

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

**DOCKETED**

**JUL 14 2000**

U.S. DISTRICT COURT  
NO. 13 PM 11:13  
FILED-EDA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

SYSTEM SOFTWARE ASSOCIATES, INC.,  
ROGER COVEY, and  
JOSEPH SKADRA,

Defendants.

No.

COMPLAINT

**00C 4240**

**JUDGE BUCKLO**

**MAGISTRATE JUDGE ASHMAN**

Plaintiff Securities and Exchange Commission alleges that:

**SUMMARY**

1. Beginning in July 1994 and continuing through at least December 1996, System Software Associates, Inc. (SSA), Roger Covey (Covey) and Joseph Skadra (Skadra) violated or aided and abetted violations of the antifraud, records keeping, and periodic reporting provisions of the federal securities laws through SSA's improper recognition of sales revenue on a UNIX-language software product (UNIX/BPCS) before the product was developed sufficiently to support revenue recognition under Generally Accepted Accounting Principles (GAAP).
2. During that period, SSA improperly recognized approximately \$58 million in UNIX/BPCS software revenue at times when defendants knew or were reckless in not knowing that the software did not function properly and when they knew or were reckless

in not knowing that there were significant uncertainties about customer acceptance of that software.

3. Further, during SSA's fiscal years 1995 and 1996, SSA improperly recognized an additional \$52 million in revenue from sales of UNIX/BPCS software to middlemen, which sales were subject to material conditions or otherwise did not satisfy GAAP.
4. SSA's improper revenue recognition practices allowed it to report, in public filings with the Commission, statements to securities analysts, and press releases, more favorable results of operations than were in fact the case, thereby substantially inflating the price of SSA's stock.
5. Defendants' fraudulent activities resulted in massive losses to those public investors who purchased SSA stock during the period when the company's financial statements improperly reflected the revenues described above. For example, at the height of defendants' fraudulent scheme, SSA's stock traded at \$45 per share, and the company had a total market capitalization of approximately \$1.44 billion. In January 1997, after SSA's independent auditors forced the company to restate revenues for 1994 and 1995, SSA's stock traded at approximately \$10 per share with a total market capitalization of approximately \$500 million. SSA is now in a bankruptcy proceeding and the market value of public shareholders' equity in the company has fallen to almost nothing. SSA's stock is currently quoted on the Over the Counter Bulletin Board Service at approximately 4 cents per share.

#### **JURISDICTION**

6. This Court has jurisdiction over this matter pursuant to Section 22 of the Securities Act of 1933 [15 U.S.C. § 77v], and Sections 21(e) and 27 of the Securities Exchange Act

of 1934 [15 U.S.C. §§ 78u(e) and 78aa]. The defendants made use of the means or instruments of interstate commerce, of the mails, and the facilities of a national securities exchange in connection with the acts, transactions, practices and courses of business alleged herein.

### DEFENDANTS

7. System Software Associates, Inc. is a Delaware corporation with executive offices in Chicago, Illinois. During the relevant period, SSA developed business enterprise software for use by intermediate size and large companies. SSA's common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act and was listed on the NASDAQ National Market System and then the NASDAQ SmallCap Market until late 1999. It now is quoted on the Over the Counter Bulletin Board Service. As of January 2000 there were approximately 12 million shares of SSA common stock outstanding. For its fiscal year 1999 (ending October 31, 1999), SSA reported revenue of \$315.7 million. On May 3, 2000, SSA filed a petition for reorganization under Chapter 11 of the United States Bankruptcy Code.
8. Roger Covey, 45, founded SSA and served as its President and Chairman of the Board of Directors from its inception in October 1981 until August 1991, when he left SSA to pursue other interests, although he remained Vice-Chairman of the Board. He rejoined the company in August 1994 as Vice-President of Research and Development and was appointed Chairman of the Board and Chief Executive Officer on November 1, 1994. He left the company again in April 1998. As of July 1999 Covey beneficially owned approximately 20 percent of SSA's outstanding stock.

9. Joseph Skadra, 59, was the Chief Financial Officer and a Vice-President of SSA from August 1994 until April 1998. At that time he was demoted to Vice-President of Finance and Controller.

