

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

00-06618

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

FREDERICK C. BRANDAU,
RAPHAEL "RAY" LEVY, and
JEFFREY PAINE,

Defendants.

CASE NO.

CIV-HIGHSMITH

MAGISTRATE JUDGE
GARBER

COMPLAINT FOR
INJUNCTIVE AND
OTHER RELIEF

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Plaintiff, Securities and Exchange Commission ("Commission"), alleges that:

INTRODUCTION

1. From at least 1996 to July 1999, Defendants Frederick C. Brandau ("Brandau"), Raphael "Ray" Levy ("Levy") and Jeffrey Paine ("Paine") (collectively "Defendants") engaged in a massive fraudulent Ponzi scheme that defrauded over 5,000 investors nationwide of between \$80 million and \$130 million. The investors thought they had purchased fractionalized interests in the death benefits of life insurance policies, known as viatical settlements. Those fractionalized interests were unregistered securities. However, the Defendants failed to purchase anything like \$80 million or \$130 million worth of insurance death benefits. Instead, they purchased only \$6.5 million worth of insurance death benefits, used a small amount of investors' funds as "interest" payments to some investors, paid generous but undisclosed commissions to their sales force, and misappropriated the remainder of the investors' funds for their own benefit. The

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Defendants used much of the investors' funds to support their lavish lifestyles — buying jet aircraft, helicopters, mansions, luxury cars and pleasure boats — and transferred the majority of the remaining funds to C.S.I. Ag, Ltd. (“CSI”), an offshore company. Accordingly, the Commission demands that the Defendants be permanently restrained and enjoined from violating the federal securities laws in connection with their fraudulent offer and sale of unregistered securities, that Defendants be ordered to disgorge their ill-gotten gains, that the Defendants pay civil penalties, and that the Court order such other relief as it deems appropriate under the circumstances.

DEFENDANTS

2. Defendant Brandau, 54 years old, was the principal of Financial Federated Title & Trust, Inc. (“Financial Federated”), the issuer of the unregistered securities. Defendant Brandau resides in Sunrise, Florida. Defendant Brandau was a sales representative employed in a fraudulent viatical settlement scheme remarkably similar to the one at issue here. In SEC v. United Benefits Group, Inc., et al., Civil Action No. 95-08421 (S.D. Fla. 1995), the Commission filed a civil action against United Benefits Group, Inc. (“UBG”) and its principals based on evidence that UBG and others were engaged in the fraudulent sale of interests in future death benefits from life insurance policies. In UBG, as here, the issuer raised millions of dollars more from investors on the misrepresentation that the investments were fully secured by insurance policies. UBG’s principals then misappropriated the investors’ moneys.

3. Defendant Levy, 51 years old, was the president and sole shareholder of ABS. Levy resides in Lake Worth, Florida.

4. Defendant Paine is an attorney practicing in West Palm Beach, Florida. Paine was the designated escrow agent for all or most of the funds invested by individuals in the viatical settlement interests sold by Financial and ABS.

OTHERS

5. Financial Federated is an entity that was at all times material hereto controlled by Defendant Brandau. Financial Federated issued the unregistered securities in the form of fractionalized interests in the insurance policy death benefits that are the subject of this Complaint. Financial Federated's role in the Ponzi scheme purportedly was to act as a "finder" and a "trust" depository of viatical settlements and to fractionalize them into percentage interests to be offered to investors solicited by American Benefits Services, Inc. ("ABS"). Financial Federated, incorporated in 1996, was located in Lauderhill, Florida. On July 16, 1999, Financial Federated announced that it had been acquired by and transferred its assets and liabilities to CSI, an offshore concern purportedly operating in the Bahamas. Financial Federated is currently the subject of an involuntary bankruptcy proceeding in the Southern District of Florida, In re Financial Federated Title & Trust, Inc., Case No. 99-26616-BKC-RBR.

6. ABS is an entity that was at all times material hereto controlled by Defendant Levy. ABS recruited the sales force, a network of over 600 insurance agents and financial planners, that sold the unregistered securities. ABS, incorporated in Florida in 1997, was located in Lake Worth, Florida. ABS is currently the subject of an involuntary bankruptcy proceeding in the Southern District of Florida, In re American Benefits Services, Inc., Case No. 99-26543-BKC-RBR.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d) and 77v(a), and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e) and 78aa.

8. Certain of the acts and transactions constituting violations of the Securities Act and the Exchange Act have occurred within the Southern District of Florida. The principal offices of Financial Federated and ABS were located within the Southern District of Florida. Defendants Brandau, Levy, and Paine reside in the Southern District of Florida. Defendants have engaged in many of the acts and practices complained of herein within the Southern District of Florida.

