

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DOCKETED
APR 16 2001

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

Civil Number:

v.

01C 2670

JOHN N. BRINCAT, Sr., and
BRADLEY VALLEM,

Judge:

Defendants.

JUDGE ZAGEL

MAGISTRATE JUDGE BOBRICK

FILED-EDS
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CLERK
U.S. DISTRICT COURT

COMPLAINT

Plaintiff United States Securities and Exchange Commission ("Commission")

alleges as follows:

NATURE OF THE COMPLAINT

1. During at least 1996 and continuing into at least January 1997, Defendant John N. Brincat, Sr., then the Chief Executive Officer of Mercury Finance Co. ("Mercury"), at the time a publicly-owned sub-prime lending company, directed that Mercury engage in certain accounting practices that had the effect of materially overstating Mercury's net income while understating its losses and that were in violation of generally accepted accounting principles ("GAAP") and Mercury's own accounting policies. As a result of Brincat's fraudulent conduct, Mercury filed with the Commission and disseminated to the public certain required forms containing financial statements that misrepresented the actual financial condition of Mercury, issued press releases during

1996 and in January 1997 that announced inflated earnings, and, through Brincat, made false statements to stock analysts about Mercury's financial condition.

2. During at least 1996 and continuing into at least January 1997, Defendant Bradley Vallem was Mercury's Treasurer, and he signed Mercury's original and restated Forms 10-Q for 1996. At the time he signed these Forms, Vallem knew or was reckless in not knowing that the financial statements contained in them materially misrepresented Mercury's actual financial condition.

3. Brincat has engaged in, and, unless enjoined, will continue to engage in, transactions, acts, practices and courses of business that constitute violations of Sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(1)-(3)], Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5]. Brincat also has aided and abetted, and, unless enjoined, will continue to aid and abet, violations of Sections 13(b)(2)(A) and 13(b)(2)(B)(ii) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)(ii)].

4. Vallem has engaged in, and, unless enjoined, will continue to engage in, transactions, acts, practices and courses of business that constitute violations of Sections 17(a)(1) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1) & (3)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5].

5. There is a reasonable likelihood that Brincat and Vallem, if not enjoined, will continue to engage in transactions, acts, practices and courses of business, the same as, or similar to, those set forth in this Complaint.

6. The Commission brings this claim to enjoin such transactions, acts, practices and courses of business pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d) and (e)].

JURISDICTION

7. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and 28 U.S.C. § 1331.

DEFENDANTS

8. Defendant John N. Brincat, Sr., a resident of Lake Forest, Illinois, was Chief Executive Officer for Mercury from 1989 to December 1997, though he was relieved of all duties in February 1997.

9. Defendant Bradley Vallem, a resident of Prospect Heights, Illinois, was Treasurer for Mercury from July 1995 to July 1997.

OTHER ENTITY

10. Mercury was incorporated under Delaware law in approximately 1988. At all times relevant to this Complaint, its principal offices were in Lake Forest, Illinois.

11. Mercury's common stock was registered with the Commission under Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)] and, from at least January 1995

through April 1998, was publicly traded on the New York Stock Exchange ("NYSE"). Mercury's stock was delisted from the NYSE in May 1998.

12. At all times relevant to this Complaint, pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and the rules and regulations promulgated thereunder, Mercury was required to file periodic and other informational reports, including Forms 10-K and 10-Q, with the Commission. Among other things, these periodic reports contained Mercury's financial statements.

13. Mercury filed for bankruptcy in July 1998. In March 1999, an order confirming Mercury's Second Plan of Reorganization was entered. The reorganized entity is now known as MFN Financial Corporation.

FACTS

A. Background

14. From at least 1994 through 1997, Mercury was primarily a "sub-prime" lender engaged in extending short-term installment loans directly to consumers and in acquiring installment loans previously issued to consumers by used automobile dealers and retail vendors. Mercury's customer base was largely made up of borrowers who were otherwise unable to obtain credit, so-called sub-prime borrowers. Mercury financed its operations by obtaining lines of credit from major lending institutions. Mercury's objective was to make a profit by lending money to the sub-prime borrowers at rates significantly higher than the interest rates on the money it obtained through its lines of credit. Mercury's profitability depended in large part on its ability to collect on loans it made or acquired.

