

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

2006 APR 18 10:11:55  
U.S. DISTRICT COURT  
EASTERN DIVISION

United States Securities and  
Exchange Commission.

Plaintiff,

v.

David A. Dadante, and  
IPOF Fund.

Defendants.

CIVIL ACTION  
CASE NO. **1:06CV0938**

**JUDGE BOYKO**

COMPLAINT

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

alleges and states as follows:

INTRODUCTION

1. From at least 1999 through November 2005, Dadante, acting by and through his unregistered investment company, the IPOF Fund ("IPOF" or "the Fund"), raised approximately \$50 million from at least 110 investors by soliciting them to purchase unregistered limited partnership interests in IPOF. Dadante lured investors with promises that he and IPOF would invest their funds in low risk and high return trading strategies. In fact, Dadante and IPOF never invested the funds as promised. Rather Dadante, acting as an unregistered investment adviser to IPOF, misappropriated investor funds for his own use, operated IPOF as a Ponzi scheme, and pursued an undisclosed high-risk investment strategy.

2. Defendant David A. Dadante, directly and indirectly, has engaged and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which constitute and will constitute violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("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 promulgated thereunder [17 C.F.R. 240.10b-5] and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §80b-6(1) and (2)].

3. Defendant IPOF directly and indirectly, has engaged and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which constitute and will 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 Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5] and Section 7(a) of the Investment Company Act of 1940 ("Investment Company Act" [15 U.S.C. § 80a-7(a)].

4. The Commission brings this action to enjoin such transactions, acts, practices and course of business pursuant to Section 20(b) of the Securities Act [15 U.S.C. §77t(b)], Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)], Section 42(d) of the Investment Company Act [15 U.S.C. §80a-41], and Section 209(d) of the Advisers Act [15 U.S.C. §80b-9].

**DEFENDANTS**

5. David A. Dadante, age 51, resides in Gates Mills, Ohio. He is the founder and was the sole general partner of IPOF. Dadante raised money for IPOF by offering and selling securities in IPOF. Dadante controlled all of IPOF's bank and brokerage accounts. Dadante, for compensation, gave investment advice to IPOF and the IPOF investors. Dadante is not registered with the Commission as an investment adviser or in any other capacity.

6. IPOF Fund is an Ohio limited partnership established in 1999 and controlled by Dadante. From its inception, IPOF has been held out by Dadante as being engaged in the business of investing, reinvesting or trading in securities. From 1999 through 2005, IPOF, through David Dadante, engaged in the public offering of its securities. IPOF had at least 110 investor limited partners and approximately \$50 million in assets under management. During that period, IPOF was not registered as an investment company or in any other capacity. No registration statement was filed or is in effect with the Commission in connection with any securities offered or sold by IPOF through Dadante.

**JURISDICTION AND VENUE**

7. This Court has jurisdiction over this matter pursuant to Sections 20(c) and 22(a) of the Securities Act [15 U.S.C. §77t(b) and §77v(a)], Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §78u(e) and §78aa] and 28 U.S.C. §1331, Sections 42(d) and 44 of the Investment Company Act [15 U.S.C. §80a-41 and §80a-43], and Sections 209(d) and 214 of the Advisers Act of 1940 [15 U.S.C. §80b-9 and §80b-14].

8. Venue is proper in this Court 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], Section 44 of the Investment Company Act [15 U.S.C. §80a-43], and Section 214 of the Advisers Act [15 U.S.C. §80b-14]. Certain of the sales, transactions, acts, practices, and courses of business alleged herein occurred in the Northern District of Ohio, and Defendants can be found in, transact business in, and/or are inhabitants of the Northern District of Ohio.

9. Defendants have made use of the mails and of the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business alleged herein that occurred within the jurisdiction of the United States District Court for the Northern District of Ohio.

### FACTS

#### The IPOF Offering

10. From at least 1999 through 2005, Dadante, through IPOF, raised approximately \$50 million from at least 110 investors in five states.

11. Dadante told investors that IPOF was a limited partnership in which he was the general partner and each investor was a limited partner.

12. Dadante also gave investors offering documents entitled the "Acknowledgment."

13. The Acknowledgement stated that investors' funds would be pooled with other investors' funds in order to purchase stock in the initial public offering of publicly held companies.

14. The Acknowledgement also indicated that IPOF, through Dadante, had sole discretion to make investment decisions for IPOF.

15. IPOF's investors had no role in choosing which securities IPOF bought or sold.

16. The Acknowledgement stated that Dadante was to be paid by IPOF for his investment advice. However, according to the Acknowledgement, Dadante was not to receive any compensation unless IPOF earned profits.

