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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 MICHAEL J. MOORE AND MOORE &
ASSOCIATES CHARTERED,

18 Defendants.

Case No.

COMPLAINT

1 Plaintiff Securities and Exchange Commission (“Commission”) alleges as
2 follows:

3 **JURISDICTION AND VENUE**

4 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
5 20(d)(1), and 22(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§
6 77t(b), 77t(d)(1) & 77v(a)] and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27 of the
7 Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78u(d)(1),
8 78(d)(3)(A), 78u(e) & 78aa]. Defendants have, directly or indirectly, made use of
9 the means or instrumentalities of interstate commerce, of the mails, or of the
10 facilities of a national securities exchange, in or in connection with the transactions,
11 acts, practices, and courses of business alleged in this Complaint.

12 2. Venue is proper in this district pursuant to Section 22(a) of the
13 Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. §
14 78aa, because the defendants reside and/or transact business in this district and
15 certain of the transactions, acts, practices, and courses of business constituting
16 violations of the federal securities laws occurred within this district.

17 **SUMMARY**

18 3. This case involves numerous fraudulent audit reports issued by Michael
19 J. Moore (“Moore”) and his auditing firm, Moore & Associates Chartered
20 (“M&A”). Moore and M&A issued unqualified opinions that falsely stated that
21 M&A’s audits had been conducted “in accordance with the standards of the Public
22 Company Accounting Oversight Board” (“PCAOB Standards”)¹ and that the
23 financial statements were fairly presented in conformity with Generally Accepted
24 Accounting Principles (“GAAP”).

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27 ¹ The PCAOB adopted generally accepted auditing standards (“GAAS”) in existence
28 on April 16, 2003, as its interim standards. See PCAOB Rule 3200T.

1 4. Moore and M&A's audits failed to meet numerous PCAOB Standards
2 and were so deficient that they amounted to no audits at all. Among other things,
3 Moore and M&A's employees lacked adequate technical training and proficiency as
4 auditors, and Moore and M&A failed to train or supervise these employees; the
5 audits were not properly planned; and Moore and M&A failed to obtain sufficient
6 competent evidential matter to afford a reasonable basis for an opinion regarding the
7 financial statements under audit or to perform any meaningful audit procedures,
8 even when there were red flags that the financial statements were materially
9 misstated.²

10 5. In addition to the conduct alleged above, Moore and M&A improperly
11 modified audit documentation, in violation of PCAOB Standards and Regulation S-
12 X Rule 2-06.

13 6. By engaging in this conduct alleged herein, the defendants violated
14 Sections 10(b), 10A(a)(1) and 10A(b)(1) of the Exchange Act [15 U.S.C. §§ 78j(b),
15 78j-1(a)(1), and 78j-1(b)(1)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and
16 Regulation SX Rules 2-02(b)(1) and 2-06 [17 C.F.R. §§ 210.2-02(b)(1) and 210.2-
17 06]. The Commission seeks to obtain permanent injunctions from future violations,
18 disgorgement of ill-gotten gains with prejudgment interest from Moore and M&A
19 and a civil penalty from Moore.

20 DEFENDANTS

21 7. **Michael J. Moore** is a resident of Las Vegas, Nevada. Moore is a
22 certified public accountant, currently licensed in Texas (1984 to 1994 and 2000 to
23 present) and Nevada (2000 to present). Moore is the president and majority owner
24 of M&A. Moore was M&A's only CPA from its inception through late 2008 and
25 the auditor with final responsibility for all M&A audits during those years.

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28 ² A list of the auditing standards cited in the Complaint is attached as Appendix A.

1 employee also testified that she received no formal training. Instead, she learned by
2 observing M&A's other employees, saying that she "sort of watched what they did
3 and asked questions."

4 12. M&A's employees conducted little if any auditing procedures, not
5 surprising given their lack of training. For the most part, M&A's audit workpapers
6 contained little more than generic audit programs with audit steps either initialed or
7 marked "N/A" and issuer-supplied documents. One employee stated that she merely
8 filled out checklists but performed no auditing procedures. Another employee
9 described the procedures she performed as the "legwork." She prepared the
10 engagement letter, requested documents from the client, and filled out some of the
11 audit programs. She never traveled to her clients' offices and explained that when a
12 visit was necessary to, for example, verify assets or observe inventory, an outside
13 firm was hired.

