

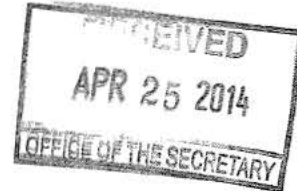
UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-15691

In the Matter of

JAMES A. RATHGEBER,

Respondent.



DECLARATION OF MICHELLE L. RAMOS IN SUPPORT OF
DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION

Michelle L. Ramos, pursuant to 28 U.S.C. § 1746, declares:

1. I am a Senior Counsel with the Division of Enforcement ("Division") of the Securities and Exchange Commission ("Commission"), and co-counsel for the Division in the above-captioned administrative proceeding. I submit this Declaration in support of the Division's Motion for Summary Disposition.
2. Attached hereto as Exhibit 1 is a true copy of the March 5, 2014 Answer to the Order Instituting Proceedings filed by James A. Rathgeber ("Rathgeber").
3. Attached hereto as Exhibit 2 is a true copy of a Web CRD printout of Rathgeber's Employment History, including his employment at Joseph Stevens & Co., Inc.
4. Attached hereto as Exhibit 3 is a true copy of a Certificate of Disposition in *People v. Rathgeber* dated July 30, 2013.
5. Attached hereto as Exhibit 4 is a true copy of a Sentencing Transcript dated December 2, 2011 in *People v. Rathgeber*.

6. Attached hereto as Exhibit 5 is a true copy of an Indictment in *People v. Joseph Stevens & Co., Inc., et al.*

7. Attached hereto as Exhibit 6 is a true copy of Rathgeber's signed Factual Allocution dated August 1, 2011.

8. Attached hereto as Exhibit 7 is a true copy of a Plea Hearing Transcript dated August 1, 2011 in *People v. Rathgeber.*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 25, 2014.



Michelle L. Ramos

EXHIBIT 1

March 5, 2014

Case 3 **HARD COPY** 75691

To whom it may concern,

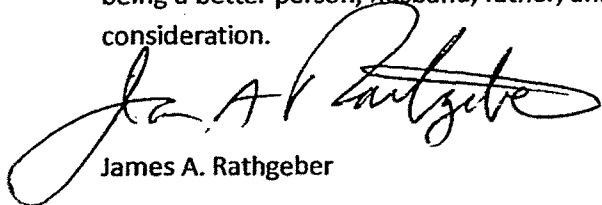
I am responding to a letter from Elizabeth M. Murphy and signed by Ms. Jill M Peterson, Assistant Secretary for the SEC. I originally spoke with Mr. David Frohlich back in August of 2013 and responded with a letter dated August 21, 2013. I am including my response to Mr. Frohlich which includes my personal reasons for petitioning the Commission not to bar me from the Securities Industry. I also included several examples of rampant abuse of the financial system by the likes of JP Morgan Chase, Wells Fargo, Steve "Stevey" Cohen, as well as his hedge fund SAC Advisors with NO ACCOUNTABILITY yet you want to make a statement by taking the action of barring me from the industry. I have also included over 10 letters written by high net worth, sophisticated clients who knew me best because they dealt directly with me and got to know me personally. The letters (including victims in my legal case) attest to my honesty and character which means a great deal to me!!!!!!

Let's get directly to the matter at hand. The issue of barring me from the industry is being decided by people who have never met me yet the people who wrote the letters on my behalf were made aware of my legal situation yet continued to do business with me and felt the need to express their feelings about me in words. I pled guilty to the charges of securities fraud, grand larceny etc.... back on December 2, 2011. I was sentenced to 5 years probation and given 175 hours of community service. As of today, March 5, 2014 I am no longer on Probation (was released back in December 2013. 2 years) and completed my 175 hours of community service by becoming affiliated with the Meals-On-Wheels program. Even though I completed my required 175 hours in February of last year (2013) I still up until this past week delivered meals every other Monday and every Friday. I would be more than happy to have documentation and letters provided for you by the people who know me but I'm convinced my fate is already decided by people who do not know me and are only looking for an opportunity to make it seem as if they are ridding the system of riff raff (such as myself) for their own peace of mind. What's wrong with this picture is I am not the problem folks. I pled guilty because that was the advice of my attorney, Ronald Fischetti. Every single trade I did in the timeframe that was laid out in my indictment was confirmed verbally with the client (including Jeff Davis, victim) and my Supervisor, Mr. William Greenman. Mr. Greenman is still a registered rep and you can take the time to find him, contact him, and ask him if what I am stating is in fact true. He documented every trade and conversation in a log that was confiscated by the Manhattan DA's office in December 2005. After getting the order from my client and then having Mr. Greenman confirm with the client I would then call the compliance department at the New York City office of Joseph Stevens & co. (I was located in the Melville, Long Island office). I would either speak with Edison Alvarado (see attached character letter) or Linda Chudnoff (head of compliance). I would explain that I received an order from a particular client and they would ask if Mr. Greenman confirmed the trade. I would answer "of course" and then transfer the call to Mr. Greenman and either Mr. Alvarado or Ms. Chudnoff would in fact confirm the trade. The next step was to have the call transferred back to me and I was given clearance to put the trade in through the system

which is exactly what I did. Just for the record, neither Mr. Alvarado nor Ms. Chudnoff were ever indicted or accused of any wrongdoing in this legal issue.

Once again, I find it outrageous that the SEC is coming after me with the sole mission of barring a very dangerous individual. I have NO intention of ever going back into the securities business even though the judge in my case, The Honorable Marcy Kahn granted me a Certificate of Civil Disabilities which would have allowed me to actually get back into the business. I am not the one responsible for bringing the world financial markets to its' knees nearly 6 years ago. No, those people are still in their Penthouse apartments and still in the securities business. They pay a fine, get a slap on the wrist and are back in time for lunch!!!! Does that sound fair????? Not to me but again you want to make an "example" of me, Jimmy Rathgeber. How pathetic. I'm angry and frustrated. Not one individual has been held accountable for all the unlawful abuse that took place with the likes of Wells Fargo, Bank of America, JP Morgan Chase. Steve Cohen pays a \$600 million dollar fine and the following week buys a \$160 million dollar Picasso and a \$18 million dollar ocean front mansion!!!!!! Who said crime doesn't pay?????? Please, with all due respect how is it possible you people from the Commission let Jamie Dimon and JP Morgan Chase pay \$12 BILLION for the Mortgage abuse (without admitting or denying wrongdoing of course), then pay \$1.8 BILLION because of the Madoff fiasco and then another \$418 million yesterday for some other infraction. It's really a joke that out of ALL of these companies and people you have your eyes set on me.

I am pleading with you for the opportunity NOT to be barred from the financial industry based on PRINCIPLE!!!!!! I have no intention of getting back into stocks, bonds, insurance or any other area of the financial industry. Just take a step back and think logically about this for a moment. Read the character letters again and then please give me the benefit of the doubt. I have done all I can to make my case understandable in laymen's terms. I am not an attorney. I'm just trying to continue to work towards being a better person, husband, father, and friend. I want to thank you very much for your consideration.



James A. Rathgeber

YAHOO! SMALL BUSINESS

Letter

Friday, August 26, 2011 1:57 AM

From: "briankeller@frontiernet.net" [REDACTED]

To: "Jimmy Rathgeber" [REDACTED]

To whom it may concern,

It has come to my attention that Jim Rathgeber's character has come under attack or has been questioned by his recent employer. I am writing in reference to my experience with Jim through the last 8 or so years that I have worked with him on a professional basis as a stock broker with 3 different firms. I have and still do hold Jim in the highest regard as far as my personal and professional experience with him goes. I have always felt that Jim has been very open and fair with me. For example, last year Jim recommended that I sell shares of Star Scientific to take some profits off the table, since the shares had made a recent run upwards. After I sold the share, they proceeded to go up in price and subsequently, Jim did not charge me any commission fee when I repurchased some more shares. He did not have to do this, I did not ask for it, but he did it on his own accord. ~~He has never guaranteed me a rate of return or stock price, but was open with the potential risks and returns.~~

Even though Jim has recently plead guilty on some charges, I have no on going concerns with any future dealings with him on any professional or personal basis. If Jim was a licensed stock broker today, I would still be dealing or working with him and would have no reservations.

Thank you for your time

Dr. Brian J. Keller

September 7, 2011

To Whom It May Concern:

I met James Rathgeber when I joined Joseph Stevens & Co. in November 2004. In the 2 ½ years we worked together, I came to know Jimmy as a knowledgeable broker to his clients, a loyal friend and a dedicated family man. Jimmy's greatest joys are his children and he is happiest spending time with them.

Sincerely,

Patricia Giglia

May 27, 2011

TO WHOM IT MAY CONCERN

Please let this letter serve as a character reference for James Rathgeber, who I've known for 7 years. We met while we were both working at Joseph Stevens & Co., Inc. In the 7 years I've known him, I found him to be forthright and honest, and he also had strong work ethic, and was genuinely passionate about his job. As an individual he was very responsible.

As a compliance associate at Joseph Stevens, I was involved in confirming daily trades done by James Rathgeber and found no issues.

James is a good person and a man of integrity.

Sincerely,

A handwritten signature in black ink, appearing to read "Edison Alvarado", with a long horizontal stroke extending to the right.

Edison Alvarado

Jerry Littlefield



August 24, 2010

To Whom It May Concern:

Following my original introduction to James Rathgeber while he was employed at Brookstone Securities Inc., I found the gentleman to be brutally honest for I had informed him how I checked him out on the FINRA brokers site and detected a minor infraction. He incredulously became very forthright and honest by immediately declaring that I should have seen much more, for he had been wrongfully implicated in a \$150 million fraud scheme, along with fifteen others, which he was actively striving to correct. Not only was I highly impressed with James' candid and forthright honesty then, but have become even more so with these exemplary attributes as time progressed.

True to his word, James introduced me to a real winner, for we bought 50,000 shares of Star Scientific (CIGX) on December 21st and 22nd of 2009 for an average cost of \$.60. Just as James adamantly predicted, we sold it premarket on March 25, 2010 for about \$2.80, thereby enabling a joyous return of \$110,000 on a \$30,000 investment within a three month time period.

Brookstone Securities, not James, gave me great cause for concern for the way they handled my checks. They had informed me they could not deposit my check, as it was made out to Brookstone rather than First Southwest. Thus they requested I wire said funds to them – which I did. Then, I discovered they deposited the check the same day they requested the funds be wired to cover my supposedly inadvertent mistake.

On January 07, 2010, I wrote Nikki Upthegrove of Brookstone, informing her how the same questionable scenario occurred once again with the other check I sent for \$16,571.11 for again, they claimed they had a check they could not deposit – but did – and needed me to again wire funds forthwith. In my letter, I had to admonish her for I still hadn't received the \$16K plus back for which I had sent her wiring instructions. James, like myself, was visibly upset with the strangely recurring errors.

I found James to be very open regarding the abuse that Brookstone and Phil Fatta were continuing to barrage him with, and the negative effect it was having. Actually, I believed it to be inconsistent with good policy regarding Phil Fatta for, even though he was aware that I was a client of James, he would call without James on the line to confirm a trade or find out my thoughts about the market.

Having developed a very close relation with James, whom I speak with 3 to 5 times weekly, due to the fact that I found him, as aforementioned, to be very forthright and honest, I even called Dave Locy on James behalf to petition him not to do what he was doing to James. It seemed totally and absolutely unjustified.

Most sincerely,



Jerry Littlefield

To Whom It May Concern,

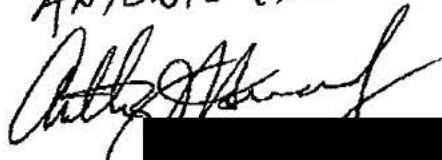
May 5, 2011


~~I have known James Rathgeber for nearly 6 years.~~
James became my stock broker while at National Securities Corp. He is a polite and professional broker.

When National Securities and James were being investigated he explained the problem and told me he would be leaving to another FIRM.

I continued to do business when he moved to Brookstone Securities, Inc. I had confidence in his abilities and his candidness.

James is a person of good character and I certainly hope he will prevail and be vindicated of any wrongdoing.

Respectfully,
Antonio Hernandez




~~September 21, 2011~~

To Whom It May Concern;

James Rathgeber and I meet while I was employed as a Compliance Administrator for Joseph Stevens & Company from January 1996 to August 1999. During my employment at Joseph Stevens, James worked well with senior management, the operations staff and compliance, as well as other members of the firm's sales force.

James and I worked again together at National Securities Corporation ("NSC") from April 2008 until March 2009. During James' employment with NSC, he had no customer complaints nor was there any incidence where James was argumentative or disruptive. James worked well with senior management, the operations staff and compliance, as well as other members of the firm's sales force.

Regards,

Patricia Carlson
Senior Compliance Officer
National Securities Corporation

David W Hill



April 12, 2011

To Whom It May Concern,

I have known James Rathgeber as my stockbroker since February 2005. He has demonstrated an integrity and honesty not found in many stockbrokers. I have had several experiences with stockbrokers, but James Rathgeber handled my investments in the most professional manner.

When notified by Brookstone Securities Inc. that he would not longer be handling my account I contacted a Mr. Dave Locy to discuss James Rathgeber status. I stated I was very happy with Mr. Rathgeber performance in handing of my account and trades especially the plus \$20-30,000 short term gains in SIRI and CIGX. Mr. Locy was very abrupt and stated that's nice but there were other internal problems with no mention of FINRA. Mr. Locy seemed not interested in my opinions, was very arrogant and asinine in his approach to my concerns. I closed my account at Brookstone the following week

Respectfully

A handwritten signature in cursive script that reads "D. Hill".

D. W. Hill



BACK IN ACTION PHYSICAL THERAPY

Jeffrey R. Davis, P.T.
Physical Therapist

Pete Davis, P.T., D.P.T.,
M.T.C., O.C.S.
Doctor of Physical Therapy
Certified Manual Therapist

Lydia T. Bradley, M.S., R.P.T.
Physical Therapist

Zali Levin, P.T.
Physical Therapist

- Arthritis & Pain Management
- Aquatic / Pool Therapy
- Certified Hand Therapy
- Functional Capacity Assessments
- Functional Rehabilitation of the Neck and Back
- Neuromuscular Therapy
- Occupational Therapy
- Orthopedic & Sports Medicine
- Osteoporosis: Education & Exercise
- Physical Therapy
- Reflexology
- Work Conditioning

April 29, 2011

To Whom It May Concern:

I have had the pleasure of working with James Rathgeber for the past five years. During this period I have always been impressed with his honesty and integrity. He has demonstrated a high degree of professionalism and a genuine concern for his clients.

I am well aware of his most recent professional and personal issues regarding Brookstone Securities, Inc. In fact, I have flown to New York City to testify before the Grand Jury on his behalf. During this ordeal, Mr. Rathgeber was always up front with me and continues to be there for me.

In summary, I have been very happy with Mr. Rathgeber's performance in handling my investments and trades. In fact, I consider him a friend and a valuable member of my investment team.

Sincerely,

Jeff Davis

VICTIM
IN MY
LEGAL CASE
VICTIM

ROBERT F. STARZEL

[REDACTED]

May 22, 2011

TO WHOM IT MAY CONCERN:

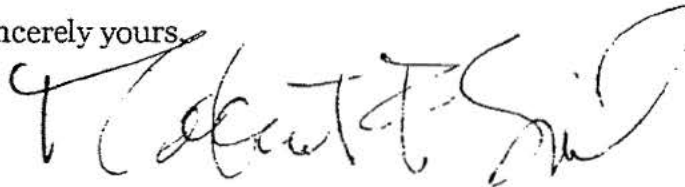
Re: JAMES RATHGEBER

Over many years Jimmy Rathgeber has discussed possible investments with me and has executed trades. He has always acted in a highly professional manner, providing his analysis and facts, answering questions, not pushing me to act, and executing flawlessly.

He has been forthright and honest, direct and helpful. He has always acted in a manner which caused me to believe that what he did was in my interest rather than his. Most recently he urged me to work with an experienced broker who has been as Jimmy always is, interested in my needs.

As a practicing lawyer licensed in California and Colorado with a combined forty years of experience in law and business, it has been necessary to assess the character of many people. I place Jimmy high on the list of people who understand the importance of doing the right thing whenever making decisions. He is a man to be trusted.

Sincerely yours,





OFFICE OF
THE SECRETARY

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F Street, N.E.
Washington, D.C. 20549

JAN 27 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James A. Rathgeber
[REDACTED]

Re: In the Matter of James A. Rathgeber

Dear Mr. Rathgeber:

Please find enclosed the Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, and Notice of Hearing (the "Order") in the above-referenced matter.

Your attention is directed to Section IV of the Order, which requires you to file an answer pursuant to Rule 220 of the Commission's Rules of Practice. The Commission's Rules of Practice can be found at <http://www.sec.gov/about/rulesofpractice.shtml>. Rules 220 and 310 of the Commission's Rules of Practice provide that if you fail to file the required answer or fail to appear at a hearing after being duly notified, you may be deemed in default and the proceedings may be determined against you upon consideration of the order for proceedings, the allegations of which may be determined as true.

Please file an original and three copies of your answer or other pleadings as required by Rule 152(d) of the Commission's Rules of Practice. Please also file a notice of appearance as required by Rule 102(d) of the Commission's Rules of Practice.

If you have any questions or wish to discuss any aspect of the proceedings, you may communicate with Michelle L. Ramos, Esq. at (202) 551-4693, or by mail at 100 F Street, N.E., Washington, D.C. 20549-5030.

Sincerely,

Elizabeth M. Murphy
Secretary

Enclosure

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 71399 / January 27, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15691

In the Matter of

JAMES A. RATHGEBER,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") against James A. Rathgeber ("Respondent" or "Rathgeber").

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. From March 1994 to April 2008, Rathgeber was a registered representative associated with Joseph Stevens & Co., Inc., which at the time of his association was a broker-dealer registered with the Commission. Joseph Stevens & Co., Inc. ceased to be registered with the Commission as of August 2008. Rathgeber, age 50, is a resident of New York.

B. RESPONDENT'S CRIMINAL CONVICTION

2. On August 1, 2011, before the New York Supreme Court in People v. James Rathgeber, Case No. 02394-2009, Rathgeber pleaded guilty to six felony counts, including three counts of securities fraud in violation of General Business Law § 352-c(5), one count of grand larceny in the third degree in violation of New York Penal Law § 155.35, and two counts of grand larceny in the second degree in violation of New York Penal Law § 155.40(1). On December 2,

2011, Rathgeber was sentenced to five years of probation and ordered to pay \$279,056.05 in restitution.

3. The counts of securities fraud to which Rathgeber pleaded guilty alleged, among other things, that between January 2001 and December 2005, Rathgeber intentionally engaged in a scheme at Joseph Stevens & Co., Inc. with the intent to defraud at least ten persons by false and fraudulent pretenses, representations, and promises and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation, and purchase of securities. The counts of grand larceny to which Rathgeber pleaded guilty alleged, among other things, that between March 2003 and November 2005, Rathgeber stole money in excess of \$100,000 from a number of individuals.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b)(6) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

Jill M. Peterson
By: Jill M. Peterson
Assistant Secretary

EXHIBIT 2

U4 Employment History

Individual CRD#: 1658229

Individual Name: RATHGEBER, JAMES A

Office of Employment Address History								
From	To	Firm	CRD Branch Number	NYSE Branch Code Number	Firm Billing Code	Address	Type of Office	Private Residence
11/03/2009	05/14/2010	BROOKSTONE SECURITIES, INC. (13366)	<u>419322</u>		13366	68 SOUTH SERVICE ROAD SUITE 100 MELVILLE, NY 11747	Located At	No
08/25/2009	11/03/2009	BROOKSTONE SECURITIES, INC. (13366)	<u>414842</u>		13366	1930 VETERANS MEMORIAL HWY SUITE 7 ISLANDIA, NY 11749	Located At	No
03/04/2009	08/24/2009	BROOKSTONE SECURITIES, INC. (13366)	<u>398012</u>		13366	200 BROODHOLLOW ROAD SUITE 207 MELVILLE, NY 11747	Located At	No
04/24/2008	02/27/2009	NATIONAL SECURITIES CORPORATION (7569)	<u>134991</u>		NO9	125 MAIDEN LANE 2ND FLOOR NEW YORK, NY 10038	Supervised From	No
04/24/2008	02/27/2009	NATIONAL SECURITIES CORPORATION (7569)	<u>134992</u>		HNT	775 PARK AVE SUITE 380 HUNTINGTON, NY 11743	Located At	No
03/09/1994	04/16/2008	JOSEPH STEVENS & COMPANY, INC. (35459)	<u>81912</u>		LI	175 PINE LAWN ROAD STE 406 MELVILLE, NY 11747	Located At	No
03/09/1994	04/16/2008	JOSEPH STEVENS & COMPANY, INC. (35459)	Non Registered Location			175 PINELAWN ROAD MELVILLE, NY 11747	Located At	No
08/16/1991	04/29/1994	A.S. GOLDMEN & CO., INC. (23180)	Non Registered Location			45 BROADWAY NEW YORK, NY 10006	Located At	No
06/02/1987	08/15/1991	D. H. BLAIR & CO., INC. (6833)	Non Registered Location			44 WALL STREET NEW YORK, NY 10005	Located At	No

Please note that data contained in the U4 EMPLOYMENT HISTORY SCREEN is updated only by a U4 and does not reflect any changes made by the filing of a U5.

