IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. DENNIS S. ROSENBERG, Defendant.	Civil Action No. 1:13-CV-______-____

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission"), hereby files this Complaint alleging the following:

Overview

1. Between 2005 and 2010, Dennis S. Rosenberg ("Rosenberg"), repeatedly traded shares of Carter's, Inc. ("Carter's") (NYSE: CRI), an Atlanta-based public issuer and clothing marketer, based on material non-public information. Rosenberg also repeatedly tipped two investment advisers for two separate hedge funds. One of these advisers was Rosenberg's consulting client.

2. Rosenberg, a retired hedge fund investment consultant and market analyst who had previously covered the stock of Carter's, Inc., received the material non-public information from Eric Martin, Carter's former Vice President and Director of Investor Relations.

3. In every instance of trading and tipping, examples of which are described below, Rosenberg knew that the material nonpublic information he received was communicated in breach of a duty of trust or confidence.

4. By the conduct described herein Rosenberg violated Section 17(a) of the Securities Act of 1933 (the "Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rules 10b-5(a) and 10b-5(c) thereunder.

5. Rosenberg's total ill-gotten gains, losses avoided, and consulting fees (based on tips to one hedge fund client) totaled approximately $500,000.

6. The combined losses avoided and profits by Rosenberg's tippees totaled approximately $2 million.

Jurisdiction and Venue

7. The Commission brings this action pursuant to Sections 20 and 22 of the Securities Act [15 U.S.C. §§ 77t and 77v] and Sections 21(d), 21(e), and 21A of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78u-1] to enjoin Defendant from engaging in the transactions, acts, practices, and courses of business alleged

in this Complaint, and transactions, acts, practices, and courses of business of similar purport and object, for civil penalties, and for other equitable relief.

8. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v] and Sections 21(d), 21(e), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1, and 78aa].

9. Defendant, directly and indirectly, made use of the mails and the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

10. Venue is proper because certain of the transactions, acts, practices, and courses of business constituting violations of the Securities Act and the Exchange Act occurred in the Northern District of Georgia. Carter's principle place of business lies within this district and the tipping of material, non-public information to Rosenberg occurred within this district.

11. Defendant, unless restrained and enjoined by this Court, will continue to engage in the transactions, acts, practices, and courses of business alleged in this Complaint, and in transactions, acts, practices, and courses of business of similar purport and object.

The Defendant

12. Dennis S. Rosenberg, 70, resides in Oceanside, New York. From 1967 to 1995, Rosenberg was an equity research analyst for various brokerage firms. In 1995, Rosenberg joined a global financial services entity as an apparel analyst. He retired from that entity in 2005 and opened his own investment consulting firm, DSR Consulting, which he operated until approximately 2012. Rosenberg had a Series 7 license and a supervisory analyst license.

Issuers

13. Carter's, Inc., an Atlanta-based public issuer, is the self-proclaimed "largest branded marketer in the U.S. of apparel exclusively for babies and young children." The company sells clothing under the *Carter's* and *OshKosh* brand names as well as private label apparel through its own stores and other retailers. Since October 2003, Carter's common stock has been registered with the Commission under Section 12(b) of the Exchange Act and listed on the NYSE. In 2005, Carter's acquired OshKosh B'Gosh Inc. for $312 million.

14. OshKosh B'Gosh, Inc., ("OshKosh") is an American children's apparel company founded in Oshkosh, Wisconsin in 1895. It is a subsidiary of Carter's, which acquired the company in 2005 for $312 million.

Related Persons and Entities

15. Eric M. Martin ("Martin"), 42, resides in Roswell, Georgia. From March 5, 2003, until his termination on March 24, 2009, Martin served Carter's as its Director and later, Vice President of Investor Relations. On December 27, 2012, Martin pled guilty to Count One of an eleven-count indictment charging him with tipping others to material nonpublic information while employed at Carter's. He is awaiting sentencing. On September 11, 2013, an Order of Permanent Injunction and Officer and Director Bar was entered as to Martin in the U.S. District Court for the Northern District of Georgia based upon his trading and tipping of Carter's inside information.

