ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 26 2008
CLERK, U.S. DISTRICT COURT
By

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, vs. **GARY L. McDUFF,** **GARY L. LANCASTER, and** **ROBERT T. REESE,** Defendants.	Civil Action No. 3-08CV-526-L

COMPLAINT

The United States Securities and Exchange Commission ("Commission") files this Complaint against Gary L. McDuff, Gary L. Lancaster and Robert T. Reese and would respectfully show the Court as follows:

SUMMARY

1. The Commission files suit against Gary L. McDuff ("McDuff"), Gary L. Lancaster ("Lancaster") and Robert T. Reese ("Reese") for their respective roles in a fraudulent, unregistered offering through which they raised over $11 million from approximately 105 investors nationwide. McDuff, the mastermind behind the fraud and a convicted felon, recruited Lancaster, a former registered representative, to be the "face" of the offering, which was conducted through the Lancorp Financial Fund Business Trust ("Lancorp Fund"). McDuff also recruited Reese, his long-standing partner, to be the primary salesman for the investment. The Lancorp Fund's offering document, a materially false and misleading Private Placement Memorandum ("PPM"), stated that the Lancorp Fund would invest only in highly rated debt

securities; Lancaster, as Trustee, would be paid a maximum of 50 basis points a quarter; and no commissions would be paid on initial investments. Unfortunately for investors, the defendants adhered to none of these restrictions.

2. As a result of facts learned in connection with its action styled *Securities and Exchange Commission v. Megafund Corp., et al.,* Civil Action No. 3-05-CV-1328-L (N.D. Texas) (hereinafter "*Megafund*"), involving a fraudulent "high yield" Ponzi scheme, the Commission learned that $9.3 million of over $14 million invested with Megafund came from the Lancorp Fund. Examining the operation of the Lancorp Fund leads to the inescapable conclusion that the defendants engaged in fraud and deception. Lancorp Fund assets were supposed to be invested only in highly-rated debt securities, yet Lancaster and McDuff agreed to have the Lancorp Fund invest millions in the Megafund Ponzi scheme. The Lancorp Fund was not allowed to pay commissions on investments in the fund, yet Lancaster paid out over $300,000 in covert commissions to McDuff and Reese. Finally, the Lancorp Fund was to distribute investment profits to investors and only allowed to pay Lancaster 50 basis points minus expenses per quarter, yet Lancaster paid himself over $336,000 by establishing an undisclosed side agreement to share in the Megafund Ponzi payments without ever distributing "profits" to investors.

3. In the interest of protecting the investing public from further such unscrupulous conduct, the Commission files suit against the Defendants seeking injunctive relief, disgorgement of ill-gotten gains, prejudgment interest, and civil penalties.

JURISDICTION

4. The Court has jurisdiction over this action pursuant to Section 20(d) and 22(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77t(d) and § 77v(a)], Sections

21(d), 21(e) and 27 of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e) and 78(aa)] and Section 214 of the Investment Advisers Act of 1940 (the "Investment Advisers Act") [15 U.S.C. § 80b-14]. Venue is proper because many of the transactions, acts, practices and courses of business described below occurred within the jurisdiction of the Northern District of Texas.

DEFENDANTS

5. **Gary L. McDuff** ("McDuff"), age 52, is a former resident of Deer Park, Texas. McDuff has never been associated with a registered broker dealer or investment adviser. In 1994, McDuff was convicted of two counts of money laundering and was sentenced to 36 months in federal prison. McDuff refused to appear for testimony in response to an investigative subpoena issued by the Commission and was the subject of a subpoena enforcement action, *SEC v. Gary Lynn McDuff*, Misc. Action No. 406-MC-Y (N.D. Tex. filed March 10, 2006). On information and belief McDuff currently resides in Mexico.

