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SOUTHERN DISTRICT OF CALIFORNIA

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08 CV 1620 WGH RBB

11  
12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA

14 SECURITIES AND EXCHANGE  
15 COMMISSION,

16 Plaintiff,

17 vs.

18 RETAIL PRO, INC. (fka Island Pacific, Inc.),  
BARRY M. SCHECHTER, RAN H. FURMAN,  
19 and HARVEY BRAUN,

20 Defendants.

Case No.

COMPLAINT

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

2 **JURISDICTION AND VENUE**

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

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

15 **SUMMARY**

16 3. This case involves a fraudulent scheme by Island Pacific, Inc. (“Island Pacific” or  
17 the “Company”) and its then senior management to overstate the Company’s financial results for  
18 the quarters ended September 30, 2003 (“Q2 2004”), and December 31, 2003 (“Q3 2004”), and  
19 its fiscal year ended March 31, 2004 (“FY 2004”). The Company’s senior management  
20 responsible for the fraud were defendants Barry M. Schechter (“Schechter”), a controlling person  
21 and *de facto* officer; Ran H. Furman (“Furman”), the Chief Financial Officer; and Harvey Braun  
22 (“Braun”), the Chief Executive Officer.

23 4. In Q2 2004, Schechter, Furman and Braun caused Island Pacific to improperly  
24 record and report \$3.9 million in revenue from a sham transaction with an Australian software  
25 company, QQQ Systems Pty Limited (“QQQ”). The transaction had no economic substance or  
26 business purpose and instead was entered into in order to artificially inflate Island Pacific’s  
27 revenues reported in its financial statements. Subsequently, in the third quarter, Island Pacific  
28 improperly recorded an offsetting transaction whereby it purchased from QQQ \$3.9 million of

1 software. In fact, no contract finalizing this offsetting transaction was signed until the fourth  
2 quarter. Island Pacific and QQQ never exchanged any money as a result of these offsetting  
3 agreements. In addition, neither Island Pacific nor QQQ made any effort to sell the other's  
4 software or to determine the fair value of their software licensing rights as required by applicable  
5 accounting principles.

6 5. As a result of improperly recognizing and reporting the \$3.9 million as revenue,  
7 Island Pacific overstated its revenues by 140% for Q2 2004, 29% for the nine months ending Q3  
8 2004, and 22% for the 2004 fiscal year, and reported a small profit instead of a massive loss for  
9 Q2 2004. The defendants also failed to disclose the sham nature of the QQQ transaction and  
10 actively concealed their fraud from Island Pacific's outside auditors, and the public, by creating  
11 forged and/or fabricated documents which they used in an attempt to demonstrate that the  
12 recognition of revenue from the transaction was proper. Additionally, Furman fired a company  
13 whistleblower who expressed concern in an email that the offsetting transactions were  
14 "structured in a manner that is intended to inflate revenues for the purpose of boosting the  
15 corporation's share price."

16 6. As part of the fraudulent scheme, Schechter sold 637,750 shares of Island Pacific  
17 stock, receiving \$488,410 in ill-gotten gains.

18 7. By engaging in this conduct, the defendants variously violated and aided and  
19 abetted violations of the antifraud, issuer reporting and record-keeping, internal controls, and  
20 prohibition against misrepresentations to accountants provisions of the federal securities laws.  
21 The Commission seeks to obtain injunctions from future violations, civil penalties, and officer  
22 and director bars against Schechter, Furman, and Braun, and additionally to obtain disgorgement  
23 of ill-gotten gains from Schechter.

#### 24 DEFENDANTS

25 8. **Retail Pro, Inc., formerly known as Island Pacific, Inc. ("Island Pacific")**, is a  
26 Delaware corporation. At all relevant times, Island Pacific was headquartered in Irvine,  
27 California, and also had offices in La Jolla, California. During all relevant times, Island Pacific  
28 developed and sold software to the retail industry. Its common stock is registered with the

1 Commission pursuant to Section 12(b) of the Exchange Act, traded on the American Stock  
2 Exchange until it was delisted on October 25, 2005 as a result of the company's failure to file  
3 periodic reports, and currently trades through the Pink Sheets (RTPR.PK). On December 21,  
4 2007, Island Pacific sold its Island Pacific division to an Australian company and renamed the  
5 unsold portion of the company Retail Pro, Inc.

6 9. **Barry M. Schechter** is a resident of La Jolla, California. He founded Island  
7 Pacific in 1994 and, at various times, has been its Chief Executive Officer ("CEO") (February  
8 1994 to January 2001, October 2001 to June 2003, and April 2005 to June 2008) and its  
9 Chairman of the Board of Directors (February 1994 to July 2003). During the period of the  
10 fraud, Schechter was designated as a consultant to Island Pacific but, in fact, was a controlling  
11 person and *de facto* officer of Island Pacific and controlled a substantial number of Island Pacific  
12 shares. Schechter was a Chartered Accountant in South Africa from 1979 to 1989, when he  
13 immigrated to the United States and allowed his accounting license to lapse.

14 10. **Ran H. Furman** is a resident of San Diego, California. Furman was the Chief  
15 Financial Officer ("CFO") of Island Pacific from September 2003 to January 2005. Furman is  
16 currently the CFO and a director of Osage Exploration and Development, Inc., an oil and gas  
17 company that trades through the Pink Sheets. Furman was a CPA in Washington State but allowed  
18 his CPA license to expire in 1993.

19 11. **Harvey Braun** is a resident of Livingston, New Jersey. Braun was an Island  
20 Pacific division president from January 2003 to April 2003, its CEO from April 2003 to April  
21 2004, and the Chairman of the Board of Directors from July 2003 to February 2004. Braun is  
22 currently self-employed and consults for retail and consumer products companies.

### 23 THE FRAUDULENT SCHEME

#### 24 A. The Defendants Cause Island Pacific To Fraudulently Recognize Revenue For Its 25 Second Quarter 2004 From A Sham Transaction

##### 26 1. Island Pacific Purportedly Sells Software To QQQ

27 12. In late September 2003, Schechter negotiated a software license agreement (the  
28 "License Agreement") between Island Pacific and QQQ, an Australian start-up company. The  
License Agreement, which QQQ's CEO and Furman signed on or about September 29, 2003,

1 one day before the quarter closed, granted QQQ a license to distribute Island Pacific's "Host"  
2 software in Australia and New Zealand. According to the terms of the agreement executed by  
3 QQQ, QQQ agreed to pay Island Pacific, at QQQ's option, *either*: (1) \$3.25 million in two equal  
4 installments of \$1.625 million on November 15, 2003 and December 31, 2003; *or* (2) 20% of  
5 QQQ's net sublicensing fees to a maximum of \$4 million. Pursuant to that agreement, on  
6 September 30, 2003, the last day of the quarter, Island Pacific shipped software to QQQ.

