

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED BY *jm* D.C.
98 SEP 23 PM 4:45

CARLOS JUENKE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

SECURITIES AND EXCHANGE COMMISSION,)

Plaintiff,)

v.)

VII VISIONARY INVESTMENTS, INC. d/b/a)
HISTORIC HOTEL HOLDINGS, INC., RONALD)
OBSGARTEN, M & M HOLDING GROUP, INC.,)
LEANDRO JAVIER OBENAUER, and)
BRIAN LYNCH,)

Defendants.)

CASE NO. 8675

COMPLAINT FOR
INJUNCTIVE AND
OTHER RELIEF

CIV. } MIDDLEBROOKS

MAGISTRATE JUDGE
TURNOFFE

Plaintiff Securities and Exchange Commission ("SEC") alleges as follows:

1. The SEC brings this action to enjoin the Defendants from continuing to violate the federal securities laws by misrepresenting to the public material facts concerning, among other things, the assets and business operations of securities issuers. The SEC is also seeking to enjoin certain Defendants from continuing to act as unregistered broker-dealers and from participating in the offer and sale of unregistered securities.

DEFENDANTS

2. Defendant VII Visionary Investments, Inc. d/b/a/ Historic Hotel Holdings, Inc. ("HHH"), of Lake Park, Florida, is the name defendant Ronald Obsgarten ("Obsgarten") ultimately gave to the resulting entity from a purported merger between Obsgarten's private corporation, VII Visionary Investments, Inc., and a shell company he acquired in the summer of 1997. Although the merger and name change never became effective, the resulting company operated and issued

stock under the name HHH. HHH's stock, which has never been registered with the SEC, was quoted in that name on the NASD's OTC Bulletin Board.

3. Defendant Ronald Obsgarten, a resident of Boca Raton, Florida, was the president of HHH at all relevant times.

4. Defendant M & M Holding Group, Inc. ("M&M"), a Florida corporation with offices in Delray Beach, Florida, is the most recent of the several companies that defendant Leandro Javier Obenauer ("Obenauer") used to promote issuers and sell their stock. None of these entities has ever been registered with the SEC as a broker or dealer.

5. Defendant Obenauer, a resident of Lake Worth, Florida, was the president of M&M during all relevant times. During the relevant period, Obenauer was President of and operated under the names Javier Investment Group, Inc. ("Javier Investment"), Javier Marketing Group, Inc. ("Javier Marketing"), and M&M. Javier Investment and Javier Marketing were administratively dissolved by the State of Florida in September 1997 for failing to file an annual report.

6. Defendant Brian Lynch ("Lynch"), a resident of Massachusetts, assisted in Obenauer's promotional and selling activities.

OTHER

7. Futuristic Enterprises, Inc. ("Futuristic"), is a Florida corporation with its principal place of business in Delray Beach, Florida. Futuristic was incorporated in April 1995 for the purpose of developing real estate in South Florida.

JURISDICTION AND VENUE

8. 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.

9. 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 HHH and M&M are located within the Southern District of Florida. Obsgarten and Obenauer reside within the Southern District of Florida. Lynch was residing and working in the Southern District of Florida when he committed the acts and transactions alleged herein.

10. 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.

ORIGINATION OF THE SCHEME

11. Obsgarten formed HHH (then known as VII Visionary Investments, Inc. ("Visionary Investments")) in July 1996, purportedly with the intention of acquiring the Harder Hall Hotel, a registered landmark situated on 13 acres alongside Lake Jackson in Sebring, Florida, renovating it, and establishing it as a profitable spa and medical facility.

12. Approximately three weeks later, Obsgarten retained Obenauer to provide promotional and fund-raising services on behalf of HHH in exchange for cash and HHH stock. Specifically, by a written "marketing consulting agreement" dated July 30, 1996, HHH agreed to

pay Javier Investment a fee of \$150,000 and an option to purchase one million shares of HHH stock at ten cents per share in exchange for Javier Investment's agreement to (1) provide marketing and financial public relations services; (2) assist in the preparation of offering memoranda; (3) assist in any marketing efforts in seeking to raise up to \$10 million for various projects; (4) introduce HHH to investment and security analysts; (5) assist in the drafting of press releases; (6) introduce HHH to potential acquisition or merger candidates; (7) provide management consulting services; and (8) assist in the preparation of due diligence packages.

