



## SUMMARY

1. This action involves a financial fraud designed to falsely inflate the financial position and results of operations of Suprema Specialties, Inc. (“Suprema”), a publicly-traded company based in Paterson, New Jersey that was formerly engaged in the manufacturing, processing, and distribution of cheese and cheese products. The fraudulent scheme commenced by at least 1998 and continued into February 2002, when Suprema filed for bankruptcy.

2. Throughout that period, the fraudulent scheme was orchestrated by Suprema’s senior management with the direct participation of certain of Suprema’s employees and certain vendors to and customers of Suprema, and their owners and operators.

3. Defendants MARK COCCHIOLA (“COCCHIOLA”), Suprema’s former chief executive officer, president and chairman of the company’s board of directors, and STEVEN VENECHANOS (“VENECHANOS”), Suprema’s former chief financial officer, secretary and, as of September 2001, a member of Suprema’s board of directors, were aware of, approved of, and directly participated in, the fraudulent scheme commencing at least as early as February 2000.

4. The primary component of the fraudulent scheme involved fictitious circular “round-tripping” sales and purchase transactions between Suprema and certain of its customers and vendors. The fraudulent scheme resulted in material misstatements in Suprema’s periodic reports filed with the Commission for its fiscal years 1999 through 2001, which ended June 30, 1999, June 30, 2000 and June 30, 2001, respectively, and the first quarter of 2002, which ended on September 30, 2001, and in the financial

information contained in Suprema's registration statements filed with the Commission for the company's secondary public offerings of stock in August 2000 and November 2001.

5. The fraudulent round-tripping scheme resulted in total misstatements of Suprema's reported revenue of between approximately 35% and over 60% in each of the three fiscal years--1999, 2000 and 2001--and in the first quarter of fiscal year 2002, which ended on September 30, 2001. The scheme resulted in total misstatements of Suprema's reported accounts receivable of 60% or more in each of the three fiscal years--1999, 2000 and 2001.

6. By knowingly or recklessly engaging in the acts alleged in this Complaint, COCCHIOLA and VENECHANOS, directly or indirectly, violated, or aided and abetted violations of, the anti-fraud, reporting, books and records, internal controls, and lying-to-auditors provisions of the federal securities laws.

7. Unless enjoined by this Court, it is likely that COCCHIOLA and VENECHANOS will continue to engage in such violative conduct. The Commission therefore requests that this Court permanently enjoin defendants from future violations of the federal securities laws alleged herein, and enter orders directing defendants COCCHIOLA and VENECHANOS to disgorge all ill-gotten gains, including pre-judgment interest, and to pay monetary penalties. The Commission also requests that the Court enter an order under Section 20(e) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)(2)] prohibiting COCCHIOLA and VENECHANOS permanently and unconditionally from acting as an officer or director of any public company as provided for in those sections.

## **JURISDICTION**

8. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. § 77t(b) and (d)], and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

9. This Court has jurisdiction of this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and pursuant to Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa].

10. The defendants have made use of the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices, and courses of business alleged herein.

## **DEFENDANTS**

11. MARK COCCHIOLA, age 49, a resident of Englewood Cliffs, New Jersey, was a co-founder of Suprema and the president and a director of the company from its inception in 1983, as well as the chairman of the board and chief executive officer of the company from February 1991, until February 24, 2002, when he resigned as chief executive officer and the company filed for bankruptcy.

12. STEVEN VENECHANOS, age 46, a resident of New Milford, New Jersey, was hired by Suprema as an accounting manager in April 1994 and served as the chief financial officer and secretary of the company from April 1995 until his resignation on December 20, 2001. In September 2001, he was named a director of the company's board of directors, and he held that position until his resignation.

### **OTHER RELEVANT ENTITY**

13. Founded in 1983, Suprema, a New York corporation based in Paterson, New Jersey, held itself out as a manufacturer, processor and distributor of “all natural” gourmet Italian cheeses. Suprema maintained three wholly owned subsidiary facilities in California, New York, and Idaho. In 1991, Suprema held its initial public offering and registered its securities with the Commission pursuant to Section 12(g) of the Exchange Act. As a result, the company was required to file periodic reports with the Commission pursuant to Section 13 of the Exchange Act. The company adopted a fiscal year ending on June 30. Suprema’s common stock was traded on the over-the-counter market starting from April 25, 1991 through December 21, 2001, as well as on the Nasdaq National Market System from March 22, 1993 until March 1, 2002, when the stock was delisted. On February 24, 2002, Suprema filed a voluntary bankruptcy petition for a Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of New York. On March 20, 2002, Suprema’s bankruptcy proceeding was converted to a Chapter 7 liquidation, which is ongoing.