7 13. In September 2003, prior to signing the License Agreement, QQQ's CEO  
8 received a letter (the "Side Letter") from Island Pacific, signed by Braun at Schechter's direction,  
9 confirming that, in addition to the License Agreement, Island Pacific and QQQ were  
10 simultaneously negotiating, among other things, Island Pacific's purchase of QQQ's "Pyramid"  
11 software. The Side Letter also stated that "the payment terms extended to QQQ [in the License  
12 Agreement] will be changed to coincide with the closing of the other transactions contemplated  
13 in this letter, when completed."

14 14. On October 3, 2003, Schechter and Furman caused Island Pacific to recognize  
15 \$3.25 million in revenue from the License Agreement and to record a \$3.25 million account  
16 receivable from QQQ, both as of September 30, 2003.

17 2. **Schechter And Furman Fabricate A Modification To The License Agreement**  
18 **And Fraudulently Cause Recognition Of Additional Revenue**

19 15. On October 10, 2003, Schechter and Furman, without QQQ's knowledge,  
20 changed three critical terms of the License Agreement -- what was being sold, the price, and the  
21 payment terms. They modified the License Agreement to grant QQQ a license to distribute two  
22 Island Pacific programs, "Host" and "Direct," and to provide that QQQ agreed to pay Island  
23 Pacific \$3.25 million for Host and \$650,000 for Direct, payable in two equal installments due on  
24 November 15, and December 31, 2003, *plus* 10% of QQQ's net sublicensing fees.

25 16. On October 13, 2003, Schechter and Furman caused Island Pacific to record as of  
26 September 30, 2003, an additional \$650,000 in revenue and account receivable, for a total of  
27 \$3.9 million in revenue and as an account receivable from the QQQ transaction.

28 17. QQQ's CEO never signed, saw, or agreed to the modified License Agreement.

1 Moreover, QQQ had no ability to make a \$3.9 million payment because QQQ's total revenues  
2 for the year were less than \$4 million.

3 **3. The License Agreement Revenue Was Improperly Recognized**

4 18. The License Agreement did not qualify for revenue recognition in Q2 2004 under  
5 Island Pacific's own revenue recognition policy or under GAAP. Specifically, Island Pacific  
6 represented in its 2003 Form 10-K filed on or about June 26, 2003, its Q2 and Q3 2004 Forms  
7 10-Q filed on or about November 12, 2003, and February 17, 2004, respectively, and its 2004  
8 Form 10-K filed on or about June 29, 2004, that it recognized revenue when it licensed software  
9 and provided related services in accordance with American Institute of Certified Public  
10 Accountants ("AICPA") Statement of Position 97-2 ("SOP 97-2"), "Software Revenue  
11 Recognition," which provides that revenue recognition is proper only when: (1) persuasive  
12 evidence of an arrangement exists; (2) delivery has occurred; (3) the vendor's fee is fixed and  
13 determinable; and (4) collectibility is probable. SOP 97-2 ¶ .08. In fact, Island Pacific's revenue  
14 recognition policy was more stringent and specific than SOP 97-2 in that Island Pacific  
15 specifically represented in its Forms 10-K and 10-Q that its conditions for recognizing revenue  
16 included "when a license agreement has been signed," rather than merely requiring persuasive  
17 evidence of an arrangement. As explained below, with the sole exception that Island Pacific had  
18 delivered the software to QQQ, the License Agreement failed to satisfy any of the above  
19 elements of SOP 97-2.

20 **a. There Was No Persuasive Evidence Of An Arrangement**

21 19. First, as a threshold matter, there was no persuasive evidence of an arrangement  
22 because the Side Letter provided that QQQ's payment terms would be changed at some point in  
23 the future to coincide with other transactions being negotiated between the parties. In addition,  
24 QQQ was unaware of the "modified" License Agreement, and never agreed to its terms requiring  
25 that it pay Island Pacific additional monies. Not only was there no persuasive evidence of an  
26 arrangement, but there was no signed modified License Agreement. Accordingly, the  
27 representation in Island Pacific's Forms 10-Q and 10-K that a signed license agreement was a  
28 precondition for recognizing revenue was false.

1                   **b. The Fee To Be Charged By Island Pacific Was Not Fixed Or**  
2                   **Determinable**

3                   20. Second, in the version of the License Agreement executed by QQQ, the vendor's  
4 fee was not fixed and determinable. GAAP provides that "any extended payment terms in  
5 software licensing arrangements may indicate that the fee is not fixed or determinable" and "if  
6 payment of a significant portion of the software licensing fee is not due until more than 12  
7 months after delivery, the licensing fee should be *presumed* not to be fixed or determinable."  
8 SOP 97-2 ¶ .28 (emphasis in original). Here, the License Agreement signed by QQQ provided  
9 for no fixed payments, and allowed QQQ to make royalty payments to Island Pacific on  
10 sublicensing fees QQQ earned from sales to end users over a 36-month period. Because the  
11 number of sales was unknown at the time the License Agreement was entered into, and because  
12 royalty fees remained due for more than twelve months, it was improper to recognize any  
13 revenue from the License Agreement in Q2 2004. Additionally, Schechter and Furman had  
14 fabricated the "modified" version of the License Agreement which, unbeknownst to QQQ,  
15 obligated QQQ to pay substantial and additional monies to Island Pacific.

16                   **c. Collectibility From QQQ Was Not Probable**

17                   21. Finally, it was not probable that Island Pacific would collect the \$3.9 million  
18 provided for in the fabricated modified agreement because QQQ did not have the financial  
19 means to make such a payment, and because QQQ was completely unaware of and had not  
20 agreed to the terms of the "modified" License Agreement requiring two installment payments  
21 totaling \$3.9 million plus 10% of QQQ's net sublicensing fees. Moreover, the License  
22 Agreement executed by QQQ permitted it to make no upfront payment and required it to pay a  
23 royalty fee only upon the future sale of the product. Under SOP 97-2, because the License  
24 Agreement signed by QQQ allowed it to pay Island Pacific a royalty fee upon the sale of  
25 software, Island Pacific could have recognized revenue only upon payment from QQQ. As QQQ  
26 never sold the product to an end user, no royalties ever became due or payable, and, hence, no  
27 revenue could be properly recognized by Island Pacific.

