

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, DC 20549,

Plaintiff,

v.

CHESAPEAKE CORPORATION, WILLIAM T.
TOLLEY, CARLOS A. GONZALEZ, WILLIAM
D. WISEMAN and DOUGLAS J. REX,

Defendants.

C.A. No. _____ - _____

COMPLAINT

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

NATURE OF THE ACTION

1. This action involves a fraudulent scheme to materially misstate the quarterly earnings of Chesapeake Corporation in 2000. Chesapeake, which is incorporated and headquartered in Virginia, engages in, among other things, the manufacture of packaging products. The scheme was carried out at one of Chesapeake's subsidiaries, Chesapeake Display & Packaging ("CD&P"), by defendants William D. Wiseman, CD&P's chief former financial officer, and Douglas J. Rex, the former controller of CD&P's largest business unit, U.S. Display. Specifically, Wiseman and Rex improperly recorded revenue and delayed recording write-offs which had the result of materially overstating Chesapeake's first quarter 2000 pre-tax net income before extraordinary item in a Form 10-Q filed with the Commission on May 15, 2000, and improperly recording portions of each item periodically over future months affecting pre-tax net income for the next two quarters as reported in a Form 10-Q filed with the Commission on

August 2, 2000 and in a company press release dated October 2, 2000. Chesapeake's former chief financial officer, William T. Tolley, and former controller, Carlos A. Gonzalez, knew, or were reckless in not knowing, of certain of the improper accounting practices. Tolley and Gonzalez's knowing failure to implement internal controls and take corrective action directly facilitated Wiseman and Rex's fraudulent conduct. In November 2000, Chesapeake restated its first and second quarter 2000 financial statements, and revised its previously released third-quarter earnings.

2. By engaging in transactions, acts, practices and courses of business alleged in this Complaint:

(a) Chesapeake violated Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 10b-5, 12b-20 and 13a-13 thereunder [17 C.F.R. §§ 240.10b-5, 240.12b-20 and 240.13a-13];

(b) Tolley violated Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Rules 10b-5, 13b2-1 and 13b2-2 thereunder [17 C.F.R. §§ 240.10b-5, 240.13b2-1 and 240.13b2-2], and aided and abetted Chesapeake's violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-13];

(c) Gonzalez violated Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Rules 10b-5 and 13b2-1 thereunder [17 C.F.R. §§ 240.10b-5 and 240.13b2-1], and aided and abetted Chesapeake's violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules

12b-20 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-13];

(d) Wiseman violated Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Rules 10b-5 and 13b2-1 thereunder [17 C.F.R. §§ 240.10b-5 and 240.13b2-1], and aided and abetted Chesapeake's violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-13]; and

(e) Rex violated Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Rules 10b-5 and 13b2-1 thereunder [17 C.F.R. §§ 240.10b-5 and 240.13b2-1], and aided and abetted Chesapeake's violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-13].

3. Unless restrained and enjoined by this Court, defendants will continue to engage in transactions, acts, practices, and courses of business that violate these provisions of the federal securities laws. The Commission seeks permanent injunctions against future violations and other relief requested in this Complaint.

JURISDICTION

4. This Court has jurisdiction over this action pursuant to Sections 21(d) and (e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and (e) and 78aa].

5. In connection with the transactions, acts, practices, and courses of business described in this Complaint, the defendants, directly or indirectly, used the means or instrumentalities of interstate commerce, the mails, or the facilities of a national securities exchange.

DEFENDANTS

6. Chesapeake Corporation is a manufacturer of packaging products incorporated and headquartered in Virginia. During the relevant time period, Chesapeake's subsidiary, CD&P, designed and manufactured specialty-packaging products. Subsequent to the conduct at issue, Chesapeake sold CD&P's assets, including CD&P's largest business unit, U.S. Display. At all relevant times, Chesapeake's common stock was registered with the Commission pursuant to Exchange Act Section 12(b) [15 U.S.C. § 781(b)] and traded on the New York Stock Exchange.

7. William T. Tolley, age 47, first served as the Group Senior Vice President of Finance and chief financial officer ("CFO") at Chesapeake, before being promoted in 1998 to Chesapeake's Senior Vice President of Finance and CFO, positions he held until December 2001.

8. Carlos A. Gonzalez, age 42, was Chesapeake's manager of consolidations from late 1997 through October 1998, when he was promoted to assistant controller and then, in October 1999, to controller, a position he held until October 2000.