17. IPOF solicited investors in a public offering. Specifically, IPOF did not limit the offering in terms of size or numbers of investors, and Dadante, through IPOF, solicited investors by mailing IPOF's offering documents and advertising materials to investors and potential investors in Ohio and other states.

18. The majority of the IPOF investors live in and around Cleveland, Ohio.

19. No valid registration statement was filed or was in effect with the Commission in connection with the sale of securities in IPOF.

#### **Dadante and IPOF's Fraudulent Scheme**

20. During the course of IPOF's offering, Dadante told investors orally and in writing that IPOF earned its profits by buying and selling stocks during the initial public offerings of companies.

21. After managing IPOF for several years, Dadante told investors that he changed the strategy of the Fund to engage in large block equity day trading to earn its profits.

22. Dadante told investors that this large block equity day trading strategy involved the Fund buying a large position in publicly traded companies and then, in the same day, selling out the whole position at a profit.

23. During the course of the offering, Dadante solicited investors to purchase limited partnership interests in IPOF by making oral representations concerning IPOF's historic returns, guaranteed investor returns, and the manner in which IPOF would use investors' funds, and by distributing the Acknowledgment.

24. As part of his scheme, Dadante solicited investors by claiming in the Acknowledgement that IPOF had historical returns of 26% and 32% in its first two years of existence.

25. Dadante also solicited investors in IPOF by guaranteeing returns to the investors in the Acknowledgement of 1.67% per month, 3% to 4% per quarter, or 10% to 20% per year, depending on the amount and the timing of the investment.

26. In furtherance of his scheme, Dadante explained to investors that their money was pooled and protected in a money market account at Goldman Sachs.

27. Dadante told investors that the money market account at Goldman Sachs paid interest to IPOF and that he only used the money from these interest payments to buy and sell securities for IPOF.

28. Dadante told investors that because he only used the interest earned in the money market account to trade, their principal was never placed at risk.

29. Dadante also told investors that he worked with a Goldman Sachs' vice-chairman to manage IPOF's assets and that he received investment advice from this person regarding IPOF's investment strategies.

30. Dadante also distributed purported Goldman Sachs' account statements for IPOF to investors that that he represented were prepared and issued by Goldman Sachs that stated that the Fund held over \$50 million in a money market account at Goldman

Sachs and these statements included a name of a Goldman Sachs' vice-chairman as IPOF's purported Goldman Sachs' representative.

31. Dadante told investors that Goldman Sachs sent him checks for IPOF's trading profits. He showed investors copies of purported Goldman Sachs' distribution checks made payable to IPOF.

32. Dadante also reported to certain investors on a daily basis the stocks that IPOF had purportedly traded on a particular day and the resulting profits.

33. Dadante prepared and issued investors periodic individual IPOF account statements that reflected purported returns that met or exceeded the historical and guaranteed returns in the IPOF offering documents.

#### **Dadante's Misuse of Investors' Funds**

34. Dadante and IPOF did not use the investors' money to buy or sell stock in initial public offerings or to pursue a large block equity day trading strategy.

35. Dadante and IPOF did not place the investors' money in a money market account at Goldman Sachs.

36. Dadante and IPOF also did not have any business relationship with Goldman Sachs or any Goldman Sachs employee.

37. In reality, Dadante primarily operated IPOF as a Ponzi scheme. He and IPOF used millions of dollars of new investors' principal to pay other investors the purported IPOF guaranteed returns.

38. Furthermore, the purported Goldman Sachs' money market fund account statements and checks were not created or issued by Goldman Sachs. Dadante, either created these documents or caused somebody else to create these documents.

39. Dadante's and IPOF's representations that IPOF's historical returns of 26% and 32% in IPOF's first two years of existence were also false. In fact, IPOF was not profitable in any year from 1999 to 2005.

40. Dadante and IPOF had no reasonable basis to guarantee returns of 1.67% per month, 3% to 4% per quarter, or 10% to 20% per year. IPOF did not generate these types of returns in any period. IPOF did not have the investments or business operations to provide a basis for these levels of guaranteed returns.

41. The IPOF account statements that Dadante issued to investors which indicated that IPOF had met or exceeded the purported historical and guaranteed returns were also false, because IPOF did not earn any returns.

42. Nevertheless, Dadante diverted millions of dollars of IPOF's investors' money to himself, his wife, his children, and other accounts that he controlled.

43. As a result of his misuse of a substantial portion of the funds invested in IPOF in the manner described in paragraphs 37 and 42 above, it was extremely unlikely that IPOF would earn the return represented through its purported trading strategies.

44. Dadante used the vast majority of the remaining IPOF investor funds to make a speculative investment in the stock of a small-cap public company that was traded on the NASDAQ over-the-counter market.