15. Beginning in 1994, and increasing through 1996, Mercury materially overstated its earnings. Mercury's 1994 net income was overstated by about \$3 million. Mercury's 1995 net income was overstated by about \$38 million. Mercury's 1996 net income was overstated by about \$150 million.

16. On January 23, 1997, Mercury issued a press release announcing net income or earnings of \$120.7 million for the year-ended December 31, 1996. The press release stated that 1996 "represent[ed] the 13th consecutive year of record earnings by Mercury."

17. On January 29, 1997, Mercury issued another press release that disclosed "accounting irregularities" and that revised its previously announced 1996 net income figure. In this press release, Mercury reported that its year-end 1996 net income was only \$56 million, a difference of nearly \$65 million from what had been announced six days before.

18. Trading in Mercury's stock was halted before the NYSE opened on January 29, 1997. Trading resumed on January 31, 1997. On that day, Mercury's market value dropped 89%, or by approximately \$2.3 billion.

19. Mercury revised its 1996 year-end results again when it filed with the Commission a Form 10-K, which included financial statements, in February 1998. This revision reported an after-tax net loss of \$28.9 million for the year-ended December 31, 1996, not the gains previously reported in the January 1997 press releases.

B. Brincat's fraudulent conduct

20. Pursuant to GAAP, Mercury was required to estimate periodically its probable losses due to loans that were likely to be deemed uncollectable. These

estimates, or allowances for probable loan losses, were required by GAAP to be reflected in Mercury's financial statements.

21. When a loan was deemed uncollectable, Mercury was required by GAAP to charge off the loan, or no longer record it as an asset. To charge off such a loan, Mercury was required to reduce the asset account in which the loan balance had been reflected and correspondingly reduce an account that represented an allowance that had been set up for probable loan losses. If, according to GAAP, the allowance for probable loan losses was insufficient at the time the loan was to be charged off, Mercury was required by GAAP to record a loss to its net income or earnings.

22. Throughout at least 1996, Mercury's allowances for probable loan losses were inadequate under GAAP. Brincat knew or was reckless in not knowing that, throughout at least 1996, Mercury's allowances for probable loan losses were inadequate under GAAP.

23. In about February and April 1996, Mercury's independent auditing firm expressed to Mercury and Brincat concerns that it had about the adequacy under GAAP of Mercury's allowances for probable loan losses. In early May 1996, Mercury's independent auditing firm informed Mercury and Brincat that, because it believed that Mercury's allowances for probable loan losses were inadequate, it would not issue opinions on Mercury's 1996 quarterly financial statements as it had in prior years.

24. By at least early 1996, Brincat knew or was reckless in not knowing that uncollectable loans were increasing rapidly at Mercury. For example, several Mercury Group Vice Presidents ("the GVPs") periodically informed Brincat of the specific dollar

amounts of the uncollectable loans incurred within their regions. In addition, Brincat reviewed periodic reports that reflected growing uncollectable loans.

25. In response, during about the first six months of 1996, Brincat either ordered or allowed Mercury personnel, including GVPs, to engage in accounting practices that had the effect of reducing the number of loans that should have been charged off pursuant to GAAP and Mercury's internal accounting policies. As a result of this conduct, Mercury's net income was materially overstated beginning in at least early 1996.

26. In addition, in about September 1996, Brincat held a meeting with the GVPs at which he provided each GVP with a quota setting the amount of charge offs that each GVP was permitted to take. As a result of this conduct, Mercury's net income was materially overstated beginning in at least September 1996.

27. The effect of Brincat's fraudulent conduct was reflected in Mercury's financial statements in primarily two ways: the hiding of losses due to the repossession of automobiles and the hiding of losses due to severely delinquent loans.