### **FIRST CLAIM**

#### **Violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder (Defendants SSA, Covey and Skadra)**

10. During the 1980s and 1990s, SSA provided "Business Planning and Control System" (BPCS) software to business entities worldwide. Its products consisted of software applications customized to operate and coordinate complex industrial enterprises. SSA's initial BPCS product was designed to run on IBM Application System/400 (AS/400) computers. Although SSA's AS/400 BPCS software was successful during the 1980s, by 1993 competitive pressures and changes in the industry threatened to render that software obsolete, and SSA began to develop a new BPCS product line based on the increasingly popular UNIX programming language. This new product was intended to run on the hardware of various manufacturers, including Hewlett-Packard, IBM, and Digital Equipment Corporation.

11. In August 1994, when Covey returned to SSA from a leave of absence, he determined that the Company's UNIX project was floundering, and as a result, SSA missed its October 1994 target date for general release of its UNIX/BPCS software.

#### **Owens-Illinois Contract**

12. By October 1994, however, SSA had improperly recorded approximately \$10 million in revenue from one purported AS/400 transaction with Owens-Illinois, Inc. (OI), which

contract defendants knew, in fact, called for delivery of UNIX software within six months. SSA could not and did not deliver within the six-month period specified.

13. The OI agreement was the largest single sales contract in SSA's history to that date, increasing third quarter net income to \$5.4 million from zero and increasing SSA's net income for fiscal 1994 by over fifty percent. On August 24, 1994, SSA issued a press release reporting a twenty-five percent (25%) increase in revenues over the same fiscal quarter of the previous year: from \$68.7 million in the third quarter 1993 to \$86.2 million in the third quarter 1994. Most of this increase was attributable to the OI contract.

14. Skadra signed the quarterly and annual filings reflecting the OI revenue. Covey reviewed the agreement after his return to the company and signed the company's 1994 Form 10-K that reflected this transaction.

15. At the time of the OI transaction, SSA had no operable UNIX software and had made no substantial effort to develop the additional capability to run it in conjunction with Sybase database software as required by OI. Moreover, both Covey and Skadra knew or were reckless in not knowing that SSA had little chance of performing under the OI contract terms. For example, both Covey and Skadra were aware of delays in developing SSA's UNIX software in late 1994. When Covey returned to SSA in 1994, he learned of the delay in the development of the UNIX platform. That delay resulted in the late delivery of UNIX software to customers. Skadra was aware of this information. In addition, Covey directed an SSA employee in approximately late 1994 to cease working on a Sybase version of UNIX because there was little market for that product. Given that the company suspended work on the Sybase version of the product, there was little or no chance that SSA could perform under the OI contract terms.

16. Further, in a March 14, 1995 memo to SSA's Board, Covey admitted that "Owens-Illinois is holding their breath waiting for the Sybase flavor of BPCS. They have given us several more months but it is not clear that we can deliver on time."

17. In those same materials, Covey also acknowledged that SSA had been playing a "contract game" for at least a year by selling UNIX software and recognizing revenue by using contract language which specified AS/400 software but promising UNIX products 'when and if' they became available. Covey knew that most of these customers understood they had purchased UNIX software and had no intention of implementing AS/400 software systems.

18. In November 1995, OI sued SSA for rescission of the contract and return of all amounts paid, alleging that SSA had induced OI to enter the contract through fraud. In April 1996 SSA settled its litigation with OI by returning, among other things, \$2 million of the purchase price that OI had paid to SSA, and releasing SSA's claim to \$4.3 million remaining on the contract.

19. In January 1997, the company reversed the entire \$10.1 million in revenue previously recognized on the OI transaction. As restated, the Company's net income for fiscal 1994 was \$10 million, compared to the \$15.4 million originally reported.

#### **Early Release Customers**

20. During the period from approximately January 1994 though March 1995, SSA provided an "early release" version (Version 5.0) of its UNIX/BPCS software to various customers. Most or all of these installations were failures. Early release customers experienced severe and continuing difficulties with both the early release version of

SSA's UNIX/BPCS software as well as subsequent versions, and most eventually abandoned the software.