45. IPOF's purchase of this stock was not during the company's initial public offering.

46. IPOF's purchase of this stock was also not consistent with the large block equity day trading strategy, which Dadante claimed IPOF utilized. Among other things,



Dadante simply accumulated the stock over a long period of time. instead of buying and selling on the same day for a profit.

47. Over a two year period, Dadante accumulated four million shares of this company or approximately 35% of this company's outstanding shares.

49. Dadante used IPOF's investors' principal to buy some shares of this small-cap public company. However, due to his misappropriation and misuse of investors' funds, and his use of investors' funds to pay the purported returns, Dadante needed to tap into margin accounts to purchase enough shares to attempt to make up the difference. Dadante's and IPOF's leverage of these shares caused IPOF to incur millions of dollars of margin liability, thereby substantially increasing the investment risk to IPOF's investors.

50. When the price of the stock owned by IPOF decreased, it was subject to sale to satisfy margin calls made by the broker-dealers at which it was held.

51. In addition, Dadante placed a significant portion of the shares of this small-cap public company into his personal accounts and into accounts in the name of other entities, besides IPOF, that he controlled.

### **COUNT I**

#### **Violations of Sections 5(a) and 5(c) of the Securities Act of 1933 [15 U.S.C. § 77e(a) and (c)]**

52. Paragraphs 1 through 51 above are realleged and incorporated herein by reference.

53. By their conduct, Dadante and IPOF, directly or indirectly: (i) made use of means or instruments of transportation or communication in interstate commerce or of the mails to sell, through the use or medium of a prospectus or otherwise, securities as to

which no registration statement was in effect; (ii) for the purpose of sale or delivery after sale, carried or caused to be carried through the mails or in interstate commerce, by any means or instruments of transportation, securities as to which no registration statement was in effect; and (iii) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy, through the use or medium of a prospectus or otherwise, securities as to which no registration statement had been filed.

54. No valid registration statement was filed or was in effect with the Commission in connection with sale of securities in IPOF.

55. By reason of the foregoing, Dadante and IPOF violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and (c)].

## **COUNT II**

### **Violations of Section 17(a)(1) of the Securities Act of 1933 [15 U.S.C. § 77q(a)(1)]**

56. Paragraphs 1 through 51 above are realleged and incorporated herein by reference.

57. By their conduct, Dadante and IPOF, in the offer or sale of securities in IPOF, by the use of any means or instruments of transportation or communication in interstate commerce and by the use of the mails, directly or indirectly, have employed devices, schemes or artifices to defraud.

58. Dadante and IPOF knew, or were reckless in not knowing, the facts and circumstances described in this Complaint.

59. By reason of the foregoing, Dadante and IPOF violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

**COUNT III**

**Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933  
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]**

60. Paragraphs 1 through 51 above are realleged and incorporated herein by reference.

61. By their conduct, Dadante and IPOF, in the offer or sale of securities in IPOF, by the use of any means or instruments of transportation and communication in interstate commerce and by the use of the mails, directly or indirectly, have obtained money or property by means of untrue statements of material fact 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; or have engaged in transactions, practices, or courses of business which have been or are operating as a fraud or deceit upon purchasers of securities in IPOF.

62. By reason of the foregoing, Dadante and IPOF violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

**COUNT IV**

**Violations of Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C.  
§78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]**

63. Paragraphs 1 through 51 above are realleged and incorporated herein by reference.

64. By their conduct, Dadante and IPOF, in connection with the purchase or sale of securities in IPOF, by the use of any means or instrumentalities of interstate

commerce or by the use of the mails, directly or indirectly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or 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 that operated or would operate as a fraud or deceit upon any person.

65. Dadante and IPOF knew, or were reckless in not knowing, the facts and circumstances described in this Complaint.

66. By reason of the foregoing, Dadante and IPOF violated Section 10(b) of the Exchange Act of 1934 [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

#### **COUNT V**

##### **Violations of Section 206(1) of the Investment Advisers Act of 1940 [15 U.S.C. §80b-6(1)]**

67. Paragraphs 1 through 51 above are realleged and incorporated herein by reference.

68. By his conduct, Dadante, directly or indirectly, by the use of the mails or any means or instrumentalities of interstate commerce, while acting as an investment adviser, employed devices, schemes, or artifices to defraud advisory clients or prospective advisory clients.

69. Dadante knew or was reckless in not knowing of the activities described in this complaint.

70. By reason of the foregoing, Dadante violated Section 206(1) of the Advisers Act [15 U.S.C. §80b-6(1)].

**COUNT VI**

**Violations of Section 206(2) of the Investment Advisers Act of 1940  
[15 U.S.C. §80b-6(2)]**

71. Paragraphs 1 through 51 above are realleged and incorporated herein by reference.

72. By his conduct, Dadante, directly or indirectly, by the use of the mails or any means or instrumentalities of interstate commerce, while acting as an investment adviser, engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon advisory clients or prospective advisory clients.