Employment History

From	To	Name	Investment Related Business?	City	State	Country	Position
03/2009	Present	BROOKSTONE SECURITIES, INC.	Y	LAKELAND	FL	USA	REGISTERED REPRESENTATIVE
04/2008	03/2009	NATIONAL SECURITIES CORPORATION	Y	HUNTINGTON	NY	USA	REGISTERED REPRESENTATIVE
03/1994	04/2008	JOSEPH STEVENS & COMPANY, INC.	Y	NEW YORK	NY		NOT PROVIDED
08/1991	04/1994	A.S. GOLDMEN & CO., INC.	Y	NEW YORK	NY		NOT PROVIDED
06/1987	08/1991	D. H. BLAIR & CO., INC.	Y	NEW YORK	NY		NOT PROVIDED

EXHIBIT 3

SUPREME COURT OF THE STATE OF NEW YORK NO FEE
NEW YORK COUNTY
100 CENTRE STREET
NEW YORK, NY 10013

CERTIFICATE OF DISPOSITION INDICTMENT

DATE: 07/30/2013

CERTIFICATE OF DISPOSITION NUMBER: 34161

PEOPLE OF THE STATE OF NEW YORK
VS.

CASE NUMBER: 02394-2009
LOWER COURT NUMBER(S):
DATE OF ARREST: 05/20/2009
ARREST #: M09001223
DATE OF BIRTH: [REDACTED]
DATE FILED: 05/19/2009

RATHGEBER, JAMES

DEFENDANT

I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS ON FILE IN THIS OFFICE THAT ON 08/01/2011 THE ABOVE NAMED DEFENDANT WAS CONVICTED OF THE CRIME(S) BELOW BEFORE JUSTICE KAHN, M THEN A JUSTICE OF THIS COURT.

GBL 0352-C 05 EF
GBL 0352-C 05 EF
GBL 0352-C 05 EF
GRAND LARCENY 2nd DEGREE PL 155.40 01 CF
GRAND LARCENY 3rd DEGREE PL 155.35 00 DF
GRAND LARCENY 2nd DEGREE PL 155.40 01 CF

THAT ON 12/02/2011, UPON THE AFORESAID CONVICTION BY PLEA THE HONORABLE KAHN, M THEN A JUDGE OF THIS COURT, SENTENCED THE DEFENDANT TO

GBL 0352-C 05 EF
PROBATION = 5 YEAR(S)

GBL 0352-C 05 EF
PROBATION = 5 YEAR(S)

GBL 0352-C 05 EF
PROBATION = 5 YEAR(S)

GRAND LARCENY 2nd DEGREE PL 155.40 01 CF
PROBATION = 5 YEAR(S)

GRAND LARCENY 3rd DEGREE PL 155.35 00 DF
PROBATION = 5 YEAR(S)

GRAND LARCENY 2nd DEGREE PL 155.40 01 CF
PROBATION = 5 YEAR(S)

RESTITUTION = \$281,845

ADDITIONAL COMMENTS: RESTITUTION - \$281,845

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY
OFFICIAL SEAL ON THIS DATE 07/30/2013.

A handwritten signature in cursive script, appearing to read "Norman Pellmar".

COURT CLERK

EXHIBIT 4

1 THE COURT CLERK: Indictment 2394 of 2009, People
2 against James Rathgeber. The defendant is present in
3 court.

4 Counsel, note your appearance.

5 MR. KITSIS: For the People, Special Assistant
6 Attorney Generals, Michael Kitsis and Madeliene Guilmain.

7 MR. FRANZ: For the defendant, Jimmy Rathgeber,
8 Eric Franz, F-r-a-n-z, 747 Third Avenue, New York, New
9 York.

10 THE COURT: Good morning, everybody.
11 The matter is on for Mr. Rathgeber's sentence.
12 Did we get Ms. Guilmain's appearance?

13 MS. GUILMAIN: Yes.

14 MR. KITSIS: I covered it.

15 THE COURT: The matter is on for Mr. Rathgeber's
16 sentencing, and I assume both sides have had a chance to
17 review the Report of the Department of Probation?

18 MR. FRANZ: Yes.

19 MR. KITSIS: Yes, your Honor.

20 THE COURT: Okay.

21 I assume Mr. Rathgeber is ready for sentencing,
22 Mr. Franz?

23 MR. FRANZ: He is, your Honor.

24 THE COURT: Okay.

25 Do you have any corrections that you wish to make

1 to the I&S Report?

2 MR. FRANZ: Nothing that will impact sentencing,
3 Judge.

4 THE COURT: So, my understanding of the Plea
5 Agreement was that on the defendant's pleas of guilty to
6 two counts of grand larceny in the second degree, one
7 count of grand larceny in the third degree, three counts
8 of securities fraud under General Business Law 352-C(5),
9 he would receive concurrent sentences on each of those
10 counts of 5 years Probation with special conditions
11 requiring, first of all, Restitution.

12 We said last time that the total amount he owed
13 was \$279,056.05 -- I believe it was agreed to -- and that
14 there would be a Restitution Schedule and Order to which
15 he would agree; and that the Asset Forfeiture Proceeding,
16 which is being handled by Ms. Guilmain in Civil Term of
17 Supreme Court, would be resolved pursuant to the parties'
18 agreement with the assets of \$10,632.57 to be distributed
19 in part to off-set the Restitution amount; and my further
20 understanding is that the parties have agreed that that is
21 the amount of the Asset Forfeiture distribution; and that
22 the remaining Restitution to be paid through Safe Horizons
23 with a 5 percent Administrative Fee is \$423.48.

24 My further understanding is that the defendant is
25 aware that the Court may very well impose a sentence in

1 its own discretion of a certain amount of Community
2 Service.

3 And I had indicated that, unless the Report
4 convinced me otherwise, I would order a Certificate of
5 Relief from Civil Disabilities and Forfeitures which has
6 now been recommended by the Department of Probation.

7 I believe that the defendant waived his Right to
8 Appeal on the last date.

9 So, let me ask, first of all, Ms. Guilmain,
10 whether you know what has transpired since the August 1st
11 entry of the plea and that Mr. Rathgeber was to settle
12 the Asset Forfeiture Proceeding with you by August 19th?

13 MS. GUILMAIN: I think he was supposed to serve
14 the Financial Affidavit by the 19th and we did receive
15 that.

16 Forfeiture papers had to be done by today.

17 I do have a set of the papers that will
18 discontinue the Asset Forfeiture case that has been signed
19 by the defendant and Mr. Franz.

20 In addition, we also have the defendant's wife's
21 agreement as to the forfeiture of the cash in the Bank
22 Accounts that we have named.

23 The total amount of cash in his Bank Account is
24 approximately \$10,632.57 which is the number that your
25 Honor mentioned before.

1 So, we are prepared to, as soon as we have
2 received that money, file the remaining papers with the
3 Court to discontinue the Forfeiture Proceeding.

4 THE COURT: Thank you.

5 Mr. Kitsis, have I accurately represented the
6 agreement of the parties from your point of view?

7 MR. KITSIS: Yes, you have, your Honor.

8 THE COURT: Okay.

9 Mr. Franz, Mr. Rathgeber is ready to be sentenced
10 at this time, is that right?

11 MR. FRANZ: He is, your Honor.

12 Just one clarifying point.

13 That the amount of monies in the Bank Accounts
14 that Mr. Rathgeber and his wife have agreed to turn over
15 is an approximate number.

16 And the Agreement provides if it turns out that
17 the number is higher in actual amount, there will be an
18 appropriate adjustment, either up or down, depending on
19 what the number comes out to be.

20 THE COURT: In other words, as to the amount of
21 Restitution, if additional monies will be seized, the
22 amount thereby seized will be further deducted from the
23 amount of Restitution owing?

24 MR. FRANZ: That's correct.

25 And if it turns out that the value is actually

1 lower, then the remaining balance for Restitution will be
2 a little bit higher.

3 THE COURT: Okay.

4 Let me just ask, Mr. Rathgeber, whether you have
5 reviewed the documentation entitled Order which sets forth
6 your Restitution obligation.

7 MR. RATHGEBER: Yes; I read it.

8 THE COURT: Did you review it with Mr. Franz?

9 MR. RATHGEBER: I'm sorry?

10 THE COURT: Did you speak with Mr. Franz about it?

11 MR. RATHGEBER: Yes, several times.

12 THE COURT: And, do you understand that it
13 obligates you to repay in total \$279,056.05?

14 MR. RATHGEBER: Yes, I do.

15 THE COURT: And that the amount is to be paid
16 through Safe Horizon Agency on a schedule set forth here
17 on a regular monthly basis by you; that you have to provide
18 documentation to them showing your financial status as
19 set forth in this Agreement; and that that is a condition
20 of your Probation; and if you violate it, you'll be
21 violating Probation, and you could be headed off to State
22 Prison for as much as 5 to 15 years.

23 Do you understand that?

24 MR. RATHGEBER: Um-hum.

25 THE COURT: Okay.

1 Is this your signature on the last page of this
2 document (Indicating)?

3 MR. RATHGEBER: Yes.

4 THE COURT: Did you sign it freely and of your
5 own free will?

6 MR. RATHGEBER: Yes, I did.

7 THE COURT: No one pressured you or coerced you?

8 MR. RATHGEBER: No.

9 THE COURT: Fine.

10 I will also issue the Restitution Order.

11 And let me hear from you on sentence, Mr. Kitsis.

12 MR. KITSIS: Thank you, your Honor.

13 The crimes the defendant has committed and has
14 admitted to committing are serious crimes. They involve
15 taking people's money when they were unaware that they
16 were being cheated in stock transactions.

17 In addition to the individual harm to Mr.
18 Rathgeber's Securities customers, these kinds of crimes
19 have an effect on our Financial System, that it causes
20 people to have less faith in what they do and they will
21 have honest dealings when they engage in the System. So,
22 there's damage there as well.

23 Having said that, Mr. Rathgeber has admitted to
24 what he did. He's been forthright in that.

25 He has met every obligation that he took on at

1 the time of the plea until this day in order to earn the
2 sentence that he was promised.

3 So, having said all of that, the People recommend
4 that the Court sentence him in accordance with the promise
5 at the time the plea was taken, and that is to sentence
6 him to 5 years Probation concurrently for each of the six
7 crimes that he has pled guilty to; that the Order of
8 Restitution will be a condition of his Probation; and we
9 also ask that should there be a balance due at the end of
10 the 5 years that, of course, the Order will remain in
11 effect beyond that time, if necessary.

12 The Court has also indicated that Community
13 Service would be appropriate for Mr. Rathgeber, and we
14 agree with the Court on that.

15 As to the number of days spent or hours spent, we
16 leave that to the best discretion of the Court.

17 The Court has suggested that in some way educating
18 younger people just coming up about not doing things the
19 wrong way, as Mr. Rathgeber fell into in order to commit
20 the crimes in this case, would be a good place to do that
21 Community Service.

22 THE COURT: Thank you, Mr. Kitsis.

23 Mr. Franz?

24 MR. FRANZ: To begin, I think under the
25 capitalized words last uttered by Mr. Kitsis, and that is

1 what Mr. Rathgeber fell into, Mr. Rathgeber didn't wake
2 up and try to devise schemes to figure out a way that he
3 could take shortcuts and defraud people out of money.

4 Mr. Rathgeber worked in an Industry where he was
5 trained on how to do things. There was a culture there.
6 And he fell to a certain extent -- I use these terms
7 loosely -- I'm not looking to justify it because that's
8 not his intention -- he fell victim to the fact he was
9 surrounded by people "This is the way we do things and it's
10 okay because at best it might be a problem with Regulatory
11 but it's not criminal."

12 And that's not an excuse but it should provide
13 you with a better understanding that sometimes people
14 think that they are on the cutting edge but they step over
15 the line.

16 At the time he was engaging in these transactions
17 this was the way he was told at the Firm that it was okay.
18 He believed the Compliance Department was okay with it.

19 However, he also recognizes in looking at it
20 backwards now, with the benefit of the information
21 collectively, he recognizes what he did was wrong.

22 He didn't wake up every day and say "I want to
23 steal from people."

24 He woke up and tried to make a living.

25 And, as you know, some of these clients -- two

1 of the three people that were named as his personal
2 victims -- sort of speak -- remain as investors or
3 remained as investors with Mr. Rathgeber.

4 But, obviously, through the entry of the guilty
5 plea he's not going to be able to be a Financial Advisor
6 or Stockbroker any longer.

7 And he's not doing that any longer.

8 Bottom line, Jimmy Rathgeber, I believe, from all
9 of my dealings with him, had he not been working at Joseph
10 Stevens around the people that he was working around, or
11 had he been working in another Industry, he may never have
12 seen the light of day inside of a courtroom charged with a
13 criminal offense, because he didn't wake up saying "I want
14 to be a criminal."

15 That's not the way he lived his life. He's 48-
16 years old. He's got three children, one of which is in
17 College, another one of which is due to go to College next
18 year, and another one who's in Junior High.

19 He's a family man. He coaches sports. He
20 attends his kids' activities.

21 I've had often occasions where I called him
22 throughout the case, and he was on the ball field with
23 his children. He's an active parent.

24 This case has taken a devastating toll on him.

25 And I'm not suggesting for a moment that the

1 victims didn't lose money, or the victims didn't suffer,
2 or that there wasn't a harm to the integrity of Financial
3 Institutions, and damage to the reputation of Wall Street
4 as a whole.

5 But I don't think it's all as a result of Jimmy
6 Rathgeber's doing by any stretch of the imagination.

7 I think that all things considered, had he known
8 the true magnitude of what was going on and the way it
9 could be viewed through a carefully crafted investigation
10 as this was, that he never would have engaged in this
11 conduct.

12 But he did. He's pled guilty. He's owned up to
13 it. He's going to suffer the penalties of it and not just
14 of the Forfeiture.

15 And it's not as if there are some people in this
16 case -- and I'm not going to name names -- who made a lot
17 of money, and when they pay back what they have to pay
18 back in this case they will still have a lot of money.

19 That is not Jimmy Rathgeber. Jimmy Rathgeber is
20 going to be lucky if he holds onto his house.

21 Jimmy Rathgeber did not make millions and millions
22 of dollars that he put in off-short accounts or invested
23 in real estate or leaves him with any other assets.

24 This is a judgment that will follow him for the
25 rest of his life.

1 And in working out the Forfeiture with Ms.
2 Guilmain, she was very understanding, and I thank her for
3 that.

4 But he had \$11,000 in their Bank Accounts.
5 That's the extent of what their savings was. And he
6 doesn't have a lot of assets.

7 He's going to have to pay. And because he
8 doesn't earn a substantial income, those amounts are
9 going to follow him for the next ten, 15, or 20 years.
10 He's always going to have a constant reminder of this
11 case.

12 That being said, he's out of the Industry. He's
13 has a felony conviction.

14 He appreciates the Certificate of Relief from
15 Civil Disabilities. I'm renewing the application. I
16 think the Court has said you'll grant it.

17 It's still going to be a tough road for him,
18 nonetheless.

19 As this Court is aware, and as everybody is aware,
20 picking yourself up now and trying to start a career or
21 maintain the career you have in this economy is difficult.

22 He's got a tough road to hoe, and he wants to
23 hold onto his family, his home, his children, and be able
24 to pay for their educations.

25 The only other component really to be addressed

1 at sentencing, because I don't think we're in dispute,
2 are the 5 years of Probation.

3 He's abided by all the conditions leading up to
4 this. I don't think there's any reason why that shouldn't
5 be imposed.

6 Restitution has already been agreed to. He
7 signed off on all the documents. He convinced his wife
8 to sign off because they were joint assets. She's letting
9 go of those assets.

10 The only other component is Community Service.

11 And I just ask the Court to consider that in the
12 context of he's trying to help his wife who since has
13 gone back to work, and he's helping with the children, and
14 that his, quote/unquote, proverbial free time is much
15 less because he's taking an active role as a dual parent,
16 co-parent, with his children because his wife is working
17 now.

18 I ask that you consider that and minimize the
19 amount of time of Community Service so that it doesn't
20 take an unexacting toll on him with regard to the fact
21 it's taking away time from the family and the children,
22 and that's where, by all accounts, he spends his,
23 quote-unquote, free time helping them, helping them
24 develop, and I think that's commendable and important.

25 Just give me one moment.

1 THE COURT: Sure.

2 (Whereupon, counsel conferring with defendant.)

3 MR. FRANZ: We already discussed, Judge, just to
4 make the record clear, with regard to his sentence of
5 Probation, I would ask, while I recognize it won't apply
6 to Probation, he lives in Suffolk County, I imagine they
7 will transfer it to Suffolk County, I hope there's no
8 objection although keeping it in New York City would be
9 less onerous.

10 Number two, if we could, as discussed, eliminate
11 the travel restrictions and permit him to travel within
12 the five Boroughs of New York City, and Nassau County, and
13 Suffolk County, and to Flanders, New Jersey, where his
14 sister resides, without requiring advance permission from
15 Probation, we would welcome that as a fair compromise to
16 the travel restrictions.

17 Otherwise, we'll notify Probation, since
18 throughout this case, which has lasted a number of years
19 now -- I think we're past the two-year mark --

20 THE COURT: 2-1/2 mark.

21 MR. FRANZ: -- he's never missed a court
22 appearance. He wasn't even required to be here for every
23 appearance and he was here anyway. So, he's not a flight
24 risk.

25 With that being said, I don't think there's any

1 other special requests that we have for you.

2 And I thank you not just for your time today,
3 but for all of the attention you've given to this case,
4 not just in response to Motions the Court routinely has
5 to deal with, but you gave special attention to it.

6 There were times in this case when we saw you --
7 when I say "we," Mr. Rathgeber, myself, and co-counsel --
8 actually, there was one point we went through numbers and
9 found that loss amounts that you addressed weren't even
10 something that was being attacked in the Motions -- but it
11 just showed the diligence of which this Court approached
12 this case; and your attentiveness to this case, I think,
13 helped lead to, I think, a successful resolution by all
14 counsel for all parties.

15 THE COURT: Thank you. That's very kind.

16 I had professional lawyers on both sides who
17 really worked hard, and that made it easy for me.

18 MR. FRANZ: One other question.

19 If Mr. Rathgeber wishes to travel outside of the
20 Country, he will need permission from Probation. Will he
21 also need an Order from this Court?

22 THE COURT: Right. Probation will submit an
23 Order to me.

24 I'm not opposed to transferring Probation
25 supervision to Suffolk County where he lives.

1 And because they are very stringent about not
2 allowing out of the County travel, and Mr. Rathgeber lives
3 close to the Nassau County border, I certainly would not
4 restrict him from traveling to Nassau County and, frankly,
5 wouldn't restrict him from traveling to any other five
6 Boroughs of New York City.

7 And you also asked for permission for him to
8 travel to Flanders, New Jersey, where his sister lives
9 because their children socialize together for family
10 events. That's fine.

11 I'm going to put that into my conditions of
12 Probation Order so that going forward from today the
13 Department of Probation knows that it's my position that's
14 allowed.

15 That should, in my view, constitute an Order
16 going forward for 5 years authorizing that on the part of
17 Mr. Rathgeber.

18 But he would do well to advise his Probation
19 Officer in advance when he intends to leave the County
20 and remind the Officer that I permitted it in my Order
21 expressly.

22 If the Officer thinks there needs to be some
23 further Order, Mr. Rathgeber can call you, and you can
24 submit one to me.

25 MR. FRANZ: If I could have permission to order

1 the Minutes.

2 THE COURT: Yes.

3 MR. FRANZ: Because that would be very helpful
4 for the Probation Officer and help avoid the need for you
5 to have to restate your position.

6 THE COURT: Fine with me.

7 MR. FRANZ: I'd like the record to reflect, since
8 we're giving these Minutes to the Probation Officer, that
9 up until this date during the pendency of this case Mr.
10 Rathgeber was permitted to travel to Aruba on two occasions
11 and came back without incident.

12 So, I imagine if he applies to Probation for
13 permission to travel outside the Country, they would then
14 seek an Order from the Court.

15 I want this to be a complete record.

16 THE COURT: Yes.

17 Should he have to travel somewhere else, he can
18 let me know.

19 The first thing that I'll do is check with Safe
20 Horizon to make sure his Restitution is up to date; all
21 right.

22 (Whereupon, counsel conferring with defendant.)

23 MR. FRANZ: Understood, Judge.

24 THE COURT: Okay; fine.

25 Thank you, Mr. Franz.

1 Mr. Rathgeber, you have the Right to address the
2 Court now, if you want to, before I impose sentence in
3 your case.

4 You're not required to say anything.

5 But you have the Right to be the last person I
6 hear speak before I impose sentence.

7 If there's anything you wish to say, I'd ask you
8 to stand and tell me.

9 MR. RATHGEBER: Thank you for the opportunity.

10 It's almost six years ago today where the DA's
11 Office came into our Office on Long Island, and I can
12 never, never believe I would be standing here six years
13 later in front of a Judge like yourself pleading guilty to
14 the charge.

15 That's it.

16 He's done a fantastic job, and I give my hand to
17 Mr. Kitsis, and appreciate the time and detail you took as
18 far as this whole case.

19 THE COURT: Okay; thank you.

20 You can be seated.

21 Let me say that I think these crimes were very
22 serious, Mr. Rathgeber, and I agree with everything that
23 Mr. Kitsis has said about them.

24 When I decide sentencing, if there's a Plea
25 Agreement that the parties reach and bring to me, I always

1 have, as they no doubt have told you, the final say about
2 whether I will accept what they have agreed upon, and I
3 always feel that I have to come a way feeling that justice
4 has been done in the circumstances.

5 I look at the nature of the crime, the harm to
6 the victims, and what I know about the person who
7 committed the crimes, and then decide whether from those
8 three vantages the sentence is appropriate.

9 And to the extent that I have anything to say
10 about it, I consider, you know, what sentence is
11 appropriate given all of those circumstances.

12 Here, when I look at the crimes, these crimes
13 were ongoing over a period of years. You participated for
14 years.

15 Frankly, you were not among the least culpable
16 people who were indicted in this case. Among the Brokers,
17 you were among the more culpable.

18 The total value of the Trades in which you were
19 involved in which these undisclosed credits were received
20 by you and the Firm exceeded \$25 million.