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1           **4. Defendants Furman And Braun Sign A False Management Representation**  
2           **Letter To Island Pacific's Auditors**

3           22. On or about November 11, 2003, defendants Furman and Braun signed, and  
4 caused to be transmitted to Island Pacific's auditors in connection with their review of the  
5 Company's financial statements for its quarter ended September 30, 2003, a management  
6 representation letter. In the letter, Furman and Braun represented, among other things, that:

- 7           a. The interim financial information was presented in accordance with  
8 GAAP applied on a basis substantially consistent with the same period in  
9 the prior year, the immediately preceding quarter, and the prior fiscal  
10 year.  
11           b. They had no knowledge of any fraud or suspected fraud affecting the  
12 company involving management or employees who had significant roles  
13 in internal controls.  
14           c. There were no material transactions that had not been properly recorded  
15 in the accounting records underlying the interim financial information.

16 These representations were all materially false in light of the improper recording of \$3.9 million  
17 revenue from the purported sale to QQQ.

18           **5. The Defendants Announce Island Pacific's Overstated Q2 2004 Financial**  
19           **Results**

20           23. After the market closed on November 12, 2003, at or about 4:00 p.m. Eastern  
21 Standard Time ("EST"), Island Pacific announced its Q2 2004 financial results in a press release  
22 headlined "Company Reports 76% Increase in Revenues," which represented that it earned \$6.7  
23 million in revenues -- a 76% increase over revenues of \$3.8 million for the same period in the  
24 previous year. Island Pacific also reported gross profit (revenues minus cost of goods sold) of  
25 \$5.6 million, and income from continuing operations of \$699,000. Additionally, the press  
26 release stated that the Company reiterated its previous guidance for fiscal 2004. Schechter,  
27 Furman, and Braun participated in reviewing and editing the press release, and Braun was quoted  
28 in the press release. By improperly including the License Agreement revenue, Schechter,  
Furman and Braun caused Island Pacific to overstate revenues by \$3.9 million, or 140%;

1   overstate gross profit by \$3.8 million, or 214%; and to not report its \$3.1 million loss from  
2   continuing operations.

3           24.    Later on November 12, 2003, at or about 4:30 p.m. EST, Island Pacific broadcast  
4   an earnings conference call with securities analysts and shareholders over the Internet.

5   Schechter, Furman and Braun participated in reviewing and editing the earnings conference call  
6   script. Furman and Braun also each were present and spoke during the earnings conference call.

7   Furman stated, in part:

8           We reported revenues of approximately \$6.7 million, a 75.9% increase versus  
9           revenues of \$3.8 million for the year earlier period. . . . The increase in gross profit  
10          [from \$2.2 million in the same quarter in the prior year to \$5.6 million] is due  
11          primarily to an increase in higher margin software sales and a reduction in  
12          professional services. . . .

11   In addition, Braun represented:

12           We showed solid sequential revenue growth during the second quarter even while  
13           we took important steps to position the company for the second half of the year to  
14           ensure that we meet the Fiscal 2004 guidance we outlined in the first quarter and  
15           are reaffirming today. . . . [W]e expect to report annual sales revenues of \$31 to \$33  
16           million. . . which is the same guidance we announced during our first quarter call.  
17           Obviously this implies that we will generate significant third and fourth quarter  
18           revenues to reach this target. We are comfortable with those expectations. . . .

16           25.    In the press release and the earnings conference call, Island Pacific, Schechter,  
17   Furman and Braun attributed the positive financial results to new products, customer acceptance  
18   of those new products, and several new distribution partners, among other things. They also  
19   noted that one of the highlights of the quarter was entering into a distribution agreement with a  
20   different, well known software reseller.

21           26.    In the press release and earnings conference call, Island Pacific, Schechter,  
22   Furman and Braun failed to disclose the License Agreement with QQQ and that revenue from  
23   that contract accounted for 58% of the quarter's revenues and 68% of the quarter's gross profit.  
24   They also failed to disclose that under the terms of the License Agreement executed by QQQ,  
25   QQQ was not obligated to make a fixed and determinable payment, but, rather, had the option of  
26   paying *either* \$3.25 million *or* a 20% royalty fee on future sales, if any. In the press release and  
27   earnings conference call, Island Pacific, Schechter and Furman also failed to disclose that they  
28   had unilaterally modified critical terms of the License Agreement, after the quarter had ended, to

1 change the products being licensed, the price being paid, and the payment terms, without QQQ's  
2 knowledge or consent.

3 27. Also on November 12, 2003, Island Pacific filed its quarterly report on Form 10-  
4 Q with the Commission for its quarter ended September 30, 2003. Furman and Braun signed the  
5 Form 10-Q, and signed a required certification which falsely asserted that to their knowledge, the  
6 Form 10-Q fairly presented, in all material respects, the Company's financial condition and  
7 results of operations.

8 28. Island Pacific's Q2 2004 Form 10-Q disclosed that it had recognized \$3.9 million  
9 in revenue from the License Agreement and represented that the License Agreement was a one-  
10 time transaction. This statement was materially misleading as the recognition of revenue from  
11 the License Agreement violated Island Pacific's revenue recognition policy and SOP 97-2. In  
12 the Q2 2004 Form 10-Q, Island Pacific, Schechter and Furman also failed to disclose that under  
13 the terms of the License Agreement executed by QQQ, QQQ was not obligated to make a fixed  
14 and determinable payment, but, rather, had the option of paying *either* \$3.25 million *or* a 20%  
15 royalty fee on future sales, if any. In the Q2 2004 Form 10-Q, Island Pacific, Schechter and  
16 Furman also failed to disclose that they had unilaterally modified critical terms of the License  
17 Agreement, after the quarter had ended, to modify the products being licensed, the price being  
18 paid, and the payment terms, without QQQ's knowledge or consent.

19 29. On November 13, the day following the positive earnings release, Island Pacific's  
20 stock closed at \$2.25, up 8.2% from the prior day's close, and trading volume increased to 1.75  
21 million shares, up sharply from the prior five day average trading volume of 100,160 shares.