9. William D. Wiseman, age 49, was CD&P's CFO from 1998 through November 2000. He is a certified public accountant in Georgia and Florida, but his license has been inactive in each jurisdiction since 1989 and 1990, respectively.

10. Douglas J. Rex, age 55, was controller of CD&P's U.S. Display business from 1999 through November 2000.

FACTS

I. Background

11. In late 1998, Chesapeake hired a new management team to turn around its financially struggling subsidiary, CD&P. The new president of CD&P hired Wiseman as CD&P's new CFO. In 1999, Wiseman reorganized U.S. Display's financial group and promoted Rex, who was one of several plant controllers at U.S. Display, to the newly created position of controller of U.S. Display.

12. U.S. Display's new management developed an aggressive earnings plan for the 2000 fiscal year. Throughout 2000, however, U.S. Display's monthly and quarterly earnings fell short of forecasts. In response, Wiseman and Rex improperly recorded revenue and delayed taking write-offs. Their actions were directly facilitated by Tolley's and Gonzalez's knowing failure to correct these misstatements or to implement internal controls. Moreover, all four men knew, or were reckless in not knowing, that Chesapeake's quarterly earnings, as reported in its Forms 10-Q for the first and second quarters of 2000, filed with the Commission on May 15 and August 2, 2000, respectively, were materially misstated as a result. Furthermore, Tolley knew, or was reckless in not knowing, that third-quarter forecasted financial results announced in a press release issued on October 2, 2000 were materially false and misleading.

II. Chesapeake Materially Overstates Earnings for the First Quarter 2000

A. Improper Failure to Write-Off \$1 Million of Credit Memos

13. In February of 2000, CD&P's U.S. Display unit issued to customers approximately \$1.3 million of credit memos relating to invoices from prior years. A credit memo is used to refund a customer or reduce the amount due from a customer. Under generally accepted accounting principles ("GAAP"), U.S. Display should have recorded the \$1.3 million as

a reduction in accounts receivable when it issued the credit memos in February.

14. Instead, Rex improperly recorded the credit memos in an empty reserve account for pending credits, which created a debit balance in that account. To minimize the first quarter earnings impact of the credit memos, Rex then began gradually offsetting, or amortizing, the credit memos against revenues over subsequent months. Rex informed Wiseman of what he had done. Rex recognized at the time that this accounting treatment was not “normal.”

15. At the time, Wiseman knew that it was improper under GAAP to create a debit balance in a reserve account for credit memos, and suggested to Rex that the accounting treatment was improper. When Tolley and Gonzalez, among others, subsequently began asking questions about the accounting in April 2000, Wiseman proposed to U.S. Display’s accounting staff that the unamortized balance be moved to somewhere less conspicuous on the balance sheet to avoid the same questions arising in connection with the second and third-quarter 2000 financial statements.

16. Gonzalez concluded by April 2000 that it was improper to have a debit balance in the reserve account for pending credits. At the time, he was “very concerned” because “having a debit balance in an unnatural account was a big issue” which raised a “red flag.” Gonzalez clearly contemplated at the time that CD&P should rectify the situation.

17. Tolley knew by March or April 2000 that CD&P’s accounting treatment of the credit memos “did not make sense” and “needed to be probed.” He has also been informed by Gonzalez that the debit balance needed to be written off. So grave were Tolley’s concerns that he determined to “look [Wiseman and Rex] in the eyes” while he questioned them about the accounting treatment, but he deferred pursuing the matter until early June 2000, after Chesapeake filed its first-quarter 2000 Form 10-Q with the Commission.

18. Tolley signed the management representation letter dated May 8, 2000 that was provided to the outside auditors who reviewed the financial statements included in the Form 10-Q filed by Chesapeake with the Commission on May 15, 2000. In the management representation letter, Tolley falsely represented that, "[t]he interim consolidated financial statements . . . are fairly presented in conformity with generally accepted accounting principles, and include all disclosures necessary for such fair presentation and disclosures otherwise required to be included therein by the laws and regulations to which [Chesapeake] is subject."

19. Chesapeake filed its first-quarter Form 10-Q with the Commission on May 15, 2000. The financial statements reported pre-tax net income before extraordinary item of \$1 million instead of a pre-tax net loss before extraordinary item of \$0.1 million that alone would have resulted from properly accounting for the credit memos.