1. **Repossession Losses**

28. Pursuant to Mercury's internal accounting policies, whenever an automobile was repossessed due to non-payment on the loan, the entire outstanding balance of the loan was put into repossession status in Mercury's computerized accounting system. A loan for a repossessed automobile that had not yet been sold was placed in the "Repossession on Hand" account.

29. Pursuant to Mercury's internal accounting policies, once a repossessed automobile was sold, the proceeds of the sale were applied to the balance of the loan.

The remainder of the outstanding loan amount, referred to as the deficiency balance, was placed in the "Repossession Sold" ("Repo Sold") account. The Repo Sold account was a loans receivable, or asset, account.

30. According to GAAP and Mercury's own internal accounting policies, the deficiency balances were to be charged off in the same month that the repossessed automobiles were sold. According to Mercury's internal accounting policies, to charge off such deficiency balances, Mercury would reduce the Repo Sold account by the amount of the deficiency balances and correspondingly reduce a reserve account that represented an allowance that had been set up for probable loan losses. If the allowance for probable loan losses was insufficient according to GAAP at the time the deficiency balances were charged off, Mercury would have to record a loss to net income or earnings.

31. During the first half of 1996, Brincat either ordered or allowed Mercury employees, including the GVPs, to leave significant deficiency balances in the Repo Sold account and not to charge them off as required by GAAP and Mercury's own internal accounting policies.

32. Brincat knew or was reckless in not knowing that by keeping deficiency balances as receivables, Mercury's net income or earnings would be materially overstated.

33. As a result of Brincat's directives or acquiescence, by the end of the 1996 first quarter, more than \$2 million in loan losses appeared in the Repo Sold accounts as receivables. By the end of 1996 second quarter, almost \$11 million in loan losses appeared in the Repo Sold account as receivables. By the end of the 1996 third quarter,

over \$24 million in loan losses appeared in the Repo Sold accounts as receivables. By the end of 1996, over \$26 million in loan losses appeared in the Repo Sold accounts as receivables. In each period, Mercury's gross income was overstated by the amount of repossession losses that should have been, but were not, charged off, resulting in materially overstated net income for each period.

2. Delinquent Loan Losses

34. In its periodic reports filed with the Commission and consistent with its internal accounting policies, Mercury stated that any loan over 150 days delinquent would be charged off. The sole exception was for loans in which collection was "imminent" during the next calendar month, in which case a 30 day extension could be granted.

35. In about September 1996, Brincat held a meeting with the GVPs at which he told the GVPs that they were not permitted to charge off losses above a particular quota.

36. The charge off quotas that were provided to the GVPs understated the amount of charge offs that should have been taken under GAAP and Mercury's internal accounting policies.

37. For example, one GVP was instructed by Brincat not to charge off more than \$1.3 million per month starting in about September 1996 even though, under GAAP and Mercury's internal accounting policies, about \$2 million per month should have been charged off by that GVP.

38. Brincat knew or was reckless in not knowing that the quota amounts understated the amount of charge offs that should have been taken under GAAP and

Mercury's internal accounting policies and that adherence to the quota amounts would result in the failure to charge off loans more than 150 days old.

39. Brincat knew or was reckless in not knowing that by limiting the amount of charge offs in violation of GAAP and Mercury's internal accounting policies, Mercury's net income or earnings would be overstated.

40. By December 1996, Mercury had failed to charge off about \$38 million in loans that were at least 150 days delinquent. As a result, Mercury's year-end 1996 gross income was overstated by about \$38 million, resulting in materially overstated net income as well.

3. Brincat's Misstatements

41. Brincat made several statements that he knew or was reckless in not knowing were materially false or misleading as a result of his improper conduct.

42. Brincat signed and caused to be filed with the Commission and disseminated to the public Mercury's first quarter Form 10-Q on May 15, 1996, its second quarter Form 10-Q on August 12, 1996, and its restated first and second quarter Forms 10-Q and its third quarter Form 10-Q on November 14, 1996. Each Form contained financial statements that materially misrepresented Mercury's financial condition as a result of Brincat's conduct in connection with the Repo Sold accounts and the limitation he placed on charge offs that Mercury employees were permitted to take.