22 **B. Schechter Negotiates A Purchase By Island Pacific From QQQ To Offset Island**  
23 **Pacific's \$3.9 Receivable From QQQ And Furman Causes The Arrangement To Be**  
24 **Prematurely Recorded In The Third Quarter**

25 **1. Schechter Negotiates An Offsetting Sublicense Agreement With QQQ**

26 30. In the quarter ended March 31, 2004 ("Q4 2004"), Schechter negotiated an  
27 agreement (the "Sublicense Agreement") between Island Pacific and QQQ under which Island  
28 Pacific agreed to purchase from QQQ a sublicense to market QQQ's "Pyramid" software. Under  
the Sublicense Agreement, Island Pacific agreed to pay QQQ a \$3.9 million upfront payment

1 plus future royalty payments. At the time of Sublicense Agreement, however, the U.S. version  
2 of QQQ's Pyramid software was still under development and would not be marketable for the  
3 foreseeable future.

4 31. Schechter, Furman and Braun all knew that the Sublicense Agreement was not  
5 finalized or signed by the parties until late January or early February 2004, in Q4 2004, when  
6 Steven Beck, Island Pacific's president and a director, signed the agreement as a director on  
7 behalf of Island Pacific.

8 **2. Furman Causes The Sublicense Agreement To Be Improperly Recorded**

9 32. Even though the Sublicense Agreement was not executed until February 2004,  
10 Island Pacific, at Furman's direction, recorded it as a Q3 2004 transaction by booking the  
11 sublicense as a \$3.9 million asset and crediting (*i.e.*, eliminating) the \$3.9 million account  
12 receivable from QQQ based on the License Agreement. Schechter and Braun also knew that the  
13 Sublicense Agreement had been improperly recorded as a Q3 2004 transaction.

14 33. Under Accounting Principles Board Opinion No. 29 (APB 29), Accounting for  
15 Nonmonetary Transactions, ¶¶ 1, 3 & 18, nonmonetary transactions must be accounted for based  
16 on the fair value of the assets exchanged, with gain or loss recognized on the exchange. Under  
17 APB 29 ¶ 20, no revenue may be recognized if the fair values of exchanged assets are not  
18 determinable within reasonable limits; the transaction is an exchange of a product held for sale in  
19 the ordinary course of business for sale in the same line of business; or the exchange lacks  
20 commercial substance. All three exclusions under APB 29 applied. Accordingly, the Sublicense  
21 Agreement should not have been booked as an asset and the account receivable should not have  
22 been credited.

23 **3. Furman Terminates A Whistleblower Who Detects The Fraud**

24 34. On February 4, 2004, Island Pacific's Contract Administrator, who was  
25 responsible, among other things, for the internal review of software license agreements prior to  
26 their distribution to Island Pacific's internal accounting department, wrote an email to Furman,  
27 who was his immediate supervisor, as well as to Schechter, Braun and others within Island  
28 Pacific's management. The subject of the Contract Administrator's email was entitled "Revenue

1 Recognition.” The Contract Administrator’s email detailed his concerns “that certain  
2 transactions involving the company QQQ appear to be structured in a manner that is intended to  
3 inflate revenues for the purpose of boosting the corporation’s share price.” The Contract  
4 Administrator specifically challenged both the License Agreement and the Sublicense  
5 Agreement. After detailing the terms of both transactions, including explaining that the  
6 Sublicense Agreement should be reported in Q4 rather than Q3, the Contract Administrator  
7 stated that “the totality of the circumstances creates the appearance that the transactions were  
8 intended merely to boost the reportable revenue of Island Pacific in the quarter ended September  
9 2003.”

10 35. The following day, Furman fired the Contract Administrator. However, even  
11 though the Contract Administrator had only worked for Island Pacific for five months, Furman  
12 signed a Separation Agreement and General Release of Claims whereby Island Pacific agreed to  
13 pay the Contract Administrator a lump sum equaling four months salary (minus taxes) within  
14 eight days of execution of the Separation Agreement. In exchange, the Contract Administrator  
15 agreed to maintain “absolute confidentiality” of the Separation Agreement, and not to make or  
16 publish “derogatory” statements about the Company. One week later, Island Pacific announced  
17 its Q3 2004 financial results, which continued to include the revenues from the License  
18 Agreement.

19 **4. Furman And Braun Sign Another False Management Representation Letter**  
20 **To Island Pacific’s Auditors**

21 36. On or about February 12, 2004, Furman and Braun signed, and caused to be  
22 transmitted to Island Pacific’s auditors in connection with their review of the Company’s  
23 financial statements for its quarter ended December 31, 2003, a management representation  
24 letter. In the letter, Furman and Braun repeated the same false representations that they had  
25 made in their November 11, 2003, management representation letter. Again, these  
26 representations were all materially false in light of both the improper recording of \$3.9 million  
27 revenue from the purported sale to QQQ, which was improperly included in Island Pacific’s  
28 nine-month summary for the period ended December 31, 2003, and the improper recording of the

1 Sublicensing Agreement.

2 37. Additionally, Furman and Braun falsely represented in the February 12, 2004  
3 letter that:

- 4 a. There were no significant deficiencies, including material weaknesses, in the  
5 design or operation of internal controls.
- 6 b. They had no knowledge of any allegations of fraud or suspected fraud  
7 affecting the Company received in communications from, among others,  
8 employees.

9 These additional representations were false in light of the Contract Administrator's February 4,  
10 2004 email to Furman and Braun, among others, which detailed his concerns about fraudulent  
11 revenue recognition with regard to the License Agreement and Sublicense Agreement with QQQ.

12 **5. The Defendants Announce Island Pacific's Overstated Q3 2004 Financial**  
13 **Results**

14 38. On February 13, 2004, Island Pacific announced its Q3 2004 financial results in a  
15 press release. In the press release, Island Pacific reported, for the three months ending December  
16 31, 2003, revenues of \$5.1 million and a loss from continuing operations of \$346,000.

17 Additionally, Island Pacific reported, for the nine months ending December 31, 2003, revenues  
18 of \$17.3 million and income from continuing operations of \$688,000. Schechter, Furman, and  
19 Braun participated in reviewing and editing the press release, and Braun was quoted in the press  
20 release. By improperly including the License Agreement revenue in its nine-month summary,  
21 Schechter, Furman and Braun caused Island Pacific to overstate revenues by \$3.9 million, or  
22 29%, and not to report its \$3.2 million loss from continuing operations.

