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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

14 **SECURITIES AND EXCHANGE**  
15 **COMMISSION,**

16 Plaintiff,

17 vs.

18 **HEART TRONICS, INC., MITCHELL JAY**  
**STEIN, WILLIE JAMES GAULT,**  
19 **J. ROWLAND PERKINS, II, MARTIN**  
**BERT CARTER, MARK CROSBY**  
20 **NEVDAHL, and RYAN ALLAN RAUCH,**  
Defendants,

21 **TRACEY HAMPTON-STEIN, ARC**  
**FINANCE GROUP, LLC, ARC BLIND**  
22 **TRUST, THS BLIND TRUST, JAYMI**  
**BLIND TRUST, OAK TREE**  
23 **INVESTMENTS BLIND TRUST, WBT**  
**INVESTMENTS BLIND TRUST, CATCH**  
24 **83 GENERAL PARTNERSHIP, and FIVE**  
25 **INVESTMENTS PARTNERSHIP,**  
Relief Defendants.

Case No. *SACV11-1962-JVS(CANX)*

**COMPLAINT**

26  
27  
28 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

## SUMMARY

1  
2 1. Between December 2005 and December 2008, defendant Mitchell J.  
3 Stein (“Stein”), the purported outside counsel of defendant Heart Tronics, Inc.  
4 (f/k/a Signalife, Inc. and Recom Managed Systems, Inc.) (“Heart Tronics” or the  
5 “Company”) and husband of its majority shareholder, orchestrated a brazen series  
6 of frauds designed to inflate the price of Heart Tronics stock so that he could profit  
7 from selling its securities to investors.

8 2. Stein held himself out as Heart Tronics’ outside counsel and claimed  
9 not to be a Company officer or director; however, in practice, Stein was a *de facto*  
10 officer who controlled many of Heart Tronics’ business decisions and public  
11 disclosures. In that capacity, Stein orchestrated the repeated announcement of  
12 fictitious sales orders for Heart Tronics’ products in public filings with the  
13 Commission, press releases, and other public broadcasts, all designed to make it  
14 appear that Heart Tronics was more successful than it actually was. Stein also  
15 installed former professional football player Willie Gault (“Gault”) as a figurehead  
16 co-CEO along with former Hollywood executive J. Rowland Perkins (“Perkins”) in  
17 order to generate publicity for the company and foster investor confidence.  
18 Through this and other fraudulent schemes described below, Stein was able to  
19 obtain for himself millions of dollars in ill-gotten gains at the expense of public  
20 investors.

21 3. In 2002, Stein’s wife, relief defendant Tracey Hampton-Stein  
22 (“Hampton-Stein”), became the largest shareholder of Heart Tronics, owning  
23 approximately 85% of the Company’s common stock. She owned this stock  
24 through a holding company, relief defendant ARC Finance Group, LLC (“ARC  
25 Finance”). From at least December 2005 through September 2008, while Stein  
26 was orchestrating a campaign of misinformation designed to inflate the price of  
27 Heart Tronics stock, Stein and Hampton-Stein (collectively, “the Steins”) directed  
28 the sale of more than \$5.8 million worth of Heart Tronics stock without disclosing

1 it to the public as required by law. To conceal their purchases, the Steins used  
2 accounts in the name of purportedly blind trusts and other nominee entities,  
3 identified above as relief defendants. The Steins used the proceeds of the sales to  
4 fund their lavish lifestyle, which included multiple homes, exotic cars, and private  
5 jets.

6 4. To accomplish this, Stein enlisted defendant Mark Nevdahl  
7 (“Nevdahl”), a registered representative of a broker-dealer registered with the  
8 Commission (stock broker) to act as the trustee on the blind trust accounts. This  
9 created the façade that the Steins’ Heart Tronics stock was held by separate legal  
10 entities under the control of an independent trustee, when, in fact, the trusts were  
11 “blind” in name only. Nevdahl met the Steins’ regular demands for cash by  
12 continually selling Heart Tronics stock through the trusts. The blind trusts were  
13 further designed as part of a scheme to avoid the required regular public  
14 disclosures under the federal securities laws of ARC Finance’s sales.

15 5. Stein was also aided in his fraudulent schemes by, among others,  
16 defendant Martin Carter (“Carter”). For example, Stein and Carter fabricated  
17 documents designed to make it appear to Company officers that Heart Tronics had  
18 entered into viable sales orders for millions of dollars worth of Heart Tronics  
19 products when, in fact, it did not.

20 6. At the same time, Stein drafted false and misleading press releases  
21 and other public statements for the Company to announce sales orders, or directed  
22 other Company officers to draft public statements based on false and misleading  
23 information he provided.

24 7. For his role in the scheme, Carter received, among other things,  
25 approximately \$600,000 in cash and approximately \$1.4 million in improperly  
26 registered Heart Tronics stock pursuant to a sham consulting agreement between  
27 Carter and Heart Tronics. At Stein’s direction, Carter sold the Heart Tronics stock  
28 in the market and kicked-back substantially all the cash and proceeds of the stock

1 sales to Stein.

2 8. During the relevant period, although nominally the senior-most  
3 officers of Heart Tronics, Gault and Perkins rarely questioned Stein's direction and  
4 abdicated their fiduciary responsibilities to Heart Tronics shareholders. Among  
5 other things, Gault and Perkins signed, or unlawfully authorized to be signed,  
6 public Commission filings containing false statements about the Company's  
7 purported sales.

8 9. In late 2008, Stein and Gault also defrauded an individual investor  
9 into making a substantial investment in Heart Tronics based on, among other  
10 things, materially false representations that the proceeds of the investment would  
11 be used for the Company's operational expenses. Instead, Stein and Gault diverted  
12 the investor's proceeds for their personal use, including the purchase of Heart  
13 Tronics stock on the open market to create the appearance of active trading volume  
14 and to inflate Heart Tronics' stock price.

15 10. In an additional effort to artificially inflate Heart Tronics' stock price,  
16 Stein caused Heart Tronics to hire promoters to tout Heart Tronics' stock to  
17 investors. One such promoter, defendant Ryan Rauch ("Rauch"), solicited  
18 numerous investment advisers, institutional and retail brokers, and other investors  
19 to buy Heart Tronics stock. Rauch purported to give objective recommendations,  
20 but failed to disclose that he was being compensated by the Company in exchange  
21 for his promotion.

22 11. By the third quarter of 2008, Heart Tronics had incurred cumulative  
23 net losses of more than \$60 million, and it has been delinquent in its public filings  
24 with the Commission since it failed to file its Form 10-K for fiscal year 2008.  
25 Stein and the other defendants, however, reaped ill-gotten gains from their  
26 violations of the federal securities laws of approximately \$8 million.

27 12. By engaging in the practices and transactions alleged in this  
28 Complaint, defendants violated numerous provisions of the federal securities laws.

1 **JURISDICTION AND VENUE**

2 13. This Court has jurisdiction over this action pursuant to Sections 20(b),  
3 20(d)(1), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d)(1) & 77v(a)],  
4 and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d),  
5 78u(e), and 78aa].

6 14. Venue in this District is proper pursuant to Section 22(a) of the  
7 Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C.  
8 § 78aa] because acts or transactions constituting federal securities law violations  
9 occurred within the Central District of California and several of the defendants  
10 reside in this district.

11 15. Defendants, directly or indirectly, made use of the mails and of the  
12 means and instrumentalities of interstate commerce in furtherance of the acts,  
13 practices and courses of business described in this Complaint.

14 **DEFENDANTS**

15 16. Heart Tronics is a Delaware corporation headquartered during the  
16 relevant period in Studio City, California and, earlier, in Greenville, South  
17 Carolina. During various time periods relevant to this Complaint, Heart Tronics  
18 was known by its prior corporate names, including primarily “Signalife, Inc.” from  
19 November 2, 2005 through November 20, 2008; accordingly, all references herein  
20 to “Heart Tronics” refer to Company under its prior names as well as under the  
21 name Heart Tronics, Inc. Heart Tronics became a public company in 2002 via a  
22 reverse merger with a public shell company. Heart Tronics purports to sell a  
23 proprietary electrocardiogram (heart monitoring device) called the Fidelity 100.  
24 At all relevant times, the Company’s common stock was registered with the  
25 Commission pursuant to Section 12(g) of the Exchange Act. At all relevant times,  
26 Heart Tronics filed reports with the Commission pursuant to Section 13 of the  
27 Exchange Act. The common stock of Heart Tronics was listed on the American  
28 Stock Exchange (“AMEX”) from approximately June 8, 2005 until September 15,

1 2008. Heart Tronics' stock is now quoted on the OTC Link (formerly "Pink  
2 Sheets") under the symbol "HRTT.PK."

3 17. Mitchell Jay Stein ("Stein") is a California attorney who has  
4 purportedly acted as outside counsel to Heart Tronics from approximately 2002 to  
5 the present. From at least December 2005 through December 2008, Stein  
6 effectively controlled Heart Tronics and its officers, but nominally was not an  
7 officer, director or shareholder of the Company. Stein is married to relief  
8 defendant Tracey Hampton-Stein. Stein is a United States citizen living in Hidden  
9 Hills, California.

10 18. Willie James Gault ("Gault") is a former professional football player.  
11 From approximately October 15, 2008, through June 23, 2011, Gault was Heart  
12 Tronics' President and "co-CEO of Administration." Gault also served on Heart  
13 Tronics' Board of Directors from approximately July 28, 2008, through June 23,  
14 2011. Gault is a United States citizen living in Encino, California.

15 19. J. Rowland Perkins II ("Perkins") is the current Chief Executive  
16 Officer of Heart Tronics. Perkins served as Heart Tronics' interim CEO beginning  
17 on or about May 1, 2008. He became CEO on or about June 1, 2008, but later  
18 shared responsibility with Gault as "co-CEO for Operations." Perkins has served  
19 on Heart Tronics' Board of Directors since approximately August 23, 2005, in  
20 roles including Chairman and member of the Audit Committee. Previously,  
21 Perkins was a founder of the Creative Artists Agency talent agency. Perkins is a  
22 United States citizen living in Beverly Hills, California.

23 20. Martin Bert Carter ("Carter") was purportedly a consultant to Heart  
24 Tronics from approximately January 20, 2008, through November 5, 2008. Carter  
25 is an unlicensed electrician who provided handyman, chauffer and other personal  
26 services for Stein. Carter is a United States citizen living in Boca Raton, Florida.

27 21. Mark Crosby Nevdahl ("Nevdahl") is a registered representative  
28 presently associated with a broker-dealer firm registered with the Commission. At

1 all relevant times, Nevdahl served as the stock broker and trustee for the  
2 purportedly blind trusts beneficially owned by the Steins. Nevdahl is a United  
3 States citizen living in Spokane, Washington.