14 **B. M&A's Audits**

15 **1. Ethos Environmental, Inc.**

16 **a. Ethos' Business and Reported Financial Results**

17 13. Ethos is a Nevada corporation headquartered in San Diego, California,
18 that manufactures and distributes fuel reformulators. Its stock is quoted on the
19 OTCBB. M&A audited Ethos' 2007 and 2008 financial statements. According to a
20 January 2008 Form 8-K/A, Ethos' prior auditor had raised questions in conducting
21 the third quarter 2007 review whether: (1) 92% of all sales reported in the first nine
22 months of 2007 was properly recorded as revenue because either there was no
23 persuasive evidence of an arrangement or it was a consignment; and (2) the
24 receivables from these sales (which approximated 77% of reported revenue) were
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1 uncollectible.³ The Form 8-K/A also disclosed that Ethos terminated the prior
2 auditor before the prior auditor had its questions resolved or could meet with Ethos'
3 board of directors or audit committee.

4 14. In the second half of 2008, the majority shareholders caused the ouster
5 of Ethos' CEO and board of directors; became the new directors of Ethos;
6 conducted an internal investigation; and determined that the ousted CEO had in
7 2007 directed the recording of \$9 million (86% of all reported 2007 revenue) in
8 fictitious sales, and had between 2004 and 2008 misappropriated \$2.2 million of
9 Ethos' funds to pay personal expenses. In November 2008, Ethos restated its 2007
10 financial statements, as shown on the chart below:

	<u>2007 – As Reported</u>	<u>% Increase/ (Decrease) from 2006</u>	<u>2007 – As Restated</u>	<u>Overstatement/ (Understatement)</u>	<u>% Overstated/ (Understated)</u>
Accounts Receivable	\$5,951,275	1,718%	\$84,248	\$5,867,027	6,964%
Revenue	\$10,376,646	118%	\$1,355,141	\$9,021,505	666%
Net Loss	(\$18,352,510)	183%	(\$24,582,640)	(\$6,230,130)	(25%)

17 **b. M&A's Ethos Audits**

18 15. M&A was engaged in late November 2007 to audit Ethos' 2007
19 financial statements. In mid-April 2008 (less than three months after Ethos
20 disclosed that the former auditor had unresolved questions about most of Ethos'
21 2007 revenues and accounts receivables), M&A issued an audit report, which was
22 included in Ethos' 2007 Form 10-KSB, that represented that M&A's audits had been
23 conducted in accordance with PCAOB Standards and that the financial statements
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26 ³ The original Form 8-K filed in December 2008 only reported a disagreement over
27 Ethos' revenue recognition policies and practices and did not disclose the amount of
28 revenue at issue.

1 were fairly reported in conformity with GAAP. M&A also audited the restated
2 financial statements and issued another unqualified report, which was included in
3 Ethos' 2007 Form 10-KSB/A. As discussed below, Moore and M&A failed to
4 perform these audits in accordance with PCAOB Standards.

5 16. First, Moore and M&A failed to comply with PCAOB Standards
6 relating to communications with the prior auditor. See AU § 315, Communication
7 Between Predecessor and Successor Auditors, at .03, .07 & .09 (auditor should not
8 accept an engagement until after "necessary procedure" of inquiring with
9 predecessor auditors about integrity of management, disagreements with
10 management regarding accounting principles or auditing procedures,
11 communications with the audit committee regarding client fraud or illegal acts, and
12 the reason for the change of auditors); .11 (auditor should request permission to
13 review predecessor's workpapers). M&A never communicated with Ethos' former
14 auditors prior to client acceptance or even after Ethos filed Forms 8-K stating that
15 the former auditor had questioned most of Ethos' revenues and receivables. In fact,
16 an M&A employee marked as "N/A" a step on the "Engagement Acceptance Form"
17 to "[d]ocument the results of communications with the predecessor auditor and of
18 reading Form 8-Ks filed related to auditor changes." Moore initialed the form as the
19 engagement partner.

