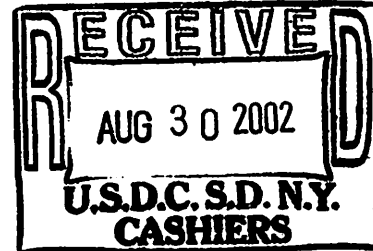


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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**



**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**MICHAEL I. NNEBE,**  
**NELSON C. WALKER,**  
**HILDRETH J. FLEMING, JR.,**  
**STEVEN S. BOCCHINO, and**  
**DANIEL M. COYLE,**

**Defendants,**

**LUIS COLON, JR.,**

**Relief Defendant.**

**01 Civ. 5247 (KMW)**

**AMENDED COMPLAINT**

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against Defendants Michael I. Nnebe ("Nnebe"), Nelson C. Walker ("Walker"), Hildreth J. Fleming, Jr. ("Fleming"), Steven S. Bocchino ("Bocchino"), and Daniel M. Coyle ("Coyle") (collectively, the "Defendants"), and against Relief Defendant Luis Colon, Jr. ("Colon" or the "Relief Defendant"), alleges as follows:

## NATURE OF THE ACTION

1. From at least July 1997 to at least November 1999 (the "Relevant Period"), Nnebe conducted a fraudulent, unregistered offering of stock issued by Fargo Holdings, Inc. ("Fargo"), a company Nnebe owned and controlled. The scheme netted at least \$2 million from at least 118 investors. Nnebe and others told investors that Fargo was a day-trading firm and a blue jeans manufacturer, when in fact Fargo had no real business at all. Contrary to express representations that Fargo would apply investor proceeds to legitimate business purposes, Nnebe stole the majority of investor funds and gave much of the rest to the other Defendants and the Relief Defendant.

2. Nnebe orchestrated the fraud and, with Walker and Fleming, solicited investors from Fargo's "boiler room" at 80 Wall Street. Bocchino and Coyle solicited investors while working as registered representatives at two broker-dealers. To induce investors to buy Fargo stock, the Defendants falsely told investors, among other things, that Fargo operated a day-trading business; manufactured blue jeans in Honduras; would be conducting an initial public offering ("IPO"); had institutional investors ready to purchase shares in the Fargo IPO; traded on various exchanges; and was a "risk-free" investment. Nnebe was responsible for preparing private placement memoranda that misrepresented, among other things, the anticipated uses of investor proceeds and the levels of commissions paid for selling Fargo stock. In fact, Fargo never took any steps toward conducting an IPO, had no legitimate business, and did not use the offering proceeds to fund its purported businesses. Nnebe misappropriated more than \$1.15 million in offering proceeds, which he used for personal mortgage and credit card payments, international and domestic travel, a Rolls-Royce automobile, and transfers to Nnebe's friends and family in Nigeria. Walker received at least \$191,305 from the fraud and Colon received at

least \$153,125 of the offering proceeds. Fleming received commissions totaling at least \$15,000, Bocchino received commissions totaling at least \$14,800, and Coyle received commissions totaling at least \$7,000.

3. The Fargo stock sold to investors was not registered with the Commission and did not qualify for any exemption from the registration requirements of the Securities Act of 1933 (“Securities Act”).

### **VIOLATIONS**

4. The Defendants have engaged, and, unless enjoined and restrained, will again engage, in transactions, acts, practices and courses of business that constitute violations of Sections 5(a), 5(c), and 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c), and 77q(a); Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5; and, with respect to Walker, Fleming, Bocchino, and Coyle, Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

### **JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), to obtain a final judgment: (a) permanently enjoining the Defendants from engaging in the types of transactions, acts, practices, and courses of conduct described herein; (b) requiring each Defendant and the Relief Defendant to provide an accounting of their assets and ill-gotten gains; (c) requiring each Defendant to disgorge their ill-gotten gains, plus prejudgment interest thereon; (d) requiring the Relief Defendant to disgorge funds equal to the amount by which he was unjustly enriched; (e) permanently prohibiting each Defendant from participating in an offering of penny stock; and (f) imposing civil penalties against each Defendant pursuant to

Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d).

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

7. The Defendants, directly and indirectly, made use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or the mails in connection with the transactions, acts, practices, or courses of business alleged herein. Certain of the transactions, acts, practices, or courses of business alleged herein took place within the Southern District of New York, including, but not limited to, the offer and sale of Fargo securities from Fargo's office located at 80 Wall Street in New York City.