13. On August 5, 1996, HHH, while still known as Visionary Investments, contracted to purchase the Harder Hall Hotel for \$2.1 million. One month later, on September 4, 1996, Obenauer assisted Obsgarten in acquiring a controlling interest in an inactive shell corporation, Coconut Grove Racers, Inc. ("CGRI"), in exchange for the payment of \$125,000. The merger never became effective, nevertheless, HHH stock commenced public trading through the OTC Bulletin Board on September 30, 1996.

FRAUDULENT PROMOTIONAL ACTIVITIES

14. Between October 1996 and January 1997, HHH, Obsgarten and Obenauer primed the market and solicited investors for HHH stock through promotional meetings, literature and telephone solicitations. In the course of promoting the company, they made false and misleading statements concerning HHH's purported ownership of the Harder Hall Hotel; the use of investor proceeds; the company's corporate name; and purported negotiations with a potential lessee. Obsgarten also made material misrepresentations concerning potential deals between HHH and other corporations involved in the oil and gas industry.

**Misrepresentations Concerning Ownership of the
Harder Hall Hotel and the Use of Investor Proceeds**

15. HHH's contract to purchase the Harder Hall Hotel for \$2.1 million required the company to make a \$500,000 down payment within one month of the contract date. HHH made a \$100,000 initial payment shortly after the contract was signed with a second installment of \$400,000 due a month later. However, HHH did not have the financial wherewithal to make the balance of the down payment. The company requested and received several extensions for the \$400,000 payment but never made any further payment.

16. Notwithstanding that HHH owed \$2 million on its contract to purchase the hotel, and was in default on the required down payment, Obsgarten and Obenauer repeatedly represented to the investing public that HHH owned the hotel and was in the process of renovating it. On October 17, 1996, Obsgarten and Obenauer conducted a public meeting in the lobby of the Harder Hall Hotel in an attempt to generate investor interest in HHH. At this meeting, Obsgarten and Obenauer stated that HHH owned the hotel, and provided potential investors with a booklet that showed architectural plans illustrating the anticipated renovations to the hotel and touting the hotel's potential income.

17. Individuals who attended the meeting put their names and telephone numbers in a register book. After the meeting, Obenauer telephoned those people and solicited them to purchase HHH stock. During those telephone solicitations, Obenauer repeated the misrepresentations concerning the ownership of the hotel as well as the business operations of HHH. Later, Obenauer telephoned those individuals trying to get them to purchase more shares of HHH stock and falsely represented that renovations to the hotel were almost complete and that many of the rooms at the hotel had already been reserved for occupancy in the future.

18. In addition to the false claim that HHH owned the hotel, HHH issued a press release on November 5, 1996, falsely claiming that it had commenced negotiations with a major medical facility for the purposes of building and staffing an on-site surgical facility at the hotel. In the press release, HHH falsely claimed that the medical facility would be able to lease out 40% of the guest rooms on a guaranteed 365 day term before the hotel even opened. The release elaborated that a 60% occupancy rate would lead to over \$18 million in gross revenues and \$4 million in profits.

19. During these fraudulent promotional efforts, HHH through Obsgarten, and Obenauer, offered and sold HHH stock in a purported HHH private placement. Approximately 40 investors purchased \$300,000 of HHH stock directly from the company in this offering. In addition, Obenauer sold his own HHH stock to investors, for which he received approximately \$253,000. Obsgarten and Obenauer led investors to believe that their funds would be used to renovate the Harder Hall Hotel. In fact, the intended use of the proceeds of the private placement was to complete the shell company purchase, and to make the initial \$100,000 down payment on the hotel that investors had been told HHH already owned. Obenauer also intended to use the proceeds from at least some HHH stock sales to personally enrich himself.