43. Brincat authorized quarterly press releases announcing Mercury's overstated financial results during 1996.

44. Brincat authorized Mercury's January 23, 1997, press release announcing 1996 annual net income or earnings of \$120.7 million. In addition, on January 23, 1997,

Brincat discussed the press release, including the earnings figure it announced, with stock analysts.

45. The earnings announced in the 1996 quarterly press releases and the January 23, 1997, press release discussed by Brincat with stock analysts were materially overstated as a result of Brincat's conduct.

46. In addition, Brincat misled the public and the market during the fall of 1996 by, among other things, informing analysts in a conference call on or about October 28, 1996, that nothing significant had changed at Mercury when he knew or was reckless in not knowing that the amounts in the Repo Sold accounts were materially inflated and that Mercury was not charging off a material number of loans that it was required to charge off under GAAP and its internal accounting policies.

4. Brincat's Ill-Gotten Gains

47. The bulk of Brincat's personal 1996 income resulted from his exercise of options and subsequent sale of Mercury stock. In May and June 1996, for example, Brincat exercised 800,000 options to purchase stock and sold 672,538 shares at around the same time.

48. At the time that Brincat exercised these options in May and June 1996, the amount of deficiency balances improperly held in the Repo Sold account was significant.

B. VALLEM'S FRAUDULENT CONDUCT

49. As Treasurer of Mercury, Vallem was responsible for the commercial paper activity at Mercury. For example, he negotiated increases in Mercury's commercial paper credit lines with banks and monitored the commercial paper accounts and balances at Mercury closely.

50. Throughout 1996, Vallem either knew or was reckless in not knowing the balance in Mercury's commercial paper accounts on a daily basis.

51. In about late March or early April 1996, Mercury employees made fraudulent entries on Mercury's accounting system that understated Mercury's commercial paper balance by \$30 million. These fraudulent entries were not corrected, and Mercury understated its commercial paper balance by \$30 million throughout the remainder of 1996.

52. Vallem knew or was reckless in not knowing that Mercury had understated its commercial paper balance by \$30 million from about late March or early April 1996 through the remainder of 1996.

53. In about April or May 1996, Vallem learned that a Mercury employee falsified a past bank statement of Mercury's to reflect a sham \$30 million transaction.

54. In about October 1996, in connection with work being performed by Mercury's independent auditors, Vallem sought confirmation from a bank that Mercury's actual outstanding short-term notes payable balance was \$40 million even though he knew or was reckless in not knowing that Mercury was reporting a balance of just \$10 million in its books and records.

55. In about mid-1996, Vallem was asked to, and did, alter data on a report that had the effect of understating Mercury's loan delinquencies. Vallem knew or was reckless in not knowing that the report he was asked to, and did, create was false.

56. Nevertheless, Vallem signed and caused to be filed with the Commission and disseminated to the public Mercury's first quarter Form 10-Q on May 15, 1996, its second quarter Form 10-Q on August 12, 1996, and its restated first and second quarter Forms 10-Q and its third quarter Form 10-Q on November 14, 1996.

57. Each of these Forms included financial statements that materially misrepresented Mercury's financial condition. When Vallem signed these Forms, he knew or was reckless in not knowing that they materially misrepresented Mercury's financial condition.

58. On or about January 23, 1997, Mercury's Chief Financial Officer told Vallem that he had been falsifying Mercury's financial statements in numerous material ways since at least 1993. Vallem failed to report to Mercury's attorneys and auditors what he learned despite numerous opportunities to do so over the next several days. In fact, Vallem did not admit to Mercury's auditors or attorneys what he had been told for several months.

COUNT I

Brincat Violated Sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1)-(3)]

59. Paragraphs 1 through 58 are realleged and incorporated by reference.

60. Brincat, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud, as more fully described in paragraphs 14 through 48 above.

