NK551-9
24	4/26/94	Microsoft Corp	8000	86.630	87.630	\$ 8,000.00	LFT/SpearLeeds	4-3NK551-9
25	5/13/94	Wellfleet Comm	4000	74.500	75.630	\$ 4,520.00	LFT/SpearLeeds	4-3NK551-9
26	6/1/94	Newbridge Networks	2000	43.250	44.250	\$ 2,000.00	LFT/SpearLeeds	4-3NK551-9
27	6/16/94	Lotus Development	3000	53.630	54.500	\$ 2,610.00	LFT/SpearLeeds	4-3NK551-9
28	7/29/94	Apple Computer Inc	10000	31.000	31.630	\$ 6,300.00	LFT/SpearLeeds	4-3NK551-9
29	8/29/94	Cisco Systems Inc.	7000	23.000	23.250	\$ 1,750.00	LFT/SpearLeeds	4-3NK551-9
30	9/1/94	Micron Technology	10000	41.630	42.660	\$ 10,300.00	LFT/SpearLeeds	4-3NK551-9
31	9/2/94	Sybase Inc.	4000	45.380	45.880	\$ 2,000.00	LFT/SpearLeeds	4-3NK551-9
32	9/6/94	Sybase Inc.	4500	44.750	45.630	\$ 3,960.00	LFT/SpearLeeds	4-3NK551-9
33	9/27/94	Sybase Inc.	4000	49.120	49.810	\$ 2,760.00	LFT/SpearLeeds	4-3NK551-9
34	9/29/94	Lotus Development Corp	5000	37.375	38.500	\$ 5,625.00	LFT/SpearLeeds	4-3NK551-9
35	10/4/94	Lotus Development Corp	4000	35.313	35.928	\$ 2,462.00	LFT/SpearLeeds	4-3NK551-9
36	10/5/94	Lotus Development Corp	4000	35.125	35.750	\$ 2,500.00	LFT/SpearLeeds	4-3NK551-9

LYONS' PROFITABLE PERSONAL DAY TRADES WHILE AT LCP

	TRADE DATE	STOCK	NO. SHARES	BUY PRICE	SALE PRICE	PROFIT	ACCOUNT	ACCOUNT #
37	10/25/94	Sci Med Life Sys Inc	2900	44.813	45.875	\$ 3,079.80	LFT/SpearLeeds	4-3NK551-9
38	11/7/94	Sci Med Life Syst Inc	3000	47.130	47.630	\$ 1,500.00	LFT/SpearLeeds	4-3NK551-9
39	1/3/95	Telefonos De Mexico	10000	37.375	38.125	\$ 7,500.00	LFT/SpearLeeds	4-3NK551-9
40	2/17/95	Tele-Comm Inc CL-A	10000	22.938	23.375	\$ 4,375.00	LFT/SpearLeeds	4-3NK551-9
41	2/22/95	Amgen	5000	64.890	65.500	\$ 3,050.00	LFT/SpearLeeds	4-3NK551-9
42	3/1/95	Amgen	5000	65.250	66.000	\$ 3,750.00	LFT/SpearLeeds	4-3NK551-9
43	5/3/95	Chrysler Corp	15000	41.250	42.000	\$ 11,250.00	LFT/SpearLeeds	4-3NK551-9
				GRAND TOTAL		\$ 177,852.30		

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

TIMOTHY J. LYONS

FILED

98 AUG 12 AM 8:37

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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

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

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

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

KAREN MATTESON, Cal. Bar # 102103
TOM W. ROTHENBUCHER, Cal. Bar # 144192
SECURITIES AND EXCHANGE COMMISSION
5670 WILSHIRE BOULEVARD, 11TH FLOOR
LOS ANGELES, CALIFORNIA 90036 (323) 965-3998

ATTORNEYS (IF KNOWN)

JEFFREY S. KOB
MILLER MILOVE & KOB
THE KOLL CENTER
501 WEST BROADWAY, SUITE 720
SAN DIEGO, CALIFORNIA 92101

'98 cv 1471 J RBB

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

☒ 1 U.S. Government Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 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
Citizen of This State ☐ 1 ☐ 1
Citizen of Another State ☐ 2 ☐ 2
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3

PTF DEF
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
Foreign Nation ☐ 6 ☐ 6

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY:

VIOLATIONS OF THE ANTIFRAUD PROVISIONS OF SECTION 10(b) OF THE EXCHANGE ACT [15 U.S.C. § 78j(b)] & RULE 10b-5 [17 C.F.R. § 240.10b-5], SECTIONS 206(1) & 206(2) OF THE ADVISERS ACT [15 U.S.C. §§ 80b-6(1) & 80b-6(2)] AND VIOLATIONS OF THE BOOKS & RECORDS PROVISIONS OF SECTION 204 OF THE ADVISERS ACT [15 U.S.C. § 80b-4] & RULE 204-2(a)(12) [17 C.F.R. § 275.204-2(a)(12)].

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	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 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"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Uibel & 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 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 LABOR <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"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWG/DWW (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 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC 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
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input 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	CIVIL RIGHTS <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 PRISONER PETITIONS <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 Other			

VI. 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

Transferred from
☐ 5 another district (specify)

☐ 6 Multidistrict Litigation

Appeal to District
☐ 7 Judge from Magistrate Judgment

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:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

AUGUST 12, 1998

SIGNATURE OF ATTORNEY OF RECORD

TOM W. ROTHENBUCHER

UNITED STATES DISTRICT COURT