20 17. Second, Moore and M&A failed to adequately staff and supervise the
21 audit. See AU § 150, Generally Accepted Auditing Standards, at .02 & AU § 210,
22 Training and Proficiency of the Independent Auditor; at .01 (audits must be
23 performed by persons having adequate professional training and proficiency as
24 auditor); AU §§ 150.02, 311.01, 311.11 & 230.06 (assistants must be properly
25 supervised; extent of supervision depends on many factors, including qualifications
26 of persons performing work). They assigned an untrained and inexperienced
27 employee to the 2007 audit. The employee who worked on the audit had no prior
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1 experience auditing revenue, had no training in the confirmation process, and did
2 not know that issues had been raised by Ethos' former auditor. The employee, for
3 example, did not understand the significance of receivables being labeled "greater
4 than 90 days" or that the auditor, and not the client, should control the confirmation
5 process. Moore supervised the employee's work, signed various audit workpapers
6 as the lead audit partner, and signed and released M&A's report. The same
7 employee who performed the 2007 audit also audited the restated financial
8 statements, and testified about the restated financial statements: "I don't have a
9 good understanding of what a restatement is, or what it pertains to, or what I am
10 supposed to do with it."

11 18. Third, in the Ethos audits, Moore and M&A failed to properly plan,
12 use analytical procedures, exercise due professional care, obtain sufficient
13 competent evidence, and confirm assets. M&A's failures in this regards included:

- 14 a. M&A failed to perform analytical procedures in planning and
15 ensuring the sufficiency of the audit work; therefore, it failed to
16 consider that, as compared to the prior year, Ethos' revenues,
17 accounts receivables, and general and administrative expenses
18 had increased 118%, 1,718%, and 241%, respectively. See AU
19 §§ 150.02 & 311.01 (auditor must adequately plan audit);
20 AU § 329, Analytical Procedures, at .04 (auditor must use
21 analytical procedures for planning the audit and ensuring at the
22 end of the audit that the work performed was sufficient);
23 AU § 316, Consideration of Fraud in a Financial Statement
24 Audit, at .19 & .28 (auditor should use unusual relationships
25 identified in analytical procedures to identify risks of material
26 misstatement due to fraud).

- 1 b. M&A failed to perform any audit procedures to test revenue,
2 receivables, or general and administrative expenses, despite the
3 fact that all had substantially increased and the prior auditor had
4 questioned most of the revenues and/or receivables. See
5 AU §§ 110, Responsibilities and Functions of the Independent
6 Auditor, at .02 & 316.12 (auditor must plan audit to obtain
7 reasonable assurance about whether financial statements are free
8 of material misstatement, whether caused by fraud or error);
9 AU §§ 230.01, .07-.08 & 316.13 (auditor must exercise due
10 professional care in performing an audit; auditor must exercise
11 professional skepticism in performing its audits and gathering
12 and analyzing audit evidence; and auditor must question whether
13 information and evidence obtained suggests that a material
14 misstatement due to fraud has occurred); AU § 326, Evidential
15 Matter, at .01 (auditor must obtain sufficient competent
16 evidential matter to afford a reasonable basis for an audit
17 opinion).
- 18 c. M&A failed to control the confirmation process for
19 receivables—Ethos prepared and obtained the confirmations
20 from its customers and gave them to M&A. See AU § 330, The
21 Confirmation Process, at .28 (“There is a presumption that an
22 auditor will confirm accounts receivable during an audit.”
23 Auditor should maintain control over the confirmation requests
24 and responses to “minimize the possibility that the results will be
25 biased because of interception and alteration of the confirmation
26 requests or responses”); AU § 326.21 (evidence obtained from an
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1 independent source provides greater assurance of reliability than
2 evidence obtained from the entity being audited).

3 19. Finally, in the Ethos audits, Moore and M&A improperly issued
4 unqualified audit reports without having conducted audits in accordance with
5 PCAOB Standards. See AU § 230.01 (auditor must exercise due professional care
6 in preparing audit report); AU § 508, Reports on Audited Financial Statements, at
7 .07 (auditor may express unqualified opinion only after conducting audit in
8 accordance with PCAOB Standards).