4 22. Ryan Allan Rauch ("Rauch") is a former securities research analyst  
5 who was an "investor relations" consultant to Heart Tronics from approximately  
6 January 30, 2008 through late April 2008. Rauch is believed to be unemployed.  
7 Rauch is a United States citizen living in San Clemente, California.

8 **RELIEF DEFENDANTS**

9 23. Tracey Hampton-Stein ("Hampton-Stein"), the wife of Stein, is the  
10 sole managing member of ARC Finance Group LLC, Heart Tronics' largest  
11 shareholder. Hampton-Stein is believed to be unemployed. Hampton-Stein is a  
12 United States citizen living in Hidden Hills, California. Hampton-Stein was  
13 unjustly enriched by receiving the proceeds of the unlawful sale of Heart Tronics  
14 stock.

15 24. ARC Finance Group LLC ("ARC Finance") is a single-member  
16 Delaware limited liability company formed in 2002 by Hampton-Stein. ARC  
17 Finance is a shell company that has no business operations, and its address is a  
18 private mailbox in Boca Raton, Florida shared by Stein and Hampton-Stein. ARC  
19 Finance has held a majority position of Heart Tronics' securities (originally  
20 approximately 85%) since 2002. ARC Finance was unjustly enriched by receiving  
21 the proceeds of the unlawful sale of Heart Tronics stock.

22 25. ARC Blind Trust is a purportedly blind trust established on or about  
23 December 19, 2005 under the laws of the State of Nevada. ARC Finance was both  
24 the settlor and the beneficiary of the trust. Nevdahl served as both the trustee and  
25 the broker of the trust's brokerage account. ARC Blind Trust was unjustly  
26 enriched by receiving the proceeds of the unlawful sale of Heart Tronics stock.

27 26. THS Blind Trust is a purportedly blind trust established on or about  
28 August 1, 2005 under the laws of the State of Nevada. ARC Finance was the

1 settlor of the trust and Mitchell Stein was the beneficiary. Nevdahl served as both  
2 the trustee and the broker of the trust's brokerage account. THS Blind Trust was  
3 unjustly enriched by receiving the proceeds of the unlawful sale of Heart Tronics  
4 stock.

5 27. JAYMI Blind Trust is a purportedly blind trust established on or  
6 about March 2, 2007 under the laws of the State of Nevada. ARC Finance was  
7 both the settlor and the beneficiary of the trust. Nevdahl served as both the trustee  
8 of the trust and broker of the trust's brokerage account. JAYMI Blind Trust was  
9 unjustly enriched by receiving shares of Heart Tronics stock from ARC Finance  
10 and the proceeds of the unlawful sale of Heart Tronics stock.

11 28. Oak Tree Investments Blind Trust is a purportedly blind trust  
12 established on or about March 30, 2008, under the laws of the State of Nevada.  
13 ARC Finance was both the settlor and the beneficiary of the trust. Nevdahl served  
14 as the co-trustee and the broker of the trust's brokerage account. The Steins'  
15 former housekeeper served as the other co-trustee. Oak Tree Investments Blind  
16 Trust was unjustly enriched by receiving shares of Heart Tronics stock from ARC  
17 Finance.

18 29. WBT Investments Blind Trust is a purportedly blind trust established  
19 on or about September 21, 2007 under the laws of the State of Nevada. ARC  
20 Finance was both the settlor and the beneficiary of the trust. Nevdahl served as  
21 both the trustee of the trust and broker of the trust's brokerage account. WBT  
22 Investments Blind Trust was unjustly enriched by receiving shares of Heart  
23 Tronics stock from ARC Finance.

24 30. Catch 83 General Partnership is a general partnership formed on or  
25 about April 5, 2005 between Gault and his daughter. Gault conducted his personal  
26 securities trading through brokerage accounts in the name of Catch 83 General  
27 Partnership, and Nevdahl served as the broker. Catch 83 General Partnership was  
28 unjustly enriched by receiving investor capital diverted from Heart Tronics and the



1 proceeds of the unlawful sale of Heart Tronics stock.

2 31. Five Investments Partnership is a general partnership formed on or  
3 about December 11, 2006 under the laws of the State of Nevada between Stein and  
4 Carter. Nevdahl was the broker on Five Investments' brokerage account. Five  
5 Investments Partnership was unjustly enriched by receiving shares of stock issued  
6 by Heart Tronics from transactions unlawfully registered with the Commission on  
7 Form S-8, or the proceeds from the unlawful sale of such stock.

#### 8 OTHER RELEVANT PERSON

9 32. Dr. Lowell T. Harmison, Ph. D., deceased, served as President and  
10 Chief Operating Officer of Heart Tronics beginning on July 2, 2007. He served as  
11 President and CEO from August 17, 2007, through June 2, 2008. Harmison also  
12 served as a member of Heart Tronics' Board of Directors from June 6, 2003, to  
13 June 8, 2008.

#### 14 FACTUAL ALLEGATIONS

##### 15 **I. Schemes to Inflate the Price of Heart Tronics Stock**

16 33. From at least December 2005 through December 2008, Stein,  
17 together at times with certain of his co-defendants, engaged in fraudulent  
18 schemes to inflate the price of Heart Tronics stock. They did so primarily  
19 through a campaign of misinformation centered around falsely reporting  
20 fictitious sales orders of Heart Tronics' flagship product, the Fidelity 100, in  
21 an effort to make Heart Tronics appear more successful than it was.

##### 22 **A. Fraudulent Disclosure of Sales Revenue in 2006**

23 34. In approximately September 2006, after previously having arranged a  
24 failed joint sales marketing arrangement with another company, Stein arranged a  
25 transaction to create the false impression that Heart Tronics had made, and profited  
26 from, its first sale of its Fidelity 100 product.

27 35. More specifically, Stein arranged for a company that specialized in  
28 leasing cars and equipment (the "Leasing Company") to finance a lease of Fidelity

1 100 units from Heart Tronics to a doctor in Los Angeles (the "Doctor"). The  
2 Leasing Company, which had previously leased luxury cars to Stein, agreed to  
3 finance the transaction based on Stein's representations that the Doctor was a *bona*  
4 *fide* customer, that Stein would personally guarantee the loan, and that the product  
5 would be used by the Doctor for medical purposes. The Doctor was a personal  
6 friend of Stein's, whom Stein brought into the transaction after another physician  
7 declined to participate further. In fact, as discussed further below, the Doctor had  
8 no legitimate interest in the units and was simply a straw purchaser arranged by  
9 Stein.

10 36. In approximately September 2006, the Leasing Company agreed to  
11 purchase 11 units of Heart Tronics' Fidelity 100 product and lease them to the  
12 Doctor. On or about September 30, 2006, the Leasing Company issued a check for  
13 the full purchase price payable to Heart Tronics. Under the arrangement, Heart  
14 Tronics would deliver the Fidelity 100 to the Doctor pursuant to a separate  
15 purchase or lease agreement.

16 37. On or about September 20, 2006, in connection with this purported  
17 sale to the Doctor, Heart Tronics issued a materially false and misleading press  
18 release announcing that the Fidelity 100 "has been sold and shipped to everyone  
19 from surgeons to cardiologists to internists, to, as well, a multi-billion-dollar  
20 corporation." The press release was drafted by Stein or by others based solely on  
21 information provided by Stein.

22 38. In fact, as noted above, the Doctor was not a *bona fide* purchaser.  
23 Indeed, the Doctor's initial deposit payment to the Leasing Company failed to clear  
24 for insufficient funds, and the Leasing Company did not receive any further  
25 payments from the Doctor. The Leasing Company then sought and obtained  
26 partial repayment from Stein based on his guarantee of the transaction. While  
27 described by the Company as a legitimate sale, Stein effectively self-funded the  
28 Doctor's purported lease from September 2006 to September 2008 by paying over

1 \$100,000 to the Leasing Company. Stein concealed this fact from Heart Tronics'  
2 Chief Financial Officer ("CFO"), its auditor, its outside securities disclosure  
3 counsel (the "Disclosure Lawyer"), and its other officers. In 2008, Stein ceased  
4 making payments to the Leasing Company, and the Leasing Company re-possessed  
5 at least 8 of the 11 units in their original, unopened shipping boxes.

6 39. Notwithstanding these facts, beginning with its Form 10-Q for the  
7 third quarter 2006, which the Company filed with the Commission on November  
8 13, 2006, Heart Tronics stated that it had "recently commenced commercial  
9 marketing of our... Fidelity 100 Monitor System, and recorded our first revenues  
10 from product sales in October 2006." In substantially the same words, Heart  
11 Tronics repeated these disclosures in each subsequent quarterly and annual report  
12 filed with the Commission through April 3, 2008. In addition, Heart Tronics'  
13 financial statements included in the Forms 10-K filed with the Commission on  
14 April 2, 2007 and April 3, 2008 reported revenue from product sales of \$190,170  
15 in 2006, driven primarily by this purported sale. This was the only sales revenue  
16 recorded by Heart Tronics in its corporate history; the Company never completed  
17 any further sales to any customer. The repeated reporting of this sales revenue  
18 from the purported sale to the Doctor, without disclosing the true facts surrounding  
19 the purported sale or its financing (including the fact that it was a related-party  
20 transaction), was materially false and misleading.

21 **B. Fraudulent Disclosure of Two Additional Fictitious Sales in**  
22 **September 2007**

23 **1. Fraudulent Sale to "Cardiac Hospital Management"**

24 40. On approximately September 14, 2007, Heart Tronics contracted to  
25 sell approximately \$2 million worth of its Fidelity 100 product to an individual  
26 located in Portland, Oregon (the "Customer"), who had a prior relationship with  
27 Lowell Harmison, then the CEO of Heart Tronics. More specifically, the  
28 Customer signed an order to purchase 180 units of the Fidelity 100 for \$1,980,000.

1 Stein negotiated and drafted the purchase order with the Customer, and it was  
2 signed on behalf of Heart Tronics by Harmison. The Customer sent Heart Tronics  
3 a personal check for \$50,000 as a deposit for the units.

4 41. Heart Tronics disclosed the sales order in a press release dated  
5 September 20, 2007 and in the following periodic reports filed with the  
6 Commission: (a) Form 10-Q filed November 14, 2007; (b) Form 10-K filed April  
7 3, 2008; (c) Form 10-Q filed May 15, 2008; and (d) Form 10-Q filed August 15,  
8 2008. These disclosures were drafted by Stein, or by others based solely on  
9 information provided by Stein. As discussed further below, each of these  
10 disclosures was materially false and misleading.

11 42. Although the Customer contracted to purchase the units in his  
12 personal capacity for use in the medical supply business he owned, the purchase  
13 order that was counter-signed by Harmison and returned to the Customer identified  
14 the Customer as "Cardiac Hospital Management" ("CHM"). CHM is a fictitious  
15 entity that was not known to the Customer.