#### **THE DEFENDANTS**

8. Nnebe, age 41, resides in Orange, New Jersey. During the Relevant Period, Nnebe was Fargo's President, Chief Executive Officer, and principal shareholder.

9. Walker, age 48, resides in Brooklyn, New York. From approximately October 1998 through November 1999, Walker worked at Fargo, where he cold-called investors to solicit purchases of Fargo stock and supervised a group of cold-callers who also offered and sold Fargo stock. Walker held himself out as Fargo's Senior Portfolio Manager and Underwriting Director.

10. Fleming, age 29, resides in Staten Island, New York. From approximately November 1998 through November 1999, Fleming worked at Fargo, where he cold-called investors to solicit purchases of Fargo stock.

11. Bocchino, age 31, resides in East Stroudsburg, Pennsylvania. During the Relevant Period, Bocchino resided in Brooklyn, New York. Bocchino solicited sales of Fargo

stock between at least October 1998 and February 1999, while he was a registered representative at Pacific Continental Securities Corp. ("Pacific Continental") and Seaboard Securities, Inc. ("Seaboard").

12. Coyle, age 28, resides in Brooklyn, New York. Coyle solicited sales of Fargo stock between at least September 1998 and August 1999, while he was a registered representative at Pacific Continental and Seaboard.

#### **RELIEF DEFENDANT**

13. Colon, age 29, resides in New York, New York. From approximately September 1997 through November 1999, Colon received at least \$153,125 from the Fargo offering proceeds.

#### **OTHER RELEVANT ENTITY**

14. Fargo is a non-operating Delaware corporation formed in August 1996. During the Relevant Period, Fargo maintained an office at 80 Wall Street, Suite 1018, New York, New York 10005. Fargo filed two "Form Ds" ("Notice of Sale of Securities Pursuant to Regulation D") with the Commission, one in July 1997 and one in August 1998, which describe Fargo's business as financial management services. Fargo's offering documents variously describe Fargo as a day-trading firm and a blue jeans manufacturer. In November 1999, Fargo abruptly closed its offices and left no telephone number or forwarding address.

#### **BACKGROUND**

15. The Fargo offering fraud began in or about July 1997 when salespeople, working for Nnebe, began soliciting investors through cold-calls to buy Fargo stock in a purported private placement. In or around July 1997 Nnebe applied a portion of \$25,000 raised from the sale of Fargo stock to one investor to rent a three-room office for Fargo at 80 Wall Street, New York,

New York. According to the lease application, signed by Nnebe, Fargo rented the office to operate a securities brokerage business. In reality, the office was used as a typical "boiler room:" the two corner offices each contained approximately six desks, equipped with telephones, and at any given time Fargo employed as many as twelve unregistered salespeople to sell Fargo stock.

16. Fargo purported to conduct the offering pursuant to the registration safe harbor provided by Rule 504 of Regulation D. According to sales materials sent to investors, Fargo was offering to sell a maximum of 200,000 shares of Fargo common stock at \$5 per share. In fact, at least 118 investors purchased at least 417,470 shares of Fargo for an aggregate of at least \$2 million.

17. The Fargo private placement was a fraud from the start. According to Fargo sales materials and statements made by Nnebe, Fargo was alternatively, and perhaps simultaneously, a day-trading firm and a manufacturer of blue jeans. In fact, Fargo never had any legitimate business operations. Shortly after receiving the first \$25,000 investment, Nnebe began writing checks to himself, to cash, and to pay for personal expenses, which included credit card payments and repairs to his automobile. This trend continued throughout the offering: whenever money came in from investors, it was almost immediately diverted to the personal use of Nnebe, the other Defendants, and the Relief Defendant.

18. In or around November 1999, Fargo vacated its offices, leaving no forwarding address or telephone number. Investors have been unable to contact Fargo, its principals, or its salespeople since that time. Other than one investor who received back a portion of her investment before November 1999, none of the investors have recovered any money from Fargo.