16. Richard Todd Posey ("Posey"), 52, resides in Atlanta, Georgia. From July 2002 until the present, Posey served Carter's as its Vice President of Operations. On June 19, 2013, Posey pled guilty to one count of conspiracy to commit securities fraud based on his disclosure of material non-public information. He is awaiting sentencing.

17. "Adviser 1" was a Delaware limited liability company that served as the investment manager to a hedge fund. The firm is currently defunct.

18. "Owner" was one of the two owners of Adviser 1 during the events alleged in this complaint. Between 2006 and 2010, Owner repeatedly traded

Carter's securities, both on his own behalf and on behalf of Adviser 1's hedge fund, based on material, non-public information received from Rosenberg.

19. "Adviser 2" is a Delaware corporation based in New York City. Registered with Commission as an investment adviser since December 1985, Adviser 2 is the adviser to several hedge funds and is a subsidiary of a corporation registered with the Commission as a broker-dealer. Adviser 2's affiliated company previously employed Rosenberg.

Rosenberg's Access to
Material Nonpublic Information

20. Carter's launched its initial public offering in 2003, and Rosenberg was assigned by his then employer to cover the newly public company. Martin, in Carter's Investor Relations Department, was Rosenberg's primary contact at Carter's. In that position, Martin regularly received reports showing Carter's anticipated quarterly and annual earnings.

21. In 2005, Martin began giving Rosenberg material nonpublic information about Carter's financial results and operations and, on at least one instance, an anticipated merger announcement. At times the information was communicated via telephone calls from Martin while he was in the Atlanta, Georgia area. Martin continued providing such information to Rosenberg even after Carter's terminated Martin's employment in March 2009. The flow of material nonpublic information did not stop until approximately mid-2010.

22. Martin's post-termination source for material nonpublic information about Carter's was Posey, then Carter's Vice President of Operations.

23. Martin continued to provide this information to Rosenberg, who, based upon the nature of the information, knew or should have known that Martin's source was a Carter's insider; one of Martin's former colleagues.

24. Rosenberg knew or should have known that the information he received from Martin, both before and after Martin's termination, was communicated in breach of a duty of trust or confidence to Carter's and its shareholders.

25. In tipping the material, non-public information, Posey, Martin, and Rosenberg each received a personal benefit. At the very least, each enhanced their reputation for having valuable information.

Rosenberg's Insider Trading and Tipping

Trading in Advance of Carter's May 10, 2005 Merger Announcement

26. In early 2005, Martin learned that Carter's was engaged in confidential negotiations to acquire OshKosh. While exploration of a possible sale of OshKosh was announced to the public in or about February 2005, the identity of the buyer and the price of the transaction were not publicly announced until Carter's and OshKosh issued a joint press release on May 10, 2005.

27. In April or early May 2005, Martin told Rosenberg about the negotiations over the price of the acquisition and advised Rosenberg as to the maximum price per share that Carter's would be willing to pay to acquire OshKosh.

28. Based on that material nonpublic information, between April 27, 2005 and May 9, 2005, Rosenberg executed short sales of approximately 20,500 shares of OshKosh common stock betting that the price of OshKosh stock would decline after the announcement.

29. On or about May 10, 2005, Carter's and OshKosh issued a joint press release announcing that Carter's had agreed to acquire OshKosh at a price of $26 per share.

30. OshKosh's stock declined by $3.66 a share at the market close the next day.

31. Rosenberg gained approximately $28,500 after covering his short position.

Trading in Advance of Carter's July 26, 2005
Announcement of Second Quarterly Financial Results

32. Before July 26, 2005, Martin tipped Rosenberg about Carter's upcoming second quarter earnings announcement.

33. On July 26, 2005, based on that material nonpublic information, Rosenberg bought 4,400 shares of Carter's stock.

34. Carter's published its earnings release that day after the market close, announcing a 23% increase in second quarter sales with an EPS of $0.29 that beat market consensus by five cents.

35. On July 27, 2005, the first day of trading after the release, Carter's closed up at $60.64, an increase of $3.54 a share from the prior close.

36. Rosenberg gained approximately $15,500 from this trading.

Trading in Advance of Carter's October 25, 2005 Announcement of Third Quarterly Financial Results

37. In October 2005, Martin tipped Rosenberg that Carter's EPS number for the third quarter would be better than expected.