16 43. At the time of the signing of the purchase order, Stein and Harmison  
17 falsely told the Customer that the Fidelity 100 units were fully manufactured and  
18 ready to be shipped. Over the subsequent months, however, Heart Tronics failed  
19 to ship any product to the Customer, blaming the delay on manufacturing problems  
20 beyond its control. Accordingly, the Customer terminated the purchase order and  
21 had no further contact with Heart Tronics or its officers. Heart Tronics did not  
22 return the Customer's deposit.

23 44. When it became clear that Heart Tronics could not deliver the product  
24 and the Customer was canceling his order, Stein orchestrated an elaborate scheme  
25 to mislead Heart Tronics' officers, its auditors, and the public about the sale's  
26 continued viability. The ruse began with a letter dated December 31, 2007,  
27 purportedly sent from "CHM," the nominal purchaser inserted on the Customer's  
28 September 14, 2007 sales order, indicating that CHM intended for the sale to move

1 forward. The letter provided a "new address" in Tokyo, Japan, and was signed in  
2 the name of "Toni Nonoy," the purported purchasing agent of CHM.

3 45. In fact, this letter was one of many bogus documents created by Stein  
4 and Carter to create the illusion that Heart Tronics had a viable sales order. Stein  
5 provided the fraudulent letter to Heart Tronics' officers, and the false document  
6 was retained in the Company's books and records as support for the continued  
7 disclosure of the pending sale.

8 46. By March 2008, Heart Tronics still had not shipped any product to  
9 CHM which, as discussed above, did not exist. However, Stein sought to ensure  
10 that the pending purchase order was still included in the Company's public filings  
11 with the Commission because reporting sales orders would inflate the price of  
12 Heart Tronics' stock and potentially attract new investors or customers.

13 47. Given the materiality of the \$1.98 million dollar sales order to the  
14 Company's financial disclosures, in connection with preparing the Company's  
15 disclosures in the Form 10-K to be filed in April 2008, Heart Tronics' CFO and  
16 Disclosure Lawyer sought to obtain confirmation from CHM of its intention to  
17 complete the purchase. Stein provided them with a toll-free fax number,  
18 purportedly for CHM, to which they could send such a request for confirmation.  
19 On March 21, 2008, the Disclosure Lawyer and CFO faxed a confirmation letter to  
20 CHM at the number that had been provided by Stein. Unbeknownst to the  
21 Disclosure Lawyer or CFO, the toll-free number had, in fact, been registered by  
22 Carter at Stein's request as part of the scheme to continue the façade that there was  
23 a legitimate purchaser on the other end of the CHM sales order.

24 48. On March 25, 2008, a confirmation letter, purportedly signed by  
25 CHM's "Tony Nony" (a different spelling of the name of the purported CHM  
26 purchasing agent) was returned to the Disclosure Lawyer and CFO by facsimile.  
27 In fact, Carter, pretending to be "Tony Nony," fraudulently signed and transmitted  
28 the false confirmation letter to the Disclosure Lawyer and CFO at Stein's direction.

1 Indeed, the fax number from which the facsimile was sent was registered to  
2 Carter's residence in Boca Raton, Florida.

3 49. Over the ensuing months, Carter and Stein prepared other false  
4 documents to give the impression to Heart Tronics' officers, as well as the public,  
5 that the CHM sale was still viable. For example, in June 2008, Stein gave Carter  
6 an envelope addressed to Heart Tronics and instructed him to travel to Tokyo,  
7 Japan to mail the letter back to Heart Tronics to create the appearance that it  
8 originated from Japan. Carter made a one-day round trip to Japan in  
9 approximately July 2008 to carry out Stein's instructions.

10 50. Harmison, the CFO, the Disclosure Lawyer, and Heart Tronics'  
11 auditors relied on the false documents prepared by Stein and Carter in preparing  
12 and filing the Company's 2007 Form 10-K and Form 10-Qs for the fiscal quarters  
13 ended September 30, 2007, March 31, 2008, and June 30, 2008 (filed on April 3,  
14 2008, November 14, 2007, May 15, 2008, and August 15, 2008, respectively). In  
15 each of those filings, Heart Tronics fraudulently reported that it had a significant  
16 pending purchase order with a hospital/medical group purchasing organization  
17 (CHM) with expected gross proceeds of \$1,980,000. Because the Company did  
18 not otherwise have sales revenue, the repeated false and misleading disclosure of  
19 these pending sales orders was plainly material.

## 20 **2. Fraudulent Sale to "IT Healthcare"**

21 51. Meanwhile, at the same time he was orchestrating the scheme with  
22 respect to CHM, Stein orchestrated a similar scheme with respect to a second  
23 fictional sales order.

24 52. On approximately September 24, 2007, Heart Tronics purportedly  
25 entered into an order to sell 300 units of the Fidelity 100 to an Israeli entity called  
26 "IT Healthcare" for \$3.3 million. On October 4, 2007, the Company purportedly  
27 entered into a follow-on sales order with IT Healthcare for an additional 47 units  
28 for \$564,000.

1           53. The sales were disclosed to the public by the Company in press  
2 releases drafted by Stein, or by others based solely on information provided by  
3 Stein, dated September 25, 2007, and October 10, 2007. The Company also  
4 disclosed the pending sales in the following periodic reports filed with the  
5 Commission: (a) Form 10-Q filed November 14, 2007; (b) Form 10-K filed April  
6 3, 2008; (c) Form 10-Q filed May 15, 2008; and (d) Form 10-Q filed August 15,  
7 2008.

8           54. However, IT Healthcare was a fictional company and not a *bona fide*  
9 purchaser of Heart Tronics' products.

10           55. Prior to this supposed sales order by IT Healthcare, Heart Tronics had  
11 only recognized nominal revenue from product sales related to the purported sale  
12 involving the Doctor and the Leasing Company in 2006. Even the supposed sales  
13 order by CHM was valued at only approximately half the value of the IT  
14 Healthcare order. Therefore, the press releases and Commission filings disclosing  
15 the pending sale to IT Healthcare were material.

16           56. Stein and Carter fabricated and executed documents related to this  
17 transaction, including the sales orders, confirmations, and shipping instructions, in  
18 the name of fictitious people supposedly affiliated with IT Healthcare, just as they  
19 did for the CHM sale. As with the fake CHM documents, several documents  
20 supposedly written by an officer of IT Healthcare contained disparate spellings of  
21 that person's name.

22           57. As with the disclosure of the CHM sale, in early 2008, Heart Tronics'  
23 Disclosure Lawyer and CFO sought confirmation that the purported sales orders  
24 from IT Healthcare were still viable prior to disclosing them in the Company's  
25 public filings with the Commission, because the large sales orders would be  
26 material to investors. Accordingly, they sent a letter to IT Healthcare, via a  
27 facsimile number provided by Stein, requesting the customer confirm its intention  
28 to complete the sales. In reply, the Disclosure Lawyer and CFO received a

1 facsimile containing a signed confirmation and other correspondence purportedly  
2 from IT Healthcare.

3 58. In reality, just like the earlier confirmation from CHM, this facsimile  
4 was a false confirmation sent by Carter at Stein's instruction from the telephone  
5 line registered at Carter's home in Boca Raton, Florida.

6 59. To enhance the illusion of legitimacy regarding the pending sales  
7 orders to IT Healthcare, on approximately March 28, 2008 and April 4, 2008, the  
8 Company made two shipments of Fidelity 100 units to the fictitious IT Healthcare.  
9 On May 15, 2008, Heart Tronics filed its Form 10-Q for the quarter ended March  
10 30, 2008, in which it publicly disclosed that it had begun shipping product to  
11 customers. Heart Tronics also issued a press release dated March 25, 2008  
12 announcing that the Company "has been and continues to ship orders," although  
13 the press release pre-dated by several days actual tender of boxes to the carrier for  
14 shipment. Regardless, for the reasons stated below, these disclosures were  
15 materially false and misleading.

16 60. While the Company did actually ship approximately 15 Fidelity 100  
17 units to the attention of "IT HealthCare—Agency Division" at an address in  
18 Loveland, Ohio, this address was not associated with any *bona fide* purchaser.  
19 Instead, this address was the residence of Carter's high school friend, who ran a  
20 landscaping business from his home. Stein and Carter had arranged for Carter's  
21 friend to store the shipment of boxes as a personal favor. To further conceal the  
22 scheme, the telephone number for IT Healthcare that appeared on the shipping  
23 instructions was another toll-free telephone number registered by Carter at Stein's  
24 direction.

25 61. In approximately July or August 2008, acting at Stein's direction,  
26 Carter collected the boxes from his friend, tampered with the product to create the  
27 appearance that they were defective, and returned the units to the contract  
28 manufacturer as if they were coming from IT Healthcare. Then, on August 15,



1 2008, Heart Tronics filed its Form 10-Q for the quarter ended June 30, 2008, in  
2 which it stated that it had “commenced shipments on the September 24, 2007  
3 order, however, they were returned by the lessee on the basis that too much time  
4 had passed since the purchase order was given.”

5 62. In fact, this disclosure was materially false and misleading, as it  
6 implicitly represents that the products were shipped to a *bona fide* purchaser, and  
7 this was not the reason that the Fidelity 100 units had been returned. Rather, Stein  
8 caused the units to be returned to delay further discovery of his fraudulent scheme.  
9 Indeed, once shipped, Heart Tronics’ officers, auditors and investing public would  
10 expect to see revenue recognized in the Company’s financial statements from the  
11 sale; but because Stein knew that the customer was non-existent and the sales order  
12 was fictitious from the start, he concocted the scheme to have Carter return the  
13 product to the manufacturer as untimely and apparently defective.

14 **C. Fraudulent Disclosure of Further Sales Orders and**  
15 **Projected Revenue in 2008**

16 63. In Spring 2008, at the same time that he was providing false  
17 information to Heart Tronics officers and the public about the purported sales  
18 orders to CHM and IT Healthcare, Stein caused the Company to make false and  
19 misleading statements about additional fraudulent sales orders designed to inflate  
20 the price of Heart Tronics stock.

21 64. On approximately March 17, 2008, Heart Tronics issued a press  
22 release announcing that it “has received several formal purchase and financial  
23 commitments. . . . These commitments have come internationally, including in  
24 Japan, other parts of Asia and Europe, as well as domestically.” On March 25,  
25 2008, the Company issued a press release announcing that it “has received an  
26 additional \$7.5 million in Fidelity 100 device delivery orders in the month of  
27 March, 2008, which the company intends to fill during the next two quarters. The  
28 Company said it may fill these orders sooner.” Both press releases were drafted by

1 Stein, or by others based solely on information provided by Stein. Both were  
2 materially false and misleading.

3 65. In fact, Heart Tronics had not entered into formal purchase or  
4 financial commitments. Rather, Stein – acting for the Company – had obtained  
5 only (1) a preliminary agreement with a Korean company regarding that company  
6 becoming a distributor of Heart Tronics’ products in Asia, and (2) a one-page  
7 “purchase commitment” letter from a company identified as A.R. Pacific Group  
8 (“ARPG”) that claimed to be based in Japan and was purportedly signed by  
9 someone with the name as a person affiliated with CHM. In addition, Stein  
10 reported to Harmison and others that he had reached an agreement with an  
11 unnamed Chinese company to purchase approximately \$180 million worth of  
12 Heart Tronics’ products. In all three cases, no formal orders for Fidelity 100 units  
13 were placed, no monies were received, and no products were shipped. These  
14 unsubstantiated, preliminary, and ultimately illusory sales orders were the basis for  
15 the Company’s several false or misleading public announcements.