6. **Gary L. Lancaster** ("Lancaster"), age 54, is a resident of Vancouver, Washington and the control person of the Lancorp Financial Fund Business Trust and Lancorp Financial, LLC. Lancaster was a registered representative, most recently with American Fidelity Securities, Inc. from March 2006 through July 2006. Previously, Lancaster was registered with Sloan Securities Corporation from July 2005 through October 2005 and with The O.N. Equity Sales Company from March 2004 through January 2005. Lancaster has held Series 6, 7, 63, and 65 licenses. On September 5, 2006, the NASD barred Lancaster from association with any NASD member in any capacity.

7. **Robert T. Reese** ("Reese"), age 65, is a resident of Carmel, California and a licensed insurance agent. In 2004, the California Department of Corporations entered a Desist

and Refrain Order against Reese for acting as an unregistered broker selling unregistered securities. Reese has never been associated with a registered broker, dealer or investment adviser.

RELATED ENTITIES

8. Lancorp Financial Fund Business Trust (previously referred to as the "Lancorp Fund") was a private placement fund that Lancaster organized as a Nevada domestic business trust. Lancaster began soliciting investor funds for the trust in 2003. Lancaster was the lone signatory on all Lancorp Fund bank accounts. The State of Nevada revoked the Lancorp Fund's registration in 2006. Lancorp Financial Group, LLC (previously referred to as "Lancorp LLC"), incorporated in Oregon in 1996, was established to be the financial adviser for a private placement fund, and ultimately, served in this capacity for the Lancorp Fund. Lancaster was the sole principal and control person of Lancorp LLC. The Oregon Secretary of State revoked Lancorp LLC's registration in 2006. Pursuant to an agreement between the *Megafund* court-appointed receiver and Lancaster, the Lancorp Fund and Lancorp LLC became part of the *Megafund* receivership in January of 2006.

BACKGROUND FACTS

9. In the fall of 2000, Lancaster was working as a bank officer. In the course of his duties, Lancaster was introduced to McDuff, who was looking for a loan. Ultimately, the bank elected not to do business with McDuff because of his 1994 conviction for money laundering. McDuff, however, convinced Lancaster that he was innocent of any wrong-doing. Lancaster later went into business with McDuff, helping to manage investments with McDuff. In March 2003, at the direction of McDuff, Lancaster created the Lancorp Fund.

10. The Lancorp Fund's private placement offering began on March 17, 2003. The Private Placement Memorandum, previously referred to as the "PPM" for the Lancorp Fund was prepared by an attorney in Houston who had a prior existing relationship with McDuff. Once he provided Lancaster with the PPM, McDuff supplied Lancaster with a "broker" to sell the investment – Robert T. Reese, an insurance agent in Carmel, California.

11. According to the PPM, the Lancorp Fund was an "unregistered closed-end non-diversified management investment company" that would "not be managed like a typical closed-end investment company." Instead, the Lancorp Fund would be internally managed by the trustees (i.e., Lancaster) and not by a separate investment adviser. The PPM stated that the Lancorp Fund's investment strategy involved the "issuance of Forward Commitments" to participate in transactions relating to debt securities with the goal of "maximizing the protection of investors' funds." Specifically, the PPM stated that the Lancorp Fund was only allowed to invest in original issue debt securities rated at least "A+" by Standard & Poor's Corporation or "A1" by Moody's Investor Service. Additionally, the PPM falsely stated that that Lancaster was "an investment adviser registered with the Commission under the Investment Advisers Act of 1940, as amended."

12. The PPM set forth that no commissions would be paid on the sale of investor shares, and that Lancaster, as trustee of the Lancorp Fund, would be compensated in an amount equal to .5% of the fund's deposits (i.e., assets under management) minus expenses. The PPM also set forth that any remaining quarterly income would be distributed as "investor returns" to the fund's shareholders. Application materials asked potential investors whether they were accredited, and if so to "check the box." Investors were not provided with any financial information, audited or otherwise.