38. Between October 13 and October 25, 2005, based on that material nonpublic information, Rosenberg purchased 13,800 shares of Carter's stock.

39. On October 25, 2005, after the market close, Carter's announced that its earnings exceeded market consensus by twenty-one cents.

40. The next day, October 26, 2005, Carter's stock closed up at $59.00 a share, an increase of $2.53 per share.

41. Rosenberg profited by approximately $35,000 by this trading.

Trading in Advance of Carter's October 24, 2006
Announcement of Third Quarter Financial Results

42. On September 13, 2006, during an eight minute telephone call with Rosenberg, Martin disclosed that Carter's would likely report earnings below expectations.

43. Less than an hour after Rosenberg spoke to Martin, Rosenberg tipped Owner to the information that he had learned from Martin. That day, Adviser 1 sold short 60,000 shares of Carter's stock.

44. On September 19, 2006, Martin told Rosenberg that, contrary to earlier indications, Carter's earnings were expected to beat market consensus. Shortly after the quarter-close on October 3, 2006, but before quarterly earnings were announced publicly, Martin and Rosenberg spoke for nineteen minutes about Carter's quarterly earnings. Martin again advised Rosenberg that Carter's quarterly earnings would exceed market consensus.

45. Between September 18, 2006 and October 4, 2006, there were a number of phone calls between Rosenberg and Owner.

46. On October 6, 9, 10, and 11, 2006, Adviser 1 bought a total of 60,000 shares of Carter's stock to cover its earlier short sales.

47. On October 24, 2006, after the market closed, Carter's announced that it beat market consensus by $0.03.

48. On October 25, 2006, the first day of trading after the earnings release, Carter's shares closed up at $29.22 per share, an increase of $1.35 per share.

49. By covering its short position before the favorable earnings were publicly disclosed, Adviser 1 avoided losses of approximately $81,000.

Trading in Advance of Carter's April 24, 2007
Announcement of First Quarter Financial Results

50. In March and April 2007, Martin knew that Carter's first quarter 2007 earnings would significantly exceed analysts' estimates and previous guidance issued by the company. Martin communicated that information to Rosenberg.

51. Based on that information, on April 5, 23, and 24, 2007, Rosenberg purchased a total of 15,000 shares of Carter's stock and 50 call options to purchase Carter's stock.

52. During that same time period, Rosenberg and Owner had over fifteen phone calls, during which Rosenberg tipped Owner about Carter's anticipated earnings. And, on the same dates as Rosenberg's trades, Adviser 1 bought a total of 72,000 Carter's shares.

53. Between April 3, 2007 and April 19, 2007, Rosenberg and Adviser 2 also had a number of telephone calls, during which Rosenberg tipped Adviser 2 about Carter's anticipated earnings. On April 18, 2007, Adviser 2 purchased 60,000 shares to cover an existing short position.

54. On or about April 24, 2007, Carter's announced quarterly earnings for the first quarter ended March 2007, which beat market consensus EPS by $0.07.

55. On April 25, 2007, the first day of trading after the release, Carter's shares closed up at $27.73, an increase of $ 1.76 per share.

56. By this trading, Rosenberg and Adviser 1 profited by $20,996 and $126,720, respectively. By covering its short position prior to the favorable earnings announcement, Adviser 2 avoided losses of approximately $105,600.

Trading in Advance of Carter's July 24, 2007
Announcement of Second Quarter Financial Results

57. On June 4, 2007, at 9:52 a.m., Martin and Rosenberg had a four minute telephone call during which Martin disclosed that Carter's would likely have favorable earnings for the quarter. Two minutes later, Rosenberg bought 100 call options (to expire on June 16, 2007) in a joint account, reflecting Rosenberg's view that Carter's share price would increase. Adviser 1 bought 30,000 shares on the same day.

58. The news about Carter's quarterly financial results soon turned negative, and Martin conveyed that information to Rosenberg. Three days later, on Thursday, June 7, 2007, Rosenberg sold the 100 call options.

59. On Friday, June 8, 2007, Rosenberg had an eight minute phone call with Adviser 2 and they spoke for almost two more minutes the following

Monday, June 11, 2007. On June 15, 2007, Adviser 2 sold 400 shares of Carter's stock and sold 59,600 more shares between June 25, 2007 and June 28, 2007.