19. In connection with the offer and sale of Fargo stock, Nnebe, Walker, Fleming, Coyle, Bocchino, and other Fargo salespeople, employed a variety of blatant falsehoods to

induce investors to buy Fargo stock. The most significant of these concern: (a) the use of investor proceeds; (b) Fargo's business and operations; (c) plans for Fargo to conduct an IPO which would allow investors to sell their private placement shares for a substantial profit; (d) plans to list Fargo stock on the New York Stock Exchange ("NYSE") or the National Association of Securities Dealers Automated Quotation ("NASDAQ"); (e) the risks of investing in Fargo; and (f) subsequent developments at Fargo when the promised IPO did not take place. The Defendants made these misrepresentations in two contexts: (a) by preparing, in the case of Nnebe, or distributing, in the case of Walker, Fleming, and Coyle, offering memoranda; and (b) by making oral misrepresentations directly to investors.

#### **WRITTEN MISREPRESENTATIONS**

20. Nnebe created, or caused to be created, three versions of the Fargo private placement memorandum sent to investors: a private placement memorandum dated July 1, 1997 ("Fargo PPM"); an amended private placement memorandum dated September 1, 1998 ("First Amended PPM"); and a second amended private placement memorandum also dated September 1, 1998 ("Second Amended PPM") (collectively, the "Offering Memoranda"). The First Amended PPM is identical to the Fargo PPM except for the date. The Second Amended PPM is very similar to the Fargo PPM, but adds representations about continuing in the financial services industry and entering the blue jeans business.

21. The Offering Memoranda stated that Fargo is offering a maximum of up to 200,000 shares of Fargo common stock pursuant to Rule 504 of Regulation D. Most investors were provided with a copy of one of the Offering Memoranda prior to making their investment in Fargo. Some investors received the Offering Memoranda after their first purchase of Fargo stock, but before being solicited to purchase additional shares. Additionally, most investors

received a subscription agreement from Fargo, and some investors received other fraudulent written offering materials.

22. The material misrepresentations contained in the Offering Memoranda – described in detail below – are attributable to Nnebe, Walker, Fleming, and Coyle. Nnebe was responsible for preparing the Offering Memoranda. Nnebe helped draft the Offering Memoranda, provided the information that was contained in them, and was responsible for their content. In addition, Nnebe provided a description of Fargo’s purported business and of how Fargo would use the offering proceeds, and Nnebe drafted amendments to the description of Fargo’s purported business and the use of proceeds sections of the Offering Memoranda. Nnebe read each version of the Offering Memoranda before it was sent to investors. Walker and Fleming sent, or caused to be sent, the Offering Memoranda to at least some investors, and Coyle, who had read the Fargo PPM prior to soliciting investors, also sent, or caused to be sent, the Fargo PPM to investors.

#### **Misrepresentations About the Offering Proceeds and Sales Commissions**

23. The Fargo PPM and the First Amended PPM each represented that Fargo’s management intended to apply proceeds from the stock offering as follows: Establishing Facilities, Including Rent and Leasehold Improvements: \$300,000; Administrative: \$250,000; Consultants: \$100,000; Working Capital: \$320,000; Total: \$980,000. The Second Amended PPM allowed for an additional \$100,000 for salaries, but left the other categories and the total unchanged. The Offering Memoranda further stated that Fargo would pay no more than 10 percent of the gross offering proceeds as commissions to salespeople.

24. The representations contained in paragraph 23 regarding the use of proceeds and the commissions paid to salespeople were materially false and misleading. Nnebe systematically



misappropriated at least \$1,156,451, or 57 percent of the gross offering proceeds, through checks written to himself, to cash, and to pay various personal expenses, through wire transfers to bank accounts in Nigeria, and through domestic and international ATM withdrawals. Nnebe used some of the offering proceeds to purchase luxury items including, among other things, a Rolls-Royce automobile. In addition, Nnebe paid salespeople commissions ranging from approximately 14 to approximately 28 percent of the offering proceeds as compensation for selling Fargo stock.

25. The flow of funds in and out of Fargo's bank accounts indicates that Nnebe intended to misuse the Fargo offering proceeds at the time that he and the other Defendants solicited investors and therefore knew, or was reckless in not knowing, that his representations about the use of proceeds were false. On numerous occasions, Nnebe withdrew Fargo money for his own benefit almost immediately after receiving it from investors. For example, Nnebe opened a bank account for Fargo at Citibank on November 4, 1998. The first two deposits into that account were checks from investors: \$15,000 on November 24, 1998, and \$5,000 on December 12, 1998. Between December 21, 1998 and January 5, 1999, Nnebe withdrew or spent the entire \$20,000 of investor funds (there were no other deposits to the account): a little over \$2,000 went for Fargo's rent and some shipping expenses; the rest went directly to Nnebe who wrote a check to cash for \$1,000, made ATM withdrawals totaling \$900, and wired out \$16,000 as partial payment for a luxury automobile.