21. For example, SSA's largest early release customer, with two UNIX/BPCS contracts totaling \$3.6 million, advised defendants as early as February 1995 that SSA's software did not meet contract specifications. Nevertheless, SSA recognized \$1.2 million from one of those contracts in SSA's fiscal quarter ended April 1995.

22. In late 1995, two years after the UNIX/BPCS contracts were signed, the same customer requested that the UNIX/BPCS software be submitted to "benchmark testing." That testing determined that SSA's software's response times were unacceptable. SSA later refunded the \$1.2 million it had recognized in April 1995, paid the customer \$1.4 million in penalties, and wrote off the remaining \$2.4 million receivable.

23. Other early release customers had similar problems with the UNIX/BPCS software during extended installation attempts. Covey was aware of these matters, and was personally in contact with several customers whose experience with the software's instability and its inability to execute required operations (functionality) with acceptable speed and efficiency (performance) were matters of concern at SSA from at least early 1995.

24. Despite consistent failures in functionality and performance of its early release UNIX/BPCS software, SSA recognized approximately \$6.1 million in UNIX revenue, including revenue from early release "sales," in its fiscal quarter ending April 31, 1995.

#### **General Release of Version 5.1**

25. In late March 1995, at the time its general release, SSA's UNIX/BPCS software Version 5.1 had undergone only three months of in-house testing.

26. Certain early release (Version 5.0) customers continued their attempts to implement SSA's UNIX/BPCS software using Version 5.1. However, many of these early release customers, as well as new UNIX/BPCS customers during the period April 1995 through the spring of 1996, continued to have functionality and performance problems that led many customers to either end their relationship with SSA or revert to SSA's AS/400 product.

27. Covey was aware of the difficulties with early release customers. In December 1994 he wrote to SSA's Board of Directors that "[w]e still do not have software that works acceptably." There were "a great many bugs not yet discovered by [SSA's]... clients." Covey's concern was so great that he noted SSA had "been successful so far in persuading our early UNIX customers not to sue us. There is no guarantee however that this will continue to be the case." On March 14, 1995, Covey informed the Board that, "[w]e have stalled everyone...but there are lots of potential problems out there." Nevertheless, SSA recognized revenue on most of these contracts that fiscal quarter.

28. Shortly after the general release of Version 5.1, in a May 25, 1995 conference call with industry analysts, Covey falsely claimed that SSA had "over 30 accounts" using the company's UNIX/BPCS software, when in fact SSA had approximately twenty-two contracts and few if any successfully completed implementations of the UNIX/BPCS software. Neither Covey nor Skadra, who also attended the conference call, disclosed the serious problems SSA was experiencing with its UNIX/BPCS software.

#### Versions 5.2 and 6.0

29. SSA's UNIX/BPCS Version 5.2 was released in the spring of 1996 after a short period of in-house testing. Again, the software's functionality and performance caused



implementation failures. In the fall of 1996, Version 5.2 was superseded by Version 6.0, which incorporated significant changes to the product's technology and which had undergone more extensive testing. Nevertheless, Version 6.0 also experienced severe functionality and performance problems and Version 6.0 customers informed the company that the UNIX product was not performing acceptably.

30. During SSA's fiscal years 1995 and 1996, Hewlett-Packard, which hoped to market its computers packaged together with SSA's UNIX software, tested versions 5.1, 5.2 and 6.0 of SSA's UNIX/BPCS product with poor results. HP engineers determined that the software was not stable enough to conduct tests adequately, that there were "inordinately long response times" and that the software could only be utilized by low numbers of simultaneous users. HP determined that there was no version of SSA's BPCS/UNIX product available that could be described as viable in a commercial environment. Thus, HP, which had opened a joint testing facility with SSA in 1995, closed it the spring of 1996, because SSA's software had too many problems to justify the facility's existence. The failure of SSA's software to perform adequately not only strained its relationship with HP as a business partner but also caused SSA to lose a division of HP as a customer. In fact, in an audit confirmation letter response by HP dated December 18, 1996, HP stated "as you may be aware, the SSA BPCS software is experiencing performance problems which prevent HP from actively marketing the product to its customers...."