### **BACKGROUND**

14. COCCHIOLA founded Suprema in 1983 with his brother-in-law, who was also Suprema’s executive vice president (“EVP”). The two men had worked together in the cheese and dairy industries since the early 1970s.

15. As Suprema grew, COCCHIOLA and the EVP transitioned the business from cheese processing and distribution at Suprema’s New Jersey facility to manufacturing its own cheeses as well at other facilities.

16. Reflective of the fact that they had started the company from the ground up, both COCCHIOLA and the EVP monitored, and were actively involved in, the details of the company's operations. COCCHIOLA, VENECHANOS and the EVP communicated regularly with one another in the company's small corporate headquarters in Paterson, New Jersey.

17. Within this close-knit group, there was nonetheless a clear hierarchy. COCCHIOLA exercised final authority over business decisions, including matters relating to development of the business, financing activities, and disclosures to the company's banks, independent auditors, underwriters, and shareholders. Both VENECHANOS and the EVP were subordinate to COCCHIOLA.

18. In every fiscal year from 1996 forward, Suprema claimed annual double-digit growth in sales and revenues. In fiscal year 2001, which ended June 30, 2001, Suprema reported over \$420 million in revenues, an increase of over 50% from the prior fiscal year, and reported \$8.9 million in net income.

19. Beginning in 1994, the company borrowed against its accounts receivable and inventory to obtain a revolving line of credit that rose to \$140 million, and involved a consortium of banks, by the end of 2001.

20. Suprema held secondary public offerings in August 2000 and November 2001 that raised over \$8 million and \$44 million, respectively.

21. From at least 1998 through February 2002, however, Suprema's apparent success was the product of a fraudulent "round-tripping" scheme orchestrated by the company's management. From at least early 2000, the scheme was perpetrated with COCCHIOLA and VENECHANOS' knowledge, approval and active involvement.

## **ROUND-TRIPPING SCHEME**

### **I. The Fictitious Round-Tripping Transactions**

22. Each round-tripping “circle” in the scheme typically involved three parties: Suprema, a third-party “customer,” and a related “vendor.” In most instances, the customer and vendor in these circles shared a common owner. With some exceptions as noted below, the fraud operated as follows: Fictitious paperwork was created purporting to represent sales of cheese products from Suprema to a customer involved in the fraud. In general, the customer would then purport to sell those or other products to the related vendor. This was followed by a fictitious sale of other products (often purporting to be the raw materials for cheese manufacturing) from the vendor back to Suprema. With rare exception, no goods were actually delivered, or otherwise changed hands, in these transactions.

23. In general, on each segment of the circle – Suprema to the customer, customer to the vendor, and vendor back to Suprema – the entity purporting to sell goods created false sales invoices and bills of lading to document the false transaction, and the entity purporting to buy goods generated a check in payment for the same false transaction.

24. These circular round-tripping transactions resulted in a continuous flow of funds from Suprema to the vendors involved in the fraud, from the vendors to the related customers, and from the customers back to Suprema, all purportedly in payment for the fictitious sales. Typically, the checks from Suprema to the vendors involved in the fraud were in greater amounts than the corresponding checks from the related customers back to Suprema. This difference in the checks represented a kick-back or “commission” paid

to the common owner of the customer and vendor for his participation in the fraudulent scheme. Funds for the checks, including commissions, were drawn generally on Suprema's revolving line of credit with its consortium of banks, which increased as Suprema's fictitious accounts receivable and inventory grew.

25. The owners with whom Suprema engaged in the round-tripping scheme included: Jack Gaglio ("Gaglio"); Robert Quattrone ("Quattrone"); Lawrence Fransen; and George Vieira ("Vieira").

26. At the request of Suprema's senior management, owners on occasion would sign false audit confirmations confirming the fictitious outstanding accounts receivable purportedly due from the customers at the end of Suprema's fiscal years. These audit confirmations were provided to Suprema's independent auditors in connection with their audits of Suprema's fiscal year financial statements.

