

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

FILED-304
60 HURON ST. ROOM 600
CHICAGO, ILL. 60611
U.S. DISTRICT COURT

SECURITIES AND EXCHANGE)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
ADAM G. KRUGER AND)
KRUGER, MILLER AND TUMMILLO, INC.,)
)
Defendants.)

Case No:
00-2388
JUDGE DER-YEGHAIYAN
MAGISTRATE JUDGE KEYS

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission ("Commission"), for its
Complaint against Adam G. Kruger and Kruger, Miller and Tummillo, Inc. ("KMT"), alleges
follows:

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INTRODUCTION

1. The Commission brings this action to halt a fraud relating to the offer and sale of
interests in at least two investment schemes promoted by Kruger, Miller and Tummillo, Inc.
("KMT") and its president, Adam G. Kruger (collectively, "Defendants"). Since approximately
August 2000, Kruger has raised at least \$908,750 from twelve investors by telling those investors
that he would pool their money to day-trade various securities or to purchase stock in a privately-
held company. However, Kruger and KMT did not use all the money they raised for those
investment purposes. Instead, Kruger used at least some of the money to pay his personal
expenses. Kruger and KMT concealed their misuse of investor funds and obtained additional
investment dollars by providing oral and written reports to investors that greatly overstated the
value of their investments.

1-1

2. Kruger and KMT directly and indirectly engaged in and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which violate Section 17(a) of the Securities Act of 1933 ("Securities Act") (15 U.S.C. § 77q(a)), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. § 78j(b)) and Rule 10b-5 promulgated thereunder (17 C.F.R. 240.10b-5). KMT, aided and abetted by Kruger, directly and indirectly engaged in and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which violate Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") (15 U.S.C. § 80b-6(1)-(2)).

3. The Commission brings this action to enjoin such transactions, acts, practices and courses of business and for other relief, pursuant to Sections 20(b) and 20(d) of the Securities Act (15 U.S.C. § 77t(b), (d)), Sections 21(d) and 21(e) of the Exchange Act (15 U.S.C. § 78u(d)-(e)) and Section 209(d) and 209(e) of the Advisers Act (15 U.S.C. § 80b-9(d)-(c)).

JURISDICTION

4. This court has jurisdiction 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 Section 214 of the Advisers Act (15 U.S.C. § 80b-14).

THE DEFENDANTS

5. Kruger, age 22, is a resident of Roselle, Illinois. He holds himself out as president of KMT and the manager of KMT's investments. Upon information and belief, Kruger has obtained no education beyond high school and has received no training specific to the securities industry. He is not registered with the Commission in any capacity.

6. Kruger, Miller & Tumnillo, Inc. was incorporated in Illinois on December 16, 1999, but was dissolved by the Illinois Secretary of State in May 2003. Kruger operates KMT out of his home. KMT is not registered with the Commission in any capacity.

FACTUAL BACKGROUND

Kruger and KMT Misrepresented and Omitted to State Material Facts to Investors Regarding the Day-Trading Program

7. Beginning in approximately August 2000, Kruger orally represented to investors that he would pool their investments and day-trade on-line in various stocks using an account with E*Trade Securities LLC ("E*Trade"). He promised high profits in connection with the investments and said that he would manage the day-trading investments for no compensation. Aside from periodic reports on account value, investors received no other written materials from Kruger or KMT.

8. In reliance on Kruger's representations, at least four investors invested in KMT's day-trading program for a total of \$792,000.

9. Kruger and KMT did not use investor funds for day-trading. Instead, a significant portion of investment dollars were never deposited into KMT's E*Trade account.

10. For example, one investor deposited \$325,000 into KMT's bank account on August 28, 2000 and \$450,000 on January 23, 2001 with the understanding that Kruger would deposit the money into KMT's E*Trade account for the purpose of day-trading. Kruger, however, deposited only \$300,000 into KMT's E*Trade account from the time of the initial investment through February 2001.

