

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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U.S. DISTRICT COURT
S.D. OF FLA. - MIA

CASE NO.

0

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CIV - GOLD

WILLIAM SCOTT DELOACH, MARIA M. GARCIA,
and ROSARIO F. LICATA,

Defendants.

**MAGISTRATE JUDGE
TURNOFF**

_____ /

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission alleges the following:

SUMMARY

1. The Commission brings this action to enjoin Defendants from violating the antifraud, record-keeping, and internal control provisions of the federal securities laws in connection with their egregious and methodical multi-million dollar embezzlement of funds from their former employer, The PBSJ Corp. ("PBSJ" or the "company"). From as early as 1992 until March 2005, Defendant William Scott DeLoach, first as controller and then as Chief Financial Officer of PBSJ, along with Defendants Maria M. Garcia and Rosario F. Licata, both long-time employees of PBSJ's accounting department, stole more than \$35 million of corporate funds to fund a lavish lifestyle of estates, exotic cars, fine art, jewelry, gambling, and travel.

2. Defendants, with access to PBSJ's books, records, and bank accounts, were able to steal tens of millions of dollars by writing checks for their benefit directly from the company's

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master cash disbursement account and by diverting funds from PBSJ's medical benefits disbursement account, an account typically used to pay for employee medical and dental expenses, to two secret bank accounts DeLoach controlled.

3. Defendants were able to conceal their massive fraud by not recording the checks in the corresponding accounting journals, insuring that all bank statements were mailed directly to them, destroying the canceled fraudulent checks, preparing phony bank reconciliations, and making unsupported and false journal entries on PBSJ's books and records.

4. In March of 2005, one of PBSJ's internal auditors uncovered Defendants' fraudulent scheme. Subsequently, Defendants resigned their respective corporate positions and confessed to PBSJ's audit committee and outside counsel that they had stolen tens of millions of dollars from the company.

5. Defendants' theft of corporate assets caused numerous, material inaccuracies in PBSJ's audited consolidated financial statements, resulting in PBSJ's impending restatements of its financial statements for the past several years.

DEFENDANTS

6. DeLoach is a resident of Aventura, Florida. DeLoach was PBSJ's controller from 1992 to 2004 and its CFO from 2003 to March 28, 2005, when he resigned.

7. Garcia is a resident of Hialeah, Florida. Garcia was an employee in PBSJ's accounting department for 27 years until she resigned on March 31, 2005.

8. Licata is a resident of Davie, Florida. Licata was an employee in PBSJ's accounting department for 27 years until she resigned on March 31, 2005.

OTHER RELATED ENTITY

9. PBSJ is an employee-owned Florida corporation headquartered in Miami, Florida. PBSJ provides a broad range of planning, designing, and construction services to a variety of public and private sector clients related to transportation, environmental, civil engineering, and construction management. PBSJ's common stock is registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). Because all of the company's shares are held by employees, there is no established public trading market for its common stock.

JURISDICTION AND VENUE

10. This Court had jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

11. Venue is proper in the Southern District Florida because many of the acts and transactions constituting violations of the Exchange Act occurred in the Southern District of Florida. In addition, the principal offices of PBSJ are located within the Southern District of Florida and all Defendants reside within the District.

12. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means or instrument of transportation or communication in interstate commerce, and/or the mails, in connection with the acts, practices, and courses of business set forth in this Complaint.

FACTS

13. In early March 2005, a PBSJ internal auditor discovered an unusual entry on the company's books and records related to expenses for employee medical benefits and reserves for medical claims. The entry appeared unusual given the company's past expenses related to employee

medical benefits.

14. The internal auditor's concerns were elevated to PBSJ's audit committee which, in turn, asked DeLoach, then CFO of the company, for an explanation for the entry. DeLoach failed to produce adequate documentation in support of the entry.

15. In fact, the documentation DeLoach provided, with the assistance of the other Defendants, was a bogus bank statement they had altered so that certain check numbers and amounts did not appear. Those missing checks were the foray into Defendants' embezzlement scheme, and represented only a small fraction of funds they stole.

16. From as early as 1992 until March of 2005, Defendants stole more than \$35 million of corporate funds through two, legitimate corporate accounts: PBSJ's master cash disbursement bank account (the "Disbursement Account") and the company's medical benefits disbursement account (the "Medical Benefits Account").

17. The Disbursement Account is generally used to pay for office expenses, corporate American Express bills, and company-related taxes.