20. Tolley signed the Form 10-Q in his capacity as Chesapeake's Senior Vice President of Finance and CFO.

21. Tolley met with Wiseman and Rex in early June 2000 to discuss various balance sheet concerns, including the accounting treatment of the credit memos. Wiseman and Rex openly acknowledged to Tolley during the meeting that they could provide no support under GAAP for the accounting treatment of the credit memos.

22. At this juncture, Tolley took no steps to have Chesapeake restate its first-quarter financial statements to correct the material misstatement.

23. In November 2000, Chesapeake restated its first-quarter financial statements to write-off the credit memos in that quarter.

B. \$4.8 Million Overstatement of Inventory

24. Due to time constraints, U.S. Display did not complete updating all of its

inventory cost standards prior to the close of U.S. Display's books for the 1999 fiscal year. On or about January 6, 2000, Rex authorized U.S. Display's posting of a journal entry that increased inventory and decreased cost of sales by \$4.8 million to account for the cost standards that had yet to be updated. As the inventory cost standards were updated over the course of the first quarter of 2000, the journal entry should have been reversed off U.S. Display's books and records, but it was not reversed.

25. In April 2000, during the close of U.S. Display's books and records for the first quarter, Rex discovered that the \$4.8 million entry was erroneously still on the books, which meant that U.S. Display's inventory was overstated, and the cost of its sales understated, by \$4.8 million. GAAP required that the \$4.8 million in inventory costs be written off, but instead of doing this, Rex and his staff made a series of journal entries that had the effect of gradually reducing or amortizing the \$4.8 million overstatement over the course of the second and third quarters of 2000.

26. U.S. Display's failure to correct its books and records with regard to the \$4.8 million journal entry resulted in Chesapeake reporting in the first quarter 2000 Form 10-Q filed with the Commission on May 15, 2000 pre-tax net income before extraordinary item of \$1 million rather than the \$3.8 million pre-tax net loss before extraordinary item that would have resulted if it had properly applied GAAP. Chesapeake corrected this material misstatement, and reversed the amortization in the second and third quarters of 2000, by restating its financial statements for the affected quarters and revising its previously announced third-quarter earnings in November 2000.

C. Improper Recordation of \$1.5 Million Receivable

27. By January 2000, U.S. Display had incurred approximately \$3 million in cost

overruns on a project for one of its largest clients (hereafter the "Client"). U.S. Display planned to seek reimbursement from the Client, because it believed the Client was responsible for a portion of the cost overruns.

28. After being informed that U.S. Display planned to ask the Client to reimburse \$1.5 million of these costs, Wiseman caused U.S. Display to book a \$1.5 million receivable from the Client in January 2000. Wiseman planned to reverse the receivable before the end of the first quarter if the Client did not agree to pay the \$1.5 million. Tolley was aware of, and comfortable with, U.S. Display's booking the \$1.5 million in the absence of an agreement, based on a similar understanding that the journal entry could be reversed if the parties failed to reach an agreement by the close of the first quarter.

29. The booking of the \$1.5 million receivable in January 2000 prior to the parties having an agreement did not conform with GAAP.

30. A U.S. Display representative responsible for negotiating an agreement apprised Wiseman and others in April 2000 that Client representatives purportedly responded "favorably" to U.S. Display recouping a portion of the costs through "business yet-to-be transacted" during 2000, and that U.S. Display would recoup \$1.5 million on an upcoming product launch for the Client.

31. There is no documentation indicating that the parties ever did negotiate an agreement prior to the close of the first quarter of 2000.

32. Even assuming that such an agreement existed, however, it was contingent on sales to the Client which were scheduled to commence after the close of the first quarter of 2000. Under GAAP, a receivable contingent on future sales should be recorded when the future sales occur and collection of the receivable is probable.

33. Wiseman permitted the \$1.5 million receivable to remain on CD&P's books for the quarter ended April 2, 2000, even after expressing doubt in April 2000 that Chesapeake's outside auditors would approve of recognizing the receivable.

34. Gonzalez, to whom Wiseman conveyed his reservations about the recognition, similarly questioned the receivable. He shared his concerns with Tolley, who directed him to pursue the matter further. Gonzalez spoke to the author of the April 2000 memo, who recounted the substance of the memo, explaining that Client representatives had given oral assurances that U.S. Display could recoup the cost overruns by increasing the margins on an upcoming product launch. Gonzalez never saw anything documenting an agreement with the Client to reimburse the \$1.5 million of cost overruns. Nonetheless, Gonzalez either expressly approved the booking of the receivable or told Tolley that he had no objection to the booking.