61. Brincat, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, obtained money or property by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to

make statements made, in the light of the circumstances under which they were made, not misleading, as more fully described in paragraphs 14 through 48 above.

62. Brincat, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, engaged in transactions, practices and courses of business which operated or would have operated as a fraud and deceit upon purchasers, as more fully described in paragraphs 14 through 48 above.

63. Brincat knew or was reckless in not knowing of the facts and circumstances described in paragraphs 59 through 62.

64. By reason of the activities described in paragraphs 59 through 63, Brincat violated Section 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1)-(3)].

COUNT II

Vallem Violated Sections 17(a)(1) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1) & (3)]

65. Paragraphs 1 through 58 are realleged and incorporated by reference.

66. Vallem, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, employed devices, schemes and artifices to defraud, as more fully described in paragraphs 14 through 19 and 49 through 58 above

67. Vallem, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, engaged in transactions, practices and courses of

business which operated or would have operated as a fraud and deceit upon purchasers, as more fully described in paragraphs 14 through 19 and 49 through 58 above.

68. Vallem knew or was reckless in not knowing of the facts and circumstances described in paragraphs 65 through 67.

69. By reason of the activities described in paragraphs 65 through 68, Vallem violated Sections 17(a)(1) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1) & (3)].

COUNT III

Brincat Violated 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].

70. Paragraphs 1 through 58 are realleged and incorporated by reference.

71. Brincat, in connection with the purchase and sale of securities, by the use of the means and instrumentalities of interstate commerce and by the use of the mails, directly and indirectly: used and employed devices, schemes and artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices and courses of business which operated or would have operated as a fraud and deceit upon purchasers and sellers and prospective purchasers and sellers of securities, as more fully described in paragraphs 14 through 48 above.

72. Brincat knew or was reckless in not knowing of the facts and circumstances described in paragraphs 70 and 71 above.

73. By reason of the activities described in paragraphs 70 through 72, Brincat violated 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].

COUNT IV

**Vallem Violated 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].**

74. Paragraphs 1 through 58 are realleged and incorporated by reference.

75. Vallem, in connection with the purchase and sale of securities, by the use of the means and instrumentalities of interstate commerce and by the use of the mails, directly and indirectly: used and employed devices, schemes and artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices and courses of business which operated or would have operated as a fraud and deceit upon purchasers and sellers and prospective purchasers and sellers of securities, as more fully described in paragraphs 14 through 19 and 49 through 58 above.

76. Vallem knew or was reckless in not knowing of the facts and circumstances described in paragraphs 74 and 75 above.

77. By reason of the activities described in paragraphs 74 through 76, Vallem violated 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].

COUNT V

Brincat Violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)]

78. Paragraphs 1 through 58 are realleged and incorporated by reference.

79. Brincat knowingly circumvented a system of internal accounting controls at Mercury and knowingly falsified Mercury's books and records, as more fully described in paragraphs 20 through 40 above.

80. By reason of the activities described in paragraphs 78 and 79, Brincat violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

COUNT VI

Brincat Aided and Abetted Violations of Sections 13(b)(2)(A) and 13(b)(2)(B)(ii) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)(ii)]

81. Paragraphs 1 through 58 are realleged and incorporated by reference.

82. Mercury failed to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of its assets.

83. Mercury failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets.

84. Brincat aided and abetted the violations set forth in paragraphs 82 and 83 above, as more fully described in paragraphs 20 through 40 above.