20. HHH's common stock was a penny stock as defined by the Exchange Act and rules promulgated thereunder at all times that Obenauer was selling it.

21. HHH and Obsgarten also materially misrepresented the name of the corporation that issued the stock they were selling to investors. In the fall of 1996, at the time of the investor and media attention surrounding Obsgarten's stated plans to renovate the hotel, Obsgarten issued HHH shares referring to HHH as "Historic Harder Hall, Inc." This was the corporate name of

the true owner of the hotel. HHH was never legally named "Historic Harder Hall, Inc." To investors, however, this had the effect of legitimizing HHH's claim that it had acquired the hotel.

22. On January 13, 1997, after numerous contract extensions and after learning that HHH was using their corporate name without authority, the owners of the Harder Hall Hotel officially terminated the contract for sale of the hotel. The hotel owners also directed Obsgarten to immediately cease and desist using the name "Historic Harder Hall, Inc."

23. On February 10, 1997, Obsgarten sent a letter to stockholders acknowledging for the first time that the company did not in fact own the Harder Hall Hotel. He wrote that HHH was only able to raise \$300,000 from its private placement and that the company was unable to comply with its contractual obligations for the purchase of the hotel. In the letter, however, Obsgarten also claimed to be actively renegotiating with the owners of the hotel to complete the purchase. Obsgarten reiterated this claim in a press article dated February 28, 1997, published in a local newspaper in the town near the hotel, where many investors lived. In that article, Obsgarten stated that he hoped to close a deal to purchase the hotel with a restructured partnership within the following month and that he was confident that the purchase would take place.

24. The statements about renegotiations to purchase the hotel were false. The hotel's owner had only minimal contact with HHH after terminating HHH's contract to buy the hotel, and there was never any evidence that HHH would be able to come forward with the funds to purchase the hotel.

False Press Releases Concerning Deals Between HHH and Corporations Involved in the Oil and Gas Industry

25. From February to early April 1997, after all efforts to acquire the Harder Hall Hotel had collapsed, Obsgarten purportedly tried to merge HHH with a company in the oil and gas industry (the "Oil Company"). However, talks between HHH and the Oil Company never reached beyond the discussion phase.

26. Despite the fact that discussions between HHH and the Oil Company never advanced beyond preliminary stages, on February 25, 1997, Obsgarten issued a false press release stating that HHH was going to acquire a Texas-based oil equipment manufacturing company (the "Manufacturing Company"). On March 5, 1997, Obsgarten issued another false press release entitled "Historic Hotel Holdings, Inc. to Acquire [the Oil Company]," which announced that HHH had come to a "definitive agreement" to acquire the Oil Company, "which owns one hundred percent of [the Manufacturing Company]" In fact, HHH never came to an agreement to acquire the Oil Company, nor did the Oil Company own the Manufacturing Company.

PROMOTIONAL CAMPAIGN'S EFFECT ON MARKET FOR HHH STOCK

27. The HHH promotional campaign generated substantial media interest in the Central Florida area near the hotel. The company and its plans to renovate the Harder Hall Hotel were featured in newspaper stories. The news media reported that Obsgarten, as the new purchaser of the hotel, planned to invest \$10-\$12 million in the hotel in order to transform it into a first-class hotel and spa. The news reports also focused on the company as a prospective investment and quoted company officials inviting investment in HHH stock. One newspaper

story, which discussed the investor meeting, was entitled "Stock Offered in Historic Harder Hall." Another article was entitled "Locals invited today to invest in Harder Hall."

28. The promotional efforts also had a direct impact on the market price of HHH stock. In the October through December 1996 period, during which there was much publicity about the refurbishing of the hotel and negotiations to build an on-site surgical facility, the price of HHH stock reached as high as \$4.12 per share. Because there was no public information about HHH other than the fraudulent statements made by HHH, Obsgarten, and Obenauer, the inflated price of HHH stock was the result of their efforts. During the time of the promotional efforts, Obenauer was selling his HHH stock to members of the public, at artificially inflated prices he had substantially assisted in creating.