26. Walker knew, or was reckless in not knowing, that sales personnel were receiving more than 10 percent of the offering proceeds. Walker received \$191,305 in commissions – equal to 13.7 percent of the total offering proceeds (\$1,394,223) raised during Walker's tenure at Fargo, October 1998 through November 1999. Because Walker knew that Nnebe was paying

more in commissions than represented in the Offering Memoranda, Walker knew, or was reckless in not knowing, that the offering proceeds generally were not being applied as represented in the Offering Memoranda.

27. Fleming knew, or was reckless in not knowing, that sales personnel were receiving more than 10 percent of the offering proceeds. During his tenure at Fargo, November 1998 through November 1999, Fleming received commissions of as much as 25 percent on the Fargo shares he sold. Because Fleming knew that Nnebe was paying more in commissions than represented in the Offering Memoranda, Fleming, knew, or was reckless in not knowing, that the offering proceeds generally were not being applied as represented in the Offering Memoranda.

#### **Misrepresentations About Fargo's Purported Business Operations**

28. The Offering Memoranda sent to investors contained false and misleading statements about Fargo's business. For example, the Offering Memoranda stated that Fargo provides technical development, financial management, and business related services and products related to investment banking, merchant banking, equity, debt, convertible instruments, currency, commodity options and futures, warrants, closed-end fund shares, unit trusts, treasury securities, new issues, venture capital situations, business start-up, corporate finance, spot currency transactions, mortgage backed securities, and mortgage originations.

29. The statements contained in paragraph 28 regarding Fargo's purported businesses were materially false and misleading because Fargo never actually operated any form of financial services business. In fact, Fargo had no actual business at all apart from raising money from investors.

30. In addition, the Second Amended PPM falsely stated, among other things, that:  
(a) Fargo will continue its day-trading activities and provide facilities for traders; (b) Fargo will

sell stocks and municipal and corporate bonds; (c) Fargo will conduct block trading, "stock renting," and full-service brokerage activities; (d) Fargo will deal in money management, options, warrants, commodities, futures, spot currencies, mortgage backed instruments, and mortgage originations; (e) Fargo will provide money-markets, foreign and domestic wire transfers, and distribution of financial letters; and (f) Fargo intends to conduct an import-export business.

31. The representations contained in paragraph 30 regarding Fargo's purported business were materially false and misleading because Fargo never operated a day-trading business, and Fargo never took any steps to sell stocks and municipal and corporate bonds, to provide block trading and full-service brokerage services, or to do any of the other activities described in the Second Amended PPM. As discussed above, Fargo had no actual business at all apart from raising money from investors.

32. The Offering Memoranda also stated that: (a) Fargo has a board of directors that exercises final authority over corporate decisions; (b) Michael Nnebe is the Chairman of Fargo's Board of Directors; (c) Fargo has generated income; and (d) Fargo, through appointments by its board of directors, plans to establish an advisory committee.

33. The statements contained in paragraph 32 were materially false and misleading because Fargo never had a board of directors, never generated any income, and never had any plans to establish an advisory committee.

34. In connection with the purchase and sale of Fargo stock, Walker sent investors, or caused to be sent to investors, a business card that identified him as Fargo's Senior Portfolio Director and Underwriting Director, and Fargo as an investment bank.

35. The statements contained in paragraph 34 were materially false and misleading because Fargo never had any portfolio for Walker to manage, and Fargo never operated any form of business other than fraudulently raising money from investors.

36. Nnebe knew, or was reckless in not knowing, that the representations about Fargo's business, including those contained in paragraphs 28, 30, and 32, were false and misleading because he personally controlled the company, was Fargo's President, Chief Executive Officer, and principal shareholder, and he misappropriated the lion's share of investor proceeds raised purportedly to help Fargo operate its business.

37. Walker knew, or was reckless in not knowing, that the representations about Fargo's business, including those contained in paragraphs 28, 30, 32, and 34, were false and misleading because he worked out of Fargo's only office at 80 Wall Street, and knew that Fargo was nothing more than a "boiler-room" operation. In addition, Walker knew, or was reckless in not knowing, that Fargo did not have any real financial services business because, as Fargo's designated "Senior Portfolio Manager and Underwriting Director," he likely would have played a key role in that business if it had existed.