18. The Medical Benefits Account is an account that appears on PBSJ's books and records that is typically used to pay for employee medical and dental expenses.

19. Defendants stole the majority of the embezzled funds by writing checks to themselves or for their benefit directly from the Disbursement Account.

20. Defendants also stole corporate assets from the Medical Benefits Account by writing checks drawn on that account for deposit into two secret bank accounts (the "Secret Accounts") that DeLoach controlled. Defendants then wrote checks from the Secret Accounts to themselves or for their benefit.

21. Defendants were able to conceal their massive fraud by not recording the fraudulent checks in the corresponding accounting journals for the Disbursement and Medical Benefits Accounts, insuring that all bank statements were mailed directly to them or to a drop box DeLoach maintained at Mailboxes Etc., destroying the canceled fraudulent checks, preparing phony bank reconciliations, and making unsupported and fraudulent journal entries on PBSJ's books and records.

22. Defendants' theft resulted in numerous material inaccuracies in PBSJ's audited consolidate financial statements included in PBSJ's annual and quarterly reports filed with the Commission on Forms 10-K and Forms 10-Q. As a result, PBSJ is required, and is preparing, to restate its financial statements for the past several years.

23. In addition, from March 2004 until his resignation in March of 2005, DeLoach signed and certified PBSJ's annual and quarterly reports on Forms 10-K and Forms 10-Q. In certifying each of PBSJ's filings, DeLoach represented, among other things, that the filing contained no material misstatements or omissions, and that "based on [his] knowledge, the financial statements and other financial information included in [the] report fairly present in all material respects the financial condition, results of operations and cash flows" of the company. Further, from approximately 2001 until he resigned, DeLoach, first as controller and then as CFO, signed management representation letters to PBSJ's independent auditors affirming, among other things, that there had been no "[f]raud involving management."

24. Defendants' methodical and massive theft of corporate funds transformed them into multi-millionaires as they used the embezzled money to fund lavish lifestyles.

25. DeLoach lived in a 6,500 square-foot waterfront estate appointed with exquisite, custom-made furnishings and more than 50 pieces of fine art. He also owned several other

properties, including a multi-million dollar property located in the Florida Keys, drove Maserati and Aston Martin sports cars, and was in the process of building a 118-foot yacht.

26. Garcia indulged in several Lexus sports cars and sedans, and a large collection of Rolex watches and diamond jewelry. She also became part-owner of a restaurant and shared her “wealth” with many family members and friends.

27. Licata gambled away large sums of money, purchased several properties in Florida and Nicaragua, owned a Mercedes sedan, and traveled extensively.

28. In March of 2005, after Defendants’ fraudulent scheme was ultimately uncovered, Defendants resigned their respective corporate positions and confessed to PBSJ’s audit committee and outside counsel that they had defrauded the company by stealing tens of millions of dollars.

CLAIMS FOR RELIEF

COUNT I

Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 Against All Defendants

29. The Commission repeats and realleges paragraphs 1 through 28 of its Complaint.

30. From as early as 1992 through March 2005, Defendants directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails in connection with the purchase or sale of the securities, as described in this Complaint, knowingly, willingly or recklessly: (a) employed devices, schemes or 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/or (c) engaged in acts, practices and courses of business which have operated as a fraud upon the purchasers of such securities.

31. By virtue of the conduct described in this complaint, Defendants directly or indirectly

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

COUNT II

Aiding and Abetting PBSJ's Violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1 and 13a-13 Against All Defendants

32. The Commission repeats and realleges paragraphs 1 through 28 of its Complaint.

33. Exchange Act Section 13(a) and rules promulgated thereunder require every issuer of a registered security to file reports with the Commission that accurately reflect the issuer's financial performance and provide other information to the public. Exchange Act Rule 12b-20 provides that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

34. As a consequence of the conduct of Defendants, as set forth above, PBSJ's annual and quarterly reports filed on Forms 10-K and 10-Q, respectively, from as early as 1992 until March of 2005, violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

35. By virtue of the conduct described in this complaint, Defendants aided and abetted PBSJ's aforementioned violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

COUNT III

Violations of Exchange Act Rule 13a-14 Against Defendant DeLoach

36. The Commission repeats and realleges paragraphs 1 through 28 of its Complaint.

37. Exchange Act Rule 13a-14 requires that each annual and quarterly report include a certification by the issuer's principal executive and financial officers certifying that, to the best of the certifying officer's knowledge, the report contains no material misstatements or omissions. [17 C.F.R. § 240.13a-14]. DeLoach, while stealing tens of millions of dollars of corporate funds, certified numerous annual and quarterly reports filed by PBSJ with the Commission.