## **II. Defendants' Participation in the Round-Tripping Transactions**

### **A. Prior to August 2001**

27. From at least 1998 to August 2001, the EVP managed the day-to-day details of the fraudulent round-tripping scheme.

28. Although Suprema had a dedicated sales force handling all other customers, the EVP personally handled the purported sales to the participating entities who comprised Suprema's biggest customers.

29. The EVP's activities included coordinating the exchange of checks and fictitious purchase orders and invoices with the participating owners in accordance with detailed schedules that he maintained, and generating fictitious bills of lading for Suprema's purported shipments.

30. In furtherance of the fraudulent scheme, the EVP also arranged for shipments at Suprema's fiscal year end of cheese and non-cheese products to warehouse facilities used by Suprema. Suprema personnel would then relabel lower-priced items as more highly priced cheese products at the EVP's direction. The relabeled items were then available to be included in a physical inventory count which was performed at fiscal year end and observed by the company's independent auditors, thereby falsely inflating the value of Suprema's inventory. Also in furtherance of the scheme, invoices for payment to Suprema's suppliers would not be recorded on Suprema's books and records until after the close of the fiscal year.

31. The EVP's personal assistant, John Van Sickell, at times oversaw the receipt of the fiscal year end shipments, the falsification of bills of lading and the relabeling of the materials at the warehouses.

32. The EVP managed the day-to-day details of the fraudulent round-tripping scheme with the knowledge, approval and involvement of COCCHIOLA and VENECHANOS from at least in or about February 2000 through and until the time of his death in August 2001.

**1. Maintenance of Separate Records of Suprema's Inventory**

33. At all relevant times, Suprema recorded inventory using an electronic spreadsheet that was maintained separately from the company's electronic accounting system. This separate spreadsheet facilitated the defendants' ability to manipulate Suprema's inventory records without leaving a trail in the electronic accounting system that could be verified by Suprema's independent auditors.

34. At some point, the company's independent auditors proposed that Suprema upgrade its internal accounting software to incorporate an inventory module instead of maintaining a separate off-line electronic inventory spreadsheet.

35. VENECHANOS reacted negatively to the proposal to upgrade the company's internal accounting software, commenting privately to Suprema personnel that the new inventory module could not be put into place while the scheme was ongoing.

## **2. Creation of Fraudulent Bills of Lading**

36. In or about February 2000, COCCHIOLA and VENECHANOS directed the EVP and Suprema's former controller, Art Christensen ("Christensen"), to create false and fraudulent bills of lading extending back over approximately two years to evidence purported sales made to Suprema's largest customers which were participating in the round-tripping scheme.

37. In connection with an audit conducted in early 2000 on behalf of the consortium of banks that had extended Suprema a revolving line of credit, the banks' auditors requested certain invoices and other documents related to Suprema's reported sales to its major customers. COCCHIOLA, VENECHANOS, Christensen, and the EVP realized that bills of lading were missing or incomplete for a significant portion of the fictitious sales to Suprema's major customers.

38. COCCHIOLA and VENECHANOS then directed the EVP and Christensen to create the missing bills of lading and complete the incomplete bills of lading for the fictitious sales over the course of the night before the audit. At the direction of COCCHIOLA and VENECHANOS, the EVP and Christensen created false and fraudulent bills of lading, and completed the incomplete bills of lading. This entailed

fraudulently forging the truckers' signatures and entering dates and the other missing information.

39. Throughout the process, COCCHIOLA and VENECHANOS continued to monitor the EVP and Christensen's progress in forging the bills of lading, which were largely completed and available for presentation to the bank auditors the next morning.

40. The fraudulent and forged documents were included in the documentation made available to Suprema's independent auditors during the audit at the end of the 2000 fiscal year.

41. The fictitious sales supported by these forged documents were included in calculating the annual sales revenues for fiscal years 1999 and 2000, as reported in Suprema's annual report for fiscal 2000 on Form 10-K and its registration statement for the secondary offering in August 2000 on Form S-2, both of which COCCHIOLA and VENECHANOS signed and caused to be filed with the Commission.

42. In connection with Suprema's secondary public offering of stock in August 2000, COCCHIOLA sold 50,000 shares of Suprema common stock at the offering price of \$8.00 per share, thus enriching himself by \$400,000.

### **3. Manipulation of the Accounts Receivable Collections Process**

43. VENECHANOS actively monitored the company's accounts receivable throughout the relevant period, and manipulated the collections of those receivables to further the fraudulent scheme.