11. Upon information and belief, Kruger and KMT misappropriated the investor funds that Kruger did not deposit into the E*Trade account.

12. Kruger and KMT also misappropriated some of the funds that Kruger did deposit into the E*Trade account. For example, from December 11 through December 29, 2000, Kruger wrote five checks to himself totaling \$25,000. Kruger also wrote approximately \$14,200 worth of checks to purchase auto supplies during late December 2000 and early January 2001.

13. Finally, Kruger and KMT misrepresented account values to investors orally and in writing. For example, in early January 2001, Kruger told an investor that his initial \$325,000 investment had doubled to approximately \$750,000. The investor relied on this representation in deciding to invest an additional \$450,000 on January 23, 2001. Kruger's representation was false in that the total valuation of KMT's E*Trade account was \$77,915.43 as of December 30, 2000 and \$110,897.45 as of January 31, 2001.

**Kruger and KMT Misrepresented and Omitted to State
Material Facts to Investors Regarding the Efoora Fund**

14. Around March 2001, Kruger began promoting a second investment in what he called a hedge fund that would purchase shares in a company called Efoora, Inc. ("Efoora"), a privately held company located in Buffalo Grove, Illinois that purportedly specializes in developing instant tests for HIV and other conditions. In March 2001, he told one investor that KMT had raised \$8 million in the investment fund. During the Summer of 2001, he told the same investor that the fund had increased to \$16 million.

15. Kruger represented that KMT would pool investor funds to purchase Efoora shares at \$2/share. He also told investors that the shares would be issued in KMT's name. He stated that Efoora shares would increase in value significantly because Efoora was going public in a few months to a year, but that investors could not withdraw their money for one year since the shares were restricted. Finally, he said that he would manage the fund for no compensation.

16. Kruger and KMT did not provide any written offering materials to investors regarding the Efoora fund.

17. In reliance on Kruger's representations, at least eight individuals invested \$116,750 and four investors "rolled-over" their day-trading investment balances totaling what they thought was \$1,463,000 (\$792,000 in principal plus purported day-trading profits of \$671,000).

18. Specifically, one individual "rolled-over" his day-trading investment balance totaling what Kruger told him was close to \$1,426,000 (\$775,000 in principal plus alleged day-trading returns of \$651,000). Kruger told him that his investment translated into at least 700,000 shares of the total shares held by KMT's Efoora fund. Another individual invested \$50,000 into the Efoora fund for what would translate into at least 25,000 shares. A third individual invested \$30,000 for what would translate into 15,000 shares.

19. Contrary to Defendants' representations, KMT never purchased any shares of Efoora.

20. While the three investors were told that their investments in the Efoora fund would translate into at least 740,000 shares, no share certificates have ever been issued in KMT's name. Three certificates were issued in Kruger's name: (1) a certificate for 50,000 shares issued on April 11, 2001, (2) a certificate for 20,500 shares issued on April 26, 2001 that was later canceled on January 14, 2003, and (3) a certificate for 8,250 shares issued on January 14, 2003.

21. Upon information and belief, Kruger and KMT used the Efoora fund scheme primarily as a device to conceal their misappropriation of money from the day-trading investment scheme.

22. Kruger and KMT raised at least \$908,750 from twelve investors in connection with the day-trading scheme and the Efoora fund.

**Kruger and KMT Attempt to Conceal
Fraud Through New Investment Schemes**

23. Beginning in approximately May 2001, Kruger began promoting a third investment opportunity. He told two investors that an off-shore bank, Investment Bank of Norway, provided financing to third-world countries at very high interest rates in the form of thirty-day notes. Kruger stated that these investors could invest money in the bank and, in exchange, would receive a return of at least 450% in thirty to sixty days. He further stated that, if the bank deal failed, the investment was insured so that at least the investors' principal investment was guaranteed.

24. Based on Kruger's representations, two individuals gave him money in approximately June 2001. The first investor rolled over what he thought was the balance in his day-trading account of \$426,000 (\$200,000 in principal plus alleged returns of \$226,000). The second investor reinvested \$75,000 that Kruger wired into his account as supposed profits from a \$25,000 day-trading investment.