9. Defendants, directly and indirectly, have made use of the means and instrumentalities of interstate commerce, the means and instruments of transportation and communication in interstate commerce, and the mails, in connection with the acts, practices, and courses of business complained of herein.

THE FRAUDULENT SCHEME

Background

10. Between 1996 and 1999, ABS, at the direction of and together with Defendants Levy and Brandau, and Financial Federated claimed to offer and sell securities to the public in the form of fractionalized interests in the future death benefits of life insurance policies acquired from a viatical settlement provider.

11. After raising investor funds through ABS, Financial Federated purported to purchase the rights to the death benefits under the policies from a viatical provider and then assign those rights to investors. For each policy purchased, Financial Federated purportedly created a trust that it designated as the beneficiary to the policy.

12. Financial Federated purportedly then assigned fractionalized portions of the death benefits from the policies to the various investors according to the amounts invested.

13. The escrow agent, Defendant Paine, purportedly ensured that the underlying life insurance policies were in full force and effect and that irrevocable assignments to the investors were in place before any funds were released to Financial Federated.

14. ABS solicited investors through a network of over 600 independent insurance agents and financial planners. The investments were marketed through advertisements placed in newspapers and over the Internet. Defendant Levy created and supplied the offering materials to be used in marketing the investments. ABS provided the content for the advertisements to the sales force.

15. ABS and its sales force often targeted retirees through newspaper advertisements captioned "Attention Seniors, IRA, Annuity & CD Owners." Some of the advertisements offered complimentary lunches and boasted 10% to 14% annual percentage rate ("APR") guaranteed returns.

16. According to offering materials distributed by ABS and prepared and/or reviewed by Defendants Levy, Brandau and Paine, investor funds were pooled into an escrow account maintained by Defendant Paine. Funds from that account were transferred to Financial Federated to pay for life insurance policies, commissions and other expenses.

17. In some instances, ABS and its sales force represented to investors that the investments paid a guaranteed 42% total fixed return within three years. ABS also claimed that the viatical settlement interests were “fully secured, non-speculative financial investments that had a high degree of safety” but “outperformed CD’s, Annuities and many other ‘Traditional’ investments with NO MARKET RISK” to principal or profit.

18. In other instances, ABS offered investors a monthly payment option known as the “Income Plan,” which purportedly provided a 9.86% APR monthly payment for a three-year investment. In addition, ABS purported to offer investors liquidity through a rescission option after 12 months that provided a full return of principal with no interest, and a rescission option after 36 months (if the policy did not mature) which includes a full refund of principal, plus 15% simple interest.

19. Much of the money collected from investors was misappropriated by Defendant Brandau, who spent substantial sums on, among other things, luxury cars, private jets, helicopters, pleasure boats, mansions and lavish gifts. A large amount of investor funds was also used to pay generous commissions to the sales agents and to make interest payments to investors participating in the Income Plan.

20. Defendant Paine participated in this misappropriation by knowingly or recklessly ignoring his responsibilities as escrow agent. The “Disbursement Letter of Instruction” that investors addressed to Defendant Paine instructed him not to disburse funds until he confirmed, among other things, that the life insurance policy supporting the investment was “in full force and effect.”

21. Defendant Paine was aware of his responsibilities because he assured salesmen that he would faithfully perform his duties as escrow agent before disbursing escrowed funds, including that he would ensure that the life insurance policies were past the contestability period and that the insureds were terminally ill.

22. Nevertheless, Defendant Paine routinely disregarded his duties as escrow agreement by disbursing funds to Financial Federated despite the fact that there were no life insurance policies to support the vast majority of investments.

23. On July 16, 1999, Financial Federated announced that its assets and liabilities had been acquired by CSI, purportedly an overseas company with over one billion dollars in assets. According to Financial Federated, CSI would conduct an audit and offer a “buy-back” plan for investors wishing to rescind their investments. No such audit or rescission offer has occurred.

24. On August 6, 1999, former counsel for Financial Federated and Brandau wrote the Hon. Thomas E. Scott, U.S. Attorney for the Southern District of Florida, and Attorney General Janet Reno, admitting that if Defendant Brandau is indicted before he has an opportunity to implement his financial plan for Financial Federated, “the investors will certainly lose their money.”

25. On August 30, 1999, a federal grand jury in West Palm Beach, Florida indicted Brandau in a case styled United States v. Frederick C. Brandau, et al., Case No. 99-8125-CR-Hurley.