16 66. As he did with respect to the purported purchase orders involving  
17 CHM and IT Healthcare, the Disclosure Lawyer requested supporting  
18 documentation from Stein related to the purported sales to ARPG for the  
19 Company’s forthcoming annual report on Form 10-K for the year ended December  
20 31, 2007. Stein did not provide any additional information, and the Disclosure  
21 Lawyer refused to include any statements about the purported sale in the  
22 Company’s annual report.

23 67. On April 14, 2008, however, Harmison held a public “webcast” over  
24 the Internet in which he provided investors with guidance on Heart Tronics’  
25 projected revenue for the rest of the Company’s fiscal year. The script for the  
26 webcast was drafted by Stein and Harmison. Harmison announced more than \$40  
27 million of expected revenue for Heart Tronics over the next five fiscal quarters.  
28 Harmison claimed this figure was related to the supposed transactions with the

1 Korean, Japanese and Chinese companies described above. Neither Stein nor  
2 Harmison had any basis for these projections, which were materially false and  
3 misleading.

4 68. Following the webcast, Heart Tronics directors, including Perkins,  
5 exchanged emails revealing skepticism of the revenue projections Harmison had  
6 made. They professed concern about Harmison and Stein's ongoing involvement  
7 with the Company.

8 69. In late April 2008, Harmison resigned as CEO. Perkins became the  
9 interim and, subsequently, the permanent CEO. In addition, the Company hired an  
10 outsider as the Company's new President.

11 70. In May 2008, the new President began to investigate the 2007 and  
12 2008 sales orders described above (which were still described in the Company's  
13 public filings with the Commission as "pending purchase orders," but for which  
14 the Company still had not recognized any revenue). In doing so, he discovered  
15 that the product supposedly shipped to IT Healthcare had, in fact, been shipped to a  
16 residential address in Ohio. He further questioned why the owner of the property,  
17 whom he discovered ran a lawn maintenance business, would have any reason to  
18 purchase approximately \$3.8 million worth of medical equipment. He brought this  
19 information to Perkins' and Stein's attention, but he was told to stop investigating  
20 and was accused by Stein of trying to damage the Company. Shortly thereafter,  
21 the new President resigned from the Company.

22 71. By no later than May 2008, when he took over for Harmison as  
23 interim CEO of the Company, Perkins knew or was reckless in not knowing that  
24 Heart Tronics disclosures regarding pending sales of Fidelity 100 units were false  
25 and misleading.

26 72. Despite being aware of these significant red flags and his admitted  
27 "skeptical" view of the sales, Perkins authorized the IT Healthcare and CHM sales  
28 orders to be disclosed in the Form 10-Qs for the first and second fiscal quarters of

1 2008, which he signed and which were filed with the Commission on May 15,  
2 2008, and August 15, 2008, respectively. Perkins took no steps to determine the  
3 validity of the purportedly pending sales orders or the projections announced by  
4 Harmison on behalf of the Company in April 2008. Nor did Perkins take any steps  
5 to implement or improve upon the Company's internal controls over financial  
6 reporting.

7 73. When questioned by the Commission staff about the decision by  
8 Perkins and other board members not to take any steps to verify the purportedly  
9 pending sales orders or Harmison's claims in the webcast, Perkins testified: "We  
10 didn't do anything to – I mean, we didn't know what to do, what could you do. I  
11 mean, we didn't want to put fuel on the fire. I mean, if you – what are you going  
12 to do, come out and say it's wrong? We didn't know what to do. We figured  
13 doing nothing was the best way to handle it."

#### 14 **D. Hiring of Stock Promoters to Tout Heart Tronics Stock**

15 74. At the same time that he was leading a campaign of misinformation  
16 about the success of Heart Tronics, Stein enlisted the assistance of several stock  
17 promoters to tout Heart Tronics' stock on the Internet.

18 75. On approximately January 30, 2008, at Stein's direction, Heart  
19 Tronics entered into a consulting agreement with a former securities research  
20 analyst, defendant Ryan Rauch, purportedly for investor relations and corporate  
21 strategy consulting.

22 76. In reality, Rauch was a stock promoter. Rauch solicited investment  
23 advisers, retail and institutional brokers, and other potential investors to buy Heart  
24 Tronics stock for themselves or for their clients' accounts.

25 77. Stein falsely told Rauch that Heart Tronics would imminently  
26 announce up to \$100 million in sales and that the Company's stock price was  
27 artificially depressed by naked short sellers. From approximately January through  
28 April 2008, Rauch repeated this information to numerous potential investors, or

1 their brokers or investment advisers, to encourage them to buy Heart Tronics stock.  
2 In particular, Rauch encouraged investors to enter orders to buy Heart Tronics  
3 stock at or near the time of the market close to attempt to increase the closing price  
4 of Heart Tronics' stock.

5 78. Heart Tronics paid Rauch \$75,000 over three months, with a promise  
6 of a \$250,000 bonus if he could keep the Company's stock price above \$1 per  
7 share for a period of 30 days, which was one criterion for Heart Tronics to retain  
8 its listing on the AMEX. Rauch generally did not disclose to potential investors  
9 that he was being compensated by the Company for promoting Heart Tronics  
10 stock.

## 11 **II. Schemes to Profit from Sales of Heart Tronics Stock**

12 79. While he was seeking to inflate the price of Heart Tronics stock  
13 through the assorted deceptive tactics, materially false and misleading statements,  
14 fraudulent schemes, and other means described above, Stein devised numerous  
15 ways to profit illicitly from the sale of Heart Tronics securities.

### 16 **A. Fraudulent Scheme to Secretly Sell Heart Tronics Stock**

17 80. Stein's primary method of profiting from his scheme was to direct the  
18 sale of Heart Tronics stock held by relief defendant ARC Finance, a single-  
19 member limited liability company solely owned by his wife, Hampton-Stein.

20 81. ARC Finance had been the majority shareholder of Heart Tronics  
21 since September 2002, when it sold to the Company's predecessor the rights to  
22 proprietary technology, valued at \$78,023, in exchange for 23.4 million shares of  
23 common stock (approximately 85% of the Company's outstanding equity).

24 82. Although Stein did not file any required forms with the SEC  
25 disclosing a beneficial ownership position in Heart Tronics, Stein controlled the  
26 voting of ARC Finance's shares and controlled the investment decisions of ARC  
27 Finance's assets.

1           83.    On June 29, 2005, Heart Tronics registered the resale of 3.5 million of  
2 the shares held by ARC Finance with the Commission on Form SB-2. From July  
3 2005 to October 2005, ARC Finance directly sold 344,200 registered shares of  
4 Heart Tronics stock for a profit of approximately \$1.2 million.

5           84.    Beginning in approximately December 2005, however, Stein devised  
6 a scheme to sell ARC Finance's shares without publicly reporting the sales, as  
7 required under the federal securities laws. The scheme allowed Stein to create the  
8 appearance that ARC Finance was not selling the previously-registered shares but,  
9 rather, holding them as a long-term investment.

10          85.    Beginning in approximately December 2005, ARC Finance  
11 transferred a portion of its holdings to two purportedly blind trust accounts, relief  
12 defendants ARC Blind Trust and the THS Blind Trust, established for the benefit  
13 of ARC Finance and Stein, respectively. Defendant Mark Nevdahl was appointed  
14 trustee for each trust, and also served as the securities broker for each trust. This  
15 created the appearance that the stock was held by independent legal entities  
16 controlled by Nevdahl and that neither ARC Finance nor Stein had control over the  
17 disposition of the trusts' assets.

18          86.    Nevdahl frequently discussed the accounts he managed for the Steins,  
19 including the ARC Blind Trust and the THS Blind Trust, with Stein via telephone,  
20 e-mail and correspondence sent via the mails. On at least two occasions, Nevdahl  
21 met with the Steins regarding the management of their investment accounts at their  
22 home in Hidden Hills, California.

23          87.    Notwithstanding the fact that the trusts were purportedly blind, ARC  
24 Finance, through Stein and his wife, retained control over the shares that were  
25 transferred to these trusts. At Stein's direction, Nevdahl did not re-title the  
26 securities in the name of the trusts. In addition, although the trusts were  
27 purportedly "blind," Nevdahl took explicit instructions from Stein over the trusts'  
28 corpus. Among other things, Stein (1) told Nevdahl to generate enough cash

1 (necessitating the sale of stock) each month to meet the Steins' lifestyle demands;  
2 (2) told Nevdahl how to vote shares on proxy ballots; and (3) negotiated "private  
3 placements" to sell shares held by one of the trusts in off-the-market transactions.  
4 Stein also directed Nevdahl to wire the proceeds generated by Nevdahl's share  
5 sales to bank accounts in the name of Stein and ARC Finance. Thus, Nevdahl  
6 knew that the purportedly blind trusts were not, in fact, blind.

7 88. Although the trust indentures placed the obligation on Nevdahl (as  
8 trustee) to file reports of any transactions in the trusts required by the federal  
9 securities laws, Stein informed Nevdahl that the sales within the trusts were  
10 exempt from the reporting requirements under Section 16 of the Exchange Act  
11 because the trusts were blind and held less than 10% of Heart Tronics' equity. In  
12 light of his knowledge that the trusts were not, in fact, blind, Nevdahl knew, or was  
13 reckless in not knowing, that the transactions were not exempt and that he was  
14 participating in a fraudulent effort to use the trusts to evade the reporting  
15 requirements under the federal securities laws.

16 89. Nevdahl performed no independent analysis of this and other issues  
17 pertaining to propriety of the trusts' stock sales, nor did he seek approval from his  
18 firm's legal or compliance departments.

19 90. Between approximately December 2005 and September 2008, the  
20 Steins, through transactions executed by Nevdahl, covertly sold more than 3.7  
21 million shares of Heart Tronics stock through the ARC Blind Trust and the THS  
22 Blind Trust, for more than \$5.8 million. Because the shares had a cost basis of  
23 approximately \$0.005 per share, nearly all the proceeds were profit.

24 91. Neither Stein, ARC Finance, ARC Blind Trust nor THS Blind Trust  
25 filed any reports with the Commission on Forms 3, 4 or 5 during this period.

26 92. Nevdahl was paid brokerage commissions of approximately \$78,000,  
27 in addition to trustee fees, for his work as trustee and broker for the purportedly  
28 blind trusts.