60. On July 5, 2007, during a six minute telephone call, Martin continued to communicate Carter's negative earnings information to Rosenberg. Three minutes after that call, Rosenberg sold 15,496 shares of Carter's stock across his accounts.

61. Within three minutes of executing his trades, Rosenberg called Owner to share the information that Martin had told Rosenberg. That same day, Adviser 1 sold 102,000 shares of Carter's stock.

62. Between July 23, 2007 and July 24, 2007, there were more phone calls between Rosenberg and Owner. Adviser 1 sold an additional 2,000 shares and sold short 58,000 shares.

63. Between July 2, 2009 and July 24, 2007, there were a series of short phone calls from Rosenberg to Entity 2. On July 16, 18, and 24, 2007, Adviser 2 sold short a total of 60,000 shares of Carter's stock.

64. On July 24, 2007, Carter's announced its quarterly earnings. It disclosed an adjusted second quarter EPS of $0.13, beating market consensus EPS by two cents. But Carter's also announced negative news: its diluted EPS was a loss of $2.48 per share. Carter's announcement explained that the diluted EPS loss had two primary causes: (a) continued negative trends and profitability of the

Oshkosh wholesale and retail segments and (b) costs related to the closure of a major distribution facility.

65. On July 25, 2007, the first day of trading after the announcement, Carter's share price closed at $22.75, a decrease of $2.12 (8.52%) from its previous day's close.

66. Based on their trading, Rosenberg avoided losses of approximately $53,900. Adviser 1 had total profits and losses avoided of approximately $343,440 and Adviser 2 had total profits and losses avoided of approximately $295,000.

Trading in Advance of Carter's July 22, 2008
Announcement of Second Quarter Financial Results

67. By the end of the second week of June 2008, Martin knew that Carter's earnings release for the second quarter ending June 28, 2008, would likely beat market expectations.

68. On Friday, June 13, 2008, Martin had a fifteen minute telephone call with Rosenberg, during which they discussed Carter's anticipated earnings. Within an hour thereafter, Rosenberg bought 6,500 shares of Carter's stock.

69. That afternoon, Rosenberg had a twenty minute phone call with Owner, during which Rosenberg relayed the information he had learned from Martin.

70. The following Monday and Tuesday, June 16, and 17, 2008, Rosenberg bought 5,500 more shares and then called Owner. After that call, Adviser 1 bought 5,000 shares of Carter's stock.

71. Rosenberg and Owner repeated the same tipping and trading pattern on June 18, 19, 20, and 23, 2008, resulting in a total purchase of 20,000 shares of Carter's stock by Adviser 1.

72. Martin's information about Carter's quarterly earnings became more precise as Carter's quarter-close approached.

73. By Wednesday, June 25, 2008, Martin knew actual second quarter 2008 revenues had increased over estimates by at least $5.5 million.

74. On June 30, 2008, Martin attended the first earnings prep session for the quarter and later, he had a telephone call with Rosenberg to relay this earnings information.

75. Two days later, on July 2, 2008, Rosenberg bought 3,000 shares of Carter's stock and an additional 2,200 shares between July 12, and 15, 2008.

76. Later, on the evening of July 15, 2008, Rosenberg had an eleven minute phone call with Owner to discuss Carter's anticipated earnings. The next day, on July 16, 2008, Adviser 1 purchased 2,000 shares of Carter's stock and Rosenberg purchased 100 call options.

77. During the morning of July 16th, Rosenberg also called Adviser 2 to discuss Carter's earnings. Between July 17, 2008, and July 22, 2008, Adviser 2 purchased 100,000 shares of Carter's stock.

78. On July 22, 2008, after the market close, Carter's announced that it beat market consensus EPS by $0.09.

79. On July 23, 2008, the first day of trading after the announcement, Carter's shares closed at $15.92 per share, up $0.66 per share or 4.33% from its previous day's close.