21 Now, as I said during the plea discussions, that
22 doesn't mean you stole \$25 million, but it's a barometer
23 of the level of your activity, of your criminal and
24 larcenous and fraudulent activity, I think.

25 Some of the other defendants were involved in

1 Trades that value of the stocks were far less than that.

2 You know, as I have reviewed the evidence here,
3 it seemed to me that the gross credits for the Trades in
4 which you were involved topped \$730 million.

5 I understand not all of that went into your
6 pocket, and that all of that was undisclosed to the
7 customers, and the Restitution amount represents just the
8 part that was undisclosed.

9 The People also recognize, as I do, that not all
10 of that went into your pocket; but you're jointly and
11 severally liable with the other people in the Firm and the
12 Firm for taking money from your clients when they were
13 not even aware of it through Sales techniques and Trading
14 techniques that cheated them of their own property.

15 I realize it's a tough business. Even before
16 2008 the Securities Industry was a tough business. But
17 100 years we've had honest, forthright people who worked
18 in it.

19 And today I can tell you from having had to
20 interview more than a thousand prospective jurors for the
21 Trial of your co-defendant, who's currently on Trial now,
22 a lot of people in the community do not have a favorable
23 view of the Financial Services Industry or of the
24 Securities Industry.

25 And that's unfortunate.

1 What went on in this case has really helped drag
2 down the reputation of Brokers and Traders, people who on
3 paper have a lawful professional pursuit. Unfortunately,
4 it was corrupted by you and the other people.

5 You know, I think you knew you were getting extra
6 money. I think you knew it wasn't the right thing to do.

7 And so, I consider all of that in determining
8 your sentence.

9 On the other hand, I agree with Mr. Kitsis that
10 you stepped forward and you took responsibility for this.
11 You admitted your wrongdoing.

12 You have met your obligations in this case and
13 have complied with the requirements of the Court and of
14 the Attorney General's Office throughout.

15 I know it has not been easy for you to deal with
16 the Asset Forfeiture case and also the Criminal Case at
17 the same time, and I know it has put a lot of pressure on
18 you and your family.

19 I know this case has forever changed the career
20 pursuits in which you might engage.

21 That's one of the reasons I have said I will give
22 you a Certificate of Relief from Civil Disabilities and
23 Forfeiture which should help you obtain employment and
24 otherwise participate in society.

25 I hope this is a life lesson for you. I think it

1 will be what puts the brakes on things.

2 I know it's not your first encounter with the
3 Criminal Justice System; but I think everybody thought
4 those bad old days were far behind you in your youth and,
5 you know, I'd like to put these misdeeds behind you, too,
6 and have you start fresh.

7 And by taking responsibility and pleading guilty
8 you have really done what you need to do.

9 You've done the right thing to move forward with
10 your life and be the responsible family member to your
11 wife and children, and your sister and her children, and
12 other members of your family that they expect of you, I'm
13 sure; okay.

14 As I say, the crimes were serious.

15 You couldn't have done this accidentally, and you
16 admitted that you had the guilty state of mind to do it.

17 But you have acknowledged your wrongdoing, and
18 that is why I think a Probationary sentence is appropriate
19 for you.

20 Would you stand up, please, while I pronounce
21 sentence in your case.

22 Mr. Rathgeber, on your conviction by plea of
23 guilty to grand larceny in the second degree under Count
24 85 and under Count 91 of the Indictment; your plea of
25 guilty to grand larceny in the third degree under Count

1 89 of the Indictment; and your plea of guilty to Securities
2 Fraud under Counts 2, 8, and 15 of the Indictment; on each
3 of those counts I am going to impose a sentence to run
4 concurrently on all six counts of 5 years Probation with
5 a special condition that you pay Restitution which
6 ultimately totals \$279,056.05.

7 In accordance with the Restitution Order, which
8 you've agreed to today, I am requiring you to resolve the
9 Asset Forfeiture proceeding which, I think by the time
10 you walk out the courtroom today, you will have done.

11 I am going to impose Community Service in your
12 case. I think you should do a substantial amount of
13 Community Service, and you have the whole 5 years of
14 Probation in which to do it.

15 I'm going to require you to do 175 hours of
16 Community Service, and I want a significant part of that
17 to be working to convey to young people the wrongfulness
18 of unethical business practices, and why following good
19 ethical business procedures is what they should do.

20 You can find an Agency yourself, a not-for-profit
21 Agency , a religious organization, or a charitable
22 organization, or any eleemosynary institution, a local
23 school, something like that, where you come in and speak,
24 that's fine. If it's for a not-for-profit Agency, that
25 will be acceptable to the Court. Or, you can ask your

1 Probation Officer to find you an Agency. Either way is
2 fine with me.

3 But until you do 175 hours you will not have
4 finished your Probation; okay.

5 I am also issuing a Certificate of Relief from
6 Civil Disabilities and Forfeitures today which will be
7 temporary until the completion of your Probation.

8 I said in the Order 5 years from today. But it's
9 my intention if you are released from Probation earlier
10 than that, the Certificate will become permanent when you
11 are released.

12 You have, I believe, waived your Right to Appeal
13 previously, so you have a limited Right to Appeal as we
14 discussed when you took the plea.

15 Correct?

16 MR. RATHGEBER: Sure.

17 THE COURT: And Mr. Franz will give you written
18 notice of your limited Right to Appeal; okay.

19 And you have to remain here to receive paperwork
20 and see the Probation Department today; all right.

21 It is my hope we do not see you in that particular
22 chair in the courtroom again and this closes that chapter
23 for you; all right.

24 MR. RATHGEBER: Okay.

25 MR. FRANZ: Your Honor, could I ask for

1 clarification on one issue?

2 THE COURT: Yes.

3 MR. FRANZ: I believe your words were "substantial
4 portion".

5 THE COURT: It doesn't have to be the majority of
6 it, but I want more than one hour in there.

7 MR. FRANZ: What I was going to say, is perhaps,
8 we could just fix a number.

9 I'm saying this as an example.

10 "I want to hear from you, at least, 25 hours."

11 It could be more than that. But it may well be
12 he could go to a school and speak. There's so many events
13 at a school to speak about.

14 Actually, if we could fix a number so there's no
15 discrepancy with Probation as to what's "significant".

16 I think he would rather speak to people than
17 clean the side of the road.

18 But I think we should make the record clear so
19 there's no confusion.

20 THE COURT: Fine with me.

21 I would say 35 hours to be with kids.

22 MR. FRANZ: Okay.

23 Of course, he can do the entire 175 speaking to
24 people, if he can find that opportunity.

25 THE COURT: That's right.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

At least 35 hours.

Thank you, everybody.

MR. FRANZ: We need to exonerate the Bail.

THE COURT: Bail is exonerated.

MR. FRANZ: That's nothing connected with the
asset forfeiture. It's not his money.

THE COURT: Right.

MR. FRANZ: The Passport will stay with Probation?

THE COURT: No.

The People need to turn the Passport back over to
the defendant.

Thank you.

MR. FRANZ: Thank you, your Honor.

Happy holidays.

THE COURT: Thank you.

You, too.

(Whereupon, the case was concluded.)

I, Terry Henry, a Senior Court Reporter in and for
the State of New York, do hereby certify that the
foregoing transcript is true and accurate to the best of
my knowledge, skill and ability.

Terry Henry

Terry Henry,
Senior Court Reporter

EXHIBIT 5

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

- against -

JOSEPH STEVENS & COMPANY, INC.
JOSEPH SORBARA
STEVEN MARKOWITZ
CRAIG SHAPIRO
JOHN MORAITIS
MASSIMO MARTINUCCI
PETER ORTHOS
ALAN FERRARO
CHARLES RASPA
SCOTT TIERNEY
JOHN MICCIOLA
STEVEN SCARCELLA
MICHAEL TRIPODI
DOUGLAS COSTABILE
JAMES RATHGEBER
MATTHEW MENIES
HAJRADIN MUCOVIC, a/k/a HARRY MUCOVIC,

Defendants.

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

JUL 29 2018



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

THE GRAND JURY OF THE COUNTY OF NEW YORK, by this
indictment, accuse the defendants of the crime of ENTERPRISE CORRUPTION, in
violation of Penal Law Section 460.20(1)(a), committed as follows:

Defendants, in the County of New York, from in or about January 2001 through
in or about December 2005, having knowledge of the existence of a criminal enterprise
and the nature of its activities, and being employed by and associated with such
enterprise, intentionally conducted and participated in the affairs of an enterprise by
participating in a pattern of criminal activity.

The criminal enterprise was a group of persons, including all of the defendants, and others known and unknown to the grand jury, sharing a common purpose of engaging in criminal conduct, associated in an ascertainable structure distinct from a pattern of criminal activity, and with a continuity of existence, structure and purpose beyond the scope of individual criminal incidents.

Purpose

Defendants were Joseph Stevens & Company, Inc., (hereinafter "JSC") its principals, traders, and stockbrokers. The common purpose of defendants and the other members of the criminal enterprise was to engage in criminal conduct, including securities fraud as defined in General Business Law Section 352-c, Grand Larceny as defined in Penal Law Article 155, Criminal Possession of Stolen Property as defined in Penal Law Article 165, and Falsifying Business Records as defined in Penal Law Article 175, to carry out fraudulent schemes which enabled them to artificially raise, maintain, and manipulate the prices of certain securities (hereinafter "Scheme Stocks").

Defendants engaged in a scheme to induce customers to buy and sell shares of the Scheme Stocks in order to illegally maximize profits for themselves, at the expense of their customers. Defendants knew that their intent to artificially raise, maintain, and manipulate the prices of the Scheme Stocks was never disclosed to JSC customers, and that their motivation for recommending the stocks was to earn extra and illegal, undisclosed profits. Defendants knew that they could garner extra and illegally inflated profits by this scheme, and they knew that any such disclosure would likely cause customers to refuse to buy and sell such stocks. Defendants committed these crimes to

DATE JUL 29 2013
I hereby certify that the foregoing
is a true and correct copy of the original
thereof, filed in my office.

Norman Pellmar

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

generate illegally inflated profits shared among the principals, traders, and brokers of the criminal enterprise.

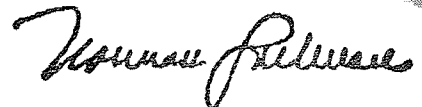
Among other methods, defendants induced customers to buy Scheme Stocks by intentionally misrepresenting and concealing their true motivations for recommending the stocks. Defendants solicited new accounts and falsified documents relating to these new accounts in order to facilitate these manipulative practices. Defendants induced their customers to invest in Scheme Stocks and delayed executing customer orders until an inflated price was achieved. Defendants then executed the customer orders at artificially inflated prices, thereby generating money the defendants subsequently shared. In effect, JSC customers paid more than they should have when buying stocks and received less than they should have when selling stocks because defendants intentionally handled their trades with the specific purpose of making extra illegal money for themselves.

Defendants never disclosed to their customers their intent to artificially raise the price of the Scheme Stocks, nor their true motivations for recommending Scheme Stocks. Defendants never disclosed the profits the criminal enterprise made from the customers' trades of Scheme Stocks, nor any other aspect of the common criminal purpose of the criminal enterprise, because defendants knew that any such disclosure would likely cause customers to refuse to buy and sell the Scheme Stocks.

Structure and Continuity

In or about 2001, the principals, traders and brokers working at JSC began coordinating efforts and colluded to buy and sell shares in Scheme Stocks, manipulating the prices of these Scheme Stocks upwards, and at times downwards, in order to capture

JUL 29 2013
DATE
I hereby certify that the foregoing is a true and correct copy of the original thereof, filed in my office.

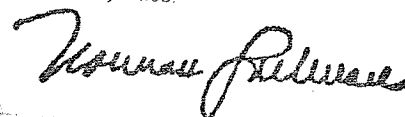


extra and illegal profits on JSC customer purchases and sales. The manipulations were conducted and trades were executed with the full knowledge and material assistance of the firm's principals. JSC was headquartered in New York County, and operated additional branch offices in Long Island, Staten Island and New Jersey. The criminal enterprise shared, operated, and flourished within JSC's structure, including among other things, JSC's corporate form, regulatory status, office locations, and clearing broker relationship. Within JSC, members of the criminal enterprise were organized into groups based primarily on their branch location and position within the corporate structure.

The principals supervised and colluded with traders and brokers in all branches, gave them access to the Scheme Stocks that were manipulated, recruited and hired traders and brokers who were willing and able to carry out the schemes so that the criminal enterprise could operate effectively, and became directly involved in resolving problems and disputes that arose when the schemes were not profitably carried out.

The traders coordinated and colluded with brokers to manipulate the Scheme Stocks by, among other things: obtaining advance order commitments from brokers, which allowed traders to know in advance how much of a given Scheme Stock the brokers could later sell to or buy from their customers; accumulating and selling shares of a Scheme Stock and using trading techniques to time and control when and in what quantities to buy and sell a Scheme Stock, in advance of the already obtained customer orders; delaying the execution of customer orders until such time as the trader had successfully manipulated the price of the stock to a less advantageous price for the customer; and executing customer orders at or near the worst price of the day to the

JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

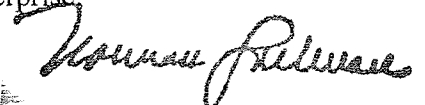
customer, thereby creating an artificially inflated and illegal profit that the members of the criminal enterprise shared.

The brokers coordinated and colluded with traders prior to the traders' manipulations of the Scheme Stocks by agreeing to sell and buy a certain number of shares of the Scheme Stocks for their customers; by soliciting their customers to buy and sell a certain number of shares of the Scheme Stocks; without the knowledge and consent of their customers, delaying executing customer orders in order to give the trader the time needed to manipulate the price of the stock to the detriment of the customer; by coordinating with the trader when and how to enter the customer's order so that the trader had the time needed to manipulate the price of the stock higher or lower to benefit the defendants; by conveying to their customers that customer orders had been executed but failing to disclose that they had delayed executing the trade and that a less favorable price had been given to the customer as a result of the delay; and by repeatedly engaging in transactions with the same traders and Scheme Stocks and specifically delaying such orders without the consent and knowledge of the customers and knowingly receiving and sharing with the traders inflated and illegal profits generated as a result of the traders' manipulation of the price of the stock.

Throughout the period of this indictment the defendants had the following roles within the structure of the criminal enterprise:

defendant JOSEPH STEVENS & COMPANY, INC. was a brokerage firm that provided a location, structure, clearing relationship and regulatory status for the sale and purchase of the Scheme Stocks and was co-managed by the principals of the criminal enterprise;

DATE: JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

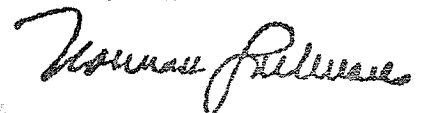
defendants SORBARA and MARKOWITZ were the principals of JSC and the managers of the traders, brokers, accounting, compliance and operations staff of the criminal enterprise, including all of the defendants, and they supervised the activity in the stocks that were used to generate unlawful profits and shared in those profits with other members of the criminal enterprise;

defendants SHAPIRO, MORAITIS and MARTINUCCI were traders in charge of informing brokers of what Scheme Stock would be manipulated on which day, delayed executing customer orders, manipulated the price of the Scheme Stocks upward or downward, and executed customer orders brought in by the various members of the criminal enterprise to generate unlawful trading profits that were shared by members of the criminal enterprise; and,

defendants ORTHOS, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE, RATHGEBER, MENIES and MUCOVIC were brokers who coordinated with traders to sell and buy Scheme Stocks to and from their customers by giving advanced commitments of the number of shares they would sell to or buy from their customers, without the consent and knowledge of their customers, delayed entering and executing customer orders until such time as the trader had successfully manipulated the price of the Scheme Stock,

and executed customer orders at a price unfavorable to their customers to

DATE JUL 29 2013
I hereby certify that the foregoing is a true and correct copy of the original thereof, filed in my office.



generate illegally inflated profits that were shared by members of the criminal enterprise.

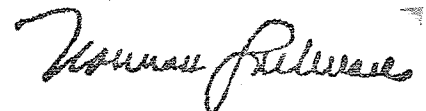
PATTERN OF CRIMINAL ACTIVITY

Defendants, with intent to participate in and advance the affairs of the criminal enterprise, participated in a pattern of criminal activity by engaging in conduct constituting, and by being criminally liable for, criminal acts included within the pattern of criminal activity as follows:

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 1

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, RASPA, TIERNEY, TRIPODI, COSTABILE, RATHGEBER, MENIES and MUCOVIC committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about January 1, 2001 to on or about April 1, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Antigenics, Inc. ("AGEN").

Criminal Act 2

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO, TRIPODI, COSTABILE, RATHGEBER, MENIES and MUCOVIC committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about April 15, 2003 to on or about August 18, 2004, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Cypress Biosciences, Inc. ("CYPB").

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 3

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO and MUCOVIC committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about November 30, 2004 to on or about March 16, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Discovery Laboratories, Inc. ("DSCO").

Criminal Act 4

Defendants JOSEPH STEVENS & CO. INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, COSTABILE, and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about November 12, 2004 to on or about April 25, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Focus Enhancements, Inc. ("FCSE").

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 5

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, RATHGEBER and MUCOVIC committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about June 10, 2003 to on or about December 26, 2003, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Progen Industries, Ltd. ("PGLAF").

Criminal Act 6

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, TRIPODI, COSTABILE, MENIES and MUCOVIC committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about January 1, 2001 to on or about February 3, 2004, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Repligen Corp. ("RGEN").

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 7

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO and COSTABILE committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about May 10, 2004 to on or about June 23, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Tapestry Pharmaceuticals, Inc. ("TPPH").

Criminal Act 8

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI and MENIES committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about March 1, 2005 to on or about September 8, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Arpeggio Acquisition Corp. ("APGO").

DATE **JUL 26 2013**
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 9

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

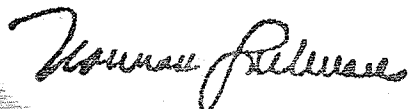
Said defendants, in the County of New York, from on or about January 26, 2005 to on or about December 6, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Arpeggio Acquisition Corp. (Warrants) ("APGOW").

Criminal Act 10

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE, RATHGEBER and MENIES committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about January 27, 2005 to on or about November 4, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by CEA Acquisition Corp. ("CEAC").

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 11

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE, and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about December 30, 2004 to on or about December 5, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by CEA Acquisition Corp. (Warrants) (“CEACW”).

Criminal Act 12

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, TRIPODI, COSTABILE and MUCOVIC committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about September 30, 2003 to on or about May 18, 2004, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Forbes Medi-Tech, Inc. (“FMTI”).

DATE: JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 13

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, FERRARO, RASPA, TIERNEY and TRIPODI committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about April 2, 2003 to on or about October 4, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Manhattan Pharmaceuticals, Inc. ("MHTT," also known as "MHA").

Criminal Act 14

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS and RASPA committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about April 27, 2005 to on or about November 2, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Ardent Acquisition Corp. (Warrants) ("AACQW").

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 15

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA, TIERNEY, MICCIOLA and SCARCELLA committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

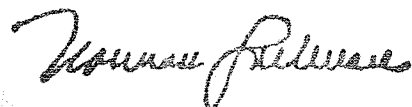
Said defendants, in the County of New York, from on or about February 9, 2004 to on or about December 5, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by BioDelivery Sciences International, Inc. ("BDSI").

Criminal Act 16

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS, RASPA and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about July 14, 2003 to on or about November 18, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by CytRx Corp. ("CYTR").

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 17

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about January 8, 2003 to on or about November 1, 2004, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Datatec Systems, Inc. ("DATC").

Criminal Act 18

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

Said defendants, in the County of New York, from on or about October 20, 2003 to on or about November 29, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Sonic Foundry, Inc. ("SOFO").

DATE: JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 19

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE, RATHGEBER and MENIES committed the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, as follows:

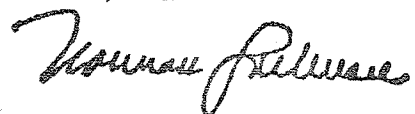
Said defendants, in the County of New York, from on or about January 6, 2003 to on or about November 30, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Star Scientific, Inc. ("STSI").

Criminal Act 20

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO AND MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about November 26, 2003, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Antigenics, Inc. ("AGEN"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 21

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, COSTABILE AND MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Second Degree in violation of Penal Law 165.52** as follows:

Said defendants, in the County of New York, on or about August 17, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Antigenics, Inc. ("AGEN"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded fifty thousand dollars.

Criminal Act 22

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO, RATHGEBER and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Second Degree in violation of Penal Law 165.52** as follows:

Said defendants, in the County of New York, on or about July 17, 2003, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Cypress Biosciences, Inc. ("CYPB"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded fifty thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 23

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, RATHGEBER and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Second Degree in violation of Penal Law 165.52** as follows:

Said defendants, in the County of New York, on or about November 25, 2003, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Progen Industries, Ltd. ("PGLAF"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded fifty thousand dollars.