13. The Lancorp Fund was offered to investors nationwide through a general solicitation. The Lancorp Fund raised approximately $11 million from 105 investors (including at least 37 unaccredited investors). The majority of the investors in the Lancorp Fund were referred to the Lancorp Fund by Reese, with the remainder coming from McDuff. Reese advertised the Lancorp Fund investment in at least one investor periodical, and even created his own "lead sheets" that he sent to potential investors. The lead sheets borrowed some information from the Lancorp Fund PPM, but also contained statements that Reese simply fabricated. According to the lead sheets, investor funds would be deposited in an A+ or higher rated US Bank; security for the deposits, which guaranteed protection of 100% of an investor's principal, would be provided by US insurers rated A or higher by AM Best Company; investments in the Lancorp Fund were safe and would have no sales charges; and the trustee fee would be deferred until a minimum return was paid to investors.

14. In January 2005, McDuff introduced Lancaster to Leitner and the Megafund investment opportunity. McDuff showed Lancaster the Megafund offering documents, which set forth that investor funds would be placed in "an account at a major U.S. Brokerage firm" where an unnamed "Trader" would engage in "arbitrage" transactions involving the purchase and sale of "Treasury bills, certificates of deposit, stocks, bonds, securities and derivatives of such on margin or otherwise . . . and Tri-Party Repurchase Agreement transactions." The Megafund materials went on to promise that investors would receive a "ten percent profit" per month and that their principal investment would never be at risk. After hearing a pitch on Megafund, and at McDuff's recommendation, on February 8, 2005 Lancaster directed the Lancorp Fund to invest $5 million in the Megafund offering regardless that such an investment was clearly outside the investment parameters allowed by the Lancorp Fund PPM.

15. Lancaster initially told McDuff and Reese that the Lancorp Fund could not compensate them for referring investors to the fund for two reasons: the Lancorp Fund PPM explicitly stated that no commissions would be paid, and Lancaster knew that McDuff and Reese were not registered representatives and therefore could not receive transaction-based compensation. Shortly after the Lancorp Fund's initial investment in Megafund, however, McDuff devised a plan to circumvent the Lancorp Fund's proscription on the payment of commissions.

16. McDuff caused an entity he controlled named MexBank S.A. de C.V. ("MexBank") to enter into a "joint-venture" profit-sharing arrangement with Lancorp Financial Group LLC (previously described as "Lancorp LLC"), which Lancaster controlled. Lancorp LLC also entered into an agreement with the Lancorp Fund, which provided that Lancorp LLC would act as an investment adviser to the Lancorp Fund. Lancaster executed the agreement for both parties. The joint-venture agreement set forth that all monthly gross profits payable by Megafund to the Lancorp Fund would be divided 64.8% to Lancorp LLC and 35.2% to MexBank. The agreement was dated March 17, 2005, but stated that the effective date was February 2, 2005, in order to "memorialize a prior understanding of the division of earnings derived from investments in the Megafund Corporation." None of this was ever disclosed to Lancorp Fund investors. As a result, when Megafund started making "profit" payments, which were in reality Ponzi payments, to the Lancorp Fund, McDuff and Reese were able to receive compensation through MexBank for bringing investors to the Lancorp Fund.

17. Between June 2004 and May 2005, Megafund raised over $14 million from investors, including over $9.3 million from the Lancorp Fund. Megafund never deposited investor funds with a U.S. brokerage firm as represented to investors. Instead, it transferred

approximately $11 million of investor funds to an offshore bank account controlled by James Rumpf. Approximately $9.5 million of those funds were transferred to a U.S. bank account controlled by a convicted felon named Bradley Stark ("Stark"). Stark's bank records revealed that he was operating a separate Ponzi scheme, and that at the time the Commission filed the *Megafund* emergency action, he had transferred approximately $2.6 million in Ponzi payments from his scheme back to Megafund.

18. On March 23, 2005, Megafund made a $500,000 "profit" payment to the Lancorp Fund. Lancaster re-invested some of those funds with Megafund, transferred $138,229 through Lancorp LLC to a personal account, and transferred $128,437 to MexBank. On April 26, 2005, Megafund made a second $500,000 "profit" payment to the Lancorp Fund. This time, Megafund sent $175,835 to MexBank directly, and $324,165 to the Lancorp Fund. Lancaster transferred $198,000 from the Lancorp Fund to his personal account, and re-invested the remaining $126,165 with Megafund.