80. Rosenberg gained $47,720 from his trading. Adviser 1 and Adviser 2 gained $14,520 and $194,989, respectively.

Trading in Advance of Carter's October 21, 2008 Announcement of Third Quarter Financial Results

81. On or around October 3, 2008, Martin and Rosenberg had a five minute telephone call about a "big beat," i.e. that Carter's quarterly earnings would greatly exceed expectations. They again spoke about Carter's anticipated earnings on October 16, 2008, at 9:13 a.m. Fifteen minutes later, Rosenberg purchased 11,500 shares. Between October 17 and 21, 2008, Rosenberg bought an additional 5,800 shares of Carter's stock.

82. On October 20, 2008 at 8:37 a.m., Rosenberg had a six minute phone call with Adviser 2, during which Rosenberg revealed Carter's favorable earnings. Thereafter, Adviser 2 bought 70,000 shares of Carter's stock.

83. On October 21, 2008, after the market closed, Carter's announced that its third quarter EPS of $0.60 beat market consensus by $0.14.

84. On October 22, 2008, the first day of trading after the announcement, Carter's closed at $18.74 per share, up $2.26 per share or 13.71% from its previous day's close.

85. Rosenberg's gained approximately $39,000 from his trading and Adviser 2 gained approximately $232,000 from its trading.

Trading in Advance of Carter's February 24, 2009
Announcement of Fourth Quarter and 2008 Annual Financial Results

86. On January 7, 2009, Martin passed positive earnings information about Carter's to Rosenberg during a seven minute phone call. Within an hour of that call, Rosenberg called Owner.

87. Rosenberg spoke to Owner about Carter's financial results on both January 8, 2009 and January 9, 2009.

88. On January 9, 2009, Adviser 1 bought 10,000 shares of Carter's stock.

89. **B**eginning in early January 2009, Rosenberg also had numerous conversations with Adviser 2 about Carter's anticipated earnings. In early January 2009, Adviser 2 sold a put contract for 150,000 Carter's shares for $17.50, representing a bet that Carter's share price would rise. To the contrary, however, Carter's stock price declined, and the put contract was exercised on February 20, 2009. As a result, Adviser 2 purchased 150,000 Carter's shares from the put

holder at $17.50 per share, when the market price for Carter's shares was just above $14 per share. Adviser 2 held the 150,000 shares until after Carter's earnings release, expecting the prices to rise.

90. On February 24, 2009, prior to the earnings release, Rosenberg purchased 5,000 shares of Carter's stock in his individual account based on material information from Martin about Carter's earnings.

91. After the market closed that day, Carter's announced that the EPS for its fourth quarter, ending December 27, 2008, were $0.49, which beat market consensus $0.47 by $0.02.

92. On February 25, 2009, the first day of trading after the announcement, Carter's closed at $15.94 per share, up $1.52 per share (10.54%) from its previous day's close at $14.42 per share.

93. As a result of their trading, Rosenberg earned approximately $7,600, Adviser 1 earned approximately $15,200 and Adviser 2 earned approximately $228,000.

Trading in Advance of Carter's July 28, 2009 Announcement of Second Quarter Financial Results

94. Between July 20 and 23, 2009, Posey informed Martin that Carter's expected to beat second quarter 2009 consensus EPS by a significant amount. Martin communicated that information to Rosenberg.

95. Between July 21 and July 28, 2009, based on that material nonpublic information, Rosenberg bought 24,000 shares of Carter's stock.

96. Fully aware that the information had been communicated to him in breach of a duty of trust or confidence, Rosenberg passed the information to Owner.

97. Between July 21 and 28, 2009, Owner purchased a total of 23,000 shares of Carter's stock in his individual account.

98. Rosenberg likewise passed the information to Adviser 2. Between July 22 and 28, 2009, Adviser 2 purchased 170,000 shares of Carter's stock.

99. On July 28, 2009, after the market closed, the company announced positive news that its EPS beat market consensus EPS by $0.17.

100. During the next trading day, Carter's shares traded as high as $28.30 before closing at $ 27.01 per share, as compared to the previous day's close of $26.92.

101. Based on their trading, Rosenberg, Owner, and Adviser 2 gained approximately $34,000, $4,600, and $208,000, respectively.

Trading in Advance of Carter's October 27, 2009
Announcement of Delayed Third Quarter Financial Results

102. On or about October 20, 2009 Martin learned for the first time from Posey that Carter's planned to announce its third quarter earnings delay and the likelihood of an earnings restatement for several years. Posey also told Martin that

he should "dump" all of his Carter's stock. Subsequently, in late October 2009, Rosenberg called Martin to ask about his trading plans for his Carter's stock because the price had moved up in anticipation of the release of third quarter earnings, scheduled for publication on October 27, 2009.