44. VENECHANOS reviewed the accounts receivable aging report on a regular basis. This report identified the accounts receivable due from customers and indicated the length of time the accounts receivable had been due and payable to

Suprema. In connection with his reviews of these reports, VENECHANOS instructed accounting personnel, including the accounts receivable supervisor, that customers identified in the aging report were to be contacted to seek payment of the outstanding receivables, with the exception of certain customers with respect to whom VENECHANOS directed that all contact and collections efforts should be left to the EVP.

45. The customers whom VENECHANOS directed that the accounting staff not contact were the customers who were participating in the fraudulent round-tripping scheme.

**B. August 2001 to February 2002**

46. In August 2001, the EVP died suddenly. The defendants were concerned that the scheme continue uninterrupted despite the EVP's sudden death, in part because they were in the final stages of planning a secondary stock offering in connection with which COCCHIOLA and the EVP's estate would be able to sell Suprema stock.

47. Following the EVP's death in August 2001, COCCHIOLA assumed the EVP's responsibilities, including the management of the fraudulent round-tripping scheme, on an interim basis.

48. Shortly after the EVP's death, COCCHIOLA, VENECHANOS and Christensen discussed the allocation of the EVP's responsibilities relating to the round-tripping scheme among themselves and others within the company.

49. In the weeks following EVP's death, COCCHIOLA personally spoke to the owners of certain entities participating in the fraudulent scheme to reassure them that business would continue as before.

50. COCCHIOLA and VENECHANOS enlisted Christensen to manage the day-to-day details of the round-tripping scheme, at least until COCCHIOLA designated a replacement.

51. COCCHIOLA asked Gaglio, one of the owners of certain participating entities, to provide information to Christensen regarding the status of those entities' round-tripping arrangements with Suprema.

52. Pursuant to COCCHIOLA's request, Gaglio faxed Christensen a schedule detailing the dates as of when the round-tripping checks were due to be exchanged and the amounts of the respective checks.

53. Also in the weeks immediately following the EVP's death, COCCHIOLA arranged for meetings between owners of other participating entities and Christensen, to discuss the parties' business arrangements, including the fraudulent round-tripping transactions and the commissions payable to the participating entities.

54. In the months leading up to Suprema's secondary public offering of stock in November 2001, COCCHIOLA and VENECHANOS gave presentations to potential investors, so-called "road shows," in conjunction with the company's banks and underwriters. At these road shows, COCCHIOLA and VENECHANOS discussed, among other things, Suprema's purported financial performance as reflected in materially false and misleading financial statements filed with the Commission.

55. COCCHIOLA and VENECHANOS each participated in the November 2001 secondary public offering, selling 347,809 shares and 116,408 shares, respectively, of Suprema common stock at the offering price of \$12.75 per share, thus enriching themselves by a total of \$4,434,565 and \$1,484,202, respectively.

56. In or about November 2001, COCCHIOLA hired Vieira to serve as the chief operating officer of Suprema's wholly-owned subsidiary in Manteca, California, Suprema Specialties West, Inc.

57. In December 2001, when Christensen voiced his intention of resigning, COCCHIOLA and VENECHANOS sought to dissuade him. VENECHANOS encouraged Christensen to consider the consequences of his leaving, including the likelihood that it would trigger government investigations. Nevertheless, Christensen resigned on December 19, 2001; VENECHANOS resigned the same day.

58. Suprema immediately undertook an internal investigation for the ostensible purpose of investigating whether VENECHANOS and Christensen had embezzled funds from the company.

59. Following the resignations, COCCHIOLA enlisted Vieira, the chief operating officer of Suprema's subsidiary facility in California and one of the owners of participating entities in the fraudulent scheme, to manage the day-to-day details of the scheme.

60. COCCHIOLA ensured that the Suprema personnel and certain owners, including Quattrone, Gaglio and Fransen, participating in the round-tripping scheme provided Vieira with the full details pertaining to the conduct of and their participation in the round-tripping scheme.

61. On February 24, 2002, Suprema filed a voluntary bankruptcy petition for a Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of New York. On March 20, 2002, the bankruptcy was converted to a Chapter 7 liquidation.