38. Fleming knew, or was reckless in not knowing, that the representations about Fargo's business, including those contained in paragraphs 28, 30, and 32, were false and misleading because he worked at Fargo's only office at 80 Wall Street, and knew that Fargo was nothing more than a "boiler room" operation.

39. Coyle knew, or was reckless in not knowing, that the representations about Fargo's business, including those contained in paragraphs 28 and 32, were false because, when he solicited investors to purchase Fargo stock, Coyle knew that Fargo had no ongoing operations.

## **ORAL MISREPRESENTATIONS**

40. In connection with the offer and sale of Fargo stock, the Defendants each made oral misrepresentations to investors. Nnebe directly solicited at least one investor by telephone. Walker communicated with prospective investors directly and supervised cold-callers who talked to investors. When speaking to prospective investors, Walker frequently used the pseudonym "Darrell Marshall" ("Marshall"), and Fleming frequently used the pseudonym "Steve Wilson" ("Wilson"). Coyle and Bocchino spoke to investors from the offices of the broker-dealers with whom they were associated at the time.

### **Misrepresentations About Fargo's Purported IPO**

41. In connection with the offer and sale of Fargo stock, Walker, Fleming, and other Fargo salespeople, supervised by Walker, cold-called investors and solicited them to purchase Fargo stock for \$5 per share in a purported private placement. Walker, Fleming, and the other Fargo salespeople told investors, among other things, that Fargo operated a day-trading business and/or manufactured blue jeans, and imminently would be conducting an IPO, and that investors could resell their private placement shares in the IPO for two to three times the original purchase price. For example: (a) Walker told investors that they could resell any private placement shares that they purchased in the Fargo IPO for \$8 to \$12 per share; (b) Walker told investors that the Fargo IPO would occur in a particular month; (c) "Wilson" (i.e., Fleming) told investors that they could resell any private placement shares they purchased in the Fargo IPO for as much as \$30 per share; (d) "Wilson" (i.e., Fleming) told some investors that the Fargo IPO would occur in July 1999 and other investors that the Fargo IPO would occur in November 1999; and (e) "Wilson" (i.e., Fleming) told investors that Fargo had lined up a group of large banks and institutions to purchase Fargo stock in the IPO.

42. On at least one occasion, Nnebe told an investor that Fargo was negotiating to sell shares in its IPO to institutional investors, and that the investor would be able to resell his Fargo stock in the IPO for at least \$20 per share.

43. Bocchino and Coyle also induced several of their customers to purchase Fargo stock by representing that Fargo would be conducting an IPO of its stock in the near future that would allow the investors to resell their private placement shares for a substantial profit. For example: (a) Bocchino told at least two of his clients that they could resell any private placement shares they purchased for \$8 to \$12 per share after the Fargo IPO; and (b) Coyle told at least three investors that the Fargo IPO would cause the price of Fargo stock to double.

44. Defendants' representations regarding an IPO, including those contained in paragraphs 41-43, were materially false and misleading because: (a) Fargo never conducted an IPO, and never took any steps whatsoever to conduct an IPO; (b) there was no reasonable basis for the representation that Fargo would be in a position to conduct an IPO within a few months time; and (c) there was no reasonable basis for any of the price predictions made by the Defendants.

45. Walker knew, or was reckless in not knowing, that his representations about an IPO, including those contained in paragraph 41, were false and misleading, because as Fargo's "Senior Portfolio Manager and Underwriting Director" he likely would have been involved in any preparations for an IPO. Nnebe knew, or was reckless in not knowing, that his representations about an IPO, including those contained in paragraph 42, were false and misleading, because as Fargo's President and Chief Executive Officer, he would have known if steps had been taken towards conducting an IPO and if there were negotiations to sell shares in the IPO to institutional investors. Coyle knew, or was reckless in not knowing, that his

representations about an IPO, including those contained in paragraph 43, were false and misleading, because he knew that Fargo had no current operations. Bocchino knew, or was reckless in not knowing, that his representations about an IPO, including those contained in paragraph 43, were false and misleading, because he based his statements on information provided by Coyle and Nnebe without conducting any further inquiry about Fargo, including the likelihood of a Fargo IPO. Fleming knew, or was reckless in not knowing, that his representations about an IPO, including those contained in paragraph 41, were false and misleading, because, he admitted he simply made up the information that he communicated to investors.