25. From July 2001 to February 2002, the investors made repeated inquiries regarding the status of their investment in Investors Bank of Norway. In response, Kruger always assured them that the investment was on track. He also assured them that, if the investment failed, the insurance would cover at least their investment amounts.

26. Finally, in July 2002, Kruger told the investors that he discovered the bank deal as well as the insurance policy were fraudulent and that he had contacted the authorities.

27. Within the past six months, Kruger has pushed off investor withdrawal requests relating to the day-trading scheme, the Efoora Fund and the Investment Bank of Norway by stating that he is in the midst of working on other investment and business opportunities that should pay out shortly. The investment opportunities include Big Timber Mining, a supposed gold mine in Arizona.

28. Whenever an investor follows up to determine whether Kruger received the expected payout from these deals, Kruger always points to some delay but reassures them that the money will arrive soon. Within the past few months, however, investors have had an increasingly difficult time contacting Kruger.

29. Recently, Kruger told two investors that he will pay them back shortly with money received from new business and investment deals.

COUNT I

Violations of Section 17(a)(1) of the Securities Act

30. Paragraphs 1 through 29 are realleged and incorporated by reference as though fully set forth herein.

31. By engaging in the conduct described above, Kruger and KMT, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, have employed devices, schemes and artifices to defraud.

32. Kruger and KMT intentionally or recklessly made the untrue statements and omissions and engaged in the devices, schemes, artifices, transactions, acts, practices and courses of business described above.

33. By reason of the foregoing, Kruger and KMT have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act (15 U.S.C. § 77q(a)(1)).

COUNT II

Violations of Sections 17(a)(2) and (3) of the Securities Act

34. Paragraphs 1 through 29 are realleged and incorporated by reference as though fully set forth herein.

35. By engaging in the conduct described above, Kruger and KMT, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, have:

- a. obtained money or property by means of untrue statements of material fact or by omitting 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, or courses of business that operated or would operate as a fraud or deceit upon the purchasers of such securities.

36. Kruger and KMT made the untrue statements and omissions of material fact and engaged in the devices, schemes, artifices, transactions, acts, practices and courses of business described above.

37. By reason of the foregoing, Kruger and KMT have violated and, unless enjoined, will continue to violate Sections 17(a)(2) and (3) of the Securities Act (15 U.S.C. § 77q(a)(2)-(3)).

COUNT III

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

38. Paragraphs 1 through 29 are realleged and incorporated by reference as though fully set forth herein.

39. By engaging in the conduct described above, Kruger and KMT, in connection with the purchase and sale of securities, by the use of means or instrumentalities of interstate commerce and of the mails, directly or indirectly, have:

- a. employed devices, schemes, and artifices to defraud;
- b. made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and
- c. engaged in acts, practices or courses of business which would and did operate as a fraud or deceit upon the purchasers and sellers of such securities.

40. Kruger and KMT intentionally or recklessly made the untrue statements and omissions and engaged in the devices, schemes, artifices, transactions, acts, practices and courses of business described above.

41. By reason of the foregoing, Kruger and KMT 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).

COUNT IV

Violations of Sections 206(1) and (2) of the Advisers Act Against KMT

42. Paragraphs 1 through 29 are recited and incorporated by reference as though fully set forth herein.

43. KMT, through Kruger, engaged in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities. KMT received compensation for its investment advisory services in the form of money misappropriated by Kruger from investors.

44. By engaging in the conduct described above, KMT, while acting as an investment adviser, by use of the mails and the means and instrumentalities of interstate commerce, directly or indirectly, has:

- a. employed devices, schemes or artifices to defraud advisory clients and prospective advisory clients; and
- b. engaged in transactions, practices or courses of business which operated as a fraud or deceit upon advisory clients or prospective advisory clients.

45. KMT intentionally or recklessly employed the devices, schemes and artifices and engaged in the transactions, practices or courses of business described above.