35. In Tolley's experience, it was unusual for a Chesapeake customer not to accept an invoice directly billing it for cost overruns. To his knowledge, there were no other instances during his tenure at Chesapeake in which costs associated with one contract were recovered through overpricing on a separate project. Notwithstanding the unusual circumstances, and Tolley's awareness of Wiseman's reservations, and those of Chesapeake's assistant corporate controller, Tolley ultimately approved booking the \$1.5 million receivable in the first quarter.

36. The improper recognition of the \$1.5 million receivable, the failure to write-off the \$1 million in credit memos and the \$4.8 million in inventory costs during the first quarter of 2000, resulted in Chesapeake reporting in the first quarter 2000 Form 10-Q filed with the Commission on May 15, 2000 pre-tax net income before extraordinary item of \$1 million rather than the \$6.3 million pre-tax net loss before extraordinary item that would have resulted from properly applying GAAP. Eighty-percent (80%) of this misstatement was attributable to the

failure to write-off the \$1 million in credit memos and \$4.8 million in inventory costs during the first quarter.

37. Tolley signed the first-quarter 2000 Form 10-Q filed with the Commission on May 15, 2000 in his capacity as Chesapeake's Senior Vice President of Finance and CFO, and signed the management representation letter dated May 8, 2000 that was provided to the outside auditors who reviewed the financial statements.

**III. Chesapeake Materially Overstates Earnings for the Second Quarter of 2000
As Result of U.S. Display's Improperly Amortizing the \$1.5 Million Receivable**

38. The Client's product launch commenced in April 2000. Chesapeake issued invoices on which it increased the margin on the product launch, ultimately recouping \$400,000 in cost overruns from the earlier project. The invoices gave no indication that any portion of the amount billed was allocable to the cost overrun on the earlier project.

39. In April and May 2000, U.S. Display received fewer orders than expected from the Client on the project on which U.S. Display intended to recoup the \$1.5 million receivable it had recorded in the first quarter. By late June 2000, Wiseman and Rex knew that sales would be less than originally anticipated, and that it was unlikely that U.S. Display would fully collect the \$1.5 million receivable through the project. In June, Wiseman and Rex began writing off or amortizing the receivable at a set rate of \$214,000 per month. This monthly reduction of the receivable was not based on actual sales.

40. Even if GAAP had permitted the first-quarter booking of the receivable (which is not the case), GAAP required that U.S. Display write-off in the second quarter of 2000 that portion of the receivable that it was unlikely to collect. Had Chesapeake written off the receivable in the second quarter of 2000, it would have reported pre-tax net income of \$1.6 million in the second quarter Form 10-Q filed with the Commission on August 2, 2000 instead of

the \$2.7 million pre-tax net income it did report. The improper amortization resulted in Chesapeake materially misstating its second-quarter earnings, as reported in a Form 10-Q filed with the Commission on August 2, 2000, and its anticipated third-quarter earnings, as reported in a Chesapeake press release dated October 2, 2000.

41. Tolley and Gonzalez knew as early as June 2000 that this monthly reduction of the receivable was not based on actual sales, and thus did not conform with GAAP.

42. On June 15, 2000, Wiseman emailed Tolley a schedule showing that U.S. Display planned to amortize the receivable at a set rate of \$214,000 per month starting in June and continuing for the remainder of the 2000 fiscal year. Tolley knew at the time that any portion of a receivable that was deemed to be uncollectible had to be written off, and that amortization was not permissible under GAAP. Tolley forwarded this schedule to Gonzalez.

43. Notwithstanding that he knew, or was reckless in not knowing, that the second-quarter financial statements were materially misstated, Tolley signed the management representation letter dated July 28, 2000, that was provided to the outside auditors who reviewed the financial statements included in the filing. In that management representation letter, Tolley falsely represented that, "[t]he interim consolidated financial statements . . . are fairly presented in conformity with generally accepted accounting principles, and include all disclosures necessary for such fair presentation and disclosures otherwise required to be included therein by the laws and regulations to which [Chesapeake] is subject."

44. Tolley also signed the Form 10-Q for the second quarter of 2000, which was filed with the Commission on August 2, 2000, in his capacity as Chesapeake's Senior Vice President of Finance and CFO.