Misrepresentations and Omissions of Material Fact

Non-Existent Insurance Policies

26. During the course of the fraudulent scheme, Defendant Brandau knowingly and/or recklessly represented to Defendant Levy, who then knowingly and/or recklessly represented to ABS's sales force that Financial Federated was acquiring life insurance policies from Kelco, Inc. ("Kelco"), a nationally recognized viatical provider.

27. Defendant Brandau also directly repeated that same false statement to at least one broker.

28. Defendant Paine knowingly and/or recklessly assured salesmen that the investment program was running well.

29. In fact, Kelco never sold any insurance policies to Financial Federated or ABS.

30. Defendant Brandau also knowingly and/or recklessly told Defendant Levy who knowingly and/or recklessly told ABS's sales force that Financial Federated was buying policies from nursing homes and funeral directors.

31. In or around November 1998, Defendants Brandau and Levy announced that Page & Associates, Inc. ("P&A"), a viatical provider located in Ft. Lauderdale, Florida, was the new provider of policies for Financial Federated.

32. As of January 1999, however, Financial Federated had purchased only \$3.5 million in policies from P&A and another \$3 million from other sources. The \$6.5 million of total viatical settlement purchases falls far short of the \$80 million to \$130 million that ABS raised from investors for Financial Federated during this time period.

Operation of Ponzi Scheme

33. Instead of purchasing the underlying life insurance policies on which the viatical investment program was based, Financial Federated and Defendant Brandau misappropriated investor funds raised by ABS for their own personal use and benefit.

34. Defendants Brandau and Paine also caused Financial Federated to operate a Ponzi scheme wherein they used new investor funds to make monthly payments to existing investors participating in the Income Plan.

35. Defendant Brandau and Financial Federated failed to disclose that Financial Federated was not obtaining policies as represented and that it lacked sufficient capital to make monthly payments to Income Plan participants without obtaining the funds from new investors.

Failure to Adequately Disclose Risks

36. In its offering materials and in verbal presentations by its sales force, ABS falsely represented the viatical investment as “LOW RISK.” In fact, investor funds not only were at risk, they were misappropriated. Furthermore, to the extremely limited extent to which policies were actually purchased, ABS failed to disclose that the investors would have to rely on Financial Federated and its employees to service the policies while they waited for the insured viator to die. The investors were neither provided the identities of the insured viators nor the policy numbers for the policies that corresponded to their investments. The investors had to rely on Financial Federated to ensure that the premiums for the policies were paid as they waited for their investments to mature. If Financial Federated failed to ensure that the premiums were paid on a timely basis – in those few

cases where policies were actually purchased -- and the policy lapsed, the investors would lose their entire investments.

37. In addition, in those limited instances when policies were purchased, the investors also had to rely on the skill and expertise of Financial Federated and its principals to select and purchase only those policies that would mature within thirty-six months and yield the promised return.

38. Because the investors' returns were inversely tied to the longevity of the insured viator, the longer the insured viator lives, the smaller the rate of return to the investor. Neither the offering documents nor the sales agents disclosed to investors the risk that medical advances in the treatment of AIDS would extend the maturity of the investment and thereby lower the rate of return.

39. ABS's sales force represented to investors that the viatical investments were "really safe," "as safe as a CD," "guaranteed" and often told them or led them to believe that their names would be listed as beneficiaries on the life insurance policies backing their investments.

40. Instead, in the few instances where policies were purchased, Financial Federated or ABS was named as the beneficiary, and the investor had to rely on them to create a trust and properly carry out the assignment of benefits to the investor. If Financial Federated, as beneficiary, came into possession of policy benefits and failed to turn the funds over to the investor assigned, the investor would have been forced to take costly legal action and/or suffer misappropriation of his investment.

Misrepresentation of State Insurance Fund Guarantee

41. The offering materials and certain newspaper advertisements represented that the investment was secured up to \$300,000 by the “State Insurance Guarantee Fund” (a misnomer for the Florida Life Insurance Guaranty Fund Association (“FLIGFA”)). This statement was false and misleading in that it implied that the investors’ actual investment was secured against loss by a state guaranty fund.

42. However, FLIGFA did not protect investors against investment losses, but rather protected policyholders of insolvent issuers. Thus, if an investor incurred a loss due to any reason other than the insolvency of the life insurance company, FLIGFA would not indemnify the investor.

Failure to Disclose Selling Commissions and Escrow Fees

43. Both the offering materials and the newspaper advertisements falsely represented that no selling commissions would be paid in connection with the viatical investments offered by ABS. Specifically, the offering materials represented there were “No Hidden Costs; No Fees” and “100% of PARTICIPANT’S funds are applied to the participation to purchase or fund Viaticated Insurance Benefits from ‘A’ rated Life Insurance companies.” Furthermore, the newspaper advertisements stated “NO SALES CHARGES.” These statements were false and misleading.