46. By reason of the foregoing, KMT violated and, unless enjoined, will continue to violate Sections 206(1) and (2) of the Advisers Act (15 U.S.C. §80b-6(1)-(2)).

COUNT V

**Aiding and Abetting Violations of
Sections 206(1) and (2) of the Advisers Act Against Kruger**

47. Paragraphs 1 through 29 are realleged and incorporated by reference as though fully set forth herein.

48. As described above, KMT violated Sections 206(1) and (2) of the Advisers Act. Kruger aided and abetted KMT's violations of Sections 206(1) and (2) of the Advisers Act. Kruger, as an associated person of an investments adviser, was aware that his actions involving KMT were part of an overall scheme to defraud investors. Kruger provided knowing and substantial assistance to KMT by soliciting advisory clients and making representations relating to KMT's investment schemes.

49. By reason of the foregoing, Kruger aided and abetted and, unless enjoined, will continue to aid and abet KMT's violations of Sections 206(1) and (2) of the Advisers Act.

RELIEF REQUESTED

WHEREFORE, the Commission requests that the Court:

I.

Find that defendants Kruger and KMT committed the violations charged and alleged herein.

II.

Enter a temporary restraining order, and orders of preliminary and permanent injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining defendants Kruger and KMT, and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of the foregoing who

receive actual notice of such order, by personal service or otherwise, and each of them, from directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Sections 17(a)(1), 17(a)(2) 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)), Rule 10b-5 promulgated thereunder (17 C.F.R. 240.10b-5) and Sections 206(1) and 206(2) of the Advisers Act (15 U.S.C. § 80b-6(1)-(2)).

III.

Enter a temporary restraining order and orders of preliminary and permanent injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining defendants Kruger and KMT, and their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of such orders, by personal service or otherwise, and each of them from, directly or indirectly soliciting, accepting or receiving any funds from individuals or entities for the purpose of investment.

IV.

Enter a temporary restraining order and orders of preliminary and permanent injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining defendants Kruger and KMT, and their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of such orders, by personal service or otherwise, and each of them from, directly or indirectly:

A. transferring, selling, assigning, pledging, dissipating, concealing or otherwise disposing of in any manner, any funds, assets, accounts or other property belonging to, or directly or indirectly, in the possession, custody or control of defendants Kruger and KMT, or in which these defendants have a beneficial interest, wherever located;

B. transferring, selling, assigning, pledging, dissipating, concealing or otherwise disposing of in any manner, any funds, assets, accounts or other property obtained or maintained with investor funds, or into which investor funds have been deposited; and

C. destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books, records, documents, correspondence, brochures, manuals, obligations, belonging to, or directly or indirectly in the possession, custody or control of defendants, in whatever form, including electronic, and wherever located.

V.

Enter an order requiring defendants Kruger and KMT to:

A. provide the Commission, within three days of the issuance of this Order, with an accounting of all of the funds received, directly or indirectly, from individuals or entities who gave Kruger and KMT money for investment, which accounting shall include, without limitation, a schedule indicating: (1) the date of each investment, name of each investor, amount of each investment and any account into which such investments were deposited; (2) the uses to which such funds were put, including but not limited to the nature and purpose of the use of the funds, the date and amount of the disbursement and the name of the individual or entity involved in the transaction; (3) amounts of any remaining funds and their location; and (4) a separate schedule and accounting of the assets and liabilities of Kruger and KMT and their location as of November 19, 2003;

B. produce to the Commission, within three days of the issuance of the temporary restraining order, all books, records and other documents supporting or underlying the accounting provided to the Commission pursuant to paragraph V.A. above; and

C. produce to the Commission, within three days of the issuance of the temporary restraining order, all current accountant's reports, bank statements, documents indicating title to real or personal property, and any other indicia of ownership or interest in property of Kruger and KMT, which indicia of ownership or interest are now in the defendants' actual or constructive possession; provided, however, that nothing in the order shall be construed to require defendants to abandon any constitutional or other legal privilege which they may have available to them.