#### **Misrepresentations About the Trading Market for Fargo Stock**

46. In connection with the offer and sale of Fargo stock, Fargo salespeople, including Fleming, gave investors materially false and misleading information regarding the market for Fargo shares. For example, "Wilson" (i.e., Fleming) told several investors that Fargo would be listed on the NYSE or the NASDAQ system, and told some investors that Fargo was already listed on the NYSE under the symbol FGH.

47. The representations contained in paragraph 46 were materially false and misleading because Fargo was never listed on any stock exchange and never took any steps to become listed on the NYSE or NASDAQ. Moreover, the NYSE symbol FGH belongs to Friede Goldman Halter, Inc. ("Friede"), a company that has never had any relationship to Fargo.

48. Fleming knew, or was reckless in not knowing, that his representations about the market for Fargo stock, including those contained in paragraph 46, were materially false and misleading because Fleming knew that Fargo was not listed on any stock exchange and had never taken any steps to become listed.

### **Misrepresentations About Fargo's Purported Business**

49. In connection with the offer and sale of Fargo stock, Fargo salespeople, including Nnebe, Walker, Fleming, and Bocchino made a variety of false and misleading statements about Fargo's purported business. For example:

- (a) Walker and Bocchino told some investors that Fargo manufactured blue jeans at a plant in Honduras;
- (b) Bocchino told some investors that Fargo operated a day-trading business;
- (c) "Wilson" (i.e., Fleming) told investors that Fargo had contracts to sell Fargo blue jeans to several large department stores;
- (d) "Wilson" (i.e., Fleming) told investors that Fargo was a holding company that owned other companies and/or shares of other companies, including GAP, Baby GAP, LA Gear, and a day-trading firm;
- (e) "Wilson" (i.e., Fleming) told investors that a day-trading firm had retained Fargo to take it public; and
- (f) Nnebe told investors that Fargo was developing a short-order execution system to use in its day-trading business.

50. The representations in paragraph 49 were materially false and misleading because Fargo never had a day-trading business, was never retained by a day-trading firm to take it public, never attempted to develop a short-order execution system, never manufactured blue jeans in Honduras, never owned other companies or shares of other companies, and never had any contracts to sell blue jeans to department stores.

51. Walker knew, or was reckless in not knowing, that his representations about Fargo's business, including those contained in paragraph 49(a) were materially false and



misleading because he worked out of Fargo's only office at 80 Wall St. and knew that Fargo was nothing more than a "boiler room" operation. Fleming knew, or was reckless in not knowing, that his representations about Fargo's business, including those contained in paragraph 49(c), (d), and (e), were false and misleading because, among other things, he knew that Fargo did not have any contracts or relationships with large department stores or a day-trading firm, and knew that Fargo did not own shares of any other companies. Bocchino knew, or was reckless in not knowing, that his representations about Fargo's business, including those contained in paragraph 49(a) and (b), were materially false and misleading because he based his statements on information provided by Coyle and Nnebe without conducting any further inquiry about Fargo. Nnebe knew, or was reckless in not knowing, that his representations about Fargo's business, including those contained in paragraph 49(f), were materially false and misleading because he personally controlled the company and was Fargo's President and Chief Executive Officer, and because he misappropriated the lion's share of investor proceeds raised purportedly to help Fargo operate its business.

#### **Misrepresentations About the Risks of Purchasing Fargo Stock**

52. In connection with the offer and sale of Fargo stock, Fargo salespeople, including Fleming and Coyle, persuaded some investors to purchase Fargo shares by making false statements about the safety of the investment. For example: (a) "Wilson" (i.e., Fleming) told several investors that their initial investments were absolutely risk-free and the money would be returned if the IPO did not take place; and (b) Coyle told at least one investor that his investment was risk-free and that if Fargo did not conduct its IPO by September 1999, Fargo would return his money.

53. The representations contained in paragraph 52 were materially false and misleading because the investment in Fargo was not risk-free, and Fargo was not in a position to return investor money because Nnebe misappropriated the money almost as soon as it came in.

54. Fleming and Coyle knew, or were reckless in not knowing, that their representations about the risk of investing in Fargo, including those contained in paragraph 52, were materially false and misleading. Neither Fleming – who knew, or recklessly disregarded, that Fargo’s supposed operational headquarters were nothing more than a “boiler room” – nor Coyle – who knew that Fargo had no current operations – could have believed in good faith that an investment in Fargo was risk-free.