45. In August 2000, Gonzalez met with Wiseman and Chesapeake's assistant

corporate controller to discuss the amortization. Gonzalez referred Wiseman to an earlier understanding they had reached that the monthly reduction would be based on *actual* sales of the Client product line, instead of being prorated at \$214,000 per month. Gonzalez subsequently informed Tolley in August 2000 that U.S. Display was continuing to amortize the receivable and that Gonzalez regarded this as improper under GAAP.

46. In September 2000, Wiseman sent Tolley an updated schedule reflecting amortization of the receivable from the Client which showed that U.S. Display had been, and planned to continue, reducing the receivable at a rate of \$214,000 per month through the remainder of the 2000 fiscal year.

47. Reacting to the schedule's provision for amortization through the end of the 2000 fiscal year, Tolley sent Wiseman an email on September 15, 2000 cautioning that the schedule was not consistent with their pre-existing agreement. Tolley elaborated in the email that their agreement had been that U.S. Display would conclude what Tolley expressly termed its "amortization" of the Client receivable by the end of October 2000, and not continue amortizing the receivable through the 2000 fiscal-year end. Wiseman informed Tolley that he wasn't aware of any such agreement, and that U.S. Display was planning to complete amortizing the receivable by 2000 fiscal year end.

48. After this exchange of emails, Wiseman continued amortizing the write-off of the receivable, and Gonzalez and Tolley took no corrective action.

49. On July 20, 2000, Chesapeake issued a press release that estimated third-quarter 2000 earnings per share of \$0.55 to \$0.65.

50. Chesapeake subsequently issued another release on October 2, 2000, "confirm[ing] that its third quarter earnings outlook remain[ed] unchanged from the outlook

contained in the second-quarter earnings release dated July 20, 2000.”

51. The third-quarter earnings estimates contained in the July 20 and October 2, 2000 press releases were reflective of an approximately 14.7% understatement of pre-tax net income resulting from the improper amortization of the \$4.8 million inventory adjustment, the \$1 million credit memo adjustment, and the delayed write-off of the \$1.5 million receivable. Tolley was aware of the October 2, 2000 release at the time of its issuance. Tolley knew, or was reckless in not knowing, that the earnings estimates in the October 2, 2000 earnings release were materially false and misleading.

IV. Rex and Wiseman Make Two False Journal Entries to CD&P's Books and Records for the Third Quarter 2000

52. On October 4, 2000, CD&P reported to Chesapeake, prior to closing U.S. Display's books for the third quarter of 2000, that its estimated earnings before interest and taxes (“EBIT”) for the month of September were anticipated to be approximately \$3.3 million. This estimate included an EBIT estimate for U.S. Display of \$4.2 million, which was calculated by applying U.S. Display's historical gross margin to U.S. Display's actual September sales.

53. By the morning of October 6, Rex informed Wiseman that U.S. Display's financial system was showing a “very large negative EBIT” for September of approximately \$4 million (an \$8 million difference). Later that same day, Wiseman told Tolley that he expected CD&P's EBIT to be slightly better than the estimate he had provided to corporate on October 4, but that he had not seen the final U.S. Display results because of problems they were having closing U.S. Display's books.

54. On October 8 and 9, after Wiseman and Rex were unable to identify any errors that would explain U.S. Display's negative EBIT for September, Rex posted two unsupported journal entries, which Wiseman approved, that increased U.S. Display's inventory, and reduced

its cost of sales, by approximately \$7.3 million. The journal entries were dated October 1, 2000 for inclusion in the third-quarter financial statements.

55. The effect of these journal entries was to artificially increase U.S. Display's earnings to meet the earnings forecast previously provided to corporate. Later in the day on October 9, U.S. Display closed its books and reported these inflated financial results to Chesapeake.

56. On October 10, a U.S. Display employee who was aware of the unsupported journal entries reported the matter to Chesapeake's internal audit group. Later that day, internal audit began making inquiries into the allegations, including making inquiries of Rex.

57. The next day, October 11, Wiseman informed Tolley that U.S. Display's financial system was showing less earnings than those reported to corporate on October 9th, and that they were still trying to identify errors to explain why U.S. Display's financial system was reporting less than expected earnings. After further discussion among Tolley, Wiseman and Rex, U.S. Display reversed the unsupported journal entries before Chesapeake released its third-quarter financial results on October 19, 2000.