Criminal Act 24

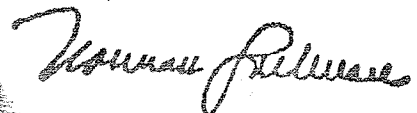
Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about October 24, 2003, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Repligen Corp. ("RGEN"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 25

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about July 30, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of TII Network Technologies, Inc. ("TII"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 26

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO and ORTHOS committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about December 27, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Tapestry Pharmaceuticals, Inc. ("TPPH"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 27

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SHAPIRO committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about January 28, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Tapestry Pharmaceuticals, Inc. ("TPPH"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 28

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about January 27, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Discovery Laboratories, Inc. ("DSCO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 29

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS and FERRARO committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about December 14, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Focus Enhancements, Inc. ("FCSE"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

Criminal Act 30

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about September 30, 2003, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Forbes Medi-Tech, Inc. ("FMTI"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 31

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MORAITIS committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about February 10, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Valentis, Inc. ("VLTS"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 32

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, FERRARO and MUCOVIC committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about June 29, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Manhattan Pharmaceuticals, Inc. ("MHTT," also known as "MHA"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 33

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY, MICCIOLA AND SCARCELLA committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about February 24, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 34

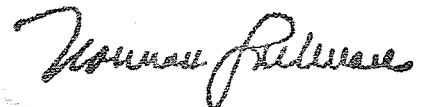
Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY and TRIPODI committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about February 25, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 35

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY, MICCIOLA, SCARCELLA and TRIPODI committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about March 1, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

Criminal Act 36

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS and MENIES committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about April 7, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. ("CEAC"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 37

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS and MENIES committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about April 25, 2005, knowingly possessed stolen property, to wit: money generated as a result of the

JUL 29 2013

DATE
about April 25, 2005,
paper is a true copy of the original
thereof, filed in as a result of the

manipulation of CEA Acquisitions Corp. ("CEAC"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 38

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY and TRIPODI committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about March 11, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Arpeggio Acquisitions Corp. (Warrants) ("APGOW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 39

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA and TIERNEY committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about April 6, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Arpeggio Acquisitions Corp. (Warrants) ("APGOW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 40

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS and MENIES committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about May 27, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Arpeggio Acquisitions Corp. ("APGO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 41

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY and RATHGEBER committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about August 19, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 42

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI and ORTHOS committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about April 27, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Ardent Acquisition Corp. (Warrants) ("AACQW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 43

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI and ORTHOS committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about September 12, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Aldabra Acquisition Corp. (Warrants) ("ALBAW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Norman Filippone

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 44

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA, TIERNEY, MICCIOLA and SCARCELLA committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

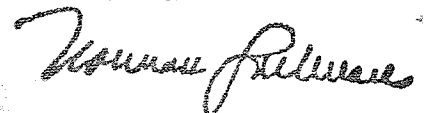
Said defendants, in the County of New York, on or about April 6, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of BioDelivery Sciences International, Inc. ("BDSI"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 45

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about December 30, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL

Criminal Act 46

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about April 22, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

Criminal Act 47

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about April 26, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL

Criminal Act 48

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about April 28, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 49

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about April 29, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 50

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS, RASPA, TIERNEY and RATHGEBER committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about February 11, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Datatec Systems, Inc. ("DATC"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 51

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, MICCIOLA and SCARCELLA committed the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)** as follows:

Said defendants, in the County of New York, on or about December 31, 2003, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Sonic Foundry, Inc. ("SOFO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 52

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, MICCIOLA and SCARCELLA committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about August 27, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Sonic Foundry, Inc. ("SOFO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Criminal Act 53

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, MICCIOLA, SCARCELLA, COSTABILE, RATHGEBER and MENIES committed the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50** as follows:

Said defendants, in the County of New York, on or about March 26, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Star Scientific, Inc. ("STSI"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 54

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about January 6, 2003 to on or about November 14, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 55

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and ORTHOS committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about January 6, 2003 to on or about November 14, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Thomas J. Peltusa

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 56

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about May 24, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

Criminal Act 57

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and ORTHOS committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about May 24, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 58

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about May 16, 2001, with intent to defraud, and with intent to commit another crime and to aid and conceal the

DATE **JUL 29 2013**
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.

Norman P. Bellone

commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 59

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about August 15, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 60

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about March 25, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 61

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MARTINUCCI and ORTHOS committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about March 25, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements while

JUL 29 2013
I hereby certify that the foregoing paper is a true and correct copy thereof, filed in my office.

Norman Peluse

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 62

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about February 18, 2004 to on or about August 30, 2005, stole property, to wit, money, from [REDACTED], and the value of the property exceeded three thousand dollars.

Criminal Act 63

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and ORTHOS committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about February 18, 2004 to on or about August 30, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Thomas P. Sullivan

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 64

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and FERRARO committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about January 28, 2003 to on or about April 8, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 65

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and FERRARO committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about January 28, 2003 to on or about April 8, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 66

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and FERRARO committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

DUJ 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Said defendants, in the County of New York, from on or about January 7, 2003 to on or about June 14, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 67

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and FERRARO committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about January 7, 2003 to on or about June 14, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 68

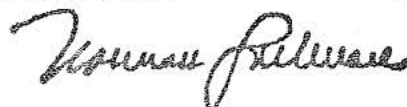
Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and FERRARO committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about April 9, 2003 to on or about April 5, 2005, stole property, to wit, money, from [REDACTED], and the value of the property exceeded three thousand dollars.

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 69

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and FERRARO committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about April 9, 2003 to on or about April 5, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 70

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about November 30, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

JUL 29 2013

Thomas P. Sullivan

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 71

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about November 30, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 72

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about January 16, 2003 to on or about March 29, 2005, stole property, to wit, money, from Mark Berkowitz, and the value of the property exceeded fifty thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 73

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about January 16, 2003 to on or about March 29, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 74

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about August 28, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 75

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about August 28, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 76

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about August 28, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 77

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 3, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

DATE **JUL 29 2013**


County Clerk and Clerk of the
Supreme Court

Criminal Act 78

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 3, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 79

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 3, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 80

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 3, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 81

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 5, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 82

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 5, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 83

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and TIERNEY committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about July 17, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

I hereby certify that the foregoing
thereof, filed in my office. JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 84

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about September 24, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 85

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about July 10, 2003 to on or about September 30, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 86

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA, and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about July 10, 2003 to on or about September 30, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements while

I hereby certify that the foregoing is a true and correct copy of the original thereof, filed in my office.

Thomas P. Peltusa

engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]
[REDACTED]

Criminal Act 87

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and TIERNEY committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about July 3, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 88

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about October 8, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 89

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about May 28, 2003 to on or about February 7, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 90

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about May 28, 2003 to on or about February 7, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 91

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about February 7, 2005, with intent to defraud, and with intent to commit another crime and to aid and conceal the

JUL 29 2013
I hereby certify that the foregoing is a true and correct copy of the original thereof, filed in my office.

Korwan Bell

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 92

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about May 24, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 93

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA, and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about May 24, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Kathleen P. Bellare

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 94

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about March 12, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 95

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about December 26, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

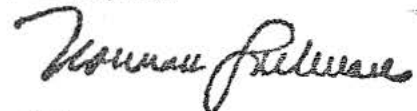
Criminal Act 96

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about May 13, 2003 to on or about November 17, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.

JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 97

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA, and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about May 13, 2003 to on or about November 17, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 98

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and TIERNEY committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

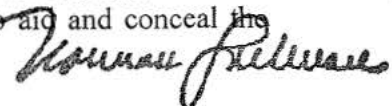
Said defendants, in the County of New York, on or about April 25, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 99

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and TIERNEY committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about April 25, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the

JUL 29 2013
I hereby certify that the foregoing
about April 25, 2003, with
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 100

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and TIERNEY committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about February 19, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 101

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about December 1, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

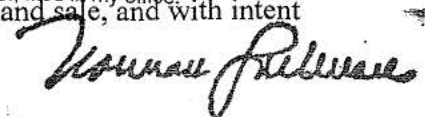
Criminal Act 102

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about December 1, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent

DATE JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED].

Criminal Act 103

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

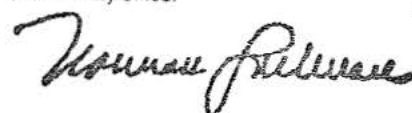
Said defendants, in the County of New York, on or about May 15, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 104

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about May 15, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 105

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about May 15, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 106

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

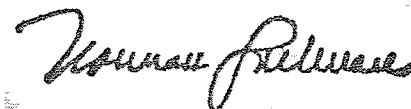
Said defendants, in the County of New York, on or about August 31, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 107

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about November 22, 2005, stole property, to wit, money, from Infectious Disease Consultants, P.A. Profit Sharing Plan, and the value of the property exceeded fifty thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 108

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about November 22, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 109

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MICCIOLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about May 17, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 110

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MICCIOLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

I hereby certify that the foregoing is a true and correct copy of the original thereof, filed in my office.

Thomas J. Sullivan

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

JUL 29 2013

Said defendants, in the County of New York, on or about May 17, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 111

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about September 11, 2003 to on or about March 8, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 112

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about September 11, 2003 to on or about March 8, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.

Theresa P. Peltusa

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 113

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about June 4, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 114

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

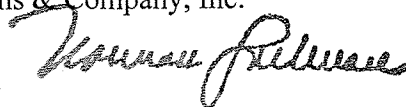
Said defendants, in the County of New York, on or about July 29, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 115

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MICCIOLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about August 1, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 116

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about August 25, 2003 to on or about May 19, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 117

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about August 25, 2003 to on or about May 19, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Criminal Act 118

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MICCIOLA committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about May 20, 2003, with intent to defraud, and with intent to commit another crime and to aid and conceal the

DATE: JUL 29 2013
This paper is a true copy of the original
hereof filed in the office of the

Norman P. ...

commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 119

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and TRIPODI committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about March 3, 2003 to on or about December 2, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 120

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, TRIPODI committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about March 3, 2003 to on or about December 2, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 121

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and TRIPODI committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about April 4, 2003 to on or about October 5, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 122

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and TRIPODI committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about April 4, 2003 to on or about October 5, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 123

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and COSTABILE committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about April 15, 2003 to on or about August 12, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 124

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and COSTABILE committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about April 15, 2003 to on or about August 12, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.

Norman Pellmar

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 125

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about November 2, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

Criminal Act 126

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about November 2, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED].

Criminal Act 127

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about June 21, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the

DATE JUL 29 2013
I hereby certify that the foregoing is a true copy of the original thereof, filed in my office.

Thomas J. Bellone

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 128

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about December 9, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

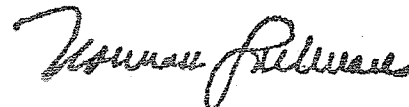
Criminal Act 129

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about November 16, 2005, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE JUL 29 2012

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 130

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and RATHGEBER committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about August 29, 2005 to on or about November 15, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 131

Defendants JOSEPH STEVENS & COMPANY, INC.; SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, on or about August 29, 2005 to on or about November 15, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 132

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about April 21, 2003 to on or about November 5, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

Criminal Act 133

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and RATHGEBER committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about April 21, 2003 to on or about November 5, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 134

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MENIES committed the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, as follows:

Said defendants, in the County of New York, from on or about April 8, 2003 to on or about March 30, 2004, stole property, to wit, money, from [REDACTED], and the value of the property exceeded fifty thousand dollars.

Criminal Act 135

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and MENIES committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about April 8, 2003 to on or about March 30, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Criminal Act 136

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and MENIES committed the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, as follows:

Said defendants, in the County of New York, on or about May 14, 2002, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Criminal Act 137

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and MENIES committed the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35** as follows:

Said defendants, in the County of New York, from on or about April 21, 2004 to on or about May 24, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Criminal Act 138

Defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and MENIES committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about April 21, 2004 to on or about May 24, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation

JUL 29 2013
I hereby certify that the foregoing is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, RASPA, TIERNEY, TRIPODI COSTABILE, RATHGEBER, MENIES and MUCOVIC, of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about January 1, 2001 to on or about April 1, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Antigenics, Inc. ("AGEN").

Third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO, TRIPODI, COSTABILE, RATHGEBER, MENIES and MUCOVIC of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about April 15, 2003 to on or about August 18, 2004, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and

DATE 2 9 2003
I hereby certify that the foregoing
paper is a true copy of the original
filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Cypress Biosciences, Inc. ("CYPB").

Fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO and MUCOVIC of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

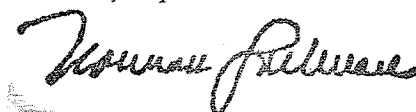
Said defendants, in the County of New York, from on or about November 30, 2004 to on or about March 16, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Discovery Laboratories, Inc. ("DSCO").

Fifth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO, COSTABILE and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about November 12, 2004 to on or about April 25, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses,

DATE
I hereby certify that the foregoing
paper is a true copy of the original
and of a true copy of the original
JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Focus Enhancements, Inc. ("FCSE").

Sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS, FERRARO and COSTABILE of the crime of **securities fraud in violation of General Business Law Section 352-c(5), committed as follows:**

Said defendants, in the County of New York, from on or about May 10, 2004 to on or about June 23, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Tapestry Pharmaceuticals, Inc. ("TPPH").

Seventh Count

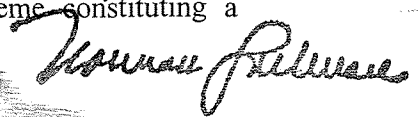
AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI and MENIES of the crime of **securities fraud in violation of General Business Law Section 352-c(5), committed as follows:**

Said defendants, in the County of New York, from on or about March 1, 2005 to on or about September 8, 2005, intentionally engaged in a scheme constituting a

DATE

JUL 29 2013

I hereby certify that the foregoing papers is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Arpeggio Acquisition Corp. ("APGO").

Eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about January 26, 2005 to on or about December 6, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Arpeggio Acquisition Corp. (Warrants) ("APGOW").

DATE

JUL 29 2013

I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE, RATHGEBER and MENIES of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about January 27, 2005 to on or about November 4, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by CEA Acquisition Corp. ("CEAC").

Tenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about December 30, 2004 to on or about December 5, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale,

I hereby certify that the foregoing is a true and correct copy of the original thereof, filed in my office.

JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

negotiation and purchase of securities, to wit, securities issued by CEA Acquisition Corp. (Warrants) ("CEACW").

Eleventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS, FERRARO, RASPA, TIERNEY and TRIPODI of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about April 2, 2003 to on or about October 4, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Manhattan Pharmaceuticals, Inc. ("MHTT," also known as "MHA").

Twelfth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS and RASPA of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about April 27, 2005 to on or about November 2, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from **at least one such person**

I hereby certify that the foregoing is a true copy of the original thereof, filed in my office.

DATE JUL 29 2013

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Ardent Acquisition Corp. (Warrants) ("AACQW").

Thirteenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA, TIERNEY, MICCIOLA and SCARCELLA, of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:


Said defendants, in the County of New York, from on or about February 9, 2004 to on or about December 5, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by BioDelivery Sciences International, Inc. ("BDSI").

Fourteenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS, RASPA and TIERNEY of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about July 14, 2003 on or about November 18, 2005, intentionally engaged in a scheme constituting a

JUL 29 2013
I hereby certify that the foregoing
papers are a true and correct copy of
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by CytRx Corp. ("CYTR").

Fifteenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, ORTHOS, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about January 8, 2003 to on or about November 1, 2004, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Datatec Systems, Inc. ("DATC").

Sixteenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

DATE: JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original in violation of General Business Law Section 352-c(5).

Thomas P. Peltus

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Said defendants, in the County of New York, from on or about October 20, 2003 to on or about November 29, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Sonic Foundry, Inc. ("SOFO").

Seventeenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, FERRARO, RASPA, TIERNEY, MICCIOLA, SCARCELLA, TRIPODI, COSTABILE, RATHGEBER and MENIES of the crime of **securities fraud in violation of General Business Law Section 352-c(5)**, committed as follows:

Said defendants, in the County of New York, from on or about January 6, 2003 to on or about November 30, 2005, intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Star Scientific, Inc. ("STSI").

DATE: JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Thomas P. Sullivan
County Clerk and Clerk of the
Supreme Court of the County
of New York

Eighteenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, COSTABILE and MUCOVIC of the crime of **Criminal Possession of Stolen Property in the Second Degree in violation of Penal Law 165.52**, committed as follows:

Said defendants, in the County of New York, on or about August 17, 2004 knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Antigenics, Inc. ("AGEN"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded fifty thousand dollars.

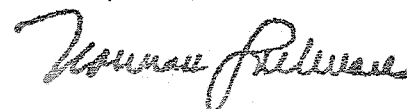
Nineteenth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO and MUCOVIC of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about July 30, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of TII Network Technologies, Inc. ("TII"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Twentieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO and ORTHOS of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about December 27, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Tapestry Pharmaceuticals, Inc. ("TPPH"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Twenty-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SHAPIRO of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about January 28, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Tapestry Pharmaceuticals, Inc. ("TPPH"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE: JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Thomas P. Sullivan

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Twenty-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, FERRARO and MUCOVIC of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about January 27, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Discovery Laboratories, Inc. ("DSCO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Twenty-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, ORTHOS and FERRARO of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

Said defendants, in the County of New York, on or about December 14, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Focus Enhancements, Inc. ("FCSE"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Twenty-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, FERRARO and MUCOVIC of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about June 29, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Manhattan Pharmaceuticals, Inc. ("MHTT," also known as "MHA"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Twenty-fifth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY, MICCIOLA and SCARCELLA of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about February 24, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Thomas J. Peltman

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Twenty-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY and TRIPODI of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about February 25, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Twenty-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY, MICCIOLA, SCARCELLA and TRIPODI of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

Said defendants, in the County of New York, on or about March 1, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Twenty-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS and MENIES of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about April 7, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. ("CEAC"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Twenty-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, ORTHOS and MENIES of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about April 25, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. ("CEAC"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Thirtieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY and TRIPODI of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about March 11, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Arpeggio Acquisitions Corp. (Warrants) ("APGOW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Thirty-first Count


AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA and TIERNEY of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

Said defendants, in the County of New York, on or about April 6, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Arpeggio Acquisitions Corp. (Warrants) ("APGOW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICE

Thirty-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS and MENIES of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about May 27, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Arpeggio Acquisitions Corp. ("APGO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Thirty-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, RASPA, TIERNEY and RATHGEBER of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

Said defendants, in the County of New York, on or about August 19, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CEA Acquisitions Corp. (Warrants) ("CEACW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Thirty-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI and ORTHOS of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about April 27, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Ardent Acquisition Corp. ("AACQW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Thirty-fifth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI and ORTHOS of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about September 12, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Aldabra Acquisition Corp. ("ALBAW"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court of the County of New York

Thirty-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA, TIERNEY, MICCIOLA and SCARCELLA of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about April 6, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of BioDelivery Sciences International, Inc. ("BDSI"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Thirty-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

Said defendants, in the County of New York, on or about December 30, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

JUL 29 2013

DATE:

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County

Thirty-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

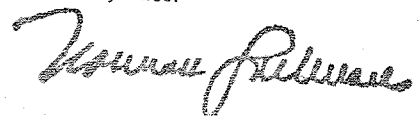
Said defendants, in the County of New York, on or about April 22, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

Thirty-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about April 26, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Fortieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about April 28, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.


Forty-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY of the crime of **Criminal Possession of Stolen Property in the Fourth Degree in violation of Penal Law 165.45(1)**, committed as follows:

Said defendants, in the County of New York, on or about April 29, 2005, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of CytRx Corp. ("CYTR") with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded one thousand dollars.

DATE JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Forty-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, MICCIOLA and SCARCELLA of the crime of **Criminal Possession of Stolen Property in the Third Degree in violation of Penal Law 165.50**, committed as follows:

Said defendants, in the County of New York, on or about August 27, 2004, knowingly possessed stolen property, to wit: money generated as a result of the manipulation of Sonic Foundry, Inc. ("SOFO"), with the intent to benefit themselves or a person other than an owner thereof and to impede the recovery by an owner thereof, and the value of the property exceeded three thousand dollars.

Forty-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about January 6, 2003 to on or about November 14, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Forty-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and ORTHOS of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about January 6, 2003 to on or about November 14, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Forty-fifth Count

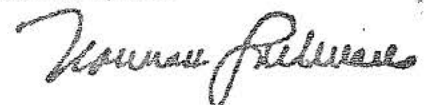
AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about May 24, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

JUL 29 2013

DATE:

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Forty-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and ORTHOS of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about May 24, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Forty-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and ORTHOS of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about February 18, 2004 to on or about August 30, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

JUL 29 2013

DATE

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Forty-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and ORTHOS of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about February 18, 2004 to on or about August 30, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Forty-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and FERRARO of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about January 28, 2003 to on or about April 8, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

DATE **JUL 29 2013**

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Fiftieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS and FERRARO of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about January 28, 2003 to on or about April 8, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Fifty-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and FERRARO of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about January 7, 2003 to on or about June 14, 2004, stole property, to wit, money, from Jeffrey Daniels, and the value of the property exceeded three thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Fifty-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS and FERRARO of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

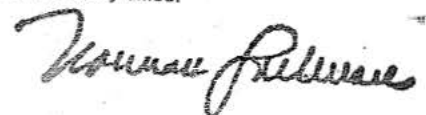
Said defendants, in the County of New York, from on or about January 7, 2003 to on or about June 14, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Fifty-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and FERRARO of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about April 9, 2003 to on or about April 5, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Fifty-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and FERRARO of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about April 9, 2003 to on or about April 5, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Fifty-fifth Count

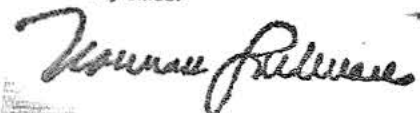
AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about November 30, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Fifty-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA and TIERNEY of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about January 22, 2003 to on or about November 30, 2005 intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED].

Fifty-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about January 16, 2003 to on or about March 29, 2005, stole property, to wit, money, from [REDACTED], and the value of the property exceeded fifty thousand dollars.