9 **2. Tombstone Exploration Corporation**

10 **a. Tombstone's Business and Reported Financial Results**

11 20. Tombstone is a Canadian corporation headquartered in Tombstone,
12 Arizona, that explores and acquires mineral properties in the United States. Its stock
13 is quoted on the OTCBB. M&A was appointed Tombstone's auditor in June 2007
14 and audited its 2006 and 2007 financial statements. One month after Tombstone
15 filed its 2007 Form 20-F on July 15, 2008, it received the first of three comment
16 letters from the staff of the Commission's Division of Corporation Finance. Among
17 other things, the staff asked that Tombstone:

- 18 a. Clarify the nature of, and accounting for, mineral rights that
19 accounted for \$900,000 of the reported \$1.2 million in total
20 assets;
- 21 b. Disclose its accounting policy for equity instruments issued to
22 non-employees in exchange for services; and
- 23 c. Reconcile expenses related to common stock issued for services
24 per the statement of cash flows to amounts disclosed in the
25 statement of stockholders' equity and footnotes (the numbers did
26 not tie out).
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21. Tombstone quickly concluded that its 2006 and 2007 financial statements should no longer be relied upon. In a Form 6-K filed on September 22, 2008, Tombstone disclosed that it would restate its financial statements to: (1) record a \$900,000 impairment charge in 2007 related to mineral rights; and (2) record 2006 and 2007 equity transactions, including the issuance of stock purchase warrants with a fair value of \$4.95 million and the issuance of common stock to settle debt and consulting services “that were inadvertently previously omitted.”⁴ In February 2009, Tombstone restated its 2006 and 2007 financial statements, as shown on the chart below:

	As Reported	% Increase (Decrease) from 2005	As Restated	Overstatement/ (Understatement)	% Overstated/ (Understated)
2006					
Stock-Based Compensation	\$0	0%	\$4,952,286	(\$4,952,286)	(100%)
Total Expenses	\$158,183	(67.3%)	\$5,111,969	(\$4,953,786)	(96.9%)
Net Gain/ (Loss)	\$693,625	N/A	(\$4,277,579)	(\$4,971,204)	(116.2%)
2007					
Total Assets	\$1,242,664	31.8%	\$338,344	\$904,320	267.3%
Total Expenses	\$1,419,995	797.7%	\$3,209,656	(\$1,789,661)	(55.8%)
Net Loss	(\$1,423,548)	N/A	(\$3,213,209)	(\$1,789,661)	(55.7%)

⁴ In its 2006 and 2007 Forms 20-F, Tombstone failed to disclose and account for the issuance of 5.5 and 8.5 million shares of common stock, respectively, including 4 million shares issued for services in 2006 and 5 million shares issued to its president in 2007. Moreover, it overstated the number of shares issued for cash in 2006: Tombstone reported that it had issued 3,544,103 shares for cash, when only 1,000,000 had been issued for cash, with the other shares issued for services or to settle debts.

1 **b. M&A's Tombstone Audits**

2 22. Tombstone engaged M&A to audit its 2006 financial statements on
3 June 29, 2007, the same day it dismissed its prior auditor. Less than one month
4 later, M&A issued an unqualified audit report dated July 16, 2007, on Tombstone's
5 2006 financial statements, which was included in Tombstone's 2006 Form 20-F.
6 M&A also audited Tombstone's 2007 financial statements and issued an unqualified
7 audit report dated July 15, 2008, which was included in Tombstone's 2007 Form 20-
8 F. On February 12, 2009, Tombstone filed an amended Form 20-F, which included
9 restated 2006 and 2007 financial statements, after receiving comments from the
10 Division of Corporation Finance. Tombstone's restated financial results were
11 materially worse: Tombstone reported a net loss of \$4.3 million in its restated 2006
12 financial statements rather than the previously-reported net gain of \$693,625, and its
13 net loss in 2007 was understated by \$1.8 million or 56%, as a result of GAAP errors.
14 M&A audited the restated financial statements.