23 39. Also on February 13, 2004, at or about 9:00 a.m. EST, Island Pacific broadcast an  
24 earnings conference call with securities analysts and shareholders over the Internet. Schechter,  
25 Furman and Braun participated in reviewing and editing the earnings conference call script.

26 Furman and Braun also each were present and spoke during the earnings conference call.

27 Furman stated, in part:

28 We reported revenues of approximately \$5.1 million. . . .

1 We reported a loss from continuing operations of \$346,000. . .

2 We reported gross profits of \$3.7 million. . . As a percentage of revenues, gross  
3 profit increased to 72.5% from 69.5% in the year earlier period. The increase in  
4 gross profit is due primarily to a better mix of higher margin software sales and a  
reduction in professional services. . . .

5 For the 9 months ended December 31, 2003, we reported revenues of \$17.3  
6 million, a 9.3% increase versus the same period in fiscal 2003. We reported  
7 income from continuing operations of \$638,000 versus a loss from continuing  
operations of \$4 million for the same period last year. . . .

8 In addition, Braun represented:

9 In the cost [sic] of this fiscal year we have created a new Island Pacific. When I  
10 spoke to you in 2003 I mentioned that we were going [t]o launch several new  
11 products which would likely yield revenues during the second half of the calendar  
year. We have done that. We remain very confident that we will generate  
significant revenue from new and existing products. . . .

12 Now I would like to address our financial guidance for the balance of our fiscal  
13 year. We expect to report fourth quarter revenues of \$7 to \$8 million and net  
income of 2 to 3 cents per diluted share. . . .

14 In closing, I take responsibility and am personally disappointed in the  
15 performance of the group for the third quarter. . . . It is imperative that you and  
16 the stockholders understand that this is a bump in the road. . . . To put the  
situation in perspective, Island Pacific lost over \$40 million during a recent 3 year  
period and our performance over the first 9 months of this year reflects a \$4  
million plus swing in profitability. . . .

17 40. The representations made in the earnings conference call regarding Island  
18 Pacific's quarterly and nine-month financial results were materially false and misleading because  
19 Island Pacific had improperly included the License Agreement revenue in its nine-month  
20 summary. Braun's statement that the Company's financial results were "a bump in the road,"  
21 contrasting a loss of "over \$40 million during a recent 3 year period," with "our performance  
22 over the first 9 months of this year reflect[ing] a \$4 million plus swing in profitability" further  
23 materially misrepresented Island Pacific's financial results.

24 41. In addition to materially overstating Island Pacific's revenues over a nine month  
25 period, in the press release and earnings call, Island Pacific, Schechter, Furman, and Braun failed  
26 to disclose that during Q4, in February 2004, Island Pacific had entered into a Sublicense  
27 Agreement with QQQ to purchase licensing rights for Pyramid software for \$3.9 million and that  
28 Island Pacific had improperly recorded the Sublicense Agreement as a Q3 2004 transaction in

1 order to eliminate the \$3.9 million account receivable from the License Agreement without  
2 receiving any cash from QQQ.

3 42. Also on or about February 17, 2004, Island Pacific filed its quarterly report on  
4 Form 10-Q with the Commission for its quarter ended December 31, 2003. Furman and Braun  
5 signed the Form 10-Q, and signed a required certification in which they falsely asserted that to  
6 their knowledge, the Form 10-Q fairly presented, in all material respects, the Company's  
7 financial condition and results of operations.

8 43. In the Q3 Form 10-Q, Island Pacific, Furman, and Braun made the same false  
9 representations regarding the company's financial condition that were made in the press release  
10 and the conference call. Additionally, in the Form 10-Q, Island Pacific, Furman and Braun falsely  
11 represented that in December 2003, Island Pacific had entered into an agreement to purchase  
12 software from QQQ for \$3.9 million and that the \$3.9 million purchase price was paid by  
13 offsetting it against the account receivable due from QQQ. In fact, the Sublicense Agreement was  
14 not finalized until early February 2004, well after the close of Q3 2004. Island Pacific, Furman  
15 and Braun also did not disclose in the Form 10-Q that the Sublicense Agreement was improperly  
16 recorded in December 2003 to eliminate the \$3.9 million account receivable from QQQ.

17 44. Between Island Pacific's announcements of its Q2 2004 and Q3 2004 financial  
18 results, Island Pacific stock had traded between \$1.75 and \$2.90. On February 13, the day of the  
19 third quarter earnings announcement, Island Pacific's stock closed at \$1.43, down 32.5% from  
20 the prior day's close of \$2.12, and more than 4.8 million shares traded. On February 14, the  
21 stock fell to \$1.37, with more than 2.4 million shares traded. Island Pacific's stock price  
22 continued to decline and was trading below \$1 by May 2004.

23 **C. Schechter Profits From The Fraud**

24 45. Schechter profited from the fraudulent scheme by selling Island Pacific stock  
25 during the fraud through the Ivanhoe Irrevocable Trust, which held 2,008,237 Island Pacific  
26 shares at March 31, 2003. At Schechter's instruction and through a brokerage account he opened  
27 and controlled, Ivanhoe sold 637,750 shares of Island Pacific stock between November 13, 2003  
28 (after Island Pacific announced its Q2 2004 results) and February 12, 2004 (one day before

1 Island Pacific announced its Q3 2004 results). The proceeds from these sales were then  
2 transferred to an Ivanhoe bank account over which Schechter exercised control. Schechter  
3 received \$488,410 in ill-gotten gains as a result of these sales.

4 **D. Schechter, Furman And Braun Make Misrepresentations To Island Pacific's Auditors**  
5 **And Island Pacific Announces Its Overstated FY 2004 Financial Results**

6 1. **The Individual Defendants Make Misrepresentations To The Auditors**

7 a. **Schechter Forwards Forged And Fabricated Documents To The**  
8 **Auditors**

9 46. In connection with the FY 2004 audit, in or about mid-April 2004, Schechter  
10 forwarded to the auditors: (1) a confirmation dated March 9, 2004, purportedly signed on April  
11 12, 2004, by QQQ's CEO, that represented, among other things, that the purchase price under the  
12 License Agreement was a total of \$3.9 million; (2) a confirmation dated April 12, 2004,  
13 purportedly signed by QQQ's CEO that he had provided QQQ the "required financial support it  
14 needed" to pay the \$3.9 million; (3) an unsigned letter dated April 12, 2004, purportedly from  
15 QQQ's CEO describing his negotiations to acquire Island Pacific's software and confirming that  
16 QQQ had the ability to meet its financial commitments under the License Agreement; and (4) an  
17 unsigned letter purportedly from QQQ's CEO confirming that QQQ could pay the \$3.9 million  
18 purchase price.