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Fifty-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, RASPA and TIERNEY of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about January 16, 2003 to on or about March 29, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Fifty-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA of the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, committed as follows:

Said defendants, in the County of New York, on or about September 24, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

JUL 29 2013

DATE:
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Sixtieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about July 10, 2003 to on or about September 30, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Sixty-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA and TIERNEY of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about July 10, 2003 to on or about September 30, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Norman P. Sullivan

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Sixty-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA of the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, committed as follows:

Said defendants, in the County of New York, on or about October 8, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Sixty-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about May 28, 2003 to on or about February 7, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Sixty-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI, RASPA and TIERNEY of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about May 28, 2003 to on or about February 7, 2005, intentionally engaged in fraud, ^{DATE} ~~deception~~, ~~concealment~~, ~~suppression~~, false pretense and fictitious and pretended purchase and sale, and with intent

JUL 29 2013
paper is a true copy of the original
thereof filed in and with

Thomas J. Peltano

to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Sixty-fifth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RASPA of the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, committed as follows:

Said defendants, in the County of New York, on or about February 7, 2005, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

Sixty-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about May 24, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Sixty-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI, RASPA and TIERNEY of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about May 24, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, , and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Sixty-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, RASPA and TIERNEY of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about May 13, 2003 to on or about November 17, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Sixty-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, RASPA, and TIERNEY committed the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, as follows:

Said defendants, in the County of New York, from on or about May 13, 2003 to on or about November 17, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Seventieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about December 1, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Seventy-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about December 1, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

Seventy-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and SCARCELLA of the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, committed as follows:

Said defendants, in the County of New York, on or about August 31, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Seventy-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about November 22, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

Seventy-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about March 24, 2003 to on or about November 22, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Norman Pellmar

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Seventy-fifth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

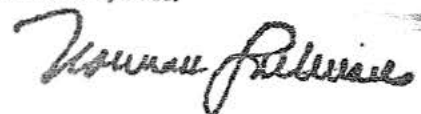
Said defendants, in the County of New York, from on or about September 11, 2003 to on or about March 8, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Seventy-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about September 11, 2003 to on or about March 8, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Seventy-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MICCIOLA and SCARCELLA of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

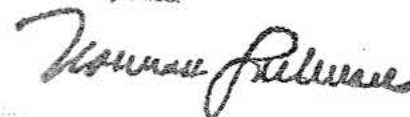
Said defendants, in the County of New York, from on or about August 25, 2003 to on or about May 19, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Seventy-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI, MICCIOLA and SCARCELLA of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about August 25, 2003 to on or about May 19, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE JUL 29 2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Seventy-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and TRIPODI of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about March 3, 2003 to on or about December 2, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

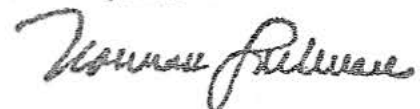
Eightieth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and TRIPODI of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about March 3, 2003 to on or about December 2, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Eighty-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and TRIPODI of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about April 4, 2003 to on or about October 5, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Eighty-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, SHAPIRO, MORAITIS, MARTINUCCI and TRIPODI of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about April 4, 2003 to on or about October 5, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE: JUL 29 2010
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Thomas P. Peltus

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Eighty-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and COSTABILE of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about April 15, 2003 to on or about August 12, 2004, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Eighty-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and COSTABILE of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about April 15, 2003 to on or about August 12, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Norman P. ...

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Eighty-fifth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about November 2, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded fifty thousand dollars.

Eighty-sixth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about March 26, 2003 to on or about November 2, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE **JUL 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

Norman Bellare

County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Eighty-seventh Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER of the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, committed as follows:

Said defendants, in the County of New York, on or about December 9, 2004, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

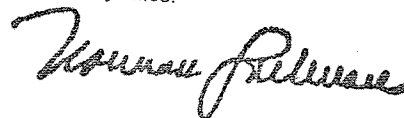
Eighty-eighth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER of the crime of **Falsifying Business Records in the First Degree in violation of Penal Law Section 175.10**, committed as follows:

Said defendants, in the County of New York, on or about November 16, 2005, with intent to defraud, and with intent to commit another crime and to aid and conceal the commission thereof, made and caused to be made a false entry in the business records of an enterprise, to wit, a New Account Application for Joseph Stevens & Company, Inc.

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

JUL 29 2013



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Eighty-ninth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and RATHGEBER of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about August 29, 2005 to on or about November 15, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Ninetieth Count

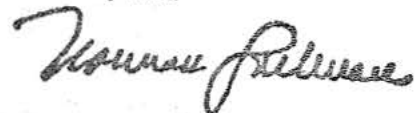
AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about August 29, 2005 to on or about November 15, 2005 intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE

JUL 29 2013

I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Ninety-first Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ and RATHGEBER of the crime of **Grand Larceny in the Second Degree in violation of Penal Law Section 155.40(1)**, committed as follows:

Said defendants, in the County of New York, from on or about April 21, 2003 to on or about November 5, 2004, stole property, to wit, money, from [REDACTED], and the value of the property exceeded fifty thousand dollars.

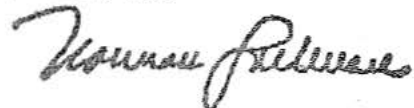
Ninety-second Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MARTINUCCI and RATHGEBER of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about April 21, 2003 to on or about November 5, 2004, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

JUL 29 2013

DATE
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

Ninety-third Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, and MENIES of the crime of **Grand Larceny in the Third Degree in violation of Penal Law Section 155.35**, committed as follows:

Said defendants, in the County of New York, from on or about April 21, 2004 to on or about May 24, 2005, stole property, to wit, money, from [REDACTED] and the value of the property exceeded three thousand dollars.

Ninety-fourth Count

AND THE GRAND JURY AFORESAID, BY THIS INDICTMENT, further accuse defendants JOSEPH STEVENS & COMPANY, INC., SORBARA, MARKOWITZ, MORAITIS, MARTINUCCI and MENIES of the crime of **securities fraud in violation of General Business Law Section 352-c(6)**, committed as follows:

Said defendants, in the County of New York, from on or about April 21, 2004 to on or about May 24, 2005, intentionally engaged in fraud, deception, concealment, suppression, false pretense and fictitious and pretended purchase and sale, and with intent to deceive and defraud, made material false representations and statements, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase within and from New York of securities, and thereby wrongfully obtained property of a value in excess of two hundred fifty dollars from [REDACTED]

DATE **III 29 2013**
I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.

ROBERT M. MORGENTHAU
District Attorney



County Clerk and Clerk of the
Supreme Court New York County
OFFICIAL USE

9th Additional 10th term '08 Sep/Oct.
PART 2 MAY 19 2009

Case# 2

2394-2009

Filed: NA No. 2

THE PEOPLE OF THE STATE OF NEW YORK

- against -

JOSEPH STEVENS & COMPANY, INC., JOSEPH SORBARA, STEVEN MARKOWITZ, CRAIG SHAPIRO, JOHN MORAITIS, MASSIMO MARTINUCCI, PETER ORTHOS, ALAN FERRARO, CHARLES RASPA, SCOTT TIERNEY, JOHN MICCIOLA, STEVEN SCARCELLA, MICHAEL TRIPODI, DOUGLAS COSTABILE, JAMES RATHGEBER, MATTHEW MENIES, HAJRADIN MUCOVIC, a/k/a HARRY MUCOVIC,
Defendants.

INDICTMENT

ENTERPRISE CORRUPTION, P.L. §460.20(1)(A), (all defendants 1 ct)
GENERAL BUSINESS LAW (MARTIN ACT) §352-c(5), (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 16 cts, defendants Shapiro and Moraitis 5 cts, defendant Martinucci 6 cts, defendant Orthos 11 cts, defendant Ferraro 9 cts, defendant Raspa 12 cts, defendant Tierney 11 cts, defendants Micciola and Scarcella 8 cts, defendant Tripodi 10 cts, defendant Costabile 8 cts, defendant Rathgeber 9 cts, defendant Menies 5 cts, defendant Mucovic 3 cts)
CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE SECOND DEGREE, P.L. §165.52, (defendants Joseph Stevens & Company, Inc., Sorbara, Markowitz, Shapiro, Costabile and Mucovic 1 ct)
CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE THIRD DEGREE, P.L. §165.50, (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 17 cts, defendants Shapiro 4 cts, defendant Moraitis 7 cts, defendant Martinucci 6 cts, defendant Orthos 4 cts, defendant Ferraro 2 cts, defendants Raspa and Tierney 6 cts, defendants Micciola and Scarcella 3 cts, defendant Tripodi 1 ct, defendants Menies and Mucovic 3 cts)
CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FOURTH DEGREE, P.L. §165.45(1), (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 5 cts, defendant Shapiro 1 ct, defendant Moraitis 3 cts, defendants Orthos and Ferraro 1 ct, defendants Martinucci 3 cts, Raspa and Tierney 6 cts, defendants Micciola and Scarcella 1 ct, defendant Tripodi 1 ct, defendant Rathgeber 1 ct)
GRAND LARCENY IN THE SECOND DEGREE, P.L. §155.40(1), (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 7 cts, defendant Orthos 1 ct, defendants Raspa, Tierney, Micciola, Scarcella and Rathgeber 2 cts)
GRAND LARCENY IN THE THIRD DEGREE, P.L. §155.35, (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 16 cts, defendant Orthos 2 cts, defendant Ferraro 3 cts, defendants Raspa and Tierney 4 cts, defendants Micciola, Scarcella and Tripodi 2 cts, defendants Costabile, Rathgeber and Menies 1 ct)
GENERAL BUSINESS LAW (MARTIN ACT) §352-c(6), (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 23 cts, defendant Shapiro 8 cts, defendant Moraitis 21 cts, defendant Martinucci 21 cts, defendant Orthos and Ferraro 3 cts, defendants Raspa and Tierney 6 cts, defendants Micciola and Scarcella 4 cts, defendant Tripodi 2 cts, defendant Costabile 1 ct, defendant Rathgeber 3 cts, and defendant Menies 1 ct)
FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, P.L. §175.10, (defendants Joseph Stevens & Company, Inc., Sorbara and Markowitz 6 cts, defendant Raspa 3 cts, defendant Scarcella 1 ct, and defendant Rathgeber 2 cts)

ROBERT M. MORGENTHAU, District Attorney

DATE: 11/29/2013
I hereby certify that the foregoing paper is a true copy of the original thereof, filed in my office.

Thomas J. Sullivan

County Clerk and Clerk of the Supreme Court New York County
OFFICIAL USE

A True Bill

[Redacted signature]

Foreperson

ADAs JEANNETTE MOLINA, CHARLES LINEHAN, ELSON HO, FRANK MAZZARELLI, JAMES CESARANO (FRAUDS BUREAU)

EXHIBIT 6

Factual Allocation of JAMES RATHGEBER

1. I, JAMES RATHGEBER, plead guilty to the crimes of Grand Larceny in the Second Degree, as charged in Counts 85 and 91, Grand Larceny in the Third Degree, as charged in Count Eighty-Nine, and Securities Fraud, as charged in Count Two, Eight, and Fifteen, all under New York County Indictment No. 2394/2009 ("the Indictment").

2. I was employed as a stockbroker from 1994 until 2008 by Joseph Stevens & Company, Inc. ("the firm"), a registered broker-dealer. The firm's primary sources of business during this time period were investing in and marketing over-the-counter stocks in which the firm acted as a market maker. In my capacity as stockbroker, I bought and sold numerous over-the-counter stocks for retail customers. I was supervised by management, which included the two owners, Joseph Sorbara and Steven Markowitz, the Chief Compliance Officer, Linda Chudnoff, the Chief Operations Officer, Fabio Migliaccio, and the Chief Financial Officer, Maria Tingoli. As a stockbroker, I had a fiduciary duty to the firm's clients to disclose any and all material information prior to inducing a client to engage in a transaction.

3. During the period of my employment, I was aware of and participated in firm-wide schemes in order to generate excessive and undisclosed commissions in stocks. The firm's principals, traders, and brokers, including me, routinely used a pattern of fraudulent trading techniques and schemes to generate extra money in the form of excessive and hidden commissions. In doing so, we stole money from our customers by false and fraudulent pretenses, representations and promises, while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities. We concealed these actions from customers in an ongoing manner.

4. There were instances in which I encouraged my customers to purchase shares of a particular stock on a particular day so that I would receive extra commissions or "credits" which were not disclosed to the customers. There were also instances in which I sold certain stocks to my customers ~~based~~ based upon my expectation that I would receive extra, hidden compensation, whether or not it was a good investment for my clients. EF JM JH

November 24
EF JM JH
5. I admit that in the County of New York, from on or about ~~May 28~~ March 26, 2003 to on or about ~~February 7~~ 2005, along with Joseph Stevens & Company, Inc., Joseph Sorbara, and Steven Markowitz, I stole property from [REDACTED] and the value of the property exceeded \$50,000 (Count 85).

6. I admit that in the County of New York, from on or about August 29, 2005 to on or about November 15, 2005, along with Joseph Stevens & Company, Inc., Joseph Sorbara, and Steven Markowitz, I stole property from [REDACTED] and the value of the property exceeded \$3,000 (Count 89).

7. I admit that in the County of New York, from on or about April 21, 2003 to on or about November 5, 2004, along with Joseph Stevens & Company, Inc., Joseph Sorbara,

and Steven Markowitz, I stole property from [REDACTED] and the value of the property exceeded \$50,000 (Count 91).

8. I admit that in the County of New York, on or about January 1, 2001 to on or about April 1, 2005, along with Joseph Stevens & Company, Inc., Joseph Sorbara, Steven Markowitz, Craig Shapiro, Peter Orthos, Alan Ferraro, Charles Raspa, Scott Tierney, Michael Tripodi, Douglas Costabile, Matthew Menies, and Harry Mucovic, I intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person which engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Antigenics, Inc. ("AGEN") (Count 2).

9. I admit that in the County of New York, from on or about January 26, 2005 to on or about December 6, 2005, along with Joseph Stevens & Company, Inc., Joseph Sorbara, Steven Markowitz, John Moraitis, Peter Orthos, Charles Raspa, Scott Tierney, John Micciola, Steven Scarcella, and Michael Tripodi, I intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person which engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Arpeggio Acquisition Corp. (Warrants) ("APGOW") (Count 8).

10. I admit that in the County of New York, from on or about January 8, 2003 to on or about November 1, 2004, along with Joseph Stevens & Company, Inc., Joseph Sorbara, Steven Markowitz, Massimo Martinucci, Peter Orthos, Alan Ferraro, Charles Raspa, Scott Tierney, John Micciola, Steven Scarcella, Michael Tripodi, and Douglas Costabile, I intentionally engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and so obtained property from at least one such person which engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by Datatec Systems, Inc. ("DATC") (Count 15).

11. I committed the crime of securities fraud in violation of General Business Law § 352-c(5) by participating in a scheme involving shares of Antigenics, Inc. (AGEN) from on or about January 1, 2001 through on or about April 1, 2005, by selling shares of AGEN stock to my customers because I expected to receive extra money on those transactions (Count 2). Based upon conversations I had with firm brokers and trader Craig Shapiro, I knew that if I sold AGEN during that time period, I would receive extra commissions which would not be disclosed to my customers. Without disclosing the reason to my customers, I convinced them to buy shares of AGEN without regard for whether it was a good investment for them at that time and without telling them that their orders would be delayed. In doing so, I engaged in a scheme constituting a systematic ongoing course of

conduct with the intent to defraud at least ten persons and to obtain property from at least ten persons by false and fraudulent pretenses, representations and promises, and I obtained property from at least one such person while engaged in inducing and promoting the issuance, distribution, exchange, sale, negotiation and purchase of securities, to wit, securities issued by AGEN and I obtained \$16,150 from two of my customers during that time period.

12. I applied the same methods in other schemes involving shares of Arpeggio Acquisition Corp. (Warrants) ("APGOW") with trader John Moraitis (Count 8). I obtained \$10,795.00 from seven of my customers during the time period of January 26, 2005 to on or about December 6, 2005. I applied the same methods in other schemes involving shares of Datatec Systems, Inc. ("DATC") with trader Massimo Martinucci (Count 15). I obtained \$50,507.75 from more than ten of my customers during the time period of January 8, 2003 to on or about November 1, 2004. During these schemes, I learned from others at the firm to mark the customer orders as "Not Held" without the knowledge or consent of my customers, as a step to delay the trades. The designation "Not Held" meant that a trade would not be held to the market price at the moment when the trader and I had the customer's order in hand. Normally our duty to execute trades promptly required immediate execution of the order. Marking the trades "Not Held," was a step that allowed traders Craig Shapiro, John Moraitis, and Massimo Martinucci, and I to mishandle orders and delay execution until an artificially inflated price was achieved, not to benefit the customers, but as a way to enrich ourselves at the expense of our customers. The firm, the traders, and I executed the customer orders at artificially inflated prices, thereby generating money we subsequently shared, and which the customers had no idea that we were taking from them. As a result, the firm's customers paid more than they should have when buying stocks and received less than they should have when selling stocks because the firm, the traders, and I intentionally and systematically handled their trades with the specific purpose of making extra, illegal money for ourselves.

13. I committed the crime of Grand Larceny in the Second Degree, in violation of Penal Law §155.40(1), from on or about March 26, 2003 to on or about November 2, 2005, by stealing money from my customers when I sold them various securities, including shares of Cypress Biosciences, Inc. ("CYPB"). With respect to ~~CYPB~~ CYPB, trader Craig Shapiro told me that there would be extra money in it for me if I sold that stock to my customers. I contacted some of my customers, and I recommended that they purchase CYPB shares, without informing them that my motivation was to make extra compensation on the trades at their expense. After I had convinced the customers to make the purchases, I informed Craig Shapiro how many shares my customers would buy, and I delayed executing those orders immediately. Instead, I allowed Craig Shapiro to execute my customers' trades at a less favorable price to my customers, so that the firm, Craig Shapiro, and I could steal and share the difference. In doing so, I stole money from my customers, including a total of \$103,262.60 from [REDACTED] Specifically, with respect to the CYPB trades for Lester Boelter, I stole \$30,562 (Count 85).

CYPB
ETH
Ma

14. Using the above described methods, from August 29, 2005 through November 15, 2005, I stole \$7,865 from my client ██████████ (Count 89). In doing so, I knowingly concealed material information from ██████████. Specifically, I recommended the purchase of certain stocks to ██████████ without telling him that the firm was engaged in trading techniques designed to manipulate the prices of those stocks and without telling him that I would delay his orders to his detriment, in order to receive undisclosed compensation to further the schemes. From April 21, 2003 through November 5, 2004, using the above described methods, I stole \$66,390 from my client ██████████ (Count 91). In doing so, I knowingly concealed material information from ██████████. Specifically, I recommended the purchase of certain stocks to ██████████ without telling him that the firm was engaged in trading techniques designed to manipulate the prices of those stocks and without telling him that I would delay his orders to his detriment, in order to receive undisclosed compensation to further the schemes. For example, with respect to DATC, trader Massimo Martinucci told me that there would be extra money in it for me if I sold that stock to my customers. I contacted some of my customers, and I recommended that they purchase DATC, without informing them that my motivation was to make extra compensation on the trades at their expense. After I had convinced the customers to make the purchases, I informed Massimo Martinucci how many shares my customers would buy, and I delayed executing those orders immediately. Instead, I allowed Massimo Martinucci to execute my customers' trades at a less favorable price to my customers, so that the firm, Massimo Martinucci, and I could steal and share the difference. In doing so, I stole \$12,475 from ██████████ on the DATC trades. From January 2001 through December 2005, using the above described methods, I stole over \$400,000 from more than twenty of my customers.

15. I knew that others in the firm participated in the firm's undisclosed compensation system and its manipulative practices. I had conversations with other Long Island brokers about these schemes. Additionally, I participated in these fraudulent practices with traders Craig Shapiro, Massimo Martinucci, and John Moraitis. Furthermore, the Compliance Department was responsible for overseeing all trades as well as the distribution of commissions. I also knew that the firm's owners, Steven Markowitz and Joseph Sorbara, participated in these fraudulent and manipulative practices based on conversations I had with them.

16. The Compliance Department and the owners used a system to track the brokers' extra commissions using "gross credits" within the internal records at the firm. The firm systematically concealed these extra commissions from their customers and regulators in an ongoing manner.

Dated: New York, New York
August 1, 2011



JAMES RATHGEBER

EXHIBIT 7

1 THE COURT CLERK: Added to the Calendar,
2 Indictment 2394 of 2009, advanced from 8/23/2011, as to
3 Defendant James Rathgeber. The defendant is present in
4 court.

5 Counsel, please note your appearances.

6 MR. KITSIS: For the People, Special Assistant
7 Attorneys General Michael Kitsis, Judith Weinstock, and
8 Madeliene Guilmain.

9 Good afternoon.

10 THE COURT: Good afternoon.

11 MS. WEINSTOCK: Good afternoon.

12 MS. GUILMAIN: Good afternoon.

13 MR. FRANZ: For Mr. Rathgeber, Eric Franz,
14 F-r-a-n-z, 747 Third Avenue.

15 Good afternoon.

16 THE COURT: Good afternoon.

17 And Mr. Rathgeber is before the Court.

18 MR. FRANZ: Yes, he is.

19 THE COURT: We've had some discussions at the
20 bench and previously through which I understand that the
21 Defendant wishes to resolve the case today, and that he
22 has been made a plea offer to do that, and I'm just going
23 to have Mr. Kitsis state for the record the terms of the
24 Plea Agreement, please.

25 MR. KITSIS: The Defendant will be pleading to

1 grand larceny in the second degree as charged in Counts 85
2 and 91; grand larceny in the third degree as charged in
3 Count 89; and securities fraud under General Business Law
4 352(c) (5) as charged in Counts 2, 8, and 15.

5 The People in exchange for the Defendant's plea
6 have promised that we would seek a sentence of 5 years
7 Probation.

8 A specific condition of that Probation would be
9 that the Defendant pay restitution in the amount of
10 \$279,056.05, according to a schedule that Mr. Franz and I
11 -- and the Defendant has been informed of -- have
12 discussed.