15 23. As with the Ethos audits, Moore and M&A failed to conduct the
16 Tombstone audits in accordance with PCAOB Standards. Specifically, they:

- 17 a. Failed to comply with the auditing standards relating to client
18 acceptance—no one communicated with Tombstone's former
19 auditor prior to client acceptance. See AU § 315.03.
- 20 b. Failed to adequately staff and supervise the audit—they assigned
21 an untrained and inexperienced employee to the 2006 and 2007
22 audits. See AU §§ 150.02, 210.01, 230.06, 311.01 & .11.
- 23 c. Failed to properly plan, exercise due professional care, and
24 obtain sufficient competent evidence, including—they:
- 25 i. Never visited Tombstone's offices or attempted to obtain a
26 sufficient understanding of Tombstone's internal controls,
27 see AU §§ 150.02 & 319, Consideration of Internal
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1 Control in a Financial Statement Audit, at .02 (auditor
2 must obtain a sufficient understanding of company's
3 system of internal controls to plan audit and to determine
4 nature, extent, and timing of testing to be performed);

5 ii. Failed to consider impairment of mineral rights, even
6 though the mineral rights were Tombstone's largest asset
7 and Tombstone disclosed in its Forms 20-F that it
8 recognized an impairment loss if future cash flows for
9 long-lived assets were less than an asset's carrying value,
10 see AU § 230.01 (due professional care in performing
11 audit); AU § 326.01 (obtain sufficient competent
12 evidence);

13 iii. Failed to test equity transactions, even though Tombstone
14 disclosed in the Forms 20-F that it issued more than 10
15 million shares in 2006 and almost 14 million in 2007, see
16 AU § 230.01 (due professional care in performing audit);
17 AU § 326.01 (obtain sufficient competent evidence);

18 iv. Failed to identify mathematical inconsistencies between
19 Tombstone's Statements of Cash Flow and Stockholders'
20 Equity (Deficit), which would have put them on notice
21 that equity transactions were not accurately reported, see
22 AU § 230.01 (due professional care in performing audit);
23 and

24 v. Failed to test the adjustments necessary to restate the
25 financial statements, see AU § 230.01 (due professional
26 care in performing audit); AU § 326.01 (obtain sufficient
27 competent evidence).
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1 d. Improperly issued unqualified audit reports without having
2 exercised due professional care or conducted audits in
3 accordance with PCAOB Standards. See AU § 230.01 (due
4 professional care in preparing audit report); AU § 508.07
5 (auditor may express unqualified opinion only after conducting
6 audit in accordance with PCAOB Standards).

7 **2. Other Audits**

8 24. Moore and M&A also audited the financial statements of Studio One
9 Media, Inc. (2006-2008), Biocoral, Inc. (2005-2007), Centergistic Solutions, Inc.
10 (2006-2007), and Standard Drilling, Inc. (2006-2008). The stock of Biocoral and
11 Studio One is quoted on the OTCBB; the stock of Centergistic and Standard Drilling
12 is quoted on the Pink Sheets.

13 25. Moore was the audit partner on each of these engagements, supervised
14 the employees who conducted the audits and reviewed the workpapers, and signed
15 and authorized the release of the audit reports. In each of these audits, Moore and
16 M&A issued an unqualified audit report, which was included in the issuer's annual
17 report filed with the Commission, that represented that M&A's audits had been
18 conducted in accordance with PCAOB Standards and that the financial statements
19 were fairly reported in conformity with GAAP.

20 26. Moore and M&A, however, did not conduct these audits in accordance
21 with PCAOB Standards. Their PCAOB Standards violations included:

- 22 a. Failure to communicate with predecessor auditors. See AU
23 § 315.03.
- 24 b. Failure to adequately staff and properly supervise the audits, as
25 evidenced by using employees with no accounting or auditing
26 training or background and having only one supervisor for all the
27 audits. See AU §§ 150.02, 210.01, 230.06, 311.01 & .11.
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- 1 c. Failure to properly plan (see AU §§ 110.02, 150.02, 311.01 &
2 316.12), exercise due professional care (see AU §§
3 230.01, 230.07-.08 & 316.13), obtain sufficient competent
4 evidence (see AU § 326.01), and confirm assets (see AU
5 § 330.28), as evidenced by:
- 6 i. failing to test significant accounts, including revenue,
7 accounts receivable, equipment purchases, and selling,
8 general, and administrative expenses;
 - 9 ii. failing to identify or to address departures from GAAP
10 that related to potential material misstatements,
11 including deferred offering costs, revenue, common
12 stock issued for debt, and common stock issued for
13 services; and
 - 14 iii. failing to perform required fraud risk procedures.
- 15 d. Improper reliance on the work of another auditor. See AU § 543,
16 Part of Audit Performed by Other Independent Auditors, (auditor
17 must consider whether his participation is sufficient to serve as
18 principal auditor and to report on the financial statements and
19 whether to make reference in his report to another auditor's work
20 or report).
- 21 e. Improper issuance of unqualified audit reports without having
22 exercised due professional care or conducted audits in
23 accordance with PCAOB Standards. See AU § 230.01;
24 AU § 508.07.