29. In January and early February 1997, after the owner of the hotel terminated its purchase contract with HHH, the stock declined to as low as \$.05 per share.

Misrepresentations of Material Fact about Futuristic

30. After its business relationship with HHH ended, M&M and Obenauer entered into an agreement with Futuristic, a company that planned to build high priced condominiums in West Palm Beach, Florida. M&M's agreement with Futuristic was very similar to the one Obenauer had previously signed with HHH. In the Futuristic agreement, in exchange for a fee of \$150,000 and an option to purchase 2 million shares of Futuristic stock at \$.001 per share, M&M and Obenauer promised to (1) optimize Futuristic's capital structure; (2) prepare documents necessary for obtaining funds; (3) locate a public shell corporation; (4) prepare due diligence materials; (5) arrange due diligence meetings with financial institutions and investment bankers; (6) conduct shareholder relations; (7) examine potential merger or acquisition candidates; (8)

look for market makers; (9) conduct public relations activities; and (10) seek lenders to help Futuristic procure an \$8 million construction loan.

31. From approximately January to June 1997, M&M, through Obenauer and Lynch, prepared advertisements and solicited investors to purchase stock in Futuristic. Among other things, Obenauer and Lynch engaged in an aggressive campaign of calling potential investors who had responded to advertisements or who had previously invested in HHH. In these telephone calls, Obenauer and Lynch misrepresented to investors that Futuristic already owned the land on which it was supposedly building a condominium. They also falsely told investors that Futuristic had obtained a \$12,500,000 loan for the construction of a condominium and sent investors a forged letter concerning that loan.

32. From approximately January to June, 1997, M&M, Obenauer and Lynch fraudulently offered and sold stock purportedly issued by Futuristic in a private placement. Obenauer, with Lynch's knowledge, created fictitious Futuristic stock certificates, which he caused to be delivered to investors while keeping their funds for himself. Obenauer did not provide to Futuristic the funds he raised from investors, but instead kept these funds for himself.

COUNT I

Fraud in Violation of Section 17(a)(1) of the Securities Act of 1933

33. The SEC repeats and realleges paragraphs 1 through 32 of the Complaint.

34. Defendants HHH, Obsgarten, M&M, Obenauer and Lynch 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 been, knowingly, willfully or recklessly employing devices, schemes or artifices to defraud.

35. By reason of the foregoing, Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, directly and indirectly, 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 II

Fraud in Violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933

36. The SEC repeats and realleges paragraphs 1 through 35 of its Complaint.

37. Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, 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 been: (i) obtaining money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (ii) engaging 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.

38. By reason of the foregoing, Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, directly and indirectly, 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 III

**Fraud in Violation of Section 10(b) of the Securities Exchange Act of 1934
and Rule 10b-5 Thereunder**

39. The SEC repeats and realleges paragraphs 1 through 38 of its Complaint.

40. Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, directly and indirectly, by use of the means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of the securities, as described herein, has been, knowingly, willfully or recklessly: (a) employing devices, schemes or artifices to defraud; (b) making untrue statements of material facts and omitting 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; or (c) engaging in acts, practices and courses of business which have operated, are now operating and will operate as a fraud upon the purchasers of such securities.

41. By reason of the foregoing, Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, directly and indirectly, 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

Violations of Section 15(a)(1) of the Exchange Act

42. The SEC repeats and realleges paragraphs 1 through 41 of its Complaint.

43. Defendants M&M, Obenauer, and Lynch directly and indirectly, by use of the means or instrumentality of interstate commerce, or of the mails, have each engaged in the

business of effecting transactions in securities for the accounts of others and have induced and effected the purchase and sale of securities while not themselves registered with the SEC in accordance with the provisions of Section 15(b) of the Exchange Act, or while not associated with a broker-dealer that was so registered.