13 THE COURT: Do you have a copy of that schedule
14 today or not?

15 MR. KITSIS: It is similar to the others that
16 you've seen.

17 It will be a percentage of the Defendant's income
18 over a period of time until the money is paid.

19 MR. FRANZ: Your Honor, if you'd like.

20 (Whereupon, a document was given to the Court.)

21 (Whereupon, counsel conferring.)

22 MR. FRANZ: I show it to you so you can have it
23 for your records.

24 THE COURT: Right.

25 In other words, the Restitution Agreement that you

1 are contemplating entering and that I gather you would
2 propose that the Court issue on the date of Sentence? The
3 date of Sentence or today?

4 MR. KITSIS: On the date of Sentence.

5 THE COURT: It has a sliding scale of a percentage
6 of the gross income to be paid by the Defendant on a
7 monthly basis, depending upon what his income is?

8 MR. KITSIS: That's correct.

9 Although it's a condition of Probation, we expect
10 that given the amount it may take the Defendant more than
11 5 years of Probation to pay this.

12 And in order to do that, of course, the Order
13 would survive the 5 years of Probation until it is paid.

14 THE COURT: Yes.

15 MR. KITSIS: Another condition is that the
16 Defendant needs to settle the Asset Forfeiture Proceeding.

17 And in order to do that, he needs to get a
18 Financial Disclosure Form in, which I know he has worked on
19 to some extent but has not yet completed.

20 And we're asking that that be submitted as a
21 specific condition of the plea by August 19th which is just
22 short of three weeks from today. I think it's two weeks
23 from Friday.

24 And we'll, of course, adjourn the Sentencing at
25 some point beyond that, so any disposition of the assets

1 seized can be worked out in a final Stipulation regarding
2 the Asset Forfeiture and be achieved before the day of
3 Sentence.

4 MR. FRANZ: Could I have one moment, Judge?

5 THE COURT: Sure.

6 (Whereupon, counsel conferring.)

7 MR. FRANZ: We should make that clear.

8 MR. KITSIS: Judge, in response to a question Mr.
9 Franz has asked, the Restitution number that I just laid
10 out for the Court in settling the Asset Forfeiture
11 Proceeding, it may deal with the manner in which the money
12 is paid and the timing of the payments, depending on what
13 assets the Defendant currently has and what we're, in fact,
14 holding, but that \$279,000 number does not change.

15 MR. FRANZ: I just want to make sure of that
16 because of the manner in which these negotiations took
17 place.

18 And we're here, you know, trying to run up against
19 a deadline of tomorrow.

20 Whatever money Assets Forfeiture may decide from
21 looking at the questionnaire that they might want to keep
22 would get credited towards the Restitution Component Number
23 of 279.

24 In other words, there's not going to be an
25 additional Forfeiture Number because whatever it would be

1 would be credited to the 279.

2 That's a cap for the Forfeiture Restitution.

3 THE COURT: Is that what your understanding is,
4 Mr. Kitsis?

5 MR. KITSIS: Yes.

6 THE COURT: Ms. Guilmain, is that your
7 understanding as well?

8 MS. GUILMAIN: That is.

9 Of course, we haven't seen his Disclosure Form
10 yet.

11 Presumably, we all have a general idea of how
12 much money he has, and that's the basis that this agreement
13 was based on, obviously.

14 If we have a traumatic surprise, which I'm told
15 there won't be one, then we're fine.

16 THE COURT: In other words, if you keep \$100,000
17 worth of the property that you seized, it will reduce the
18 amount of Restitution by \$100,000?

19 MS. GUILMAIN: Yes.

20 THE COURT: That is everybody's understanding?
21 That's the point you're making, Mr. Franz?

22 MR. FRANZ: Yes.

23 Nothing is going to change for Mr. Rathgeber as
24 far as the figure that he owes to the Government by virtue
25 of Restitution or the Asset Forfeiture.

1 The "279" represents the total, whether it be the
2 Forfeiture or the Restitution.

3 If they want to keep the assets that he has or he
4 seeks to forfeit it, that would go towards the Restitution.
5 There's no additional Forfeiture Number.

6 THE COURT: Is that everybody's understanding?

7 MR. KITSIS: With the proviso that Ms. Guilmain
8 said, based on Mr. Franz' representations that there's no
9 great surprise here.

10 THE COURT: What kind of surprise would it be?

11 MS. GUILMAIN: If he's got a Swiss Bank Account
12 with \$1 million, and we have no idea when this deal was
13 originally agreed upon.

14 We would clearly have something to say about that.
15 What that would be, I don't know.

16 It's been represented to us there are no
17 significant surprises.

18 On the presumption that there won't be, then
19 we're fine.

20 THE COURT: Your understanding is based in large
21 part on the Financial Disclosure Form?

22 MS. GUILMAIN: That we haven't received yet.

23 THE COURT: Didn't Mr. Rathgeber submit one to you
24 in the course of this proceeding?

25 MS. GUILMAIN: No, he has not.

1 THE COURT: How is that?

2 MS. GUILMAIN: He submitted that --

3 MR. FRANZ: -- a number of years ago.

4 THE COURT: In 2009 did he not submit a Financial
5 Disclosure Form?

6 MS. GUILMAIN: If I recall, there was one
7 submitted that he had done in order to try to have some
8 funds released for living expenses.

9 We declared that it was insufficient and litigated
10 that in Civil Court, and the Judge agreed with us.

11 And, therefore, we did not release any funds.

12 We want a more complete Affidavit than the one we
13 previously received, and we need something that's up to
14 date. That was two years ago.

15 And he's been working and getting income since
16 then that we're not informed of.

17 THE COURT: Mr. Franz, is it fair to assume, and
18 will you represent, that you and Mr. Fischetti have sent
19 to the Prosecutors Mr. Rathgeber's financial condition
20 based on the best of the knowledge and information you've
21 received from your client?

22 MR. FRANZ: That's right, Judge.

23 I can tell you, to our understanding, there's no
24 hidden Swiss Bank Accounts, there's no money underground,
25 no Rolls Royces, nothing of significant means.

1 I forget what we were quarreling about back in
2 2009, but it was trivial in the details, and we just
3 decided it wasn't worth the amount of effort to go into
4 monies that were essentially not even existing because of
5 an Overdraft Protection he had at the bank.

6 It wasn't we weren't turning over Safety Deposit
7 Boxes or anything like that. That's not the case. I don't
8 think there's going to be any major surprises.

9 But I need to make this clear that because of
10 the time we're having of getting this concluded.

11 That this concludes the Asset Forfeiture; and
12 then I'm told they want a Questionnaire, and then they'll
13 determine what's to be done.

14 But I don't think we can do a plea with the
15 understanding that something might change if anything is
16 to happen as a result of the Asset Forfeiture that would
17 maybe accelerate the payment plan if there's assets that
18 haven't been disclosed.

19 I think that's probably the best way for me to
20 explain the situation and that my client fully understands
21 what is going on here as well.

22 I would gather to say if there's some kind of
23 major surprise, that he's got accounts in the Grand Cayman
24 Islands that the Government learns about, we'll be back
25 here before this Court, and we could deal with the

1 appropriate remedy for same.

2 But I don't believe that's the case in any way,
3 shape, or form.

4 But I can't talk about every hypothetical that
5 Asset Forfeiture might think is a surprise.

6 MR. KITSIS: Let me also say, your Honor, I
7 assume the Defendant submitted some sort of document when
8 Mr. Franz' status was changed from Private Counsel to
9 18 B.

10 THE COURT: He did not ever make that
11 representation to me.

12 MR. FRANZ: That's correct. I stand by the
13 representation.

14 THE COURT: It was based on his investigation as
15 an Officer of the Court.

16 MR. FRANZ: That is correct.

17 MR. KITSIS: Which is why I think none of us
18 expects what may be a great surprise.

19 THE COURT: Okay.

20 That's what I hope, too.

21 MR. KITSIS: To resume where we were --

22 MR. FRANZ: Sorry. If I may?

23 I didn't mean to interrupt, but I want it to be
24 clear, since we're just talking about the financial
25 component of this plea, the only other ball that's up in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the air, which I don't think will be an issue at all, but let the Court know within the proposed Order to the Court that I've gone over with my client, gross income, the term, is not defined.

And the reason I say that is if Mr. Rathgeber sometime in the next several years becomes a sole proprietor and the gross income is, as a hypothetical, half a million dollars, but he's got six employees and rent, and his salary turns out to be \$5,000 a month or \$60,000 a year, the gross income should really be measured from the basis of what he's able to take home practically before taxes.

I'm not talking about taxes. I'm talking about fixed overhead. We don't have that before us.

But I just want to let the Court know we do have that as a potential issue down the road, which I'm hoping is not, but it's not being defined.

I thought you should know gross income could be defined a number of different ways.

But not to be based on the gross revenue of the business.

Do you understand my point?

What he takes home as salary or income, that would obviously be the truest measure. I think that's the spirit of what we are looking for.

1 THE COURT: Does he have his own business
2 operating at this time?

3 MR. FRANZ: He's currently operating his own
4 business, but it doesn't have the magnitude of employees or
5 expenses or anything like that. He's writing a Newsletter.

6 (Whereupon, counsel conferring with defendant.)

7 MR. FRANZ: He's working for a company that writes
8 a Newsletter.

9 THE COURT: He doesn't have his own business?

10 MR. FRANZ: Right.

11 THE COURT: Okay.

12 MR. FRANZ: If he were to have a business, that
13 would be something to discuss.

14 THE COURT: You're talking about the income to
15 him? The adjusted income?

16 MR. KITSIS: Not adjusted.

17 This will play itself out.

18 Mr. Franz and I have had a discussion. We both
19 believe that what is in the proposed Restitution Order is
20 reasonable as we sit here today.

21 CPL Section 420.10 allows for adjustments, should
22 those circumstances change.

23 Mr. Rathgeber could be working for somebody else
24 or himself, and to the extent it becomes unduly burdensome,
25 he can, quite frankly, call or come to me first, and we'll

1 come to the Court to make the adjustments, if that needs
2 to happen.

3 As we sit here today, we believe this to be
4 reasonable.

5 Is that fair, Mr. Franz?

6 MR. FRANZ: The schedule, itself, is fair.

7 I was talking about a different business over time
8 could call for a different calculation which ultimately
9 would be up to the Court.

10 I don't think it changes anything. I just wanted
11 to let you know these are issues that hopefully are out
12 there but won't arise. But we shouldn't overlook them and
13 pretend they don't exist.

14 THE COURT: Okay.

15 MR. KITSIS: In addition, your Honor, we know the
16 Court has in mind to impose some amount of Community
17 Service during the 5 year period of Probation.

18 And one other condition of the plea is that the
19 defendant will waive his Right to Appeal. That this
20 litigation should stop after the Plea and Sentence in this
21 case.

22 THE COURT: Okay.

23 So, do you want to just formally make the
24 application on behalf your client, Mr. Franz, to plead
25 guilty on those terms now?

1 MR. FRANZ: Yes.

2 Give me one moment.

3 THE COURT: Okay.

4 (Whereupon, counsel conferring with defendant.)

5 MR. FRANZ: Your Honor, I am.

6 Come up for one second?

7 THE COURT: Sure.

8 (Whereupon, an off-the-record discussion was held
9 between the Court and respective counsel.)

10 MR. FRANZ: Thank you for your time, your Honor.

11 After consulting with Mr. Rathgeber, he's
12 authorized me to withdraw his previously entered plea of
13 not guilty, and enters a plea of guilty to the following
14 counts contained within the Indictment pending before the
15 Court in full satisfaction of the Indictment.

16 He enters a plea of guilty to Counts 85 and 91,
17 which are both grand larcenies in the second degree; Count
18 89, which is grand larceny in the third degree; and then
19 three counts of violating General Business Law 352(c) (5),
20 which is otherwise known as securities fraud, and those
21 Counts are 2, 8, and 15 as they appear in the Indictment.

22 The promised sentence will be 5 years Probation
23 with a special condition of a Restitution Order in the
24 amount of \$279,056.05.

25 And Mr. Rathgeber understands that one open-ended

1 issue could be the terms of Community Service subject to
2 what this Court deems is appropriate at the time of
3 Sentencing.

4 THE COURT: Correct.

5 And he knows, also, that there will be a 5 percent
6 surcharge as to the Restitution amount?

7 MR. FRANZ: To Safe Horizons; that's correct.

8 And he's also aware -- I'm gone over it with him
9 -- of his Waiver of his Right to Appeal. He's executed
10 the Statement as I have.

11 THE COURT: Thank you.

12 Mr. Rathgeber, would you just stand up and take
13 the oath from my Clerk, please.

14 MR. RATHGEBER: Yes.

15 THE COURT CLERK: Raise your right hand.

16 (Whereupon, Mr. Rathgeber was duly sworn by the
17 Court Clerk.)

18 THE COURT: Thank you.

19 You may be seated.

20 I have some questions for you now. If at any time
21 you don't understand my questions, or you need to confer
22 further with Mr. Franz, just tell me; all right?

23 MR. RATHGEBER: Yes.

24 THE COURT: Your true name is James Rathgeber?

25 MR. RATHGEBER: Correct.

1 THE COURT: Did you hear your Attorney, Eric
2 Franz, tell me that you wish to withdraw your previously
3 entered plea of not guilty in this case and, instead,
4 plead guilty to the following charges to fully resolve the
5 charges against you under Indictment 2394 of 2009?

6 Count 85, charging you with grand larceny in the
7 second degree; Count 91, also charging grand larceny in the
8 second degree; Count 89, charging grand larceny in the
9 third degree; Count 2, charging securities fraud under
10 General Business Law 352(c)(5); Count 8, under the same
11 provision of the General Business Law; and Count 15, under
12 the same provision of the General Business Law, all felony
13 charges.

14 Is that what you wish to do?

15 MR. RATHGEBER: Yes, your Honor.

16 THE COURT: Have you discussed this case fully
17 with your Attorneys before entering this plea?

18 MR. RATHGEBER: Yes, I have.

19 THE COURT: Are you satisfied with their advice?

20 MR. RATHGEBER: Yes, I am.

21 THE COURT: Do you need anymore time to speak with
22 your counsel before entering this plea?

23 MR. RATHGEBER: Not at all.

24 THE COURT: I say "Attorneys," plural, because I
25 know Mr. Franz is your Attorney of Record; but I know that

1 Mr. Fischetti has also been assisting you in this case.

2 MR. RATHGEBER: Yes.

3 THE COURT: Correct?

4 MR. RATHGEBER: Yes, sir.

5 THE COURT: You're satisfied with the advice
6 you've received from them both, correct?

7 MR. RATHGEBER: Yes.

8 THE COURT: Are you currently taking any
9 prescription medication that might affect your ability to
10 make this decision?

11 MR. RATHGEBER: No.

12 THE COURT: Are you under the influence of illegal
13 drugs or alcohol at this time?

14 MR. RATHGEBER: No.

15 THE COURT: Do you understand that by pleading
16 guilty now you give up the Right to a Trial by jury; the
17 Right to confront and cross-examine the witnesses against
18 you; the Right to call witnesses on your own behalf; the
19 Right to remain silent; and the Right to force the
20 Prosecutors to prove the charges against you beyond a
21 reasonable doubt?

22 MR. RATHGEBER: I completely understand.

23 THE COURT: Are you pleading guilty voluntarily
24 and of your own free will?

25 MR. RATHGEBER: Yes, I am.

1 THE COURT: Did anyone threaten you or coerce you
2 in order to get you to plead guilty today?

3 MR. RATHGEBER: No.

4 THE COURT: Now, I have promised you a Sentence as
5 reflected in the remarks of Mr. Kitsis and Mr. Franz,
6 namely, 5 years Probation, with the special conditions that
7 you adhere to a Restitution Order to be executed by you
8 prior to or at the time of Sentence, making you obligated
9 to pay Restitution in the amount of \$279,056.05 in
10 accordance with a schedule which you have already seen with
11 a 5 percent surcharge payable to the Safe Horizons Agency
12 for collecting it.

13 I have also indicated that a further condition of
14 Probation would be that you resolve the Asset Forfeiture
15 Proceeding now pending against you in the Civil Term of
16 Supreme Court, New York County; and in that regard you
17 submit to the People by August 19th your Financial
18 Disclosure Form, sworn to and verified by you as being
19 under oath, and enter into a Stipulation with the
20 Prosecution with regard to a resolution of that separate
21 Civil Proceeding.

22 And I also would likely impose some sort of
23 Community Service to be determined by me after reviewing
24 any other information that either side wishes to put before
25 me about your current circumstances, including a

1 Presentence Memoranda, if Mr. Franz wants to submit that on
2 your behalf.

3 And, of course, you would have to pay the
4 Mandatory Surcharges imposed by law, I think?

5 THE COURT CLERK: No.

6 THE COURT: Not with Restitution; strike that.
7 You'll be waiving your Right to Appeal, but I'm
8 going to treat that separately in just a moment.

9 Do you understand that to be my promise?

10 MR. RATHGEBER: Yes, I do.

11 THE COURT: Have any other promises been made to
12 you to get you to plead guilty today?

13 MR. RATHGEBER: None at all.

14 THE COURT: Do you understand, sir, that had you
15 gone to Trial and been found guilty in this case, you
16 could have served as much as 8-1/3 to 25 years in State
17 Prison?

18 MR. RATHGEBER: You explained it to me a few weeks
19 back.

20 THE COURT: Okay.

21 And do you understand that my promised sentence
22 to you is conditioned on your continuing to continue with
23 the Attorney General's Office; cooperating with the
24 Department of Probation when they seek to interview you to
25 prepare a Report for me; and contingent on your appearing

1 in court when I require you to be here; and, of course,
2 your not being arrested on any new charges.

3 Do you understand that?

4 MR. RATHGEBER: Yes, I do.

5 THE COURT: Okay.

6 Part of the cooperation with the Attorney
7 General's Office is that you fill out that Asset Forfeiture
8 Form --

9 MR. RATHGEBER: Will do.

10 THE COURT: -- and do so truthfully; okay.

11 Do you understand that if you violate any of those
12 conditions, I could impose any other Sentence under the
13 law that's permissible, which could be up to 15 years in
14 State Prison on this plea?

15 Do you understand that?

16 MR. RATHGEBER: I understand that.

17 THE COURT: Do you understand that a plea of
18 guilty is the same thing as a conviction after Trial?

19 MR. RATHGEBER: Yes.

20 THE COURT: Did you review this document entitled
21 Factual Allocation of James Rathgeber (Indicating)?

22 MR. RATHGEBER: Yes.

23 I think I even initialed it.

24 THE COURT: Is this your signature on the last
25 page?

1 MR. RATHGEBER: Yes.

2 THE COURT: Would you raise your right hand,
3 please.

4 Do you swear to the truth and contents of this
5 document?

6 MR. RATHGEBER: Absolutely.

7 THE COURT: Thank you.

8 Did you discuss this with Mr. Franz before you
9 signed it?

10 MR. RATHGEBER: Yes, I did.

11 THE COURT: You read it completely?

12 MR. RATHGEBER: Yes, I did.

13 THE COURT: Is what is stated in here true, to the
14 best of your knowledge and information?

15 MR. RATHGEBER: Yes, it is.

16 THE COURT: Is it true, Mr. Rathgeber, that while
17 you were employed as a Stockbroker from 1994 to 2008 by
18 Joseph Stevens & Company you participated in Firm-wide
19 schemes which were designed to generate excessive and
20 undisclosed commissions as a result of trades in securities
21 by the Firm?

22 MR. RATHGEBER: Yes, I did.

23 THE COURT: Is it true that you were not alone in
24 doing this; but you worked with the Firm's principals, some
25 of the Traders and other Brokers also who were engaged in

1 this to use a pattern of fraudulent trading techniques to
2 generate extra money in the form of commissions which were
3 not disclosed to your clients?

4 MR. RATHGEBER: Yeah; that would be correct.

5 THE COURT: Is it true that you wrongly obtained
6 money from your customers by false and fraudulent
7 pretenses, representations, and promises, while you were
8 promoting the sale or exchange or purchase of securities,
9 by failing to disclose material information to them about
10 the nature of the commissions that you would receive and
11 the reason you were asking them to participate in these
12 transactions?

13 MR. RATHGEBER: Yes, your Honor.

14 THE COURT: Is it true that in some instances you
15 sold stocks to your customers based upon the expectation
16 that you would receive extra compensation irrespective of
17 whether that security was a good investment for the client?

18 MR. RATHGEBER: Yes.

19 THE COURT: Is it true that on or about the period
20 March 26, 2003 to February 7, 2005 that you, along with the
21 Firm, Joseph --

22 MR. KITSIS: I think it's November 2, 2005.

23 THE COURT: November 2?

24 This is Paragraph 5?

25 MR. KITSIS: Yes, your Honor.

1 THE COURT: I see; thank you.

2 -- November 2, 2005, you, the Firm, Joseph Sorbara
3 and Steven Markowitz stole property from Lester Boelter,
4 your client, and the value of that property exceeded
5 \$50,000; is that true?

6 MR. RATHGEBER: Yes, your Honor, it's true.

7 THE COURT: In fact, it was a total of \$103,262
8 from Mr. Boelter, true?

9 MR. RATHGEBER: Yes.

10 THE COURT: And, specifically, with regard to
11 shares of Cypress Biosciences in the trades for Mr.
12 Boelter, as far as those went, you stole \$30,562?

13 MR. RATHGEBER: Yes, your Honor.

14 THE COURT: Can we go off the record for a minute.

15 (Whereupon, an off-the-record discussion was held
16 between the Court and respective counsel.)

17 THE COURT: Back on the record.

18 Thank you.

19 So, that \$30,000 taken from [REDACTED], with
20 respect to the Cypress Biosciences shares, is just one
21 example of the larcenous activity you had with respect to
22 Mr. Boelter as charged in Count 85, is that correct?