1           93. Stein used the purportedly “blind” nature of the trusts to intentionally  
2 mislead investors regarding ARC Finance’s share position in Heart Tronics’  
3 periodic reports filed with the Commission. For example, the Company disclosed  
4 in its annual report on Form 10-K for 2007, filed on April 3, 2008, that “[a]s of this  
5 date neither ARC Finance Group nor [Heart Tronics] knows if the independent  
6 trustees have sold any of such shares or, in the alternative, increased their position.  
7 ARC Finance Group... to our knowledge [] has not, to date, sold those shares.”  
8 Stein reviewed the Company’s Commission filings during 2006 and 2007 and  
9 knew that the filings were materially false and misleading. Stein knew or was  
10 reckless in not knowing that, contrary to the disclosures in Heart Tronics’ periodic  
11 filings, shares of Heart Tronics stock under the control of ARC Finance were being  
12 continuously sold into the market through the ARC Blind Trust and THS Blind  
13 Trust and that Nevdahl was wiring the proceeds of the sales to the Steins’ bank  
14 accounts.

15           94. Between approximately March 2008 and May 2008, ARC Finance  
16 also transferred more than 10 million shares of Heart Tronics stock to three  
17 additional trusts: relief defendants JAYMI Blind Trust, Oak Tree Investments  
18 Blind Trust, and the WBT Investments Blind Trust. Nevdahl was the broker and  
19 trustee for the JAYMI Blind Trust, Oak Tree Investments Blind Trust and WBT  
20 Investments Blind Trust as well. On April 14, 2008, the same day as the webcast  
21 in which Harmison announced revenue projections of \$40 million, Nevdahl sold  
22 25,000 shares of Heart Tronics stock on behalf of the JAYMI Blind Trust.

23           **B. Schemes to Sell Improperly Registered S-8 Stock**

24           95. In addition to profiting from the sale of Heart Tronics shares held by  
25 ARC Finance through the scheme described above using the trusts, Stein devised a  
26 scheme to profit from stock Heart Tronics issued to Carter from transactions  
27 registered with the Commission on Form S-8.

28 //



1           96. Starting in 2006, Heart Tronics had registered millions of shares of  
2 Heart Tronics stock on Form S-8 registration statements filed with the Commission  
3 on June 12, 2006, October 11, 2006, November 20, 2006, May 19, 2008, and  
4 November 5, 2008. These shares were purportedly to be issued pursuant to the  
5 Company's Omnibus Equity Compensation Plan.

6           97. Form S-8 is available to register the offer and sale of a company's  
7 stock to employees or consultants under certain circumstances. The eligible  
8 employees or consultants must perform permissible, *bona fide* services that are not  
9 in connection with a capital raising transaction and do not indirectly promote or  
10 maintain a market for the stock.

11           98. Form S-8 is not available to register offers and sales of securities to  
12 consultants where, by prearrangement or otherwise, the issuer or a promoter  
13 controls or directs the resale of the securities in the public market, or the issuer or  
14 its affiliates directly or indirectly receive a percentage of the proceeds from such  
15 resales. In addition, consultants who provide investor relations or shareholder  
16 communications services may not receive S-8 stock because of the promotional  
17 nature of their services.

18           99. An improper use of S-8 shares – *i.e.*, under the prohibited  
19 circumstances described below – is not an effective registration of the S-8 shares,  
20 or their subsequent sale, under Section 5 of the Securities Act.

21           100. In approximately January 2008, Stein drafted and caused Heart  
22 Tronics to enter into a consulting agreement by which Heart Tronics hired Carter  
23 to consult on product engineering and design with the intention that Carter would  
24 be compensated primarily with S-8 stock. In fact, Carter lacked the education,  
25 skills and resources to provide the services described in the contract, and he  
26 provided no services to Heart Tronics under the contract.

27           101. Notwithstanding the fact that Carter provided no meaningful services  
28 to Heart Tronics, between approximately November 2007 and September 2008,

1 Heart Tronics paid Carter approximately \$2 million under the consulting contract  
2 in the form of cash (approximately \$600,000) and 6.035 million shares of Heart  
3 Tronics stock from transactions registered on Form S-8 (valued at approximately  
4 \$1.47 million based on the stock price on the date of each issuance). Stein caused  
5 the Company to instruct its transfer agent to issue the shares to Carter.

6 102. Between approximately January 2008 and September 2008, Carter  
7 sold substantially all the S-8 stock issued to him under his purported consulting  
8 contract in personal brokerage accounts or in accounts accessible to both him and  
9 Stein, including accounts in the name of relief defendant Five Investments  
10 Partnership. Carter then transferred substantially all of the stock, or the proceeds  
11 from the sales of the stock, to bank or brokerage accounts controlled by Stein.  
12 Accordingly, both because of these transfers and because Carter performed no  
13 *bona fide* services to Heart Tronics, the issuance of S-8 stock to Carter was a  
14 violation of the registration requirements of Section 5 of the Securities Act.

15 103. On approximately February 6, 2008, Heart Tronics also issued  
16 approximately 500,000 shares of common stock from transactions registered on  
17 Form S-8 as compensation to at least three other individuals who were hired by  
18 Stein to promote Heart Tronics stock on the Internet. Stein signed the contracts  
19 with the promoters, created false documents that identified the promoters as  
20 "subcontractors" working on engineering matters under Carter's consulting  
21 contract, and caused Heart Tronics to issue the shares to the promoters. Because  
22 these individuals were not providing permissible consulting services in exchange  
23 for the issuance of S-8 stock, these issuances were also in violation of Section 5 of  
24 the Securities Act.

### 25 **III. Stein and Gault Defrauded an Individual Investor**

26 104. In addition to the above schemes, as described in more detail below,  
27 beginning in late 2008, in connection with the purchase and sale of securities, Stein  
28 and the Company's then co-CEO, defendant Willie Gault, defrauded an individual

1 investor in Heart Tronics out of more than \$150,000 for their personal gain.

2 105. More specifically, between approximately November and December  
3 2008, an individual investor (the "Investor") made private investments of more  
4 than \$150,000 in Heart Tronics in exchange for a series of convertible interest-  
5 bearing note securities from the Company. In making his investment decision, the  
6 Investor relied on false statements by Stein and Gault that Heart Tronics was close  
7 to generating revenue through product sales to customers in Mexico, South  
8 America and Canada. Stein also told the Investor that Heart Tronics, which was  
9 nearly bankrupt at the time, needed an infusion of capital to fund operations while  
10 marketing the product and pursuing imminent sales leads.

11 106. On approximately November 4, 2008, the Investor wire transferred  
12 \$100,000 to a joint bank account he established with Gault in exchange for a note  
13 security issued by the Company. Stein and Gault had represented that the funds  
14 deposited would be used to pay the Company's operating expenses while it tried to  
15 generate sales revenue to repay the note. This investment was disclosed by Heart  
16 Tronics in its Form 10-Q for the period ended September 30, 2008, filed with the  
17 Commission on November 19, 2008, at Gault's authorization during his tenure as  
18 co-CEO.

19 107. In approximately December 2008, in exchange for another note, the  
20 Investor again deposited \$50,000 in the joint bank account with Gault, based on  
21 Stein and Gault's representations that the funds would be used to pay Heart  
22 Tronics' operating expenses.

23 108. However, even though they had told the Investor that Heart Tronics  
24 would use the invested capital for corporate expenses, Stein and Gault fraudulently  
25 diverted the invested capital for their own personal use.

26 109. For example, on the same day as the Investor's initial transfer to the  
27 joint bank account, \$20,000 was transferred to a brokerage account owned by  
28 Gault in the name of relief defendant Catch 83 General Partnership.

1 110. Over the next approximately two months, Gault, with Stein's  
2 knowledge and participation, transferred all or substantially all of the joint bank  
3 account's balance, without the Investor's knowledge or authorization, to his Catch  
4 83 General Partnership brokerage account. Gault, with Stein's knowledge and  
5 participation, used the money to trade Heart Tronics' stock in his personal  
6 brokerage account.

7 111. None of the capital invested by the Investor was used to pay Company  
8 expenses, despite Stein and Gault's representations. The Investor suffered a  
9 complete loss of his investment.

10 112. Despite numerous requests from the Company's CFO, Gault refused  
11 to provide the CFO access to the joint bank account or provide an accounting of  
12 the assets in the account or a description of the use of the cash.

13 **IV. False Statements in Commission Filings, Sarbanes-Oxley**  
14 **Certifications, and the Company's Accounting Books and Records**

15 113. As described above, from late 2006 through 2008, Heart Tronics  
16 issued numerous false and misleading press releases and filed numerous false and  
17 misleading reports with the Commission, referencing the fictitious sales orders of  
18 the Fidelity 100.

19 114. In addition to the false and misleading public filings and  
20 announcements, Heart Tronics' books and records reflected various purchase  
21 orders, invoices, and other documents relating to fictitious sales orders described  
22 above that had purportedly been placed by customers that did not exist.

23 115. That is because, in part, Heart Tronics did not have reasonable  
24 accounting controls to ensure that the purported product sales in 2006 through  
25 2008 were to *bona fide* customers. The Company had no written accounting  
26 policies or procedures, and the Company's most senior officers, including Gault  
27 and Perkins, exercised no independent judgment but relied solely on Stein.

28 //

1           116. Through Stein's control of Heart Tronics and acts of deception, Stein  
2 and Carter were able to circumvent the entire system of accounting controls, to the  
3 extent any existed, and substantially further the Company's recording and  
4 disclosure of fraudulent sales orders. Even as the Company's officers and directors  
5 became skeptical of the pending purchase orders, Perkins knowingly failed to  
6 implement a reasonable system of internal accounting controls. Likewise, Gault  
7 knowingly circumvented the Company's internal controls to effect the fraud he  
8 committed against the Investor with Stein.

9           117. While most of the false press releases and reports described above  
10 were issued during Harmison's tenure as CEO, the false and misleading  
11 Commission filings continued under the leadership of Gault and Perkins after  
12 Harmison resigned in late April 2008.

13           118. As Heart Tronics' CEO or co-CEO from late April 2008 to the  
14 present, Perkins reviewed and signed at least three of the Company's quarterly  
15 reports filed with the Commission, which he knew or was reckless in not knowing  
16 contained materially false and misleading information concerning, among other  
17 things, its sales orders and potential customers.

18           119. Perkins also signed materially false and misleading certifications  
19 required by the Sarbanes-Oxley Act of 2002 ("SOX"). In SOX certifications filed  
20 with the Company's Form 10-Qs for the periods ended March 31, 2008, July 31,  
21 2008, and September 30, 2008 (filed with the Commission on May 15, 2008,  
22 August 15, 2008, and November 19, 2008, respectively), Perkins falsely  
23 represented that based on his knowledge, each filing did not "contain any untrue  
24 statement of a material fact or [omission]." Perkins did not have a basis for these  
25 representations because the filings included disclosures of the Company's pending  
26 sales orders, and Perkins was aware of numerous red flags concerning those  
27 disclosures – including specific information about potential fraud associated with  
28 the IT Healthcare shipments to a residential address in Ohio.