103. Martin told Rosenberg that there was an issue at Carter's involving accommodations granted to Kohl's. Martin told Rosenberg that the SEC was involved. Moreover, Martin told Rosenberg that he (Martin) had sold all of his Carter's stock.

104. Immediately after talking to Martin on October 26, 2009, Rosenberg sold 15,000 shares of Carter's stock and bought 100 puts through his online account with Fidelity. The purchase of puts reflected Rosenberg's view that Carter's share price would decline.

105. Rosenberg immediately passed the information on to Owner and Adviser 1, telling them to sell all of their shares.

106. On October 26, 2009, Adviser 1 sold 20,000 shares, and Owner sold 11,846 shares.

107. On October 27, 2008, at 9:28 a.m., after the market opened, Carter's announced that it was "delaying earnings release to complete a review of its accounting for margin support to its wholesale customers."

108. On October 27, 2008, the first day of trading after the announcement, Carter's closed at $21.66 per share, down $6.78 per share or 23.84% from its previous day's close at $28.44.

109. Two days later, Rosenberg exercised his 100 puts, thereby earning a profit of $150,000. By selling their shares in Carter's, Adviser 1 and Owner avoided losses of $135,000 and $80,316 respectively.

COUNT I – FRAUD
Violations of Section 17(a)(1) of the Securities Act
[15 U.S.C. § 77q(a)(1)]

110. Paragraphs 1 through 109 are hereby re-alleged and are incorporated herein by reference.

111. Between 2005 and 2010, Defendant, in the offer and sale of securities described herein, by the use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes, and artifices to defraud, all as more particularly described above.

112. Defendant knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, Defendant acted

with scienter, that is, with intent to deceive, manipulate or defraud or with a severely reckless disregard for the truth.

113. By reason of the foregoing, Defendant, directly and indirectly, has violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77a(q)].

COUNT II – FRAUD
Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]

114. Paragraphs 1 through 109 are hereby re-alleged and are incorporated herein by reference.

115. Between 2005 and 2010, Defendant, in the offer and sale of securities described herein, by the use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly

a. obtained money and property by means of untrue statements of material fact and 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

b. engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described above.

116. By reason of the foregoing, the Defendant Rosenberg, directly and indirectly, has violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

COUNT III – FRAUD
Violations of 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]

117. Paragraphs 1 through 109 are hereby re-alleged and are incorporated herein by reference.

118. Between 2005 and 2010, Defendant, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

a. employed devices, schemes, and artifices to defraud; and

b. engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

119. Defendant knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, Defendant acted with scienter, that is, with intent to deceive, manipulate or defraud or with a severely reckless disregard for the truth.

120. By reason of the foregoing, Defendant, directly and indirectly, has 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].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff SEC respectfully prays for:

I.

Findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, finding that Defendant committed the violations alleged herein and that the relief defendant was unjustly enriched.

II.

A permanent injunction enjoining Defendant, his agents, servants, employees, and attorneys from violating, directly or indirectly, Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder.

III.

An order requiring the disgorgement by Defendant of all ill-gotten gains or unjust enrichment with prejudgment interest, to affect the remedial purposes of the federal securities laws.

IV.

An order pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1] imposing civil penalties against Defendant.

V.

Such other and further relief as this Court may deem just, equitable, and appropriate in connection with the enforcement of the federal securities laws and for the protection of investors.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Commission demands trial by jury in this action of all issues so triable.

Dated: October 28, 2013.

Respectfully submitted,

/s/ M. Graham Loomis
Regional Trial Counsel
Georgia Bar No. 457868
(404) 842-7622
loomism@sec.gov

/s/ Pat Huddleston
Pat Huddleston
Senior Trial Counsel
Georgia Bar No. 373984
(404) 842-7616
huddlestonp@sec.gov

Counsel for Plaintiff
U.S. Securities and Exchange Commission
950 East Paces Ferry Road, N.E., Suite 900
Atlanta, Georgia 30326-1234