23 MR. RATHGEBER: That is correct.

24 THE COURT: Okay.

25 Is it also true that all of this involved some

1 activity that occurred in the County of New York, correct?

2 MR. RATHGEBER: Yes.

3 THE COURT: From on or about August 25, 2005 to
4 on or about November 15, 2005, along with the Firm, Joseph
5 Sorbara and Steven Markowitz, you stole property from
6 [REDACTED] your client, which exceeded \$3,000; true?

7 MR. RATHGEBER: Yes; that's true.

8 THE COURT: And, indeed, you stole during that
9 period \$7,865 from [REDACTED] as charged in Count 89 of the
10 Indictment, is that correct?

11 MR. RATHGEBER: That's correct.

12 THE COURT: Is it also true that during the period
13 April 21, 2003 to on or about November 5, 2004, along with
14 the Firm, Joseph Sorbara and Steven Markowitz, you stole
15 property from your client, [REDACTED]?

16 MR. RATHGEBER: [REDACTED]

17 THE COURT: And the value of the property stolen
18 exceeded \$50,000, is that correct?

19 MR. RATHGEBER: That is correct.

20 THE COURT: And, in fact, the amount you stole
21 from him amounted to \$66,390, correct?

22 MR. RATHGEBER: That's correct.

23 THE COURT: And the way you committed these thefts
24 would be in each instance by conversations with a Trader --
25 either Craig Shapiro, Massimo Martinucci, or John Moraitis

1 at the Firm -- who told you that if you got some of your
2 clients to purchase a specific stock, you would be able to
3 obtain extra compensation for yourself; and you gave the
4 Trader an advance commitment as to how many shares your
5 customers would buy; and then, in an agreement with the
6 Trader, you delayed executing those shares until a point
7 was reached at which you understood that the Trader had
8 advised you that the trades could be executed at a price
9 which, while less favorable to the customers, would create
10 a greater amount of compensation for yourself; is that
11 correct?

12 MR. RATHGEBER: That's correct.

13 THE COURT: Is it also true that from on or about
14 January 1, 2001 to on or about April 1, 2005, along with
15 the Firm, Mr. Sorbara, Mr. Markowitz, Craig Shapiro, Peter
16 Orthos, Alan Ferraro, Charles Raspa, Scott Tierney, Michael
17 Tripodi, Douglas Costabile, Matthew Menies, and Harry
18 Mucovic, you engaged in an ongoing course of conduct
19 intending to defraud, at least, ten people; and to obtain
20 property from, at least, ten people, by false and
21 fraudulent pretenses, representations, and promises; and
22 did obtain property from, at least, one such person, by
23 promoting the sale, exchange, or purchase of securities in
24 Antigenics as charged in Count 2 of the Indictment?

25 MR. RATHGEBER: That's correct.

1 THE COURT: And you obtained \$16,150 from two of
2 your customers during that time period in trades of that
3 stock using the methods that I've discussed with you, is
4 that correct?

5 MR. RATHGEBER: That's correct, your Honor.

6 THE COURT: Is it also true that during the period
7 January 26, 2005 to December 6, 2005, along with the Firm,
8 Joseph Sorbara, Steven Markowitz, John Moraitis, Peter
9 Orthos, Charles Raspa, Scott Tierney, John Micciola, Steven
10 Scarcella, and Michael Tripodi, you intentionally engaged
11 in a similar systematic ongoing course of conduct,
12 intending to defraud, at least, ten persons; and intending
13 to obtain property from, at least, ten persons, by false
14 and fraudulent pretenses, representations, and promises;
15 and so obtained property from, at least, one such person,
16 while engaged in promoting the sale or purchase or exchange
17 of securities issued by Arpeggio Acquisition Corp, those
18 being Arpeggio Acquisition Warrants, as charged in Count 8?

19 MR. RATHGEBER: Yes, your Honor.

20 THE COURT: And, is it true that working with
21 John Moraitis, you obtained \$10,795 from seven of your
22 customers during that time period in that fashion?

23 MR. RATHGEBER: Yes, it is, your Honor.

24 THE COURT: Is it also true that during the period
25 from on or about January 8, 2003 to on or about November 1,

1 2004, along with the firm, Joseph Sorbara, Steven
2 Markowitz, Massimo Martinucci, Peter Orthos, Alan Ferraro,
3 Charles Raspa, Scott Tierney, John Micciola, Steven
4 Scarcella, Michael Tripodi, and Douglas Costabile, you
5 intentionally engaged in a systematic and ongoing course
6 of conduct, intending to defraud, at least, ten persons;
7 and to obtain property from, at least, ten persons; and in
8 a similar fashion by false and fraudulent pretenses,
9 representations and promises; and so obtained property
10 from, at least, one such person, while engaged in inducing
11 and promoting the sale, exchange, or purchase of securities
12 issued by Datatec Systems as charged in Count 15?

13 MR. RATHGEBER: Yes, your Honor.

14 THE COURT: And, indeed, working with Massimo
15 Martinucci you obtained \$50,507.75 from more than ten of
16 your customers in that fashion during that time period
17 trading that security, is that right?

18 MR. RATHGEBER: Yes, your Honor.

19 THE COURT: And you were aware that the Firm's
20 owners, Steven Markowitz and Joseph Sorbara, were
21 participating in these practices and schemes based on
22 conversations you had with them?

23 MR. RATHGEBER: Yes, your Honor.

24 THE COURT: Is there anything else you want to
25 tell me about what occurred?

1 MR. RATHGEBER: No.

2 That's basically it.

3 THE COURT: Are you pleading guilty to these
4 charges because you are, in fact, guilty of these charges?

5 MR. RATHGEBER: Yes, I am.

6 THE COURT: Do you believe this plea to be in your
7 own best interest under all the circumstances?

8 MR. RATHGEBER: Absolutely.

9 THE COURT: I'm obligated to tell you that if you
10 are not a citizen of the United States, this plea may
11 result in your being deported, excluded from reentry into
12 the Country, or denied Naturalization, if you choose to
13 become a citizen.

14 Do you need any further time to consult with
15 Immigration Counsel before you enter this plea?

16 MR. RATHGEBER: Not at all.

17 THE COURT: Do you understand by this plea of
18 guilty you will have a felony conviction in the State of
19 New York?

20 MR. RATHGEBER: Yes, I do.

21 THE COURT: If you are convicted of another felony
22 within the next ten years, the Judge in that future case
23 will have to send you to State Prison.

24 Do you understand that?

25 MR. RATHGEBER: Yes, I do.

1 THE COURT: Okay.

2 With regard to the plea by Mr. Rathgeber, is it
3 acceptable to the People?

4 MR. KITSIS: Yes, your Honor.

5 THE COURT: It's accepted by the Court.

6 Will the Clerk please enter the plea.

7 THE COURT CLERK: James Rathgeber, do you now
8 withdraw your previously entered plea of not guilty, and do
9 you now enter a plea of guilty to Counts 85 and 91, grand
10 larceny in the second degree; Count 89, grand larceny in
11 the third degree; and Counts 2, 8, and 15, securities
12 fraud, to cover and satisfy Indictment 2394 of 2009?

13 Is that your plea?

14 I'm sorry; I didn't hear your answer.

15 Is that your plea?

16 MR. RATHGEBER: That's my plea.

17 THE COURT: All right; thank you.

18 Now I'd like to refer to the Waiver of the Right
19 to Appeal, if you don't mind.

20 By the way, I'm going to mark Mr. Rathgeber's
21 Factual Allocution Court's Exhibit 1 of this date, and the
22 proposed Waiver of the Right of Appeal will be marked as
23 Court's II of this date.

24 Mr. Rathgeber, did you read this document entitled
25 Waiver of the Right to Appeal?

1 MR. RATHGEBER: Yes, I did.
2 THE COURT: Is that your signature on it?
3 MR. RATHGEBER: It looks like my signature, yes.
4 MR. FRANZ: I witnessed him signing it, your
5 Honor.
6 THE COURT: Okay.
7 Did you discuss this document with Mr. Franz
8 before you signed it?
9 MR. RATHGEBER: Yes, I did.
10 THE COURT: And, do you understand by signing this
11 document you give up your Right to have a Higher Court
12 review any of the Decisions I've made in this case so far?
13 MR. RATHGEBER: Yes.
14 THE COURT: There's just a very few exceptions to
15 that.
16 That's really whether your Constitutional Right to
17 a Speedy Trial has been violated; whether the Sentence that
18 I've promised you is illegal; whether you are not mentally
19 competent to make this decision today; and whether anyone
20 coerced you to sign this Waiver against your will. Those
21 are the only arguments you can take to an Appellate Court.
22 Do you understand that?
23 MR. RATHGEBER: Yes, I do.
24 THE COURT: Did you sign this voluntarily because
25 it was your choice?

1 MR. RATHGEBER: Yes, I did.

2 THE COURT: Also because you were getting a very
3 good plea bargain, and you agreed to do that as part of the
4 Plea Agreement, is that correct?

5 MR. RATHGEBER: That's correct.

6 THE COURT: Okay.

7 So, I accept the Waiver of the Right to Appeal.

8 I'm going to adjourn Mr. Rathgeber's case for
9 Sentence -- and he will have to go see the Probation
10 Department for an interview this afternoon -- and, you
11 know, I probably would like a date in November, if that's
12 okay with you.

13 Of course, you know it has to be a Friday. I
14 don't have very many Fridays in November.

15 It could be the 4th of November, or we could have
16 the 2nd of December.

17 MR. FRANZ: I'd prefer the 2nd of December.

18 Indulge me for one moment?

19 THE COURT: Okay.

20 (Whereupon, an off-the-record discussion was held
21 between the Court and respective counsel.)

22 THE COURT: December 2 for sentence.

23 Can we make it --

24 MR. FRANZ: 10:00, 10:30, which is better for you?

25 THE COURT: 10:00 o'clock.

1 MR. FRANZ: That's fine.

2 THE COURT: December 2, 10:00 o'clock, for
3 Sentence for Mr. Rathgeber.

4 Will he be making a substantial payment towards
5 the Restitution that day, do you think, Mr. Franz?

6 MR. FRANZ: I don't think so, Judge, because he's
7 really living appendage to appendage. He's battling trying
8 to keep his house.

9 THE COURT: All right; fine.

10 I'm just going to say that any Presentence
11 Memoranda should be submitted to me by November 15th; okay.

12 Thank you very much.

13 MR. KITSIS: Thank you, your Honor.

14 MS. GUILMAIN: Thank you, Judge.

15 MR. RATHGEBER: Thank you.

16 (Whereupon, the case was concluded.)

17

18 I, Terry Henry, a Senior Court Reporter in and for
19 the State of New York, do hereby certify that the
20 foregoing transcript is true and accurate to the best of
21 my knowledge, skill and ability.

21

Terry Henry

22

Terry Henry,
Senior Court Reporter

23

24

25

EXHIBIT 8

1 APPEARANCES:

2
3 On behalf of the Securities and Exchange Commission:

4 MICHELLE L. RAMOS, ESQ.

5 DAVID FROHLICH, ESQ.

6 Division of Enforcement

7 Securities and Exchange Commission

8 100 F Street, N.E.

9 Washington, D.C. 20549

10 (202) 551-4693

11
12 On behalf of the Respondent:

13 JAMES A. RATHGEBER, PRO SE

1 PROCEEDINGS

2 JUDGE FOELAK: Okay. This is the pre-hearing
3 conference in the matter of James A. Rathgeber,
4 Administrative Proceeding Number 15691, and this pre-
5 hearing conference is being held by telephone on March
6 19th, 2014, at 11:00 Eastern Time. And I am Judge
7 Foelak. And can I have the appearances for the record,
8 please?9 MR. FROHLICH: Your Honor, yes. For the
10 Division of Enforcement, David Frohlich, F-r-o-h-l-i-c-h,
11 and Michelle Ramos, R-a-m-o-s.

12 JUDGE FOELAK: Mr. Rathgeber?

13 MR. RATHGEBER: Yes. James A. Rathgeber. It's
14 spelled R-a-t-h-g-e-b, like in boy, e-r.

15 JUDGE FOELAK: Okay. Is Ms. Ramos back yet?

16 MS. RAMOS: Yes, I am.

17 JUDGE FOELAK: Okay. Very good. Okay. The
18 first thing that I'd like to ask, are there any
19 settlement negotiations I should be apprised of? I
20 notice that Mr. Rathgeber in his answer to the Order
21 Instituting Proceedings indicated that he had no interest
22 in being in the securities business anymore.

23 MR. RATHGEBER: That is correct, Your Honor.

24 MS. RAMOS: But, no, Your Honor. There have
25 not been any settlement discussions to-date.1 MR. RATHGEBER: Well they were never brought to
2 my attention. I mean is there a settlement that the SEC
3 is offering, or -- I'm not represented by counsel, so
4 please just bear with me.5 MS. RAMOS: Well, yeah. You may recall, Mr.
6 Rathgeber, before we instituted this administrative
7 proceeding, we sent you a potential offer of settlement,
8 which you declined to sign; and, at that point, we went
9 ahead and instituted the administrative proceeding.10 MR. RATHGEBER: Oh. You're talking about
11 barring me from the industry?

12 MS. RAMOS: Yes.

13 MR. RATHGEBER: That was the settlement?

14 MS. RAMOS: Yes.

15 MR. RATHGEBER: Okay. No. I completely
16 disagree with that; and, hence, the reason for my
17 response, and so forth.18 JUDGE FOELAK: Okay. This is based on a
19 conviction that the Division findings or request
20 permission to file a motion for a summary disposition?

21 MS. RAMOS: Yes, Your Honor.

22 JUDGE FOELAK: Did you have any dates in mind?

23 MS. RAMOS: We're happy to work around your
24 schedule.

25 JUDGE FOELAK: Okay. How about your opening

1 brief about a month from now, which would be -- let's say
2 April 18th?3 MS. RAMOS: Could we possibly push that back to
4 the following week? April 18th is --

5 JUDGE FOELAK: Good Friday.

6 MS. RAMOS: Yeah.

7 JUDGE FOELAK: Okay. April 25th?

8 MS. RAMOS: That would be great.

9 JUDGE FOELAK: Okay. And then what this is,
10 Mr. Rathgeber, is the Division will file a motion stating
11 that based on there being no material facts in dispute
12 that they request a certain outcome. Okay. And that is
13 pursuant to Rule 250 in the Commission's Rules of
14 Practice. Okay. So I'll put you down for another four
15 weeks for your opposition, which is May 23rd, and maybe
16 the Division can have another week for a reply to May
17 30th. And Mr. Rathgeber can file a motion for summary
18 disposition according to the same schedule.

19 Does anybody have anything else?

20 MR. RATHGEBER: So May 23rd we'll have another
21 teleconference?

22 JUDGE FOELAK: No. No, this is just papers.

23 MR. RATHGEBER: All right. So papers need to
24 be submitted by the 23rd of May?

25 JUDGE FOELAK: Right. The Division is going to

1 submit a paper on April 25th. And then you can reply to
2 that on May 23rd, and they can reply to that on May 30th.
3 And you can also file for summary disposition on April
4 25th if you so desire.

5 MR. RATHGEBER: All right. So the response I
6 provided you with, along with a few other copies, what
7 was -- what was the purpose of that?

8 JUDGE FOELAK: Well it's just required in the
9 Rules to respond to a charging document, which the Order
10 Instituting Proceedings is. I mean a person could
11 respond to it. So, let's say, in your case it's based on
12 a conviction; but let's say the order instituting
13 proceedings alleged that the respondent did A, B and C,
14 and he might file an answer saying that he didn't do A, B
15 and C, something like that.

16 MR. RATHGEBER: I'm really not sure. Again,
17 I'm not an attorney. I might have to seek out counsel,
18 which I don't really have the funds for; but I think I
19 made it very clear in my response that, yes, I did in
20 fact plead guilty. And I was advised and I took the
21 advice of my counsel, and I think I made it, again, very
22 specific as to the reason why.

23 And also I included letters from clients of
24 mine that were actually so-called victims, who I still
25 speak to this day, who would be more than happy to

1 write a character letter on my behalf.

2 JUDGE FOELAK: Well, even if you didn't file
3 anything, your answer would be taken into consideration.

4 MR. RATHGEBER: That's what I'm really asking
5 for, Your Honor. That's what it comes down to. And I
6 mean what really, I suppose, bothers me in this whole
7 thing. It's -- you know. It's the people from the J.P.
8 Morgans and the Bank of Americas and the Steven Cohens,
9 who pay huge amounts of money and walk away Scott-free,
10 and turn around and buy \$150 million Picassos a week
11 later, and 18 million-dollar oceanfront mansions two
12 weeks later. But, there's one thing in particular, if
13 you could just spare me one second. Let's see if I can
14 just find this.

15 I have to believe the SEC is familiar with
16 Fabrice Tourre. Mr. Frohlich? Ms. Ramos?

17 MS. RAMOS: Yes.

18 MR. RATHGEBER: Are you familiar with Fabrice
19 Tourre?

20 MS. RAMOS: Yes, we are.

21 MR. RATHGEBER: Your Honor, do you know who
22 Fabrice Tourre is?

23 JUDGE FOELAK: Oh, yes. Yes, yes -- the
24 Frenchman.

25 MR. RATHGEBER: Right, exactly, the Frenchman.

1 He was ordered to pay 825,000 last week or two weeks
2 ago. And he added this case where he actually -- if I
3 read this correctly -- is the ex-vice president of
4 Goldman, and he cannot seek reimbursement from his former
5 employer. And, by the way, they paid for his trial, his
6 civic trial last summer. He's 35 years old. He was
7 found liable August 1st after a jury trial at which the
8 SEC, Securities and Exchange, claimed he intentionally
9 misled investors of subprime mortgage vehicle called
10 Abacus 2007.

11 He apparently lied about the role played by
12 billionaire John Paulson, the hedge fund which helped
13 choose the securities. And, by the way, they went
14 through these with a fine-tooth comb to find the ones
15 that would actually make him money. And then he made a
16 billion-dollar bet that they would fail, and I think we
17 know what the history and what the outcome was. He was
18 absolutely correct. And it says, Katherine Forrest, who
19 was the U.S. District Judge, ordered him to pay 650,000
20 civil penalties, and give up 175,463 of his 2007 bonus
21 plus interest.

22 Now, here is the rest. This is from Bloomberg.
23 The last sentence is the one that puts the nail in the
24 coffin. The order doesn't include a securities ban. And
25 I looked at it, and I kept reading it. I said, "Gee.

1 That must be a misprint," but it's not.

2 The order doesn't include a securities ban.

3 And that's one of the reasons why I'm actually not
4 fighting this. I'm just taking back, because I'm not a
5 threat to society. My five-year probation was over in
6 two years. You know. I don't do drugs. I don't really
7 drink. I mean I don't like community service, and I
8 still continue to do so. I'm actually a very producing
9 member of my community where I do coaching work and so
10 forth.

11 But I mean, again, I'm not someone who is a
12 danger to society. And I just want the opportunity, if
13 in the future, if I wanted to do some consulting work, I
14 could do some consulting work. I have no interest in
15 going to insurance. I have no interest in going into the
16 brokerage industry again. And those letters that I sent,
17 I mean, they're pretty powerful letters. And when I read
18 them over and over, you know, I was very emotional,
19 because these are good people. These are sophisticated
20 people. They're attorneys who wrote these, you know,
21 successful people.

22 And that's really, Your Honor, that's what I
23 want taken into consideration. And, hopefully, it's not
24 the SEC who has the final decision making on this, but
25 it's just someone like yourself who can take a step back

1 and really take a look, just for what it really is. Was
2 there a mistake made? Yes, and I have to say I'm
3 extremely sorry that happened. It took extremely large
4 toll on me, personally, on my family. I have great kids.
5 My wife, thank God, stuck by me.

6 But that's really the whole idea behind my
7 response. It was just to really lay out who I am,
8 because you can't -- you know -- they say, "judge a book
9 by its cover." And, you know, there's a lot more to this
10 than you're able to read with a couple of words from an
11 indictment and a guilty plea, and so forth. And, you
12 know --

13 JUDGE FOELAK: I just want to make --

14 MR. RATHGEBER: Sure.

15 JUDGE FOELAK: I was just going to make one
16 comment about the Fabrice Tourre situation. I, you know,
17 have no idea what plans the Division of Enforcement may
18 have, but a ban from the securities industry is not
19 something that you can get in court. It has to be
20 through an administrative proceeding such as this one.

21 MR. RATHGEBER: I'm sure. I just thought it
22 was interesting, Your Honor, that the last sentence, that
23 specifically somebody had to throw that in there. Also,
24 Judge -- Hon. Marcy Kahn, who was the supervising judge
25 in our case issued me a certificate, a relief from

1 disabilities within a matter of a month after the fact.
2 So, again, that's not something that comes very easily,
3 but we did a very good job making -- you know, getting an
4 opportunity to actually make our case and meet with her
5 personally. And she got an opportunity to know me, so
6 that's really what it came down to. And that's why,
7 again, the response, the letters I gave.

8 I think I might need some type of counsel to
9 help me through this, because it just -- again, it's the
10 principle. It really is, and I have no attention, again,
11 of ever selling a stock to anybody or a bond, which was
12 never my forte. Or, you know, it's just the whole idea,
13 and that's the whole idea behind this, and so forth. It
14 means a lot to me from a principle standpoint.

15 JUDGE FOELAK: Well, you know, once again, I
16 might suggest you might revisit the idea of a settlement.

17 But, anyway, does anyone have anything else?

18 MS. RAMOS: No, Your Honor.

19 MR. RATHGEBER: Your Honor, if the SEC, Mr.
20 Frohlich and Ms. Ramos, would like to talk to me in
21 regards to a settlement, which is just not a flat-out
22 bar, I would love the opportunity to entertain that, if
23 that's possible. Because I made it very clear I have no
24 intention of really selling a stock, a bond. I have no
25 plan to go into insurance. I have no plan to go into

1 banking, nothing like that at all. So if they'd like to
2 -- you know. I mean if that's something that you would
3 encourage, I'd appreciate that. Because it seems like
4 that if there's no budging, I don't think that's -- you
5 know. That's not very fair.