44. By reason of the foregoing, Defendants M&M, Obenauer and Lynch, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

COUNT V

Violations of Sections 5(a) and 5(c) of the Securities Act

45. The SEC repeats and realleges paragraphs 1 through 44 of its Complaint.

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

47. Defendant Obenauer directly or indirectly, has:

(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; or

(b) 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 SEC as to such securities.

48. By reason of the foregoing, Defendant Obenauer, directly and indirectly, has 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).

RELIEF REQUESTED

WHEREFORE, the SEC respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine and find that Defendants HHH, Obsgarten, M&M, Obenauer and Lynch committed the violations of the federal securities laws alleged herein.

II.

Permanent Injunctive Relief

A. Issue a Permanent Injunction, enjoining Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating: (a) Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a); (b) Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77q(a)(3); and (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.

B. Issue a Permanent Injunction, enjoining Defendants M&M, Obenauer and Lynch, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

C. Issue a Permanent Injunction, enjoining Defendant Obenauer, his officers, agents, servants, employees, attorneys, and all persons in active concert or participation with him, and each of them, from violating Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

III.

Disgorgement

Issue an Order requiring Defendants HHH, Obsgarten, M&M, Obenauer and Lynch, 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 HHH, Obsgarten, M&M, Obenauer and Lynch to pay a civil money penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78(d)(3).

V.

Further Relief

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

VI.

Retention of Jurisdiction

Further, the SEC 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 SEC for additional relief within the jurisdiction of this Court.

Respectfully submitted,

September 23, 1998



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SD Fla. A-5500-259

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CIVIL COVER SHEET 98-8675

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 THIS SHEET.)

I. (a) PLAINTIFFS

SECURITIES AND EXCHANGE COMMISSION

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

Palm Beach 9:98CV8675/DMM/wet

(c) ATTORNEYS (FIRM NAME ADDRESS AND TELEPHONE NUMBER)
Mitchell E. Herr, Esq. (305) 982-6336
Jon B. Jordan, Esq. (305) 982-6353 SEC

1401 Brickell Ave., Suite 200, Miami, FL 33131

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

DEFENDANTS

VII VISIONARY INVESTMENTS, INC.
HISTORIC HOTEL HOLDINGS, INC., RONALD
OBSGARTEN, M & M HOLDING GROUP, INC., LEANDRO
JAVIER OBENAUER, and BRIAN LYNCH Palm Beach
 COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____

(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
TURNOFF

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 CARLOS J. TURNOFF
 CLERK U.S. DISTRICT COURT
 S.D. OF FLA. PALM BEACH

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 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 Excl. Veterans <input type="checkbox"/> 153 Recovery of Overpayment of Veterans 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"/> B 610 Agriculture <input type="checkbox"/> B 620 Other Food & Drug <input type="checkbox"/> B 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> B 630 Liquor Laws <input type="checkbox"/> B 640 R R & Truck <input type="checkbox"/> B 650 Airline Regs <input type="checkbox"/> B 660 Occupational Safety/Health <input type="checkbox"/> B 690 Other	<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"/> A 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> A 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
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS		
<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	<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	<input type="checkbox"/> B 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> B 530 General <input type="checkbox"/> A 535 Death Penalty <input type="checkbox"/> B 540 Mandamus & Other <input type="checkbox"/> B 550 Civil Rights <input type="checkbox"/> B 555 Prison Condition		

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. § 77q(a)(1), 15 U.S.C. §§ 77q(a)(2) & 77q(a)(3), 15 U.S.C. § 78j(b), 17 C.F.R. § 240.10b-5, 15 U.S.C. § 78o(a)(1), 15 U.S.C. §§ 77e(a) and 77e(c). Violations of the antifraud provisions of the federal securities laws.

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

JUDGE _____ DOCKET NUMBER _____

DATE 9/23/98 SIGNATURE OF ATTORNEY OF RECORD Mitchell E. Herr