19. By the time the Commission filed its emergency action against Megafund on July 5, 2005, Lancaster had kept $336,229 for himself and Reese and McDuff had divided $304,272 through the undisclosed compensation arrangement. McDuff transferred $45,792 to Reese from the MexBank account and kept the remaining $258,480 for himself. No money or profits were distributed to Lancorp Fund investors.

CLAIMS

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

20. Plaintiff Commission repeats and incorporates paragraphs 1 through 19 of this Complaint by reference as if set forth *verbatim*.

21. Defendants, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails 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 light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

22. As a part of and in furtherance of their scheme, Defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth in Paragraphs 1 through 19 above.

23. Defendants made the above-referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

24. By reason of the foregoing, Lancaster, McDuff and Reese have violated and, unless enjoined, will continue to violate the provisions of 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].

SECOND CLAIM
Violations of Section 17(a) of the Securities Act

25. Plaintiff Commission repeats and incorporates paragraphs 1 through 19 of this Complaint by reference as if set forth *verbatim*.

26. Defendants, directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) 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; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

27. As part of and in furtherance of this scheme, Defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth in paragraph 1 through 19 above.

28. Defendants made the above-referenced misrepresentations and omissions knowingly or with severe recklessness with regard for the truth. Defendants were also negligent in their actions regarding the representations and omissions alleged herein.

29. By reason of the foregoing, Lancaster, McDuff and Reese have violated, and unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM
Violations of Section 5(a) and 5(c) of the Securities Act

30. Plaintiff Commission repeats and incorporates paragraphs 1 through 19 of this Complaint by reference as if set forth *verbatim*.

31. Defendants, directly or indirectly, singly and in concert with others, have been offering to sell, selling and delivering after sale, certain securities, and have been, directly and

indirectly: (a) making use of the means and instruments of transportation and communication in interstate commerce and of the mails to sell securities, through the use of written contracts, offering documents and otherwise; (b) carrying and causing to be carried through the mails and in interstate commerce by the means and instruments of transportation, such securities for the purpose of sale and for delivery after sale; and (c) making use of the means or instruments of transportation and communication in interstate commerce and of the mails to offer to sell such securities.

32. As described in paragraphs 1 through 19, the investments were offered and sold to the public through a general solicitation of investors. No registration statements were ever filed with the Commission or otherwise in effect with respect to these securities.

33. By reason of the foregoing, Lancaster, McDuff and Reese have violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

FOURTH CLAIM
Violations of Section 15(a)(1) of The Exchange Act

34. Plaintiff Commission repeats and incorporates paragraphs 1 through 19 of this Complaint as if set forth *verbatim*.

35. At the times alleged in this Complaint, Defendants have been in the business of effecting transactions in securities for the accounts of others.

36. Defendants made use of the mails and of the means and instrumentalities of interstate commerce to effect transactions in and to induce or attempt to induce the purchase of securities.

37. At the times alleged in this Complaint Defendants were not registered with the Commission as a broker or dealer, as required by Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

38. By reason of the foregoing, Lancaster, McDuff and Reese have violated and, unless enjoined, will continue to violate Section 15(a)(1) of the Exchange Act [15 U.S.C. §78o(a)(1)].

FIFTH CLAIM
(Against Lancaster)
Violations of Sections 206(1) and 206(2) of the Investment Advisers Act

39. Plaintiff Commission repeats and incorporates paragraphs 1 through 19 of this Complaint as if set forth *verbatim*.

40. Lancaster, directly and indirectly, by use of the mails and means and instrumentalities of interstate commerce, while acting as an investment adviser, intentionally, knowingly or recklessly:

(a) employed devices, schemes and artifices to defraud clients or prospective clients; and

(b) engaged in transactions, practices or courses of business which operated as a fraud or deceit upon clients or prospective clients.