25 27. In addition, Moore and M&A modified audit workpapers subsequent to
26 the documentation completion date without complying with the requirements of
27 PCAOB Auditing Standard No. 3, Audit Documentation ("AS 3"). Under AS 3, an
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1 auditor must maintain “audit documentation” (i.e., workpapers) for seven years from
2 the date of an audit report’s release. AS 3, ¶ 14. Auditors must complete audit
3 documentation not more than 45 days after the report release date (the
4 “documentation completion date”). AS 3, ¶ 15. Any modifications after the
5 documentation completion date “must indicate the date the information was added,
6 the name of the person who prepared the additional documentation, and the reason
7 for adding it.” AS 3, ¶ 16.

8 28. In 2007, M&A provided the PCAOB inspectors with copies of audit
9 workpapers for the four audits discussed above. Almost a year later, M&A
10 produced copies of audit workpapers for the same four audits in response to a
11 PCAOB enforcement demand, but the workpapers were different – documents had
12 been added and workpapers were initialed that were not previously initialed. Moore
13 initially denied that any workpapers had been modified, but he was unable to
14 explain the differences. Later, he attempted to explain the modifications away by
15 referring to the second set of workpapers (the workpapers produced in 2008) as “pro
16 forma workpapers” intended to “demonstrate to enforcement that [M&A was]
17 capable of performing a better job in documenting [its] work.” The modifications
18 did not comply with AS 3, however, because the modifications did not identify
19 when the modifications were made, who made the modifications, or why the
20 modifications were made. Moore also could not confirm that the original
21 workpapers (i.e., the workpapers in existence at the documentation completion date
22 and required to be retained for seven years) still existed.

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1 **FIRST CLAIM FOR RELIEF**

2 **Fraud In Connection With The Purchase Or Sale Of Securities –**
3 **False Audit Reports**

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

6 29. The Commission realleges and incorporates by reference paragraphs 1
7 through 28 above.

8 30. The defendants, by engaging in the conduct described above, directly or
9 indirectly, in connection with the purchase or sale of a security, by the use of means
10 or instrumentalities of interstate commerce, of the mails, or of the facilities of a
11 national securities exchange, with scienter:

- 12 a. employed devices, schemes, or artifices to defraud;
- 13 b. made untrue statements of a material fact or omitted to state a
14 material fact necessary in order to make the statements made, in
15 light of the circumstances under which they were made, not
16 misleading; or
- 17 c. engaged in acts, practices, or courses of business which operated
18 or would operate as a fraud or deceit upon other persons.

19 31. By engaging in the conduct described above, the defendants violated,
20 and unless restrained and enjoined will continue to violate, Section 10(b) of the
21 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-
22 5.

23 **SECOND CLAIM FOR RELIEF**

24 **Failure to Detect and Report Likely Illegal Acts**

25 **Violations of Sections 10A(a)(1) and 10A(b)(1) of the Exchange Act,**
26 **(Against All Defendants)**

27 32. The Commission realleges and incorporates by reference paragraphs 1
28 through 28 above.

1 33. Defendants, by engaging in the conduct described above, violated the
2 audit requirements provisions of Sections 10A(a)(1) and 10A(b)(1) of the Exchange
3 Act by, by failing, to:

- 4 a. include procedures designed to provide reasonable assurance of
5 detecting illegal acts that would have a direct and material effect
6 on the determination of financial statement amounts;
- 7 b. determine whether it is likely that an illegal act has occurred and,
8 if so, determine and consider the possible effect of the illegal act
9 on the financial statements of the issuer, including any
10 contingent monetary effects, such as fines, penalties, and
11 damages; and
- 12 c. as soon as practicable, inform the appropriate level of the
13 management of the issuer and assure that the audit committee of
14 the issuer, or the board of directors of the issuer in the absence of
15 such a committee, is adequately informed with respect to the
16 illegal acts that have been detected or have otherwise come to the
17 attention of such firm in the course of the audit, unless the illegal
18 act is clearly inconsequential.