VI.

Enter an order requiring defendants Kruger and KMT to disgorge the ill-gotten gains that they received as a result of their wrongful conduct, including prejudgment interest.

VII.

Enter an order imposing upon defendant Kruger appropriate civil penalties pursuant to Section 20(d) of the Securities Act (15 U.S.C. § 77t(d)), Section 20(d)(3) of the Exchange Act (15 U.S.C. § 78u(d)(3)) and Section 209(c) of the Advisers Act (15 U.S.C. § 80b-9(e)).

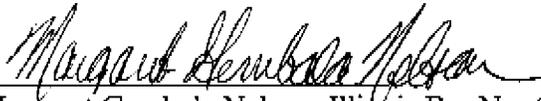
VIII.

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

IX.

Grant orders for such further relief as the Court deems appropriate.

Respectfully submitted,



Margaret Gembala Nelson, Illinois Bar No. 6269798

Thomas J. Meier, Illinois Bar No. 6225621

David J. Medow, Illinois Bar No. 6192840

Attorneys for Plaintiff

Securities and Exchange Commission

175 W. Jackson Boulevard

Suite 900

Chicago, Illinois 60604-2615

(312) 353-7390

Dated: November 19, 2003

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

EASTERN DIVISION

FILED-504

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In the Matter of
Securities and Exchange Commission,
v.
Adam G. Kruger and
Kruger, Miller and Tumillo, Inc.

Case Number:

U.S. DISTRICT COURT

030 8288

JUDGE DER-YEGHAYAN

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR
Securities and Exchange Commission, Plaintiff

MAGISTRATE JUDGE KEYS

(A)		(B)	
SIGNATURE <i>Margaret Gembala Nelson</i>		SIGNATURE <i>Thomas J. Meier</i>	
NAME Margaret Gembala Nelson		NAME Thomas J. Meier	
FIRM Securities and Exchange Commission		FIRM Securities and Exchange Commission	
STREET ADDRESS 175 W. Jackson Blvd., Ste. 900		STREET ADDRESS Same as (A)	
CITY/STATE/ZIP Chicago, IL 60604		CITY/STATE/ZIP	
TELEPHONE NUMBER 312 353-7390	FAX NUMBER 312-353-7398	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS nelsonm@sec.gov		E-MAIL ADDRESS meiert@sec.gov	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) Illinois Bar. No. 6269798		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) Illinois Bar No. 6225621	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
(C)		(D)	
SIGNATURE <i>David J. Medow</i>		SIGNATURE	
NAME David J. Medow		NAME	
FIRM Securities and Exchange Commission		FIRM	
STREET ADDRESS Same as (A)		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS medowd@sec.gov		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) Illinois Bar. No. 6192840		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

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Civil Cover Sheet

U.S. DISTRICT COURT

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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): Securities and Exchange Commission

Defendant(s): Adam G. Kruger and Kruger, Miller and Tummillo, Inc.

County of Residence:

County of Residence: DuPage County

Plaintiff's Atty: Margaret Gembala Nelson;
Thomas J. Meier; David J. Medow
Securities and Exchange Commission
175 W. Jackson Blvd, Ste. 900, Chicago, IL 60604
312-353-7390

Defendant's Atty:

03C 8288

JUDGE DER-YEGHIAYAN

DOCKETED

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

MAGISTRATE JUDGE KEYS
NOV 20 2003

III. Citizenship of Principal Parties (Diversity Cases Only)

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

IV. Origin : 1. Original Proceeding

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

VI. Cause of Action: 15 U.S.C. s 77q(a), 15 U.S.C. s 78j(b), 15 U.S.C. s 80b-6 -- Fraud in the offer and sale of securities and in advising clients.

VII. Requested in Complaint

Class Action: No
Dollar Demand:
Jury Demand: No

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature: Margaret Gembala Nelson

Date: 11/19/03

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