19 47. The signatures on the confirmations and the unsigned letters purportedly from  
20 QQQ's CEO were all forged. QQQ's CEO never signed the confirmations and had not written  
21 the letters. Moreover, the statements in all four documents falsely represented the substance of  
22 the transactions with QQQ.

23 b. **Braun Makes Misrepresentations In An Email And Memorandum To**  
24 **The Auditors**

25 48. During the FY 2004 audit, on or about April 14, 2004, in response to specific  
26 auditor questions, Braun caused an email to be sent to the audit manager falsely representing that  
27 the License Agreement and the Sublicense Agreement were not connected. Braun, however, had  
28 signed the Side Letter (which was never disclosed to the auditors) stating that "the payment  
terms extended to QQQ [in the License Agreement] will be changed to coincide with the closing

1 of the other transactions contemplated in this letter, when completed.”

2 c. **Furman Authors, And Braun Signs, A Memorandum From Furman**  
3 **To The Auditors Misrepresenting That The QQQ Transactions Are**  
4 **Unrelated**

5 49. On or about May 12, 2004, in response to the auditors’ question as to why QQQ  
6 failed to make the first payment under the License Agreement, Braun signed a memorandum  
7 authored by and from Furman to the auditors falsely stating that QQQ had intended to pay the  
8 first \$1.95 million installment but was unable to do so because QQQ had inadvertently placed the  
9 funds into a money market account and would incur a substantial penalty for early withdrawal  
10 and that the parties then agreed in December to offset the payment against amounts QQQ owed  
11 Island Pacific in connection with the Sublicense Agreement “as a matter of convenience.” The  
12 memorandum also falsely stated that Island Pacific entered into an agreement with QQQ to  
13 acquire the Pyramid software in December 2003, during Q3 2004, when in fact the agreement  
14 was not signed until February 2004, in Q4 2004. Braun signed the memorandum below a  
15 statement that said “Please sign below to attest that you have read the document and it accurately  
16 captures the details regarding the consummation of the two separate transactions.”

17 d. **Furman Signs A Third False Management Representation Letter**

18 50. On or about July 11, 2004, Furman signed a management representation letter to  
19 the auditors. The letter falsely represented that:

- 20 a. Island Pacific’s financial statements were fairly presented in conformity  
21 with GAAP.
- 22 b. “We have no knowledge of fraud or suspected fraud affecting the entity  
23 involving” management or employees who have significant roles in the  
24 internal control.
- 25 c. “We have no knowledge of any allegations of fraud or suspected fraud  
26 affecting the Company received in communications from employees,  
27 former employees, analysts, regulators, short sellers or others,” when, in  
28 fact, Island Pacific’s Contract Administrator had emailed Furman on or  
about February 4, 2004, expressing his concerns that the QQQ transaction

1 was "structured in a manner that is intended to inflate revenues for the  
2 purpose of boosting the corporation's share price."

- 3 d. There were no significant deficiencies in the design or operation of internal  
4 controls.
- 5 e. The company was accounting for its software revenues in accordance with  
6 SOP 97-2 and Staff Accounting Bulletin ("SAB") 104, including that there  
7 were no side agreements for any sales, when, in fact, the QQQ transaction  
8 in Q2 2004 was not recorded in accordance with SOP 97-2 or SAB 104,  
9 and it included a Side Agreement.
- 10 f. There were no material transactions not properly recorded in the  
11 accounting records underlying the financial statements.
- 12 g. The transactional history provided to the auditors resulting in the recording  
13 of the \$3.9 million in revenues from the sale to QQQ "has been accurately  
14 presented to you and is properly reflected in the financial statements under  
15 the applicable revenue recognition criteria."

16 **2. Island Pacific Announces Its Overstated FY 2004 Financial Results**

17 51. Island Pacific announced its FY 2004 financial results in a June 29, 2004 press  
18 release, earnings call, and Form 10-K, for its fiscal year ended March 31, 2004. Schechter and  
19 Furman participated in reviewing and editing the press release and the earnings conference call  
20 script. Furman was also present and spoke during the earnings conference call, broadcast over  
21 the Internet at or about 4:30 p.m. EDT. Furman signed the Form 10-K, and signed a certification  
22 that to his knowledge, the Form 10-K fairly presented, in all material respects, the Company's  
23 financial condition and results of operations. Furman additionally certified, among other things,  
24 that he had reviewed the Form 10-K and that:

- 25 a. The Form 10-K did not contain any untrue statement of a material fact or omit  
26 to state a material fact necessary to make the statements made, in light of the  
27 circumstances under which such statements were made, not misleading with  
28 respect to the period covered by the annual report.

- 1           b.     That he was responsible for establishing and maintaining internal control over  
2                     financial reporting and had designed such internal control to provide  
3                     reasonable assurance regarding the reliability of financial reporting and the  
4                     preparation of financial statements in accordance with GAAP.
- 5           c.     That he had disclosed any fraud, whether or not material, that involved  
6                     management.

7 These representations were false, in that the Form 10-K contained material misrepresentations  
8 regarding the financial condition of Island Pacific and failed to disclose the fraudulent scheme by  
9 Schechter, Furman and Braun to inflate Company revenues.

10           52.     Specifically, in its press release, earnings call and 2004 Form 10-K, Island Pacific  
11 reported revenues of \$21.7 million, gross profit of almost \$16.5 million, and a loss from  
12 continuing operations of \$4.2 million. By improperly including the License Agreement revenue in  
13 those announcements and causing it to be recorded in the financial statements included in the  
14 Form 10-K, Schechter and Furman caused Island Pacific to overstate revenues by \$3.9 million, or  
15 22%, and gross profit by \$3.8 million, or 30%, and to understate its loss by \$3.8 million, or 47%.