44. In fact, between 1996 and 1999, Financial Federated paid Defendant Levy sales commissions ranging from 10% to 20% and averaging approximately 18.5% on all money raised by the sales force. Defendant Levy then paid top-producing sales agents who

in turn paid their brokers below them. The commissions were derived directly from the investor funds raised.

45. The payment of commissions from investor funds was not disclosed anywhere in the offering materials. In fact, the offering materials, newspaper advertisements and oral representations represented that no sales commissions would be paid.

46. In addition, the offering materials and solicitations by sales agent failed to disclose to investors that Defendant Paine, the escrow agent, received a fee of between 0.5% to 0.75% on all the investment funds that passed through his escrow account.

Misrepresentation of Life Expectancy of Viator

47. The offering materials published and distributed by ABS and their sales affiliates falsely represent that "*All policies are based on a thirty six month life expectancy or less.*"

48. In fact, Financial Federated purchased policies from P&A regardless of the life expectancy of the viator. In fact, Defendant Brandau offered P&A's representative \$1 million at their initial meeting to purchase as many policies as possible, including policies from viators with life expectancies of as much as 48 months.

Other Material Misrepresentations

49. The offering materials falsely represented that Defendant Levy, the principal and founder of ABS, "*distinguished himself in the service of the U.S. by serving in the INS.*" In fact, Levy has never worked at the U.S Immigration & Naturalization Service. Defendant Levy also repeated this false statement to at least one of ABS's brokers.

50. In addition, in a letter dated March 12, 1999, addressed to some top-producing sales agents and subsequently disseminated to other sales agents and to some investors, the escrow agent, Defendant Paine, falsely represented that the State of Florida Insurance Commissioner Bill Nelson (“Nelson”) “have developed a close friendship with both Ray Levy and Fred Brandau.” In fact, Defendant Levy and Nelson were not “close friends” but merely met once or twice at charity functions.

51. In addition, the letter falsely represented that Financial Federated was buying policies from P&A when, in fact, P&A stopped doing business with Financial Federated in January 1999.

52. Finally, the letter falsely implied an affiliation with state insurance regulators by boasting, “Due to the tremendous success and notoriety...the Insurance Commissioner of the State of Georgia has asked Financial Federated to move its offices to his state in order to develop a prototype in the state.” This statement was false.

Lulling Investors

53. After questions arose regarding the existence of the underlying insurance policies, Financial Federated and Defendant Brandau set out on a course of lulling the investors into believing that (i) the policies were in place, and (ii) that Financial Federated’s obligations would be covered by CSI.

54. The lulling activities were a ruse to buy time and conceal efforts to move and secrete assets and documents offshore. For example, Defendant Brandau was quoted in the Wall Street Journal in July 1999, stating that investors are not at risk because Financial Federated was recently acquired by CSI, which “will make sure all of the investors are

repaid.” Also, in a letter dated July 16, 1999, Financial Federated represented to investors that CSI bought Financial Federated and would conduct an audit and make a rescission offer to the investors. However, no such audit or rescission offer has occurred. These material false statements continued to act as a fraud and deceit against the investors.

COUNT I

**SALE OF UNREGISTERED SECURITIES IN VIOLATION OF
SECTIONS 5(a) AND 5(c) OF THE SECURITIES ACT
(All Defendants)**

55. The Commission repeats and realleges paragraphs 1 through 54 of this Complaint.

56. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities and transactions described herein.

57. Since at least 1996 and continuing through to 1999, Defendants Brandau, Levy, and Paine, directly and indirectly, have:

- (a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities as described herein, through the use or medium of a prospectus or otherwise;
- (b) carried securities or caused such securities, as described herein, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; and/or

(c) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise, as described herein, without a registration statement having been filed or being in effect with the Commission as to such securities.

58. By reason of the foregoing, Defendants Brandau, Levy, and Paine 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).

COUNT II

FRAUD IN VIOLATION OF SECTION 17(a)(1) OF THE SECURITIES ACT (All Defendants)

59. The Commission repeats and realleges paragraphs 1 through 58 of the Complaint.

60. Since at least 1996 and continuing through to 1999, Defendants Brandau, Levy, and Paine, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, in the offer or sale of securities, as described herein, have knowingly or recklessly employed devices, schemes or artifices to defraud.