19 34. By engaging in the conduct described above, defendants violated, and
20 unless restrained and enjoined will continue to violate, Sections 10A(a)(1) and
21 10A(b)(1) of the Exchange Act, 15 U.S.C. § 78j-1(a)(1) and 78j-1(b)(1).

22 **THIRD CLAIM FOR RELIEF**

23 **Accountants' Reports Violations**

24 **Violations of Regulation S-X Rule 2-02(b)(1)**
25 **(Against All Defendants)**

26 34. The Commission realleges and incorporates by reference paragraphs 1
27 through 28 above.
28

1 35. Defendants, by engaging in the conduct described above, violated the
2 accounting reports provisions of Regulation S-X Rule 2-02(b)(1), by misstating as to
3 the audit included in the accountant's reports, whether the audit was made in
4 accordance with generally accepted auditing standards.

5 36. By engaging in the conduct described above, defendants violated, and
6 unless restrained and enjoined will continue to violate, Regulation S-X Rule 2-
7 02(b)(1), 17 C.F.R. § 210.2-02(b)(1).

8 **FOURTH CLAIM FOR RELIEF**

9 **Records Retention Violations**

10 **Violations of Regulation S-X Rule 2-06**
11 **(Against All Defendants)**

12 37. The Commission realleges and incorporates by reference paragraphs 1
13 through 28 above.

14 38. Defendants, by engaging in the conduct described above, violated the
15 records retention provisions of Regulation S-X Rule 2-06, by failing, for a period of
16 seven years after concluding an audit or review of an issuer's financial statements to
17 which Section 10A(a) of the Exchange Act, 15 U.S.C. § 78j-1(a) applies, to retain
18 records relevant to the audit or review, including workpapers and other documents
19 that form the basis of the audit or review, and memoranda, correspondence, other
20 documents, and records (including electronic records), which:

- 21 a. Are created, sent or received in connection with the audit or
22 review, and
23 b. Contain conclusions, opinions, analyses, or financial data related
24 to the audit or review.

25 39. By engaging in the conduct described above, defendants violated, and
26 unless restrained and enjoined will continue to violate, Regulation S-X Rule 2-06,
27 17 C.F.R. § 210.2-06.
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PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Enter judgments in favor of the Commission finding that the defendants each violated the securities laws and rules promulgated thereunder as alleged herein.

II.

Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining defendants and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, from violating Sections 10(b), 10A(a)(1), and 10A(b)(1) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78j-1(a)(1), and 78j-1(b)(1), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, and Regulation SX Rules 2-02(b)(1) and 2-06, 17 C.F.R. §§ 210.2-02(b)(1) and 210.2-06.

III.

Order defendants to disgorge their ill-gotten gains, together with prejudgment interest thereon.

IV.

Order defendants to pay civil penalties under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

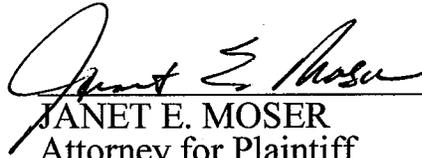
V.

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

VI.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: August 27, 2009



JANET E. MOSER
Attorney for Plaintiff
Securities and Exchange Commission

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APPENDIX A

Auditing Standards Cited in Complaint

<u>Auditing Standards</u>	<u>Title</u>	<u>Paragraphs Cited</u>
PCAOB Auditing Standard ("AS") 3	Audit Documentation	14-16
AICPA Codification of Auditing Standards ("AU") 110	Responsibilities and Functions of the Independent Auditor	.02
AU 150	Generally Accepted Auditing Standards	.02
AU 210	Training and Proficiency of the Independent Auditor	.01
AU 230	Due Professional Care in the Performance of Work	.01, .06-.08
AU 311	Planning and Supervision	.01, .02, .11
AU 315	Communication Between Predecessor and Successor Auditors	.03, .07, .09, .11
AU 316	Consideration of Fraud in a Financial Statement Audit	.12, .13, .19, .28
AU 319	Consideration of Internal Control in a Financial Statement Audit	.02
AU 326	Evidential Matter	.01
AU 329	Analytical Procedures	.04
AU 330	The Confirmation Process	.28
AU 508	Reports on Audited Financial Statements	.07
AU 543	Part of Audit Performed by Other Independent Auditors	