### **III. Suprema's Reporting of Fictitious Revenue from the Round-Tripping Transactions in its Filings with the Commission**

62. As described above, Suprema's revenue and accounts receivable were materially overstated as a result of the fraudulent round-tripping scheme. Consequently, Suprema's annual reports on Form 10-K filed with the Commission by the company for fiscal years 2000 and 2001 (which included the overstated sales figures for 1999), Suprema's first quarter 2002 quarterly report on Form 10-Q filed with the Commission, as well as Suprema's registration statements on Form S-2, and amendments thereto, for each of the secondary public offerings in 2000 and 2001, all contained materially false and misleading misstatements in the financial statements and other financial information included in those filings.

63. VENECHANOS was substantially involved in preparing Suprema's consolidated financial statements and composing certain narrative information included in these filings.

64. COCCHIOLA and VENECHANOS signed each of these filings in their capacity as officers of Suprema, and caused them to be filed with the Commission.

65. The inflated revenue figures reported in these filings with the Commission were also announced in press releases issued by Suprema dated August 25, 2000, August 15, 2001 and November 15, 2001. These press releases included materially false and misleading statements by COCCHIOLA attributing Suprema's purported sales growth to the strength of Suprema's management, staff, and customer relationships.

66. COCCHIOLA and VENECHANOS each knew, or were reckless in not knowing, that Suprema's financial statements for the 2000 and 2001 fiscal years, and the first quarter of the 2002 fiscal year, which were included in Suprema's filings with the

Commission, were materially misstated as a result of the fraudulent round-tripping scheme.

#### **IV. Misrepresentations to Suprema's Independent Auditors**

67. In connection with the audits of Suprema's 2000 and 2001 fiscal year financial statements, which were included in Suprema's 2000 and 2001 annual statements filed on Form 10-K with the Commission, COCCHIOLA and VENECHANOS signed management representation letters to Suprema's independent auditors that falsely represented, among other things, that: (1) "[t]he financial statements . . . are fairly presented in conformity with generally accepted accounting principles"; (2) "[t]here has been no . . . fraud involving management or employees who have significant roles in internal control [or] [f]raud involving others that could have a material effect on the financial statements"; (3) "[m]anagement is not aware of any information indicating that an illegal act, or violations or possible violations of any regulations . . . has or may have occurred, whether or not perceived to have a material effect on the financial statements"; and (4) "[r]eceivables recorded in the financial statements represent valid claims against debtors for sales . . . ." The financial statements with respect to which these representations were made included Suprema's financial statements for the fiscal years ended June 30, 1999 and June 30, 2000, in the case of the management representation letter for fiscal year 2000, and Suprema's financial statements for the fiscal years ended June 30, 1999, June 30, 2000 and June 30, 2001, in the case of the management representation letter for fiscal year 2001.

68. In connection with the preparation of registration statements to be filed with the Commission for secondary public offerings of Suprema's stock in 2000 and

2001, COCCHIOLA and VENECHANOS signed management representation letters to Suprema's independent auditors that falsely represented, among other things, that, "[a]ll financial and operating data (including dollar amounts . . . ) included in the registration statement are fairly stated."

69. In addition to the foregoing false statements made to Suprema's auditors, VENECHANOS was a point of contact for Suprema's independent auditors. In that capacity, VENECHANOS regularly completed inquiries from the auditors directed to Suprema's management with respect to the integrity of Suprema's internal controls and the risk of fraud, including annually completing a questionnaire in connection with the fiscal year end audits in 2000 and 2001, and handled requests for documentation to be prepared by Suprema as the audit client. VENECHANOS made false statements to Suprema's auditors in this capacity.

### **FIRST CLAIM**

#### **Defendants Cocchiola and Venechanos Violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5]**

70. Paragraphs 1 through 69 are realleged and incorporated herein by this reference.

71. Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 thereunder prohibit a person from, *inter alia*, employing any device, scheme or artifice to defraud; making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

72. By engaging in the foregoing conduct, defendants COCCHIOLA and VENECHANOS, and each of them, knowingly or recklessly violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

## SECOND CLAIM

### **Defendants Cocchiola and Venechanos Violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]**

73. Paragraphs 1 through 72 are realleged and incorporated herein by this reference.

74. Section 17(a) of the Securities Act makes it unlawful for a person, *inter alia*, to employ any device, scheme, or artifice to defraud; to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or to engage in any transaction, practice, or course of business which operates or would operate as a fraud upon the purchaser, in the offer or sale of any securities.