31. SSA never satisfied the system requirements of any major customer for its UNIX/BPCS product during the period 1994 through early 1997. At the end of SSA's first fiscal quarter of 1997 (January 31, 1997), SSA's Controller stated to SSA's independent auditors that "many UNIX jobs [in Europe] have stalled and/or are being

delayed due to product problems. Delays and problems prohibit SSA from engaging new clients and bringing in new revenue.”

**SSA's Revenue Recognition Practices**

32. During the period July 1994 through at least December 1996, as SSA recognized revenue from UNIX/BPCS software sales, the authoritative GAAP literature for revenue recognition on software license sales was the American Institute of Certified Public Accountants' (AICPA) Statement of Position on Software Revenue Recognition 91-1 (SOP 91-1). SOP 91-1 established that revenue from sales of software could not be recognized until the software was delivered, collectibility was probable and the vendor had no significant obligations remaining under the sales agreement. SOP 91-1 also required, among other things, that if, after delivery, there was significant uncertainty about customer acceptance of the software, license revenues should not be recognized until the uncertainty becomes insignificant. SOP 91-1 also provided that if significant other vendor obligations remained the earnings process would not be substantially complete.

33. Despite the fact that defendants knew or were reckless in not knowing there were significant uncertainties about customer acceptance of, and payment for, its UNIX/BPCS software Versions 5.0, 5.1, 5.2 and 6.0 during the period July 1994 through at least December 1996, SSA nevertheless improperly recognized revenue from sales of that software in the following approximate amounts as reported in filings with the Commission as noted:

July 1994 (Form 10-Q)	\$10,100,000
April 1995 (Form 10-Q)	6,100,000
July 1995 (Form 10-Q)	19,500,000
October 1995 (Form 10-K)	15,600,000
January 1996 (Form 10-Q)	12,600,000
April 1996 (Form 10-Q)	26,100,000
July 1996 (Form 10-Q)	10,100,000
October 1996 (Form 10-K)	10,000,000

34. As it became increasingly apparent to the market that SSA did not have a commercially viable UNIX product, the price of SSA's stock declined. The stock reached a high of \$45 per share in September 1995, several months after SSA announced the general release of Version 5.1 of its UNIX software and certain (later reversed) sales of that software. The stock price declined steadily, however, when the company's financial results flagged in 1996, and declined abruptly after its January 7, 1997 announcement that it was restating its 1994 and 1995 year end financial statements to reverse in excess of \$30 million in previously reported UNIX revenues. SSA's stock currently trades in the area of 4 cents per share.

#### **Public Statements By Defendants**

35. Throughout the period July 1994 to at least December 1996, in conjunction with announcements relating to quarterly results and at other times, SSA disseminated positive statements concerning its financial results and touted an upward trend in revenues and earnings from quarter to quarter. This information was misleading because SSA had improperly recognized revenue from the sale of its UNIX/BPCS software. Further, during that same period, SSA made numerous false and misleading public statements concerning its UNIX/BPCS product. For example, on August 22, 1995, SSA released a public announcement stating that its UNIX product had successfully demonstrated its

capability of supporting 1,500 users, when in fact, SSA did not have that capability. In that same company statement announcing record earnings for SSA's third quarter 1995, SSA's President stated that the company's positive third quarter 1995 results were attributable to the "rapid marketplace acceptance of our new BPCS® UNIX Client/Server software product line." At that time, however, there were few, if any, successfully completed implementations of UNIX/BPCS.

36. By reason of the foregoing, defendants SSA, Covey and Skadra violated Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

### **SECOND CLAIM**

#### **Violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder (Defendant SSA)**

#### **Hewlett-Packard Brazil**

37. For the fiscal quarter ended July 31, 1995, SSA initially (prior to restatement) reported net income of \$11.2 million -- more than twice the income initially reported for the same quarter of the previous year and the highest quarterly earnings in the company's history.

38. The earnings announcement fueled a substantial run-up in the price of SSA's stock. On the first trading day after the announcement, shares of SSA's stock surged \$8 3/16, or 31 percent, to a price of \$34 13/16. Coverage in the financial press emphasized, in particular, the purported increase in UNIX revenues as indicative of SSA's increasing competitiveness in that important market.

39. This increase in net income, however, reflected approximately \$15 million in reported revenue and \$5.9 million in net income that SSA's independent auditors later determined should not have been recognized.