61. By reason of the foregoing, Defendants Brandau, Levy, and Paine have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

COUNT III

**FRAUD IN VIOLATION OF
SECTION 10(b) OF THE EXCHANGE ACT AND RULE 10b-5
(All Defendants)**

62. The Commission repeats and realleges paragraphs 1 through 61 of its Complaint.

63. Since at least 1996 and continuing through to 1999, Defendants Brandau, Levy, and Paine, directly or indirectly, by use of the means or instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities, as described herein, have knowingly or recklessly:

- (a) employed devices, schemes or artifices to defraud;
- (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or
- (c) engaged in acts, practices and courses of business which operated as a fraud or deceit upon the purchasers of such securities.

64. By reason of the foregoing, Defendants Brandau, Levy, and Paine have violated and, unless enjoined, will continue to violate 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.

COUNT IV

**FRAUD IN VIOLATION OF
SECTIONS 17(a)(2) AND 17(a)(3) OF THE SECURITIES ACT
(All Defendants)**

65. The Commission repeats and realleges paragraphs 1 through 64 of its Complaint.

66. Since at least 1996 and continuing through to 1999, Defendants Brandau, Levy, and Paine, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities, as described herein, have:

(a) obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or

(b) engaged in transactions, practices and courses of business which are now operating and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities.

67. By reason of the foregoing, Defendants Brandau, Levy, and Paine have violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77(q)(a)(3).

COUNT V

**FAILURE TO REGISTER AS A BROKER OR DEALER OF SECURITIES IN
VIOLATION OF SECTION 15(A) OF THE EXCHANGE ACT
(Defendant Levy)**

68. The Commission repeats and realleges paragraphs 1 through 67 of its Complaint.

69. Since at least 1996 and continuing through to 1999, Defendant Levy, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, as described herein, has engaged in the business of effecting transactions in securities for the accounts of others and induced and effected the purchase and sale of securities while not associated with a broker-dealer that was registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act.

74. By reason of the foregoing, Defendant Levy, directly or indirectly, violated and, unless enjoined, will continue to violate Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that all Defendants committed the violations of the federal securities laws alleged herein.

II.

Permanent Injunctive Relief

Issue a Permanent Injunction restraining and enjoining:

A. Defendants Brandau, Levy, and Paine, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating: (a) Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c); (b) Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1); (c) 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; and (d) Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77(q)(a)(3).

B. Defendant Levy, his officers, agents, servants, employees, attorneys, and all persons in active concert or participation with him, and each of them, from violating Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

III.

Disgorgement

Issue an Order requiring Defendants Brandau, Levy, and Paine, jointly and severally, to disgorge all ill-gotten profits or proceeds that they have received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest.

IV.

Penalties

Issue an Order directing Defendants Brandau, Levy, and Paine to pay civil money penalties pursuant to 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. § 78(u)(d)(3).

V.

Accountings

Issue an Order requiring accountings by Defendants Brandau, Levy, and Paine.

VI.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

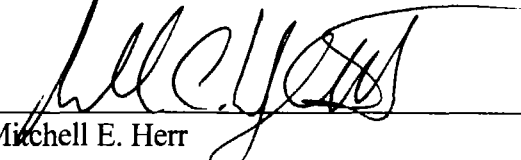
VII.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may

hereby be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully Submitted,



Mitchell E. Herr
Regional Trial Counsel
S.D. Fla. No. A-5500-259

Russell C. Weigel III
Trial Counsel
Florida Bar No. 822159
S.D. Fla. Trial Bar

Dated: May 8th, 2000

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CIVIL COVER SHEET 00-06618

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

Securities and Exchange Commission

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

A - Broward 00-cv-06618 SH/Garber

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
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SEC, 1401 Brickell Ave., Suite 200, Miami, FL

DEFENDANTS

CIV-HIGHSMITH

Frederick C. Brandau,
Raphael "Ray" Levy, and
Jeffrey Paine

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT **Broward**
 (IN U.S. PLAINTIFF CASES ONLY)

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

ATTORNEYS (IF KNOWN) **MAGISTRATE JUDGE GARBER**

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, **BROWARD**, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS

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

- 1 U.S. Government Plaintiff
- 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)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A LABOR	A BANKRUPTCY	A 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 (Exc. 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	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 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 type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B

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)

15 U.S.C. §§ 77e(a) and 77e(c); 15 U.S.C. § 77q(a)(1); 15 U.S.C. § 78j(b), 17 C.F.R. § 240.10b-5
 LENGTH OF TRIAL **15 U.S.C. §§ 77q(a)(2) and 77q(a)(3); 15 U.S.C. § 78o(a)(1)**
 via 5 days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE **Daniel T.K. Hurley** DOCKET NUMBER **99-CR-8125-ALL**

DATE **May 8, 2000** SIGNATURE OF ATTORNEY OF RECORD *[Signature]*

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING F.P. _____ JUDGE _____ MAG. JUDGE _____