1           120. Further, as part of each of these filings, Perkins certified that he  
2 designed and evaluated the effectiveness of Heart Tronics' disclosure controls and  
3 procedures and internal controls over financial reporting. This certification was  
4 materially false and misleading because the Company had no reasonable system of  
5 internal controls, and Perkins undertook no effort to design, supervise or evaluate  
6 the purported controls. Perkins also falsely certified that he had disclosed to Heart  
7 Tronics' auditor and Audit Committee of the Board of Directors "any fraud,  
8 whether material or not, that involves management or other employees who have a  
9 significant role in the small business issuer's internal control over financial  
10 reporting," but he failed to do so, even after the President informed him of  
11 suspected fraud in the IT Healthcare transaction and Perkins took no action.

12           121. Gault was designated Heart Tronics' "co-CEO for Operations" in  
13 October 2008, but he was little more than a celebrity figurehead who provided no  
14 meaningful oversight to the Company.

15           122. On or about November 19, 2008, Gault authorized the filing of both a  
16 Form 10-Q for the third fiscal quarter of 2008 and a SOX certification filed with  
17 the Commission on November 19, 2008, in his capacity as one of Heart Tronics'  
18 principal executive officers. In fact, Gault never manually signed any version of  
19 either document, in violation of the federal securities laws. These documents were  
20 electronically filed with the Commission at Gault's direction under Gault's  
21 signature.

22           123. Gault's practice was to not review or read the periodic reports that  
23 Heart Tronics filed with the Commission, even though he was the Company's co-  
24 CEO for Operations and the reports were filed at his authorization under his  
25 signature.

26           124. Thus, Gault's SOX certifications were materially false and  
27 misleading. For example, contrary to his SOX certifications, Gault never actually  
28 "reviewed this quarterly report on form 10-Q," and had no basis to state "based on

1 [his] knowledge, this report does not contain any untrue statement of a material  
2 fact or [omission]” or that “based on [his] knowledge, the financial  
3 statements... fairly present in all material respects the financial condition” of Heart  
4 Tronics. Similarly, Gault had no basis for certifying the he was responsible for  
5 establishing and maintaining disclosure controls and procedures and internal  
6 control over financial reporting. Finally, Gault falsely represented that he had  
7 disclosed to the Company’s auditor and Audit Committee “[a]ny fraud, whether or  
8 not material, that involves management or other employees who have a significant  
9 role in [Heart Tronics’] internal controls over financial reporting,” when he did not  
10 do so, even though Gault himself defrauded an individual investor into investing  
11 money in Heart Tronics during this period.

#### 12 **FIRST CLAIM FOR RELIEF**

#### 13 **Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5**

14 (Heart Tronics, Stein, Carter, Perkins, Gault, and Nevdahl)

15 125. Paragraphs 1 through 124 are realleged and incorporated herein by  
16 reference.

17 *Employing Devices, Schemes, and Artifices to Defraud, and Engaging in Acts,*  
18 *Practices and Courses of Business Operating As a Fraud of Deceit in Violation of*  
19 *Section 10(b) and Rule 10b-5(a) and (c)*

20 126. By reason of the conduct described above, defendants Heart Tronics,  
21 Stein, Carter, Gault, and Nevdahl, in connection with the purchase or sale of  
22 securities, by the use of the means or instrumentalities of interstate commerce or of  
23 the mails, or of any facility of any national securities exchange, directly or  
24 indirectly, knowingly or recklessly (1) employed devices, schemes, or artifices to  
25 defraud or (2) engaged in acts, practices, or course of business which operates or  
26 would operate as a fraud or deceit upon any persons, including purchasers or  
27 sellers of the securities, in violation of Exchange Act Section 10(b) [15 U.S.C. §  
28 78j(b)] and subsections (a) and (c) of Exchange Act Rule 10b-5 [17 C.F.R. §

1 240.10b-5(a) and (c)]. Unless enjoined, these defendants will continue to violate  
2 Exchange Act Section 10(b) and subsections (a) and (c) of Exchange Act Rule  
3 10b-5.

4 *Making Misrepresentations and Misleading Omissions of Material Fact in*  
5 *Violation of Section 10(b) and Rule 10b-5(b)*

6 127. By further reason of the conduct described above, defendants Heart  
7 Tronics, Stein, Gault, and Perkins in connection with the purchase or sale of  
8 securities, directly or indirectly, by the use of the means or instrumentalities of  
9 interstate commerce, or of the mails, or of any facility of any national securities  
10 exchange, knowingly or recklessly, made untrue statements of material facts or  
11 omitted to state material facts necessary in order to make the statements made, in  
12 light of the circumstances under which they were made, not misleading, in  
13 violation of Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and subsection (b) of  
14 Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5(b)].

15 128. More specifically, these defendants violated and, unless enjoined, will  
16 continue to violate, Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and  
17 subsection (b) of Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5(b)] by the  
18 following:

- 19 (a) Heart Tronics, through the actions of its officers, directors,  
20 employees, attorneys, agents and controlling person, including  
21 but not necessarily limited to the issuance of materially false  
22 and misleading press releases, Commission filings, and other  
23 public broadcasts described above.
- 24 (b) Stein's actions including but not necessarily limited to making  
25 false and misleading statements about Heart Tronics to an  
26 Investor in late 2008.
- 27 (c) Gault's actions including, but not necessarily limited to (1)  
28 making false and misleading statements about Heart Tronics to



1 an Investor in late 2008; and (2) authorizing the issuance a false  
2 and misleading periodic report filed with the Commission on  
3 Form 10-Q for Heart Tronics' fiscal quarter ended September  
4 30, 2008, including the SOX certifications included therewith,  
5 under his signature.

6 (d) Perkins actions including, but not necessarily limited to, signing  
7 false and misleading periodic reports filed with the Commission  
8 on Forms 10-Q for Heart Tronics' fiscal quarters ended March  
9 31, 2008, June 30, 2008, and September 30, 2008, including the  
10 SOX certifications included therewith.

### 11 **SECOND CLAIM FOR RELIEF**

#### 12 **Violations of Section 17(a) of the Securities Act**

13 (Heart Tronics, Stein, Gault, Carter, and Nevdahl)

14 129. Paragraphs 1 through 124 are realleged and are incorporated herein by  
15 reference.

16 130. Defendants Heart Tronics, Stein, Gault, Carter, and Nevdahl have,  
17 directly or indirectly, by use of means of instrumentalities of transportation or  
18 communication in interstate commerce or by use of the mails, in the offer or sale of  
19 securities: (a) knowingly or recklessly employed devices, scheme or artifices to  
20 defraud; (b) knowingly, recklessly, or negligently obtained money or property by  
21 means of any untrue statements of material fact, or have omitted to state material  
22 facts necessary in order to make the statements made, in light of the circumstances  
23 under which they were made, not misleading; and (c) knowingly, recklessly or  
24 negligently engaged in transactions, practices, or courses of business which  
25 operated or would operate as a fraud or deceit upon the purchasers of securities; in  
26 violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

27 131. More specifically, defendants Heart Tronics, Stein, Gault, Carter, and  
28 Nevdahl violated and, unless enjoined, will continue to violate, Sections 17(a)(1)

1 and 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)] by employing the  
2 fraudulent schemes and other activities described above.

3 132. Furthermore, defendants Heart Tronics, Stein, and Gault violated and,  
4 unless enjoined, will continue to violate, Section 17(a)(2) of the Securities Act [15  
5 U.S.C. § 77q(a)] by obtaining money and property by means of the various  
6 materially false and misleading press releases, Commission filings, and other  
7 public broadcasts described above, as well as the false and materially misleading  
8 statements in late 2008 to an Investor.

9 **THIRD CLAIM FOR RELIEF**

10 **Aiding and Abetting Violations of Section 10(b) of the Exchange Act**  
11 **and Rule 10b-5 Thereunder**

12 (Stein, Carter, Gault, and Nevdahl)

13 133. Paragraphs 1 through 124 and paragraphs 126 through 128 above are  
14 realleged and incorporated by reference.

15 *Primary Violations by Heart Tronics and Stein*

16 134. By reason of the conduct described above, and particularly as set forth  
17 in the First Claim for Relief above, Heart Tronics and Stein violated Section 10(b)  
18 of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §  
19 240.10b-5].

20 *Defendants Knowingly Provided Substantial Assistance to the Primary Violations*

21 135. Defendant Stein, acting knowingly, provided substantial assistance to  
22 Heart Tronics' violations of Section 10(b) of the Exchange Act [15 U.S.C. §  
23 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by his actions  
24 described above.

25 136. Defendant Carter, acting knowingly, provided substantial assistance to  
26 Heart Tronics' and Stein's violations of Section 10(b) of the Exchange Act [15  
27 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by his actions  
28 described above.

1 137. Defendant Gault, acting knowingly, provided substantial assistance to  
2 Heart Tronics' and Stein's violations of Section 10(b) of the Exchange Act [15  
3 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by his actions  
4 described above.

5 138. Defendant Nevdahl, acting knowingly, provided substantial assistance  
6 to Stein's violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and  
7 Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by his actions described above.

8 139. Accordingly, Stein, Carter, Gault, and Nevdahl aided and abetted the  
9 primary violations described above and, pursuant to Section 20(e) of the Exchange  
10 Act [15 U.S.C. § 78t(e)], Stein, Carter, Gault, and Nevdahl are liable for such  
11 violations.

12 140. Unless restrained and enjoined, Stein, Carter, Gault and Nevdahl will  
13 continue to aid and abet, or will in the future aid and abet, violations of Section  
14 10(b) of the Exchange Act and Rule 10b-5 thereunder.

15 **FOURTH CLAIM FOR RELIEF**

16 **Controlling Person Liability for Violations of Section 10(b) of the Exchange**  
17 **Act and Rule 10b-5 Thereunder**

18 (Stein)

19 141. Paragraphs 1 through 124 and paragraphs 126 through 128 above are  
20 realleged and incorporated by reference.

21 142. Stein (a) directly or indirectly controlled Heart Tronics; (b) possessed  
22 the power and ability to control Heart Tronics as to its violation of Section 10(b) of  
23 the Exchange Act and Exchange Act Rule 10b-5; (c) was in a meaningful sense a  
24 culpable participant in Heart Tronics' violations of Section 10(b) of the Exchange  
25 Act and Exchange Act Rule 10b-5, including by knowingly authorizing and  
26 causing Heart Tronics to issue false and misleading statements in press releases,  
27 Commission filings and other public broadcasts.

28 //

1 143. Stein is jointly and severally liable with and to the same extent as  
2 Heart Tronics for Heart Tronics' violations of Exchange Act Section 10(b) and  
3 Exchange Act Rule 10b-5, as stated above in the First Claim for Relief.