16           53.     Island Pacific and Furman failed to disclose in the press release and earnings call  
17 the License Agreement with QQQ and that revenue from that contract accounted for \$3.9 million  
18 (or 18%) of the year's revenues. In the press release, earnings call, and 2004 Form 10-K, Island  
19 Pacific and Furman also failed to disclose that the revenue from the License Agreement should  
20 not have been included in Island Pacific's year end financials, as the recognition of revenue from  
21 the License Agreement violated Island Pacific's revenue recognition policies, SOP 97-2, and  
22 APB 29, for the reasons previously set forth.

23 **E.     The Parties Abandon The QQQ Transaction**

24           54.     Island Pacific and QQQ did nothing to carry out the terms of the License and  
25 Sublicense Agreements. Neither party sold or marketed the other's software, and Island Pacific  
26 never demanded QQQ's payment of the \$3.9 million or any of the installment payments when  
27 they became due. In the fall of 2004 after inquiries from the Commission and Company  
28 auditors, at Furman's direction, Island Pacific reversed entries on its books reflecting the

1 modified License Agreement and Sublicense Agreement, and restated its Q2, Q3 and fiscal year  
2 2004 financial statements.

3 **FIRST CLAIM FOR RELIEF**  
4 **Fraud In The Offer Or Sale Of Securities**  
5 **Violations of Section 17(a) of the Securities Act**  
6 **(Against Schechter)**

7 55. The Commission realleges and incorporates by reference paragraphs 1 through 54  
8 above.

9 56. Schechter, by engaging in the conduct described above, directly or indirectly, in  
10 the offer or sale of securities by the use of means or instruments of transportation or  
11 communication in interstate commerce or by use of the mails:

- 12 a. with scienter, employed devices, schemes, or artifices to defraud;
- 13 b. obtained money or property by means of untrue statements of a material  
14 fact or by omitting to state a material fact necessary in order to make the  
15 statements made, in light of the circumstances under which they were  
16 made, not misleading; or
- 17 c. engaged in transactions, practices, or courses of business which operated  
18 or would operate as a fraud or deceit upon the purchaser.

19 57. By engaging in the conduct described above, Schechter violated, and unless  
20 restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. §  
21 77q(a).

22 **SECOND CLAIM FOR RELIEF**  
23 **Fraud In Connection With The Purchase Or Sale Of Securities**  
24 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**  
25 **(Against All Defendants)**

26 58. The Commission realleges and incorporates by reference paragraphs 1 through 54  
27 above.

28 59. The defendants, by engaging in the conduct described above, directly or  
indirectly, in connection with the purchase or sale of a security, by the use of means or  
instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities

1 exchange, with scienter:

- 2 a. employed devices, schemes, or artifices to defraud;
- 3 b. made untrue statements of a material fact or omitted to state a material fact  
4 necessary in order to make the statements made, in light of the  
5 circumstances under which they were made, not misleading; or
- 6 c. engaged in acts, practices, or courses of business which operated or would  
7 operate as a fraud or deceit upon other persons.

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

11 **THIRD CLAIM FOR RELIEF**  
12 **Violations Of Issuer Reporting Requirements**  
13 **Section 13(a) of the Exchange Act,**  
14 **and Rules 12b-20, 13a-1 and 13a-13 thereunder**  
15 **(Against Defendant Island Pacific)**  
16 **Aiding and Abetting Issuer Reporting Violations**  
17 **(Against Schechter, Furman and Braun)**

18 61. The Commission realleges and incorporates by reference paragraphs 1 through 54  
19 above.

20 62. Defendant Island Pacific violated Section 13(a) of the Exchange Act, 15 U.S.C. §  
21 78m(a), and Rules 12b-20, 13a-1 and 13a-13 thereunder, 15 U.S.C. §§ 240.12b-20, 240.13a-1 &  
22 240.13a-13, by filing with the Commission required periodic reports for the second and third  
23 quarters of its fiscal year 2004 which failed to include material information necessary to make  
24 the required statements, in light of the circumstances under which they were made, not  
25 misleading.

26 63. Defendants Schechter, Furman and Braun, and each of them, knowingly provided  
27 substantial assistance to Island Pacific's violation of Section 13(a) of the Exchange Act and  
28 Rules 12b-20 and 13a-13 thereunder; and defendants Schechter and Furman, and each of them,  
knowingly provided substantial assistance to Island Pacific's violation of Section 13(a) of the  
Exchange Act and Rules 12b-20 and 13a-1 thereunder.

///



1 continue to violate Rule 13b2-1, 17 C.F.R. § 240.13b2-1.

2 **FIFTH CLAIM FOR RELIEF**  
3 **Misrepresentations To Accountants**  
4 **Violations of Exchange Act Rule 13b2-2**  
5 **(Against Defendants Schechter, Furman and Braun)**

6 69. The Commission realleges and incorporates by reference paragraphs 1 through 54  
7 above.

8 70. Defendants Schechter, Furman and Braun, by engaging in the conduct described  
9 above, directly or indirectly:

- 10 a. made or caused to be made materially false or misleading statements to  
11 accountants in connection with; or
- 12 b. omitted to state, or caused another person to omit to state, material facts  
13 necessary in order to make statements made, in light of the circumstances  
14 under which such statements were made, not misleading, to accountants in  
15 connection with:
  - 16 i. an audit, review or examination of the financial statements of the  
17 issuer required to be made; or
  - 18 ii. the preparation or filing of a document or report required to be  
19 filed with the Commission.

20 71. By engaging in the conduct described above, defendants Schechter, Furman and  
21 Braun violated, and unless restrained and enjoined will continue to violate, Exchange Act Rule  
22 13b2-2, 17 C.F.R. § 240.13b2-2.

23 **SIXTH CLAIM FOR RELIEF**  
24 **Internal Control Violations**  
25 **Violations of Section 13(b)(2)(B) of the Exchange Act**  
26 **(Against Defendant Island Pacific)**  
27 **Violations of Section 13(b)(5) of the Exchange Act**  
28 **(Against Defendants Schechter, Furman and Braun)**

72. The Commission realleges and incorporates by reference paragraphs 1 through 54  
above.

73. Defendant Island Pacific, by engaging in the conduct described above, failed to

1 devise and maintain a system of internal accounting controls sufficient to provide reasonable  
2 assurances that:

- 3 a. transactions were executed in accordance with management's general or  
4 specific authorization;
- 5 b. transactions were recorded as necessary (i) to permit preparation of  
6 financial statements in conformity with generally accepted accounting  
7 principles or any other criteria applicable to such statements, and (ii) to  
8 maintain accountability for assets;
- 9 c. access to assets was permitted only in accordance with management's  
10 general or specific authorization; and
- 11 d. the recorded accountability for assets was compared with the existing  
12 assets at reasonable intervals and appropriate action was taken with respect  
13 to any differences.