V. Chesapeake Audit Committee Investigation and Restatements

58. Tolley promptly informed the audit committee of Chesapeake's board of directors about the two unsupported journal entries. The audit committee authorized an investigation into U.S. Display's financial reporting, which uncovered misstatements in U.S. Display's financial results, including those discussed above, which required Chesapeake to restate its reported earnings for the first and second quarters of 2000 in filings with the Commission on November 20, 2000, and to reduce its previously announced earnings for the third quarter of 2000. Specifically, Chesapeake reduced its reported first-quarter pre-tax net income before

extraordinary item from \$900,000 to a loss of \$3.8 million; reduced its reported second-quarter pre-tax net income from \$1.8 million to \$1.5 million; and reduced its previously announced third-quarter pre-tax net income of \$2.3 million to a loss of \$1.7 million.

59. These restatements and reductions reflected, in part, Chesapeake's write-off of credit memos in the first quarter of 2000, and reversal of the amortization of these credit memos in the second and third quarters of 2000; elimination of the \$4.8 million inventory overstatement in the first quarter, and reversal of the amortization of this inventory overstatement in the second and third quarters; and write-off in the second quarter of that portion of the \$1.5 million receivable that was deemed to be not collectible, and reversal of the amortization of that receivable in the second and third quarters.

FIRST CLAIM

(Exchange Act Section 10(b) and Exchange Act Rule 10b-5)

60. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 59 above.

61. By engaging in the foregoing conduct, Chesapeake, Tolley, Gonzalez, Wiseman and Rex violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM

(Exchange Act Section 13(a) and Exchange Act Rules 12b-20 and 13a-13)

62. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 59 above.

63. By engaging in the foregoing conduct, Chesapeake violated Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§

240.12b-20 and 240.13a-13].

THIRD CLAIM

(Exchange Act Section 13(b)(2)(A))

64. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 59 above.

65. By engaging in the foregoing conduct, Chesapeake violated Exchange Act Section 13(b)(2)(A) [15 U.S.C. §78m(b)(2)(A)].

FOURTH CLAIM

(Exchange Act Section 13(b)(2)(B))

66. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 59 above.

67. By engaging in the foregoing conduct, Chesapeake violated Exchange Act Section 13(b)(2)(B) [15 U.S.C. §78m(b)(2)(B)].

FIFTH CLAIM

(Exchange Act Section 13(b)(5) and Exchange Act Rule 13b2-1)

68. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 59 above.

69. By engaging in the foregoing conduct, Tolley, Gonzalez, Wiseman and Rex violated Exchange Act Section 13(b)(5) [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

SIXTH CLAIM

(Exchange Act Rule 13b2-2)

70. The Commission realleges and incorporates by reference the allegations contained

in Paragraphs 1 through 59 above.

71. By engaging in the foregoing conduct, Tolley violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

SEVENTH CLAIM

(Aiding and Abetting Violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) and Exchange Act Rules 12b-20 and 13a-13)

72. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 59 above.

73. By engaging in the foregoing conduct, Tolley, Gonzalez, Wiseman and Rex aided and abetted Chesapeake's violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court enter judgments against Chesapeake, Tolley, Gonzalez, Wiseman and Rex that:

1. enjoin Chesapeake from violating Exchange Act Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 10b-5, 12b-20 and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20 and 240.13a-13];
2. enjoin Tolley from violating Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5, 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1 and 240.13b2-2], and from aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and

Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13];

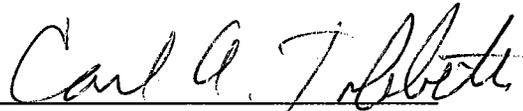
3. enjoin Gonzalez from violating Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1 [17 C.F.R. §§ 240.10b-5 and 240.13b2-1], and from aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13];
4. enjoin Wiseman from violating Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1 [17 C.F.R. §§ 240.10b-5 and 240.13b2-1], and from aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13];
5. enjoin Rex from violating Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1 [17 C.F.R. §§ 240.10b-5 and 240.13b2-1], and from aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20 and 13a-13 [17 C.F.R. §§ 240.12b-20 and 240.13a-13];
6. order Tolley, Gonzalez, Wiseman and Rex to pay appropriate civil penalties pursuant to Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)];
7. prohibit Wiseman and Rex from acting as an officer or director of any issuer of

securities 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 15(d) of the Exchange Act [15 U.S.C. § 78o(d)]; and

8. grant such other and further relief as is just and proper.

Dated: May 2, 2005

Respectfully submitted,



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