73. By reasons of the foregoing, Dadante violated Section 206(2) of the Advisers Act [15 U.S.C. §80b-6(2)].

**COUNT VII**

**Violations of Section 7(a) of the Investment Company Act of 1940  
[15 U.S.C. § 80a-7(a)]**

74. Paragraphs 1 through 51 are re-alleged and incorporated by reference as though fully set forth herein.

75. From in or about 1999 to the present, IPOF held itself out as being, or was, engaged primarily in the business of investing, reinvesting or trading in securities .

76. From in or about 1999 to the present, while acting as investment company, IPOF offered, purchased and sold, redeemed or retired securities by the use of the mails

and the means and instrumentalities of interstate commerce and engaged in business in interstate commerce.

77. At no time was IPOF registered with the Commission as an investment company.

78. By reasons of the foregoing IPOF violated Section 7(a) of the Investment Company Act [15 U.S.C. § 80a-7(a)].

**RELIEF REQUESTED**

**WHEREFORE**, Plaintiff, the United States Securities and Exchange Commission, respectfully requests that this Court:

A. Find that Dadante and IPOF committed the violations alleged in this Complaint;

B. Enter orders of permanent injunction in forms consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining (1) Dadante, his agents, servants, employees, and attorneys, and those persons in active concert or participation with it who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §77e(a), 77e(c) and 77(q)(a)], 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, and Section 206 of the Advisers Act [15 U.S.C. §80b-6]; and, (2) IPOF, its agents, servants, employees, and attorneys, and those persons in active concert or participation with it who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §77e(a), 77e(c) and 77(q)(a)], Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule

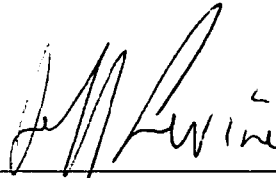
10b-5 [17 C.F.R. §240.10b-5] promulgated thereunder, and Section 7(a) of the Investment Company Act [15 U.S.C. §80a-7(a)];

C. Order Dadante and IPOF to disgorge all ill-gotten gains received by them as a result of the wrongful conduct set forth in this Complaint, including prejudgment interest;

D. Order Dadante to pay an appropriate civil penalty for the wrongful conduct set forth in this Complaint, pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)], Sections 21(d)(3) of the Exchange Act [15 U.S.C. §§78u(d)(3) and 78u-1], Section 209(e) of the Advisers Act [15 U.S.C. §80b-9(e)], and Section 42(e) of the Investment Company Act [15 U.S.C. §80a-41(e)];

E. Grant such additional relief as this Court deems appropriate.

Respectfully submitted,



---

Jeffrey Levine-IL 6229701  
James G. Lundy-IL 6231095  
Securities & Exchange Commission  
175 W. Jackson, Suite 900  
Chicago, Illinois 60604  
Telephone: (312) 886-0899  
Facsimile: (312) 353-7398

April 18, 2006



JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

United States Securities and Exchange Commission

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jeff Levine, 175 W. Jackson Suite 900, Chicago, IL 60604 (312) 886-0899

**DEFENDANTS**

David A. Dardante and the IPOF Fund

County of Residence of First Listed Defendant Cuyahoga  
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Mark Stanton, 614 W. Superior, Suite 1300, Cleveland, Ohio 44113

2006 APR 18 1:06CV0938

**JUDGE BOYKO**

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         |                            |                            |                                                               |                            |                            |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
|                                         | PTF                        | DEF                        |                                                               | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | TORTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | FORFEITURE/PENALTY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | BANKRUPTCY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | OTHER STATUTES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><br><b>PERSONAL INJURY - Med. Malpractice</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | CIVIL RIGHTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | PRISONER PETITIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property                                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 [15 U.S.C. § 77e(a), 77e(c), 77q(a)1,2,3][15 U.S.C. § 78j(b)][15 U.S.C. § 806-6(1),(2)][15 U.S.C. § 80a-7(a)]

Brief description of cause:  
 Violations of the anti-fraud and registration provisions of the federal securities laws

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE Kathleen O'Malley DOCKET NUMBER 1:05CV2726

DATE 4/17/06 SIGNATURE OF ATTORNEY OF RECORD

*Jeff Levine*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1.  General Civil
- 2.  Administrative Review/Social Security
- 3.  Habeas Corpus Death Penalty

\*If under Title 28, §2255, name the SENTENCING JUDGE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is  RELATED to another PENDING civil case. This action is  REFILED pursuant to LR 3.1.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation: For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- AKRON (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
- CLEVELAND (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
- YOUNGSTOWN (Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

- TOLEDO (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)