38. By reason of the foregoing, DeLoach has directly or indirectly violated Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14].

COUNT IV

Violations of Section 13(b) of the Exchange Act and Exchange Act Rules 13b2-1 Against All Defendants

39. The Commission repeats and realleges paragraphs 1 through 28 of its Complaint.

40. Exchange Act Section 13(b)(2)(A) and rules promulgated thereunder require each issuer of registered securities to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the business of the issuer. Exchange Act Section 13(b)(2)(B) and the rules promulgated thereunder require issuers to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain the accountability of assets. Exchange Act Section 13(b)(5) prohibits any person from knowingly falsifying such books, records, or accounts or from knowingly circumventing such a system of internal accounting controls.

41. By virtue of the conduct described in this complaint, Defendants falsified PBSJ's books, records, and accounts, and therefore directly and indirectly, violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

42. In addition, by virtue of the conduct described in this complaint, Defendants aided and abetted PBSJ's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and (b)(2)(B)].

COUNT V

Violation of Exchange Act Rule 13b2-2 Against Defendant DeLoach

43. The Commission repeats and realleges paragraphs 1 through 28 of its Complaint.

44. Exchange Act Rule 13b2-2 prohibits the making of misleading statements to an accountant, by an officer or director of such an issuer, in connection with an audit in connection with the preparation or filing of any document or report required to be filed with the Commission.

45. By virtue of the conduct described in this complaint, Defendant DeLoach, an officer of PBSJ, made false and misleading statements to an accountant in connection with an audit and with the preparation and filing of PBSJ's required reports. He therefore, directly or indirectly, violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that the Defendants have committed the violations of the federal securities laws alleged in this Complaint.

II.

Permanent Injunctive Relief

Issue a Permanent Injunction, restraining and enjoining Defendants, their officers, agents,

servants, employees, attorneys, representatives, and all persons in active concert or participation with them, and each of them, from violating Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), 78m(b)(2)(B), and 78m(b)(5)] and Exchange Act Rules 10b-5, 12b-20, 13a-1, 13a-13, 13a-14, 13b2-1, and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-13, 240.13a-14, 240.13b2-1, and 240.13b2-2], as appropriately indicated above.

III.

Disgorgement

Issue an order requiring Defendants to disgorge all ill-gotten gains, including prejudgment interest, resulting from the violations alleged in this Complaint.

IV.

Penalties

Issue an Order directing Defendants to pay a civil penalty under Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

V.

Officer and Director Bar

Pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], issue an Order permanently barring Defendant DeLoach from acting as an officer or director of a publicly-held company.

VI.

Further Relief

Grant such other relief as this Court may deem just and appropriate.

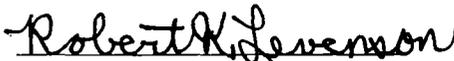
VII.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Sept. 15, 2006

Respectfully submitted,

By: 
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JS 44 (Rev 11/05)

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) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

<p>I. (a) PLAINTIFFS Securities and Exchange Commission</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Robert K. Levenson, Esq. (305) 982-6341 Securities and Exchange Commission, 801 Brickell Ave., Suite 1800, Miami, FL 33131</p>	<p>DEFENDANTS William Scott DeLoach, Maria M. Garcia and Rosario F. Licata</p> <p>County of Residence of First Listed Defendant <u>Miami-Dade</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.</p> <p>Attorneys (If Known) See Attached List</p>
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MAGISTRATE JUDGE TURNER

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

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

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 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 <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 409 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

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

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

VI. RELATED/RE-FILED CASE(S).

a) Re-filed Case YES NO b) Related Cases YES NO

(See instructions second page): JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 78j(b); 15 U.S.C. § 78m(a); 15 U.S.C. §§ 78m(b)(2)(A), (b)(2)(B) and (b)(5). Violations of the federal securities laws.

LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$Perm. Inj., CHECK YES only if demanded in complaint: Disgorgement, Penalties **PERY DEMAND:** Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD: Robert K. Levenson DATE: 9/15/06

FOR OFFICE USE ONLY

AMOUNT _____ RECEIPT # _____ IFP _____

JS 44 Reverse (Rev. 11/05)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

(d) Choose one County where Action Arose.

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled Copy of Order of Dismissal. (3)

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

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