40. SSA improperly recognized \$10 million in revenue related to a joint marketing agreement with Hewlett-Packard Brazil (HP Brazil). The agreement referenced the intent of the parties to develop a market for their products through joint commercial activities. The \$10 million was a mere target figure, rather than a commitment on the part of HP Brazil to purchase any specific quantity of SSA software. This understanding was memorialized in a side letter to the contract wherein HP Brazil could extend the contract indefinitely if \$10 million in gross sales to end users were not made within the first year. This side letter made clear that any obligation by HP to SSA was contingent upon sales to end-users. No sales to end-users occurred, and therefore HP Brazil made no payments to SSA.

41. After learning of the side letter, SSA's auditors concluded that the letter rendered the payment terms for the contract indeterminate, and therefore revenue should not have been recognized on this transaction. When SSA restated its 1995 year end financial statements in 1997, it eliminated the \$10 million in revenue previously recognized on this transaction, and the approximately \$4 million in net income.

#### Glaxo Wellcome

42. Also in the fiscal quarter ended July 31, 1995, SSA recognized revenue of \$5 million from the last two (anticipated) payments on an installment contract with Glaxo Wellcome (Glaxo), although those payments were conditional upon the delivery of software that was still in development. Specifically, Glaxo was not required to make the last two

payments unless SSA delivered an Oracle-adapted version of the UNIX/BPCS software by October 1995. Therefore, recognition of revenue on this transaction was not appropriate under GAAP, at July 31, 1995.

43. SSA's independent auditors determined that the overstatement of revenue from the Glaxo transaction became material in combination with the overstatement of revenue from the HP Brazil reseller agreement. Therefore, when SSA restated its 1995 financial statements in January 1997, it excluded \$5 million in previously reported revenue for the Glaxo contract. The effect on reported income of the HP Brazil agreement and the third and fourth payments under the Glaxo contract was to increase SSA's after tax net income by \$5.9 million, more than doubling the reported third quarter net income and increasing year-end net income by twenty-two percent (22%).

#### Hewlett-Packard Multi-Country Area

44. SSA originally recognized revenue of \$5 million in the fourth quarter of 1995 from a purported sale of UNIX software to Hewlett-Packard subsidiaries in Venezuela, Colombia, Chile, and Argentina (HP Multi-Country Area). Like the HP Brazil deal, this contract included a projected sales figure, in this case \$5 million, but it did not provide a date by which this amount was to be obtained. The \$5 million figure, again, was merely a target for sales to end users, not an undertaking by HP to pay that amount to SSA. The agreement's payment terms, moreover, were subject to a side letter that further conditioned HP's obligation to pay SSA. No sales to end-users occurred, and therefore HP Multi-Country Area made no payment to SSA.

45. However, SSA recognized revenue for this contract in the fourth quarter of its fiscal 1995. When SSA's independent auditors later reviewed this contract in conjunction with

reexamining the HP Brazil transaction, they determined that the payment terms were not fixed and, therefore, revenue should not have been recognized for this contract.

Consequently, SSA restated fourth quarter 1995 results, decreasing net income by an overstatement of \$1.6 million, or ten percent.

#### **Hewlett-Packard Support Materials Organization**

46. In the fourth quarter of its fiscal year 1995, SSA recognized \$4.2 million in revenue from the sale of UNIX software to Hewlett-Packard Support Materials Organization (HPSMO). However, SSA's UNIX product failed to meet HPSMO's performance standards in that the software was not stable enough for use. HPSMO officials complained to Covey about aborts and terminations in the software, among other problems, during 1996. Frustrated with the poor performance of the project, HPSMO told Covey that it would make no more payments until satisfied with the performance of the software.

47. HPSMO's difficulties with SSA's UNIX/BPCS software persisted and, in August 1996, HPSMO notified SSA of its decision to terminate the contract due to poor performance. SSA wrote off the remaining \$2.4 million receivable from HPSMO during the year-end audit for fiscal 1996. In December 1997, SSA and HPSMO entered into a termination agreement under which SSA refunded HPSMO the approximately \$1,930,000 it had paid to SSA at that time. SSA treated that payment as a period expense.