#### **Misrepresentations to Induce Further Investments**

55. When the IPO did not occur as promised; Nnebe, Walker, Fleming, and other Fargo salespeople made unfounded excuses about the delay and used the excuses to solicit additional purchases of Fargo stock, a tactic that often worked. For example: (a) “Marshall” (i.e., Walker) and “Wilson” (i.e., Fleming) told several investors that a hurricane in Honduras had damaged the factory where Fargo purportedly manufactured blue jeans; (b) Nnebe and “Wilson” (i.e., Fleming) told some investors that Fargo had delayed its IPO because it was negotiating to sell shares of the IPO to large banks and institutions; and (c) on several occasions, “Wilson” (i.e., Fleming) told investors that the IPO had been delayed because Fargo had not sold all of its private placement shares. Several investors purchased additional private placement shares after hearing these representations.

56. The representations contained in paragraph 55 were materially false and misleading because, as discussed above, Fargo had never taken any steps towards conducting an

IPO, Fargo never owned or operated a factory in Honduras, and Fargo was not negotiating to sell shares in its IPO to any banks or institutional investors.

57. Walker knew, or was reckless in not knowing, that his representations about the delay in Fargo's IPO, including those contained in paragraph 55(a), were materially false and misleading because, as discussed above, he worked out of Fargo's only office at 80 Wall St., knew that Fargo was nothing more than a "boiler room" operation, and likely would have been involved in any preparations for an IPO. Nnebe knew, or was reckless in not knowing, that his representations about a delay in Fargo's IPO, including those contained in paragraph 55(b), were materially false and misleading because, as discussed above, he would have known if steps had been taken towards conducting an IPO and if there were negotiations to sell shares in the IPO to institutional investors. Fleming knew, or was reckless in not knowing, that his representations about the delay in Fargo's IPO, including those contained in paragraphs 55(a), (b), and (c), were false and misleading because he admitted he simply made up the information that he communicated to investors.

### **FIRST CLAIM FOR RELIEF**

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

**(Against Nnebe, Walker, Fleming, Bocchino, and Coyle)**

58. The Commission realleges and incorporates Paragraphs 1 through 57 by reference as if fully set forth herein.

59. The Fargo stock was a security within the meaning of Section 2(1) of the Securities Act, 15 U.S.C. § 77b(1), and Section 3(10) of the Exchange Act, 15 U.S.C. § 78c(10).

60. As part of and in furtherance of the aforementioned conduct, and as more fully described above, the Defendants, directly and indirectly, in the offer or sale, and in connection

with the purchase or sale, of securities, by use of the means or instruments of transportation or communication in interstate commerce, the means or instrumentalities of interstate commerce, the mails, or the facilities of a national securities exchange: (a) employed devices, schemes, and artifices to defraud; (b) obtained money or property by means of, or otherwise made, untrue statements of material facts 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, acts, practices, and courses of business that operated as a fraud or deceit upon purchasers of securities and other persons.

61. As part of and in furtherance of this violative conduct, Nnebe, directly or indirectly, made the misrepresentations alleged in paragraphs 42, 49(f), and 55(b) above, and prepared and sent, or caused to be sent, the Offering Memoranda containing the misrepresentations alleged in paragraphs 23, 28, 30, and 32 above. The false statements and omissions made by Nnebe, more fully described above, were material, and Nnebe knew, or was reckless in not knowing, that the material misrepresentations, described above, were false or misleading.

62. As part of and in furtherance of this violative conduct, Walker, directly or indirectly, made the misrepresentations alleged in paragraphs 41(a) and (b), 49(a), and 55(a) above, sent, or caused to be sent, the Offering Memoranda containing the misrepresentations alleged in paragraphs 23, 28, 30, and 32 above, and sent, or caused to be sent, his business card containing the misrepresentations alleged in paragraph 34 above. The false statements and omissions made by Walker, more fully described above, were material, and Walker knew, or was reckless in not knowing, that the material misrepresentations, described above, were false or misleading.

63. As part of and in furtherance of this violative conduct, Fleming, directly or indirectly, made the misrepresentations alleged in paragraphs 41(c), (d), and, (e), 46, 49(c), (d), and (e), 52(a), and 55(a), (b), and (c) above, and sent, or caused to be sent, the Offering Memoranda containing the misrepresentations alleged in paragraphs 23, 28, 30, and 32 above. The false statements and omissions made by Fleming, more fully described above, were material, and Fleming knew, or was reckless in not knowing, that the material misrepresentations, described above, were false or misleading.