6 MS. RAMOS: Well we'll certainly have some
7 internal discussions, and if we think there's something
8 we can do, we'll reach back out to Mr. Rathgeber.

9 MR. RATHGEBER: I would appreciate that, Ms.
10 Ramos. That would mean a lot to me; and, again, I'm 50
11 years old, and, you know, I've been working since I was
12 nine years old. You know, again, I can't begin to
13 explain to you, but if you look at the record, all the
14 trades that I did, that Mr. Orthos did, that all these
15 other people that were involved in my case, and Mr.
16 Orthos, you know, I believe he accepted your offer and
17 he's barred, if I'm correct.

18 I don't know about really anybody else. I
19 didn't look anybody else up, but they are in a whole
20 different circumstance than me. Every single trade I did
21 was approved, verbally, by Bill Greeman who was my
22 supervisor. And he spoke to the client and he approved,
23 and he actually confirmed the transaction.

24 And then I got on the phone with compliance in
25 the city, and then I put them on the phone with Bill

1 Greeman. And then Bill Greeman confirmed it with them,
2 and I was able to put the trade into trading. So they
3 were fully aware of it. None of these people were
4 indicted.

5 So it's an extraordinary circumstance compared
6 to all of the other people that were involved. Nobody
7 had the same heightened supervision that I did. And, by
8 the way, just so we're clear, the heightened supervision
9 came across from an arbitration I had with two people
10 from the U.K. I can't recall their names off the top of
11 my head, but it was something that I didn't have, going
12 back. I didn't have the facts to back up my information,
13 but it was during the tech bubble and it resulted in a
14 sum of about -- I think it was \$180,000. It's on my
15 FINRA record.

16 Dave -- I forget what the fellow's name was.
17 Anyway, it resulted in a heightened supervision, which
18 started. And, by the way, they wanted me to come off the
19 heightened supervision, I think, in 2005. And I said,
20 "No. This is perfect. I don't have any customer
21 complaints. Everything's fine. This is perfect. And,
22 you know, the clients appreciate it. There's no mistakes
23 that are made." But nobody else in my particular case
24 had that particular heightened supervision like I did,
25 and I think that goes a long way.

1 Linda Chutnoff, all right, she was compliance.
 2 She sat on FINRA panels for arbitration. She was very
 3 well-respected. Edison Alvarado in compliance is still
 4 in compliance today. I believe he works with national
 5 securities. He wrote a character letter on my behalf.
 6 Again, these are people that were fully aware of every
 7 single trade that I did.
 8 So, Ms. Ramos, Mr. Frohlich, it's a little
 9 extraordinary in that particular sense, and that's one
 10 reason why I keep trying to stress this. And, again, I'd
 11 really love the opportunity -- if there is -- to talk
 12 about ironing something out that's -- you know -- usually
 13 agreeable for all of us. That's all. All right. So I
 14 suppose I'll get some information before the 23rd of May?
 15 MS. RAMOS: That's correct. If we don't work
 16 something out, then we'll be filing papers on or before
 17 April 25th and you'll receive a copy on that date.
 18 MR. RATHGEBER: Okay. I appreciate your time,
 19 everybody's time today. And is there anything else I
 20 need to do at this point?
 21 JUDGE FOELAK: Not from my point of view. No.
 22 Okay. In that case, the pre-hearing conference is over
 23 and I will memorialize this in an order and send it out
 24 to you. Okay.
 25 MR. RATHGEBER: Thank you. Thank you very much

1 for your time, everybody.
 2 JUDGE FOELAK: Okay. Bye.
 3 MR. RATHGEBER: Thank you. Bye-bye, now.
 4 (Whereupon, the telephone pre-hearing
 5 conference was concluded.)
 6 * * * * *
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 PROOFREADER'S CERTIFICATE
 2
 3 In The Matter of: JAMES A. RATHGEBER
 4 ADMINISTRATIVE PROCEEDING PRE-HEARING CONFERENCE
 5 File Number: 3-15691
 6 Date: March 19, 2014
 7 Location: Washington, D.C.
 8
 9 This is to certify that I, Nicholas Wagner,
 10 (the undersigned), do hereby swear and affirm that the
 11 attached proceedings before the U.S. Securities and
 12 Exchange Commission were held according to the record and
 13 that this is the original, complete, true and accurate
 14 transcript that has been compared to the reporting or
 15 recording accomplished at the hearing.
 16
 17 _____
 18 (Proofreader's Name) (Date)
 19
 20
 21
 22
 23
 24
 25

1 REPORTER'S CERTIFICATE
 2
 3 I, PETER SHONERD, reporter, hereby certify that the
 4 foregoing transcript of 15 pages is a complete, true and
 5 accurate transcript of the testimony indicated, held on
 6 March 19, 2014 at Washington, D.C. in the matter of:
 7 JAMES A. RATHGEBER.
 8
 9 I further certify that this proceeding was recorded by
 10 me, and that the foregoing transcript has been prepared
 11 under my direction.
 12
 13
 14 Date: _____
 15 Official Reporter: _____
 16 Diversified Reporting Services, Inc.
 17
 18
 19
 20
 21
 22
 23
 24
 25

<p style="text-align: center;">A</p> <p>Abacus 8:10 able 10:10 13:2 above-entitled 1:14 absolutely 8:18 accepted 12:16 accomplished 16:15 accurate 16:13 17:5 added 8:2 administrative 1:7 1:19 3:4 4:6,9 10:20 16:4 advice 6:21 advised 6:20 affirm 16:10 ago 8:2 agreeable 14:13 ahead 4:9 alleged 6:13 Alvarado 14:3 Americas 7:8 amounts 7:9 answer 3:20 6:14 7:3 anybody 5:19 11:11 12:18,19 anymore 3:22 anyway 11:17 13:17 apparently 8:11 appearances 2:1 3:7 appreciate 12:3,9 13:22 14:18 apprised 3:19 approved 12:21,22 April 5:2,4,7 6:1,3 14:17 arbitration 13:9 14:2 asking 7:4 attached 16:11 attention 4:2 11:10 attorney 6:17 attorneys 9:20 August 8:7 aware 13:3 14:6</p>	<p>a.m 1:15</p> <hr/> <p style="text-align: center;">B</p> <p>B 6:13,14 back 3:15 5:3 9:4 9:25 12:8 13:12 13:12 ban 8:24 9:2 10:18 Bank 7:8 banking 12:1 bar 11:22 barred 12:17 barring 4:11 based 4:18 5:11 6:11 bear 4:4 behalf 2:3,12 7:1 14:5 believe 7:15 12:16 14:4 bet 8:16 Bill 12:21,25 13:1 billionaire 8:12 billion-dollar 8:16 Bloomberg 8:22 bond 11:11,24 bonus 8:20 book 10:8 bothers 7:6 boy 3:14 brief 5:1 brokerage 9:16 brought 4:1 bubble 13:13 budging 12:4 business 3:22 buy 7:10 Bye 15:2 Bye-bye 15:3</p> <hr/> <p style="text-align: center;">C</p> <p>C 3:1 6:13,15 called 8:9 CAROL 1:19 case 6:11 8:2 10:25 11:4 12:15 13:23 14:22 certain 5:12 certainly 12:6 certificate 10:25</p>	<p>16:1 17:1 certify 16:9 17:3,9 character 7:1 14:5 charging 6:9 choose 8:13 Chutnoff 14:1 circumstance 12:20 13:5 city 12:25 civic 8:6 civil 8:20 claimed 8:8 clear 6:19 11:23 13:8 client 12:22 clients 6:23 13:22 coaching 9:9 coffin 8:24 Cohens 7:8 comb 8:14 come 13:18 comes 7:5 11:2 comment 10:16 Commission 1:1,9 2:3,7 16:12 Commission's 5:13 community 9:7,9 compared 13:5 16:14 complaints 13:21 complete 16:13 17:4 completely 4:15 compliance 12:24 14:1,3,4 concluded 15:5 conference 1:7 3:3 3:5 14:22 15:5 16:4 confirmed 12:23 13:1 consideration 7:3 9:23 consulting 9:13,14 continue 9:8 conviction 4:19 6:12 copies 6:6 copy 14:17</p>	<p>correct 3:23 8:18 12:17 14:15 correctly 8:3 counsel 4:3 6:17,21 11:8 couple 10:10 court 10:19 cover 10:9 customer 13:20</p> <hr/> <p style="text-align: center;">D</p> <p>D 3:1 danger 9:12 date 1:12 14:17 16:6,18 17:14 dates 4:22 Dave 13:16 David 2:5 3:10 day 6:25 decision 9:24 declined 4:8 desire 6:4 different 12:20 direction 17:11 disabilities 11:1 disagree 4:16 discussions 3:25 12:7 disposition 4:20 5:18 6:3 dispute 5:11 District 8:19 Diversified 1:24 17:16 Division 2:6 3:10 4:19 5:10,16,25 10:17 document 6:9 drink 9:7 drugs 9:6 D.C 1:11 2:9 16:7 17:6</p> <hr/> <p style="text-align: center;">E</p> <p>E 3:1,1 easily 11:2 Eastern 3:6 Edison 14:3 emotional 9:18 employer 8:5</p>	<p>encourage 12:3 Enforcement 2:6 3:10 10:17 entertain 11:22 ESQ 2:4,5 everybody 15:1 everybody's 14:19 Everything's 13:21 exactly 7:25 Exchange 1:1,9 2:3 2:7 8:8 16:12 explain 12:13 extraordinary 13:5 14:9 extremely 10:3,3 ex-vice 8:3 e-r 3:14</p> <hr/> <p style="text-align: center;">F</p> <p>F 1:10 2:8 Fabrice 7:16,18,22 10:16 fact 6:20 11:1 facts 5:11 13:12 fail 8:16 fair 12:5 familiar 7:15,18 family 10:4 fellow's 13:16 fighting 9:4 file 1:4 4:20 5:10,17 6:3,14 7:2 16:5 filing 14:16 final 9:24 find 7:14 8:14 findings 4:19 fine 13:21 fine-tooth 8:14 FINRA 13:15 14:2 first 3:18 five-year 9:5 flat-out 11:21 Foelak 1:19 3:2,7 3:12,15,17 4:18 4:22,25 5:5,7,9,22 5:25 6:8 7:2,23 10:13,15 11:15 14:21 15:2 following 5:4</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

foregoing 17:4,10
forget 13:16
former 8:4
Forrest 8:18
forte 11:12
forth 4:17 9:10
 10:11 11:13
found 8:7
four 5:14
FOX 1:19
Frenchman 7:24
 7:25
Friday 5:5
Frohlich 2:5 3:9,10
 7:16 11:20 14:8
fully 13:3 14:6
fund 8:12
funds 6:18
further 17:9
future 9:13
F-r-o-h-l-i-c-h 3:10

G

G 3:1
Gee 8:25
getting 11:3
give 8:20
go 11:25,25
God 10:5
goes 13:25
going 5:25 9:15,15
 10:15 13:11
Goldman 8:4
good 3:17 5:5 9:19
 11:3
great 5:8 10:4
Greeman 12:21
 13:1,1
guilty 6:20 10:11

H

happened 10:3
happy 4:23 6:25
head 13:11
hearing 3:5 16:15
hedge 8:12
heightened 13:7,8
 13:17,19,24
held 3:5 16:12 17:5
help 11:9

helped 8:12
history 8:17
Hon 10:24
Honor 3:9,23,24
 4:21 7:5,21 9:22
 10:22 11:18,19
hopefully 9:23
huge 7:9

I

idea 10:6,17 11:12
 11:13,16
include 8:24 9:2
included 6:23
indicated 3:21 17:5
indicted 13:4
indictment 10:11
industry 4:11 9:16
 10:18
information 13:12
 14:14
instituted 4:6,9
instituting 3:21
 6:10,12
insurance 9:15
 11:25
intention 11:24
intentionally 8:8
interest 3:21 8:21
 9:14,15
interesting 10:22
internal 12:7
investors 8:9
involved 12:15 13:6
ironing 14:12
issued 10:25

J

James 1:5 2:13 3:3
 3:13 16:3 17:7
job 11:3
John 8:12
judge 1:19 3:2,6,12
 3:15,17 4:18,22
 4:25 5:5,7,9,22,25
 6:8 7:2,23 8:19
 10:8,13,15,24,24
 11:15 14:21 15:2
jury 8:7
J.P 7:7

K

Kahn 10:24
Katherine 8:18
keep 14:10
kept 8:25
kids 10:4
know 7:7,21 8:17
 9:6,18,20 10:8,9
 10:12,16 11:3,5
 11:12,15 12:2,5
 12:11,12,16,18
 13:22 14:12

L

L 2:4
large 10:3
LAW 1:19
lay 10:7
letter 7:1 14:5
letters 6:23 9:16,17
 11:7
let's 5:1 6:11,12
 7:13
liable 8:7
lied 8:11
Linda 14:1
little 14:8
Location 16:7
long 13:25
look 10:1 12:13,19
looked 8:25
lot 10:9 11:14
 12:10
love 11:22 14:11

M

making 9:24 11:3
mansions 7:11
March 1:12 3:5
 16:6 17:6
Marcy 10:24
material 5:11
matter 1:3,14 3:3
 11:1 16:3 17:6
mean 4:2 6:10 7:6
 9:7,11,17 12:2,10
means 11:14
meet 11:4
member 9:9

memorialize 14:23
Michelle 2:4 3:11
million 7:10
million-dollar 7:11
mind 4:22
mine 6:24
misled 8:9
misprint 9:1
mistake 10:2
mistakes 13:22
money 7:9 8:15
month 5:1 11:1
Morgans 7:8
mortgage 8:9
motion 4:20 5:10
 5:17

N

N 3:1
nail 8:23
name 13:16 16:18
names 13:10
national 14:4
need 5:23 11:8
 14:20
negotiations 3:19
never 4:1 11:12
Nicholas 16:9
nine 12:12
notice 1:15 3:20
Number 3:4 16:5
N.E 1:10 2:8

O

O 3:1
oceanfront 7:11
offer 4:7 12:16
offering 4:3
Official 17:15
Oh 4:10 7:23
Okay 3:2,15,17,17
 4:15,18,25 5:7,9
 5:12,14 14:18,22
 14:24 15:2
old 8:6 12:11,12
once 11:15
ones 8:14
opening 4:25
opportunity 9:12
 11:4,5,22 14:11

opposition 5:15
order 3:20 6:9,12
 8:24 9:2 14:23
ordered 8:1,19
original 16:13
Orthos 12:14,16
outcome 5:12 8:17

P

P 3:1
pages 1:8 17:4
paid 8:5
panels 14:2
paper 6:1
papers 5:22,23
 14:16
particular 7:12
 13:23,24 14:9
Paulson 8:12
pay 7:9 8:1,19
penalties 8:20
people 7:7 9:19,20
 9:21 12:15 13:3,6
 13:9 14:6
perfect 13:20,21
permission 4:20
person 6:10
personally 10:4
 11:5
PETER 17:3
phone 12:24,25
Picassos 7:10
PLACE 1:9
plan 11:25,25
plans 10:17
played 8:11
plea 10:11
plead 6:20
please 3:8 4:4
plus 8:21
point 4:8 14:20,21
possible 11:23
possibly 5:3
potential 4:7
powerful 9:17
Practice 5:14
pre 3:4
prepared 17:10
president 8:3

pretty 9:17
 pre-hearing 1:7,14
 3:2 14:22 15:4
 16:4
 principle 11:10,14
 PRO 2:13
 probation 9:5
 proceeding 1:7 3:4
 4:7,9 10:20 16:4
 17:9
 proceedings 3:21
 6:10,13 16:11
 producing 9:8
 Proofreader's 16:1
 16:18
 provided 6:6
 purpose 6:7
 pursuant 1:15 5:13
 push 5:3
 put 5:14 12:25 13:2
 puts 8:23

R

R 3:1
 Ramos 2:4 3:11,15
 3:16,24 4:5,12,14
 4:21,23 5:3,6,8
 7:16,17,20 11:18
 11:20 12:6,10
 14:8,15
 Rathgeber 1:5 2:13
 3:3,12,13,13,20
 3:23 4:1,6,10,13
 4:15 5:10,17,20
 5:23 6:5,16 7:4,18
 7:21,25 10:14,21
 11:19 12:8,9
 14:18,25 15:3
 16:3 17:7
 reach 12:8
 read 8:3 9:17 10:10
 reading 8:25
 really 6:16,18 7:4,6
 9:6,22 10:1,1,6,7
 11:6,10,24 12:18
 14:11
 reason 4:16 6:22
 14:10
 reasons 9:3

recall 4:5 13:10
 receive 14:17
 record 3:7 12:13
 13:15 16:12
 recorded 17:9
 recording 16:15
 regards 11:21
 reimbursement 8:4
 relief 10:25
 reply 5:16 6:1,2
 reporter 17:3,15
 REPORTER'S
 17:1
 reporting 1:24
 16:14 17:16
 represented 4:3
 request 4:19 5:12
 required 6:8
 respond 6:9,11
 respondent 2:12
 6:13
 response 4:17 6:5
 6:19 10:7 11:7
 rest 8:22
 resulted 13:13,17
 revisit 11:16
 right 5:23,25 6:5
 7:25 14:1,13
 role 8:11
 Room 1:10
 Rule 5:13
 Rules 5:13 6:9
 R-a-m-o-s 3:11
 R-a-t-h-g-e-b 3:14

S

S 3:1
 sat 14:2
 saying 6:14
 says 8:18
 schedule 4:24 5:18
 Scott-free 7:9
 SE 2:13
 SEC 4:2 7:15 8:8
 9:24 11:19
 second 7:13
 securities 1:1,9 2:3
 2:7 3:22 8:8,13,24
 9:2 10:18 14:5

16:11
 see 7:13
 seek 6:17 8:4
 selling 11:11,24
 send 14:23
 sense 14:9
 sent 4:7 9:16
 sentence 8:23 10:22
 service 9:7
 Services 1:24 17:16
 settlement 3:19,25
 4:2,7,13 11:16,21
 SHONERD 17:3
 sign 4:8
 single 12:20 14:7
 situation 10:16
 society 9:5,12
 somebody 10:23
 sophisticated 9:19
 sorry 10:3
 so-called 6:24
 spare 7:13
 speak 6:25
 specific 6:22
 specifically 10:23
 spelled 3:14
 spoke 12:22
 standpoint 11:14
 started 13:18
 STATES 1:1
 stating 5:10
 step 9:25
 Steven 7:8
 stock 11:11,24
 Street 1:10 2:8
 stress 14:10
 stuck 10:5
 submit 6:1
 submitted 5:24
 subprime 8:9
 successful 9:21
 suggest 11:16
 sum 13:14
 summary 4:20 5:17
 6:3
 summer 8:6
 supervising 10:24
 supervision 13:7,8
 13:17,19,24

supervisor 12:22
 suppose 7:6 14:14
 sure 6:16 10:14,21
 swear 16:10

T

take 9:25 10:1
 taken 7:3 9:23
 talk 11:20 14:11
 talking 4:10
 tech 13:13
 teleconference 5:21
 telephone 3:5 15:4
 testimony 17:5
 thank 10:5 14:25
 14:25 15:3
 they'd 12:1
 thing 3:18 7:7,12
 think 6:18,21 8:16
 11:8 12:4,7 13:14
 13:19,25
 thought 10:21
 threat 9:5
 throw 10:23
 time 3:6 14:18,19
 15:1
 today 14:4,19
 toll 10:4
 top 13:10
 Toure 7:16,19,22
 10:16
 to-date 3:25
 trade 12:20 13:2
 14:7
 trades 12:14
 trading 13:2
 transaction 12:23
 transcript 16:14
 17:4,5,10
 trial 8:5,6,7
 true 16:13 17:4
 trying 14:10
 turn 7:10
 two 7:11 8:1 9:6
 13:9
 type 11:8

U

undersigned 16:10
 UNITED 1:1

usually 14:12
 U.K 13:10
 U.S 1:9 8:19 16:11

V

vehicle 8:9
 verbally 12:21
 victims 6:24
 view 14:21

W

Wagner 16:9
 walk 7:9
 want 9:12,23 10:13
 wanted 9:13 13:18
 Washington 1:11
 2:9 16:7 17:6
 way 8:5,13 13:8,18
 13:25
 Wednesday 1:12
 week 5:4,16 7:10
 8:1
 weeks 5:15 7:12 8:1
 well-respected 14:3
 went 4:8 8:13
 we'll 5:20 12:6,8
 14:16
 we're 4:23 13:8
 wife 10:5
 words 10:10
 work 4:23 9:9,13
 9:14 14:15
 working 12:11
 works 14:4
 write 7:1
 wrote 9:20 14:5

Y

yeah 4:5 5:6
 years 8:6 9:6 12:11
 12:12

\$

\$150 7:10
 \$180,000 13:14

1

1 1:8
 1st 8:7
 100 1:10 2:8

11:00 3:6
11:07 1:15
15 17:4
15691 3:4
17 1:8
175,463 8:20
18 7:11
18th 5:2,4
19 1:12 16:6 17:6
19th 3:6

2

2005 13:19
2007 8:10,20
2014 1:12 3:6 16:6
17:6
202 1:25 2:10
20549 2:9
23rd 5:15,20,24 6:2
14:14
25th 5:7 6:1,4
14:17
250 5:13

3

3-15691 1:4 16:5
30th 5:17 6:2
35 8:6

4

467-9200 1:25

5

50 12:10
5004 1:10
551-4693 2:10

6

650,000 8:19

8

825,000 8:1