#### **Reseller Agreements**

48. In the first nine months of its fiscal year 1996, SSA recognized approximately \$37 million of revenue from "reseller agreements." SSA entered into approximately thirteen

such agreements that generally provided that the resellers would sell a specified minimum amount of SSA products to end users, for which the reseller would receive a commission. In most but not all instances, the contracts contained a date by which the reseller was obligated to pay SSA any remaining balance.

49. SSA did not receive payment on most of these reseller agreements as a result of the failure of the resellers to sell the product to end-users. Moreover, SSA failed to meet its obligation under some or all of the agreements to set up joint marketing facilities and to undertake certain promotional efforts.

50. On January 7, 1997, SSA announced a change in its accounting methods for reseller agreements so that revenue would be recorded at the time of sale to the end user. The effect of this change was to eliminate approximately \$37 million of reported revenue, and the associated net income, from 1996.

51. By reason of the foregoing, defendant SSA violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a), Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

### **THIRD CLAIM**

#### **Violation of Sections 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 Thereunder (Defendants SSA, Covey and Skadra)**

52. Plaintiff realleges and incorporates by reference paragraphs 1 through 50 above.

53. By engaging in the conduct described herein, defendants SSA, Covey and Skadra, filed and caused to be filed materially false and misleading Annual Reports on Form 10-K and materially false and misleading Quarterly Reports on Form 10-Q with the Commission during the period July 1994 through at least December 1996.



54. By reason of the foregoing, defendants SSA, Covey and Skadra violated and aided and abetted violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder.

**FOURTH CLAIM**

**Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act  
And Rules 13b2-1 and 13b2-2 Thereunder  
(Defendants SSA, Covey and Skadra)**

55. Plaintiff realleges and incorporates by reference paragraphs 1 through 50 above.

56. By engaging in the conduct described herein, Defendant SSA, aided and abetted by defendants Covey and Skadra, failed to make and keep books, records and accounts which accurately and fairly reflected SSA's transactions and dispositions of its assets, and further failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that SSA's corporate transactions were executed in accordance with management's authorization and in a manner to permit the preparation of financial statements in conformity with generally accepted accounting principles.

57. By engaging in the conduct described herein, defendants Covey and Skadra: (1) directly and indirectly, falsified and caused to be falsified SSA books, records and accounts subject to Section 13(b)(2)(A) of the Exchange Act; and (2) directly or indirectly made and caused to be made false and misleading statements and omitted to state material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to SSA's independent accountants and SSA's auditors in connection with audits and examinations of SSA's financial statements and in connection with the preparation and filing of documents and reports required to be filed with the Commission.

58. By reason of the foregoing, defendants SSA, Covey and Skadra violated and aided and abetted violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and defendants Covey and Skadra violated Rules 13b2-1 and 13b2-2 thereunder.

**FIFTH CLAIM**

**Violations of Section 13(b)(5) of the Exchange Act  
(Defendants Covey and Skadra)**

59. Plaintiff realleges and incorporates by reference paragraphs 1 through 50 above.

60. By engaging in the conduct described herein, defendants Covey and Skadra knowingly circumvented and knowingly failed to implement a system of internal financial controls at SSA.

61. By reason of the foregoing, defendants Covey and Skadra violated and aided and abetted violations of Sections 13(b)(5) of the Exchange Act.

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

(a) based on violations of the Acts and Rules specified herein, permanently enjoin Defendant SSA from violating Section 17(a) of the Securities Act, and Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act, and Rules 10b-5, 12b-20, 13a-1, and 13a-13 thereunder;

(b) based on violations of the Acts and Rules specified herein, permanently enjoin Defendant Covey from violating or aiding and abetting violations of Section 17(a) of the Securities Act, and Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-13, 13b2-1, and 13b2-2 thereunder;

- (c) based on violations of the Acts and Rules specified herein, permanently enjoin Defendant Skadra from violating or aiding and abetting violations of Section 17(a) of the Securities Act, and Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-13, 13b2-1, and 13b2-2 thereunder;
- (d) order defendants Covey and Skadra to disgorge bonus monies (related to SSA's achievement of quarterly and annual earnings per share targets) of \$127,000 and \$170,269 respectively, plus prejudgment interest accruing from the dates such bonus monies or any part thereof were paid;
- (e) order defendants Covey and Skadra to pay civil penalties pursuant to Sections 21(d)(3)(A) and 21(d)(3)(B) of the Exchange Act; and
- (f) grant such other relief as this Court may deem appropriate.