64. As part of and in furtherance of this violative conduct, Bocchino, directly or indirectly, made the misrepresentations alleged in paragraphs 43(a) and 49 (a) and (b) above. The false statements and omissions made by Bocchino, more fully described above, were material, and Bocchino knew, or was reckless in not knowing, that the material misrepresentations, described above, were false or misleading.

65. As part of and in furtherance of this violative conduct, Coyle, directly or indirectly, made the misrepresentations alleged in paragraphs 43(b) and 52(b) above and sent, or caused to be sent, the Offering Memoranda containing the misrepresentations alleged in paragraphs 28 and 32 above. The false statements and omissions made by Coyle, more fully described above, were material, and Coyle knew, or was reckless in not knowing, that the material misrepresentations, described above, were false or misleading.

66. By reason of the acts, omissions, practices, and courses of business set forth in this Complaint, the Defendants have violated and, unless restrained and enjoined, will again violate, Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5.

## **SECOND CLAIM FOR RELIEF**

### **Violations of Sections 5(a) and 5(c) of the Securities Act**

**(Against Nnebe, Walker, Fleming, Bocchino, and Coyle)**

67. The Commission realleges and incorporates Paragraphs 1 through 66 by reference as if fully set forth herein.

68. The Defendants, directly and indirectly, singly and in concert, have made use of the means or instruments of transportation or communication in interstate commerce, or of the mails, to offer and sell securities through the use or medium of a prospectus or otherwise when no registration statement has been filed or was in effect as to such securities and when no exemption from registration was available.

69. By reason of the foregoing, Nnebe, Walker, Fleming, Bocchino, and Coyle violated and, unless restrained and enjoined, will again violate, Sections 5(a) and 5(c) of the Securities Act.

## **THIRD CLAIM FOR RELIEF**

### **Violations of Section 15(a) of the Exchange Act**

**(Against Walker, Fleming, Bocchino, and Coyle)**

70. The Commission realleges and incorporates Paragraphs 1 through 69 by reference as if fully set forth herein.

71. For portions of the period from at least July 1997 through at least November 1999, Walker, Fleming, Bocchino, and Coyle, directly or indirectly, by use of the mails or the means or instrumentalities of interstate commerce, while acting as brokers whose business was not exclusively intrastate, effected transactions in, and induced and attempted to induce the purchase or sale of, securities (other than an exempted security or commercial paper, banker's

acceptances, or commercial bills) – namely shares of Fargo offered in a purported private placement offering – without registering as brokers in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

72. By reason of the foregoing, Walker, Fleming, Bocchino, and Coyle violated, and, unless restrained and enjoined, will again violate Section 15(a) of the Exchange Act.

#### **FOURTH CLAIM FOR RELIEF**

##### **Unjust Enrichment**

(Against Colon)

73. The Commission realleges and incorporates Paragraphs 1 through 72 by reference as if fully set forth herein.

74. Colon did not provide consideration for the money paid to him from the proceeds of sale of Fargo stock.

75. Colon obtained proceeds of the sale of Fargo stock under circumstances in which it is not just, equitable, or conscionable for Colon to retain those funds. As a consequence of the foregoing, Colon has been unjustly enriched.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that this Court enter a final judgment:

a. Permanently enjoining the Defendants, their officers, agents, servants, employees, attorneys-in-fact, 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, Sections 5(a), 5(c), and 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5, and permanently enjoining Walker, Fleming, Bocchino, and Coyle from violating, directly or indirectly, Section 15(a) of the Exchange Act.

b. Directing each of the Defendants and the Relief Defendant to file with this Court and serve upon the Commission verified written accountings.

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

d. Directing Colon to disgorge funds equal to the amount by which he was unjustly enriched.

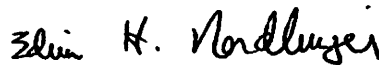
e. Permanently prohibiting each of the Defendants from participating in an offering of penny stock.

f. Assessing penalties against each of the Defendants pursuant to Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act.

g. Grant such other and further relief as this Court shall deem just and proper.

Dated: August 30, 2002  
New York, New York

Respectfully Submitted,  
WAYNE M. CARLIN (WC-2114)  
REGIONAL DIRECTOR



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