14 74. Defendants Schechter, Furman and Braun, by engaging in the conduct described  
15 above, knowingly circumvented or knowingly failed to implement a system of internal  
16 accounting controls or knowingly falsified books, records, or accounts described in Section  
17 13(b)(2) of the Exchange Act.

18 75. By engaging in the conduct described above, defendant Island Pacific violated,  
19 and unless restrained and enjoined will continue to violate, Section 13(b)(2)(B) of the Exchange  
20 Act, 15 U.S.C. § 78m(b)(2)(B); and defendants Schechter, Furman and Braun violated, and  
21 unless restrained and enjoined will continue to violate, Section 13(b)(5) of the Exchange Act, 15  
22 U.S.C. § 78m(b)(5).

23 **SEVENTH CLAIM FOR RELIEF**  
24 **False Certification Violations**  
25 **Violations of Exchange Act Rule 13a-14**  
**(Against Defendants Furman and Braun)**

26 76. The Commission realleges and incorporates by reference paragraphs 1 through 54  
27 above.

28 77. Defendants Furman and Braun, by engaging in the conduct described above,

1 falsely certified, among other things, that Island Pacific's 2004 second and third quarter Forms  
2 10-Q fully complied with the requirements of the Exchange Act and fairly presented, in all  
3 material respects, the financial condition and results of operations of the Company, when, in fact,  
4 the reports contained untrue statements of material fact and omitted material information  
5 necessary to make the reports not misleading.

6 78. By engaging in the conduct described above, defendants Furman and Braun  
7 violated, and unless restrained and enjoined will continue to violate, Exchange Act Rule 13a-14,  
8 17 C.F.R. § 240.13a-14.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the Commission respectfully requests that the Court:

11 **I.**

12 Issue findings of fact and conclusions of law that defendants committed the alleged  
13 violations.

14 **II.**

15 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining  
16 defendant Island Pacific, Inc., and its officers, agents, servants, employees and attorneys, and  
17 those persons in active concert or participation with any of them, who receive actual notice of the  
18 judgment by personal service or otherwise, from violating Sections 10(b), 13(a), 13(b)(2)(A) and  
19 13(b)(2)(B) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) & 78m(b)(2)(B),  
20 and Rules 10b-5, 12b-20, 13a-1 and 13a-13 thereunder, 17 C.F.R. §§ 240.10b-5, 240.12b-20,  
21 240.13a-1 & 240.13a-13.

22 **III.**

23 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining  
24 defendant Schechter and his agents, servants, employees and attorneys, and those persons in  
25 active concert or participation with any of them, who receive actual notice of the judgment by  
26 personal service or otherwise, from violating Section 17(a) of the Securities Act, 15 U.S.C. §  
27 77q(a), and Sections 10(b) and 13(b)(5) of the Exchange Act, 15 U.S.C. §§ 78j(b) & 78m(b)(5),  
28 and Rules 10b-5, 13b2-1 and 13b2-2 thereunder, 17 C.F.R. §§ 240.10b-5, 240.13b2-1 &

1 240.13b2-2, and from aiding and abetting any violation of Section 13(a) of the Exchange Act, 15  
2 U.S.C. § 78m(a), and Rules 12b-20, 13a-1 and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20,  
3 240.13a-1 & 240.13a-13.

4 **IV.**

5 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining  
6 defendant Furman and his agents, servants, employees and attorneys, and those persons in active  
7 concert or participation with any of them, who receive actual notice of the judgment by personal  
8 service or otherwise, from violating Sections 10(b) and 13(b)(5) of the Exchange Act, 15 U.S.C.  
9 §§ 78j(b) & 78m(b)(5), and Rules 10b-5, 13b2-1, 13b2-2 and 13a-14 thereunder, 17 C.F.R.  
10 §§ 240.10b-5, 240.13b2-1, 240.13b2-2 & 240.13a-14, and from aiding and abetting any violation  
11 of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1 and 13a-13  
12 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1 & 240.13a-13.

13 **V.**

14 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining  
15 defendant Braun and his agents, servants, employees and attorneys, and those persons in active  
16 concert or participation with any of them, who receive actual notice of the judgment by personal  
17 service or otherwise, from violating Sections 10(b) and 13(b)(5) of the Exchange Act, 15 U.S.C.  
18 §§ 78j(b) & 78m(b)(5), and Rules 10b-5, 13b2-1, 13b2-2 and 13a-14 thereunder, 17 C.F.R.  
19 §§ 240.10b-5, 240.13b2-1, 240.13b2-2 & 240.13a-14, and from aiding and abetting any violation  
20 of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20 and 13a-13  
21 thereunder, 17 C.F.R. §§ 240.12b-20 & 240.13a-13.

22 **VI.**

23 Order defendant Schechter to disgorge all ill-gotten gains from his illegal conduct,  
24 together with prejudgment interest thereon.

25 **VII.**

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

VIII.

1  
2 Enter an order against defendant Schechter pursuant to Section 20(e) of the Securities  
3 Act, 15 U.S.C. § 77t(e), and defendants Schechter, Furman and Braun pursuant to Section  
4 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), prohibiting each of them from acting as an  
5 officer or director of any issuer that has a class of securities registered pursuant to Section 12 of  
6 the Exchange Act, 15 U.S.C. § 78l, or that is required to file reports pursuant to Section 15(d) of  
7 the Exchange Act, 15 U.S.C. § 78o(d).

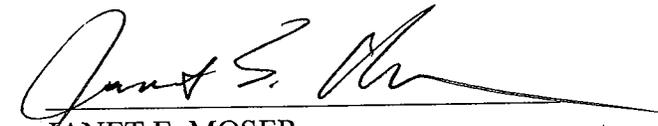
8 IX.

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

13 X.

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

15  
16 DATED: September 4, 2008

  
17 JANET E. MOSER  
18 Attorney for Plaintiff  
19 Securities and Exchange Commission  
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