75. By engaging in the foregoing conduct, defendants COCCHIOLA and VENECHANOS, and each of them, knowingly, recklessly, or negligently violated Section 17(a) of the Securities Act.

## THIRD CLAIM

### **Defendants Cocchiola and Venechanos Violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1]**

76. Paragraphs 1 through 75 are realleged and incorporated herein by this reference.

77. Section 13(b)(5) of the Exchange Act and Exchange Act Rule 13b2-1 thereunder prohibit a person from, *inter alia*, knowingly circumventing internal accounting controls and knowingly falsifying, or causing to be falsified, corporate books and records.

78. By engaging in the foregoing conduct, defendants COCCHIOLA and VENECHANOS, and each of them, knowingly violated Section 13(b)(5) of the Exchange Act and Exchange Act Rule 13b2-1 thereunder.

#### **FOURTH CLAIM**

##### **Defendants Cocchiola and Venechanos Violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2]**

79. Paragraphs 1 through 78 above are realleged and incorporated herein by this reference.

80. Exchange Act Rule 13b2-2 prohibits an officer or director from directly or indirectly making, or causing to be made, materially false or misleading statements or omitting or causing another to omit to state material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to accountants in connection with an audit, review or examination of an issuer's required financial statements or in connection with the preparation and filing of documents and reports required to be filed with the Commission.

81. By engaging in the foregoing conduct, COCCHIOLA and VENECHANOS violated Exchange Act Rule 13b2-2.

## FIFTH CLAIM

### **Defendants Cocchiola and Venechanos Aided and Abetted Suprema's Violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13]**

82. Paragraphs 1 through 81 are realleged and incorporated herein by this reference.

83. Exchange Act Section 13(a) requires all issuers with securities registered under Exchange Act Section 12 to file periodic and other reports with the Commission containing such information as the Commission's rules prescribe. Exchange Act Rules 13a-1 and 13a-13 require issuers to file accurate annual and quarterly reports. Exchange Act Rule 12b-20 requires that reports filed with the Commission include such further material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading.

84. By reason of the foregoing, Suprema violated Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13.

85. Exchange Act Section 20(e) [15 U.S.C. § 78t(e)], provides, *inter alia*, that a person who knowingly provides substantial assistance to another person in violation of the Exchange Act, or any rule or regulation issued under the Exchange Act, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

86. By engaging in the foregoing conduct, defendants COCCHIOLA and VENECHANOS, and each of them, knowingly provided substantial assistance to Suprema in violation of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-

20, 13a-1, and 13a-13, thereby aiding and abetting Suprema's violations of these provisions.

#### SIXTH CLAIM

**Defendants Cocchiola and Venechanos Aided and Abetted Suprema's Violations of Sections 13(b)(2)(A) and (B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A) and (B)]**

87. Paragraphs 1 through 86 are realleged and incorporated herein by this reference.

88. Section 13(b)(2)(A) of the Exchange Act requires issuers of registered securities to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer. Section 13(b)(2)(B) of the Exchange Act requires issuers to, among other things, devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements.

89. By reason of the foregoing, Suprema violated Sections 13(b)(2)(A) and (B) of the Exchange Act.

90. By engaging in the foregoing conduct, defendants COCCHIOLA and VENECHANOS, and each of them, knowingly provided substantial assistance to Suprema in violation of Sections 13(b)(2)(A) and (B) of the Exchange Act, thereby aiding and abetting Suprema's violations of these provisions.

## **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court enter

Orders:

- A. permanently restraining and enjoining defendants COCCHIOLA and VENECHANOS from violating Section 17(a) of the Securities Act, Sections 10(b) and 13(b)(5) of the Exchange Act, and Exchange Act Rules 10b-5, 13b2-1, and 13b2-2 thereunder;
- B. permanently restraining and enjoining defendants COCCHIOLA and VENECHANOS from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13;
- C. prohibiting defendants COCCHIOLA and VENECHANOS, and each of them, from acting as an officer or a director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 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)];
- D. requiring defendants COCCHIOLA and VENECHANOS to pay disgorgement of all unlawful gains, with prejudgment interest;
- E. imposing civil monetary penalties on defendants COCCHIOLA and VENECHANOS pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]; and

F. granting such other and additional relief as the Court may deem just and proper.

Dated: July 9, 2005

Respectfully submitted,

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