85. By reason of the activities described in paragraphs 81 through 84, Mercury violated, and Brincat aided and abetted Mercury's violations of, Section 13(b)(2)(A) and 13(b)(2)(B)(ii) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)(ii)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

- A. Find that Brincat and Vallem committed the violations alleged above;
- B. Grant an Order permanently restraining and enjoining Brincat, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of the Order by personal service or otherwise, and each of them, from violating, and aiding and abetting violations of, Sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1)-(3)], Sections 10(b), 13(b)(2)(A), 13(b)(2)(B)(ii), and 13(b)5 of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(2)(A), 78m(b)(2)(B)(ii) and 78m(b)(5)], and Rule 10b-5 [17 C.F.R. 240.10b-5] promulgated thereunder;
- C. Grant an Order, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], barring Brincat from acting as an officer or director of any issuer required to file reports pursuant to Sections 12(b), 12(g) or 15(d) of the Exchange Act [15 U.S.C. §§ 78l(b), 78l(g), and 78o(d)];
- D. Grant an Order requiring Brincat to pay to the registry of this Court disgorgement of all ill-gotten gains and prejudgment interest on all such gains;

E. Grant an Order, pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], requiring Brincat to pay a civil penalty;

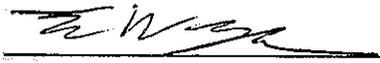
F. Grant an Order permanently restraining and enjoining Vallem, his agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of the Order by personal service or otherwise, and each of them, from violating, and aiding and abetting violations of, Sections 17(a)(1) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1) & (3)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. 240.10b-5] promulgated thereunder;

G. Grant an Order, pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], requiring Vallem to pay a civil penalty; and

H. Grant such other and additional relief as this Court deems just and proper.

Dated: April 16, 2001

Respectfully submitted,



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CV 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

JUDGE ZAGEL

Civil Cover Sheet MAGISTRATE JUDGE BOBRICK

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): United States Securities and Exchange Commission

Defendant(s): John N. Brincat, Senior, and Bradley Vallem

County of Residence:

County of Residence: Lake

Plaintiff's Atty: Thomas W. Szromba
Securities and Exchange Commission
500 West Madison Street, Suite
1400 Chicago, IL 60661
(312)-353-7390

Defendant's Atty:

01C 2670

FILED-EDG
01 APR 16 AM 10:24
CLERK
U.S. DISTRICT COURT

II. Basis of Jurisdiction: **1 U.S. Gov't Plaintiff**

III. Citizenship of Principle Parties (Diversity Cases Only)

Plaintiff:-N/A
Defendant:-N/A

DOCKETED
APR 16 2001

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **850 Securities / Commodities / Exchange**

VI. Cause of Action: **Proceeding to enforce the antifraud and other provisions of the federal securities laws pursuant to authority granted to the Commission under Section 22(a) of the Securities Act of 1933 [15 U.S.C. Sec. 77v(a)] and Section 27 of the Securities Exchange Act of 1934 [15 U.S.C. Sec. 78aa].**

VII. Requested in Complaint
Class Action: No
Dollar Demand:
Jury Demand:

VIII. This case Is NOT a refiling of a previously dismissed case. (If yes case number ___ by Judge ___)

Signature: 

Date: 

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.**

Revised: 06/28/00

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of
U.S. Securities and Exchange Commission

V.

John N. Brincat, Sr. and Bradley Vallem

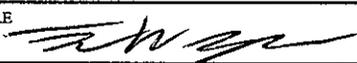
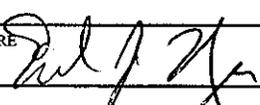
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APR 16 2001
JUDGE ZAGEL
MAGISTRATE JUDGE BOBRICK
Case Number:

01C 2670

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

United States Securities and Exchange Commission

FILED-EDS
01 APR 16 AM 10:24
CLERK
U.S. DISTRICT COURT

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME Thomas W. Szromba		NAME Erik J. Lillya	
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TELEPHONE NUMBER (312) 353-7390	FAX NUMBER	TELEPHONE NUMBER (312) 353-7390	FAX NUMBER (312) 353-7398
E-MAIL ADDRESS SZrombat@sec.gov		E-MAIL ADDRESS lillyae@sec.gov	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6204620		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6207675	
MEMBER OF TRIAL BAR?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
		DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input type="checkbox"/>
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR?	YES <input type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR?	YES <input type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY?	YES <input type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input type="checkbox"/> NO <input type="checkbox"/>

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