Respectfully submitted,

Dated: July 13, 2000



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JS 44  
(Rev. 12/96)

*Date 3/12/00*

**AOC 4240**

**CIVIL COVER SHEET**

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

**I. (a) PLAINTIFFS**

United States Securities and Exchange Commission

**DEFENDANTS**

System Software Associates, Inc.,  
Roger Covey, Joseph Skadra

**JUDGE BUCKLO**

**MAGISTRATE JUDGE ASHMAN**

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Cook County

(IN U.S. PLAINTIFF CASES ONLY)

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

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
John L. Hunter  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, DC 20549 (202) 942-4825

ATTORNEYS (IF KNOWN)  
SEE ATTACHED

U.S. DISTRICT COURT  
FILED: E04  
JUL 13 PM  
2000

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

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

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

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

**IV. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

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

**V. 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	<b>PERSONAL INJURY</b> <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	<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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <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 Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <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	<b>LABOR</b> <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	<b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

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

SEE ATTACHED

**VII. REQUESTED IN COMPLAINT**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$297,269  
Injunction

CHECK YES only if demanded in complaint  
JURY DEMAND:  YES  NO

**VIII. This case**

- is not a refiling of a previously dismissed action.
- is a refiling of case number \_\_\_\_\_ previously dismissed by Judge \_\_\_\_\_

DATE

*July 12, 2000*

SIGNATURE OF ATTORNEY OF RECORD

*[Signature]*

*1-2*

00C 4240

**ATTACHMENT TO CIVIL COVER SHEET**

1. (C) Attorneys for the Defendants:

Kirk Isaacson  
General Counsel  
System Software Associates, Inc.  
500 West Madison Street, Suite 3200  
Chicago, IL 60661  
(312) 258-6000  
(Attorney for System Software Associates, Inc.)

William P. Schuman  
McDermott, Will & Emery  
227 West Monroe Street  
Chicago, IL 60606-5096  
(312) 984-7716  
(Attorney for Roger Covey)

Joseph Skadra (*pro se*)  
System Software Associates, Inc.  
500 West Madison Street, Suite 3200  
Chicago, IL 60661  
(312) 258-6000

VI. Cause of Action

Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 12b-20, 13a-1, 13a-13, 13b2-1 and 13b2-2 thereunder. System Software Associates, Inc., improperly recognized revenue and publicly reported more favorable results of operations than were in fact the case, thereby substantially inflating the price of its stock.

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

In the Matter of  
Securities and Exchange Commission

**DOCKETED**  
JUL 14 2000

v.  
Systems Software  
Associates, Inc., Roger  
Covey, and Joseph Skadra

Case Number:

**00C 4240**

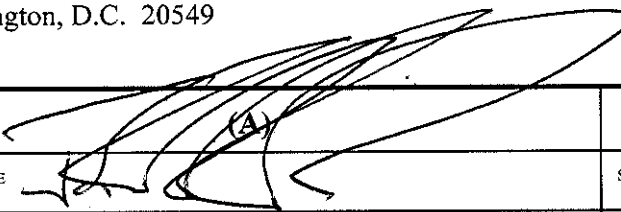

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

**JUDGE BUCKLO**

United States Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549

**MAGISTRATE JUDGE ASHMAN**

FILED  
 JUL 14 11 11 AM '00  
 U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF ILLINOIS

<b>(A)</b>		<b>(B)</b>	
SIGNATURE 		SIGNATURE 	
NAME John L. hunter		NAME Thomas Szromba	
FIRM Securities and Exchange Commission		FIRM Securities and Exchange Commission	
STREET ADDRESS 450 Fifth Street, N.W.		STREET ADDRESS 500 West Madison St., Suite 1400	
CITY/STATE/ZIP Washington, D.C. 20549-0808		CITY/STATE/ZIP Chicago, IL 60661-2511	
TELEPHONE NUMBER 202-942-4825		TELEPHONE NUMBER 312-353-7416	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6204620	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
<b>(C)</b>		<b>(D)</b>	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	