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

SIXTH CLAIM
(Against McDuff and Reese)
Aiding and Abetting
Violations of Sections 206(1) and 206(2) of the Investment Advisers Act

42. Plaintiff Commission repeats and incorporates paragraphs 1 through 19 of this Complaint as if set forth *verbatim*.

43. Lancaster, directly and indirectly, by use of the mails and means and instrumentalities of interstate commerce, while acting as an investment adviser, intentionally, knowingly or recklessly:

(a) employed devices, schemes and artifices to defraud clients or prospective advisory; and

(b) engaged in transactions, practices or courses of business which operated as a fraud or deceit upon clients or prospective clients.

44. McDuff and Reese knowingly provided substantial assistance to Lancaster in his violations of Sections 206(1) and 206(2) of the Investment Advisors Act.

45. By reason of the foregoing, McDuff and Reese aided and abetted violations of, and unless enjoined, will continue to aid and abet violations of Sections 206(1) and 206(2) of the Investment Advisers Act [15 U.S.C. §§80b-6(1) and (2)].

RELIEF REQUESTED

The Commission seeks the following relief:

46. An order of the Court permanently enjoining the defendants, their agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future 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)], and Sections 10(b) and 15(a)(1) of the Exchange Act, [15 U.S.C. § 78j(b) and § 78o(a)(1)], and of Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

47. An order of the Court permanently enjoining the Lancaster, his agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 206(1) and 206(2) of the Investment Advisers Act [15 U.S.C. §§80b-6(1) and (2)].

48. An order of the Court permanently enjoining the McDuff and Reese, their agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from aiding and abetting future violations of Sections 206(1) and 206(2) of the Investment Advisers Act [15 U.S.C. §§80b-6(1) and (2)].

49. An order of the Court directing Defendants to disgorge an amount equal to the funds and benefits each obtained illegally as a result of the violations alleged, plus prejudgment interest on that amount.

50. An order of the Court directing defendants to pay civil monetary penalties in an amount determined as appropriate by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 209(e) of the Investment Advisers Act [15 U.S.C. § 80b-9(e)] for their violations of the federal securities laws as alleged herein.

51. All further relief as the Court may deem just and proper.

DATED: March 26, 2008

Respectfully submitted,

HAROLD R. LOFTIN, JR.
Texas Bar No. 12487090
U.S. Securities and Exchange Commission
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
(817) 978-6450
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JS 44
(Rev. 3/99)

ORIGINAL

CIVIL COVER SHEET 3-08CV-526-L

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) PLAINTIFF

SECURITIES AND EXCHANGE COMMISSION

DEFENDANTS

GARY L. McDUFF, GARY L. LANCASTER and ROBERT T. REESE

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant: Country of Mexico
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEY (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
HAROLD R. LOFTIN, JR.
U.S. Securities & Exchange Commission, Burnett Plaza, Ste. 1900,
801 Cherry Street, Unit #18, Fort Worth, TX 76102-6882
(817) 978-6450

ATTORNEYS (If known):

RECEIVED
MAR 26 2008
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

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)
(For Diversity Cases Only)

	PTF	PTF		PTF	PTF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(PLACE AN "X" IN ONE BOX ONLY)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery OF Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 156
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copy rights
- ☐ 830 Patient
- ☐ 840 Trademark

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

SOCIAL SECURITY
- ☐ 861 HIA (1395FF)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☒ 850 Securities Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

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

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONSL STATUTUES UNLESS DIVERSITY.)

Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, [15 U.S.C. § 77e(a), 77e(c) and 77q(a)]("Securities Act") and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934, [15 U.S.C. §78j(b) and 78o(a)] ("Exchange Act"), and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

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

26 USC 7609

VIII. RELATED CASE(S) (See Instructions): **IF ANY** JUDGE Sam A. Lindsay DOCKET NUMBER 3-05CV1328-L

DATE 3/26/08 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
Receipt #_____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____