4 144. By engaging in the conduct described above, Stein is liable as a  
5 controlling person pursuant to Section 20(a) of the Exchange Act [15 U.S.C. §  
6 78t(a)] by controlling, and possessing the power and ability to control, Heart  
7 Tronics in its violation of Exchange Act Section 10(b) and Rule 10b-5.

8 145. Unless enjoined, Stein will again engage in conduct that would render  
9 him liable, under Section 20(a) of the Exchange Act, for violations of Section  
10 10(b) of the Exchange Act and Rule 10b-5 thereunder.

11 **FIFTH CLAIM FOR RELIEF**

12 **Violations Section 5(a) and 5(c) of the Securities Act**

13 (Heart Tronics, Stein and Carter)

14 146. Paragraphs 1 through 124 are realleged and incorporated herein by  
15 reference.

16 147. Defendants Heart Tronics, Stein and Carter directly or indirectly,  
17 singly or in concert with others: (1) without a registration statement in effect as to  
18 the securities transaction, (a) made use of the means or instrumentalities of  
19 transportation or communication or the mails in interstate commerce to sell  
20 securities through the use or medium of a prospectus or otherwise, or (b) carried or  
21 caused to be carried such securities for the purpose of sale or for delivery after  
22 sale; and (2) made use of the means or instrumentalities of transportation or  
23 communication or the mails in interstate commerce to sell or offer to buy through  
24 the use or medium of a prospectus or otherwise securities as to which a registration  
25 statement had not been filed as to such securities.

26 148. By engaging in the conduct described above regarding the unlawful  
27 issuance and sale of shares of Heart Tronics stock from transactions registered on  
28 Form S-8 pursuant to sham consulting agreements, defendants Heart Tronics, Stein

1 and Carter violated and, unless enjoined will continue to violate, Sections 5(a) and  
2 (c) of the Securities Act [15 U.S.C. § 77e(a) & (c)].

3 **SIXTH CLAIM FOR RELIEF**

4 **Violations of Section 13(a), 13(b)(2)(A), 13(b)(2)(B) of the Exchange Act and**  
5 **Exchange Act Rules 12b-11, 12b-20, 13a-1, 13a-11, and 13a-13**

6 (Heart Tronics)

7 149. Paragraphs 1 through 124 are realleged and incorporated herein by  
8 reference.

9 150. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and  
10 Exchange Act Rules 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.13a-1, 240.13a-  
11 11, and 240.13a-13] require issuers of securities registered pursuant to Section 12  
12 of the Exchange Act to file with the Commission accurate periodic reports.  
13 Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] requires that periodic reports  
14 contain any additional material information necessary to make the required  
15 statements made in the reports not materially misleading. Exchange Act Rule 12b-  
16 11 [17 C.F.R. § 240.12b-11] requires any document required to be filed with or  
17 furnished to the Commission “shall be manually signed,” or the “signatory to the  
18 filing shall manually sign a signature page or other document authenticating,  
19 acknowledging or otherwise adopting his or her signature that appears in the  
20 filing.”

21 151. As set forth above, defendant Heart Tronics filed reports with the  
22 Commission that contained materially false and misleading statements and  
23 information, and failed to include additional material necessary to make the  
24 statements and information, in light of the circumstances in which they were made,  
25 not misleading, in violation of Section 13(a) of the Exchange Act and Exchange  
26 Act Rules 12b-20, 13a-1, 13a-11 and 13a-13.

27 152. In addition, as set forth above, from at least December 2005 through  
28 December 2008, defendant Heart Tronics failed to (a) maintain and keep books,

1 records, and accounts, which, in reasonable detail, accurately and fairly reflected  
2 the transactions and dispositions of its assets, and (b) devise and maintain a system  
3 of internal accounting controls sufficient to provide reasonable assurances that: (i)  
4 transactions were executed in accordance with management's general or specific  
5 authorization; (ii) transactions were recorded as necessary to permit preparation of  
6 financial statements in conformity with generally accepted accounting principles or  
7 any other criteria applicable to such statements, and to maintain accountability for  
8 assets; (iii) access to assets was permitted only in accordance with management's  
9 general or specific authorization; and (iv) the recorded accountability for assets  
10 was compared with the existing assets at reasonable intervals and appropriate  
11 action was taken with respect to any differences. As a result, Heart Tronics  
12 violated Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§  
13 78m(b)(2)(A) and 78m(b)(2)(B)].

14 153. Furthermore, set forth above, Heart Tronics failed to obtain and retain  
15 manual signatures on its documents filed with or furnished to the Commission, or  
16 obtain and retain a signature page or other document authenticating,  
17 acknowledging or otherwise adopting each signatory's signature that appears in the  
18 filing. Heart Tronics failed to furnish to the Commission staff, upon its request, a  
19 copy of any or all documents retained pursuant to Exchange Act Rule 12b-11. As  
20 a result, it violated Exchange Act Rule 12b-11.

21 154. By reason of the foregoing, Heart Tronics violated and, unless  
22 enjoined, will continue to violate Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of  
23 the Exchange Act, and Exchange Act Rules 12b-11, 12b-20, 13a-1, 13a-11, and  
24 13a-13.

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**SEVENTH CLAIM FOR RELIEF**

**Aiding and Abetting Heart Tronics' Violations of Sections 13(a), 13(b)(2)(A)  
and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 13a-1, 13a-11,  
13a-13, and 12b-20**

(Stein, Perkins, and Carter)

155. Paragraphs 1 through 124 and paragraphs 150 through 154 are realleged and incorporated herein by reference.

156. As set forth in the Sixth Claim for Relief above, defendant Heart Tronics violated Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A), and 78m(b)(2)(B)] and Exchange Act Rules 13a-1, 13a-11, 13a-13, and 12b-20 [17 C.F.R. §§ 240.13a-1, 240.13a-11, 240.13a-13, and 240.12b-20].

157. Based on the facts set forth above, defendants Stein, Perkins and Carter knowingly provided substantial assistance to defendant Heart Tronics in the commission of certain of these violations. More specifically:

a) Stein, acting knowingly, substantially assisted Heart Tronics' violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 13a-1, 13a-11, 13a-13, and 12b-20. Accordingly, Stein is liable for such violations pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)]. Unless restrained and enjoined, Stein will continue to aid and abet, or will in the future aid and abet, these violations.

b) Carter, acting knowingly, substantially assisted Heart Tronics' violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act and Exchange Act Rules 13a-1, 13a-11, 13a-13, and 12b-20. Accordingly, Carter is liable for such violations pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)]. Unless restrained and enjoined, Carter will continue to aid and abet, or will in the future aid and abet, these violations.

c) Perkins, acting knowingly, substantially assisted Heart Tronics'

1 violations of Section 13(b)(2)(B) of the Exchange Act. Accordingly, Perkins is  
2 liable for such violation pursuant to Section 20(e) of the Exchange Act [15 U.S.C.  
3 § 78t(e)]. Unless restrained and enjoined, Perkins will continue to aid and abet, or  
4 will in the future aid and abet, this violation.

5 **EIGHTH CLAIM FOR RELIEF**

6 **Violations of Exchange Act Rule 13b2-1**

7 (Stein and Carter)

8 158. Paragraphs 1 through 124 are realleged and incorporated herein by  
9 reference.

10 159. Defendants Stein and Carter directly or indirectly falsified or caused  
11 to be falsified books, records or accounts of Heart Tronics that were subject to  
12 Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

13 160. By engaging in the conduct described above, defendants Stein and  
14 Carter violated and, unless enjoined, will continue to violate Exchange Act Rule  
15 13b2-1 [17 C.F.R. § 240.13b2-1].

16 **NINTH CLAIM FOR RELIEF**

17 **Violations of Section 13(b)(5) of the Exchange Act**

18 (Stein, Gault, Perkins, and Carter)

19 161. Paragraphs 1 through 124 are realleged and incorporated herein by  
20 reference.

21 162. Defendants Stein, Gault, Perkins and Carter knowingly circumvented  
22 or knowingly failed to implement a system of internal accounting controls or  
23 knowingly falsified, directly or indirectly, or caused to be falsified books, records  
24 or accounts of Heart Tronics maintained pursuant to Section 13(b)(2) of the  
25 Exchange Act.

26 163. By engaging in the conduct described above, defendants Stein, Gault,  
27 Perkins and Carter violated and, unless enjoined, will continue to violate Section  
28 13(b)(5) [15 U.S.C. § 78m(b)(5)] of the Exchange Act.



1 **TENTH CLAIM FOR RELIEF**

2 **Violations of Exchange Act Rule 13a-14**

3 (Gault and Perkins)

4 164. Paragraphs 1 through 124 are realleged and incorporated herein by  
5 reference.

6 165. Gault violated Rule 13a-14 of the Exchange Act [17 C.F.R. §  
7 240.13a-14] by providing a certification required by that rule to be signed on his  
8 behalf, pursuant to a power of attorney or other form of confirming authority, and  
9 by failing to manually sign the required certification included in Heart Tronics'  
10 quarterly report on Form 10-Q for the third fiscal quarter of 2008 filed with the  
11 Commission on November 19, 2008.

12 166. In addition, Gault violated Rule 13a-14 by falsely certifying, among  
13 other things, (1) that the forms fully complied with the requirements of the  
14 Exchange Act and fairly presented, in all material respects, the financial condition  
15 and results of operations of the company when, in fact, the reports contained untrue  
16 statements of material fact and omitted material information necessary to make the  
17 reports not misleading; and (2) that he and other officer(s) of Heart Tronics had  
18 designed disclosure controls and procedures and internal controls over financial  
19 reporting, had evaluated such controls and procedures, and had identified no  
20 deficiencies when, in fact, Gault had done no such thing.

21 167. Perkins violated Rule 13a-14 by signing Heart Tronics' quarterly  
22 reports on Form 10-Q for the first, second, and third fiscal quarters of 2008 (filed  
23 with the Commission on May 15, 2008, August 15, 2008, and November 19, 2008,  
24 respectively) certifying, among other things, (1) that the forms fully complied with  
25 the requirements of the Exchange Act and fairly presented, in all material respects,  
26 the financial condition and results of operations of the company when, in fact, the  
27 reports contained untrue statements of material fact and omitted material  
28 information necessary to make the reports not misleading; and (2) that he and other

1 officer(s) of Heart Tronics had designed disclosure controls and procedures and  
2 internal controls over financial reporting, had evaluated such controls and  
3 procedures, and had identified no deficiencies when, in fact, Perkins had done no  
4 such thing.

5 168. By engaging in the conduct described above, defendants Gault and  
6 Perkins violated Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14]. Unless  
7 enjoined, defendants Gault and Perkins will continue to violate Rule 13a-14 [17  
8 C.F.R. § 240.13a-14].

9 **ELEVENTH CLAIM FOR RELIEF**

10 **Violation of Section 302(b) of Regulation S-T**

11 (Heart Tronics)

12 169. Paragraphs 1 through 124 are realleged and incorporated herein by  
13 reference.

14 170. Defendant Heart Tronics violated Section 302(b) of Regulation S-T  
15 by failing to ensure that all signatories of the certifications for its quarterly report  
16 on Form 10-Q for the third fiscal quarter of 2008 (filed with the Commission on  
17 November 19, 2008) had signed the certifications before or at the time they were  
18 electronically filed, and by failing to retain the original executed documents for  
19 five years, or to provide the Commission staff with copies of the documents upon  
20 request.

21 171. Unless restrained and enjoined, Heart Tronics will continue to violate  
22 Section 302(b) of Regulation S-T [17 C.F.R. § 232.302(b)].

23 **TWELFTH CLAIM FOR RELIEF**

24 **Violations of Exchange Acts Section 13(d) and 16(a)**

25 **and Rules 13d-1 and 16a-3 thereunder**

26 (Stein)

27 172. Paragraphs 1 through 124 are realleged and incorporated herein by  
28 reference.

1 173. By means of his indirect control over the blind trusts that he created to  
2 sell Heart Tronics stock held beneficially by his wife, Stein was the beneficial  
3 owner of more than 10% of Heart Tronics stock. Pursuant to Section 13(d) of the  
4 Exchange Act [15 U.S.C. § 78m(d)] and Rule 13d-1 thereunder [17 C.F.R. §  
5 240.13d-1] Stein was required to disclose his status as a beneficial owner of more  
6 than 5% of Heart Tronics' equity by filing the required forms with the Commission  
7 within 10 days of his becoming such a beneficial owner. Stein never did so. As a  
8 result, Stein violated and, unless enjoined, will continue to violate Section 13(d) of  
9 the Exchange Act and Rule 13d-1 thereunder.

10 174. Moreover, not only did Stein beneficially own more than 10% of  
11 Heart Tronics' common stock, as set forth above, Stein was a *de facto* officer of  
12 Heart Tronics, in that he performed policy-making functions for Heart Tronics akin  
13 to an officer. Accordingly, pursuant to Section 16(a) of the Exchange Act [15  
14 U.S.C. § 78p(a)] and Rule 16a-3 [17 C.F.R. § 240.16a-3] thereunder, Stein was  
15 required to file with the Commission an initial statement on Form 3 disclosing his  
16 beneficial ownership position, as well as subsequent statements of changes on  
17 Forms 4 and 5. Stein never did so. As a result, Stein violated and, unless enjoined,  
18 will continue to violate Section 16(a) of the Exchange Act and Rule 16a-3  
19 thereunder.

20 **THIRTEENTH CLAIM FOR RELIEF**

21 **Violation of Securities Act Section 17(b)**

22 (Rauch)

23 175. Paragraphs 1 through 124 are realleged and incorporated herein by  
24 reference.

25 176. As described in paragraphs 74 through 78 above, defendant Rauch, by  
26 use of means or instrumentalities of interstate commerce or of the mails, gave  
27 publicity to a security for consideration received, directly or indirectly, from an  
28 issuer, without fully disclosing the receipt of such consideration and the amount

1 thereof.

2 177. By reason of the activities described herein, Rauch violated and,  
3 unless enjoined, will continue to violate Section 17(b) of the Securities Act [15  
4 U.S.C. § 77q(b)].

5 **FOURTEENTH CLAIM FOR RELIEF**

6 **Unjust Enrichment of Tracey Hampton-Stein; ARC Finance Group, LLC;**  
7 **ARC Blind Trust; THS Blind Trust; JAYMI Blind Trust; Oak Tree**  
8 **Investments Blind Trust; and WBT Investments Blind Trust**

9 178. Paragraphs 1 through 124 are realleged and incorporated herein by  
10 reference.

11 179. As set forth above, defendant Stein profited from his illicit schemes  
12 by, among other things, inflating and secretly selling stock in Heart Tronics that  
13 had initially been held beneficially by his wife, relief defendant Tracey Hampton-  
14 Stein, through relief defendant ARC Finance Group, LLC. In an effort to avoid  
15 reporting obligations and further deceive the marketplace about whether or not  
16 Heart Tronics' majority shareholder was selling Heart Tronics stock, Stein effected  
17 these sales, with the assistance of Hampton-Stein, through the purportedly blind  
18 trusts, relief defendants ARC Blind Trust, THS Blind Trust, JAYMI Blind Trust,  
19 Oak Tree Investments Blind Trust, and WBT Investments Blind Trust.

20 180. As further set forth above, from at least December 2005 through  
21 September 2008, while the share price of Heart Tronics' common stock was  
22 artificially inflated as a result of Stein's illicit activities, Hampton-Stein, ARC  
23 Finance, ARC Blind Trust, THS Blind Trust, JAYMI Blind Trust, Oak Tree  
24 Investments Blind Trust, and WBT Investments Blind Trust sold more than \$5.8  
25 million worth of Heart Tronics stock.

26 181. Relief defendants Tracey Hampton-Stein, ARC Finance Group, LLC,  
27 ARC Blind Trust, THS Blind Trust, JAYMI Blind Trust, Oak Tree Investments  
28 Blind Trust, and WBT Investments Blind Trust therefore have no legitimate claim

1 to those funds, and have thus been unjustly enriched under circumstances in which  
2 it is not just, equitable, or conscionable for them to retain such profits.

3 **FIFTEENTH CLAIM FOR RELIEF**

4 **Unjust Enrichment of Catch 83 General Partnership**

5 182. Paragraphs 1 through 124 are realleged and incorporated herein by  
6 reference.

7 183. Defendant Gault transferred the ill-gotten gains from his fraud on the  
8 Investor to relief defendant Catch 83 General Partnership and used the ill-gotten  
9 gains to purchase and sell shares of Heart Tronics stock. Catch 83 General  
10 Partnership therefore has no legitimate claim to those funds, and has thus been  
11 unjustly enriched under circumstances in which it is not just, equitable, or  
12 conscionable for it to retain such profits.

13 **SIXTEENTH CLAIM FOR RELIEF**

14 **Unjust Enrichment of Five Investments Partnership**

15 184. Paragraphs 1 through 124 are realleged and incorporated herein by  
16 reference.

17 185. As described above, defendants Stein and Carter engaged in an illicit  
18 scheme to have Heart Tronics issue stock from transactions registered on Form S-8  
19 to Carter pursuant to a sham consulting contract. They then proceeded to transfer  
20 such stock, or to sell that stock and deliver proceeds from such sales, to relief  
21 defendant Five Investments Partnership, a partnership they had established for the  
22 very purpose of furthering their schemes. Five Investments Partnership therefore  
23 has no legitimate claim to those funds, and has thus been unjustly enriched under  
24 circumstances in which it is not just, equitable, or conscionable for it to retain such  
25 profits.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, the Commission respectfully requests that this Court enter a  
28 final judgment:

- 1 A. preliminarily and permanently enjoining defendant Heart Tronics  
2 from violating Sections 5(a) and (c), and Section 17(a) of the  
3 Securities Act; Securities Act Regulation S-T, Rule 302(b); Sections  
4 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and  
5 Exchange Act Rules 10b-5, 12b-11, 12b-20, 13a-1, 13a-11, and 13a-  
6 13.
- 7 B. preliminarily and permanently enjoining defendant Stein from  
8 violating Sections 5(a) and (c), and Section 17(a) of the Securities  
9 Act; Sections 10(b), 13(b)(5), 13(d), and 16(a) of the Exchange Act;  
10 and Exchange Act Rules 10b-5, 13b2-1, 13d-1, and 16a-3; and from  
11 aiding and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A),  
12 and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 10b-5,  
13 12b-20, 13a-1, 13a-11, and 13a-13.
- 14 C. preliminarily and permanently enjoining defendant Gault from  
15 violating Section 17(a) of the Securities Act; Sections 10(b) and  
16 13(b)(5) of the Exchange Act; and Exchange Act Rules 10b-5 and  
17 13a-14; and from aiding and abetting violations of Sections 10(b) of  
18 the Exchange Act and Exchange Act Rule 10b-5.
- 19 D. preliminarily and permanently enjoining defendant Perkins from  
20 violating Sections 10(b) and 13(b)(5) of the Exchange Act and  
21 Exchange Act Rules 10b-5(b) and 13a-14; and from aiding and  
22 abetting violations of Section 13(b)(2)(B) of the Exchange Act.
- 23 E. preliminarily and permanently enjoining defendant Carter from  
24 violating Sections 5(a) and (c), and Sections 17(a)(1) and (3) of the  
25 Securities Act; Sections 10(b) and 13(b)(5) of the Exchange Act; and  
26 Exchange Act Rules 10b-5(a) and (c), and 13b2-1; and from aiding  
27 and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A) of the  
28 Exchange Act and Exchange Act Rules 10b-5, 12b-20, 13a-1, 13a-11,

and 13a-13.

F. preliminarily and permanently enjoining defendant Nevdahl from violating Sections 17(a)(1) and (3) of the Securities Act; Section 10(b) of the Exchange Act; and Exchange Act Rules 10b-5(a) and (c); and from aiding and abetting violations of Sections 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

G. preliminarily and permanently enjoining defendant Rauch from violating Section 17(b) of the Securities Act.

H. ordering defendants Heart Tronics, Stein, Gault, Perkins, Carter, Nevdahl, and Rauch to disgorge, jointly and severally, all ill-gotten gains, plus prejudgment interest thereon, wrongfully obtained as a result of their illegal conduct, and provide an accounting of monies and shares of Heart Tronics stock that they received and the disposition of such monies and stock;

I. ordering defendants Heart Tronics, Stein, Gault, Perkins, Carter, Nevdahl, and Rauch to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) [15 U.S.C. § 78u(d)] of the Exchange Act; and

J. permanently barring defendants Stein, Gault, Perkins and Carter, pursuant to Section 20(e) of the Securities Act [15 U.S.C. §77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)], from serving as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §78l] or that is required to file reports pursuant to Section 13 of the Exchange Act [15 U.S.C. §78m];

K. prohibiting defendants Stein, Gault, Perkins, Carter and Rauch from engaging in any offering of penny stock pursuant to Section 20(g) of

1 the Securities Act [15 U.S.C. §77t(g)] and Section 21(d)(6) of the  
2 Exchange Act [15 U.S.C. § 78u(d)(6)];

3 L. ordering relief defendants Tracey Hampton-Stein, ARC Finance  
4 Group, LLC, ARC Blind Trust, THS Blind Trust, WBT Investments  
5 Blind Trust, JAYMI Blind Trust, Five Investments Partnership, and  
6 Catch 83 General Partnership to disgorge, jointly and severally, all  
7 monies, plus prejudgment interest thereon, obtained as a result of the  
8 defendants' illegal conduct alleged in this Complaint, and provide an  
9 accounting of monies and shares of Heart Tronics stock that they  
10 received and the disposition of such monies and stock;

11 M. granting the Commission such other relief as is just and appropriate.

12  
13 Dated: December 20, 2011

Respectfully submitted,

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