

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

**IMPERIALI, INC.,
DANIEL IMPERATO,
CHARLES FISCINA, and
LAWRENCE A. O'DONNELL,**

Defendants.

**Civil Action No.: 9:12-cv-80021
ECF**

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) alleges as follows against Defendants Imperiali, Inc., Daniel Imperato, Charles Fiscina, and Lawrence A. O’Donnell:

Summary

1. From 2005 through 2008, Imperato used his company, Imperiali, to carry out a securities-fraud scheme targeting Imperiali investors. In documents distributed to investors and in reports filed with the Commission, Imperato, along with Fiscina and O’Donnell, portrayed Imperiali as a thriving, multinational corporation that owned multiple, valuable subsidiaries. In reality, Imperiali was just a shell corporation, having virtually no assets or operations. Its subsidiaries were worthless or, in some cases, even non-existent.

2. From at least December 2005 through at least June 2007, Imperiali sold stock to approximately 60 investors, raising approximately \$2.5 million. In the stock offering, Imperato solicited investors directly. And he hired a commissioned sales team, which solicited investors by email and telephone “cold calls.”

3. Imperato and his sales team gave prospective investors private-placement memorandums (“PPMs”) containing numerous untrue and misleading statements. These PPM statements included the claim that Imperiali’s board of directors was comprised of experienced professionals. In reality, Imperiali had no board of directors. They included a representation that Imperiali would use stock-offering proceeds to fund a business development company (“BDC”) that would invest in other promising companies. In reality, Imperato used the proceeds to cover personal expenses, including travel in his 2008 United States presidential campaign, and to fund Imperiali’s operations.

4. The PPM statements also included a claim that Imperiali owned “Imperiali Organization,” a company purportedly involved in multiple business enterprises including television broadcasting and telecommunications services. In reality, Imperiali did not own Imperiali Organization. Finally, the PPM statements included sales projections for Imperiali “portfolio companies” of \$250 million in 2008 and \$500 million in 2009, and projected profits of over \$150 million in 2008 and over \$350 million in 2009. In reality, Imperiali’s portfolio companies had no operations, no products or services, and no revenue; so there was no reasonable basis for the projections.

5. Between October 2006 and July 2008, Imperato and Fiscina drafted, reviewed, and filed at least 16 filings with the Commission on behalf of Imperiali that, among other things, falsely described Imperiali’s investments, valued Imperiali’s virtually worthless assets at amounts ranging from \$3.5 to \$269 million, and failed to disclose the issuance of five million shares of restricted stock.

6. O’Donnell, Imperiali’s auditor, participated in the fraudulent scheme by issuing false audit reports on Imperiali financial statements. And he failed to audit Imperiali’s financial

statements in accordance with Public Company Accounting Oversight Board Standards (“PCAOB Standards”)

7. By this conduct, Imperiali, Imperato, Fiscina, and O’Donnell violated, and Imperato and Fiscina aided and abetted violations of the federal securities laws.

Jurisdiction and Venue

8. The Court has jurisdiction of this civil enforcement action pursuant to Sections 22(a) and 24 of the Securities Act of 1933 (“Securities Act”)[15 U.S.C. §§ 77v(a) and 77x], Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 (“Exchange Act”)[15 U.S.C. §§ 78u(d), 78u(e), and 78aa], and Section 44 of the Investment Company Act of 1940 (“Investment Company Act”)[15 U.S.C. § 80(a)-43].

9. Venue is proper in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 44 of the Investment Company Act [15 U.S.C. § 80(a)-43] because (1) acts, practices, transactions, and courses of business constituting the violations alleged herein occurred within this judicial district; (b) Imperato and Fiscina reside within this judicial district; and (c) Imperiali is based in this judicial district.

10. In connection with the acts, practices, transactions, and courses of business alleged in this Complaint, Imperiali, Imperato, Fiscina, and O’Donnell have directly or indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange.

Facts

The Parties

11. The Plaintiff is the Securities and Exchange Commission, which brings this civil

enforcement action pursuant to the authority conferred on it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)], and Section 42(d) of the Investment Company Act [15 U.S.C. § 80a-41(d)].

12. Defendant Imperiali is a Florida corporation based in West Palm Beach, Florida. Imperiali was incorporated in 1994 as Automated Energy Securities, Inc., changed its name in 1999 to New Millennium Development Group, Inc., and was dormant from 2002 until 2005 when Imperato resurrected the Company and changed its name to Hercules Global Interests, Inc. and then Imperiali. The Company elected status as a Business Development Company (“BDC”) on November 14, 2006, and withdrew its election on November 6, 2008. Imperiali filed an application for registration of its securities under Section 12(g) of the Exchange Act on October 19, 2006 and filed a Form 15 to withdraw its registration on August 7, 2009. For a brief period in 2008, Imperiali was known as Kaiser Himmel Imperiali, Inc.

13. Defendant Imperato resides in West Palm Beach, Florida. Imperato is the majority shareholder and currently an officer and director of Imperiali. Imperato was CEO of Imperiali until July 2006 and held the title of “Interim” CEO at various times between July 2006 and 2009. Regardless of his title, Imperato controlled Imperiali during the entire period covered by the conduct alleged in this Complaint. While an officer, Imperato reviewed and signed, and had ultimate authority over, reports filed with the Commission that contained materially false and misleading statements. During periods where he was not officially an officer, Imperato substantially assisted Imperiali and others in reviewing and drafting reports filed with the Commission that contained materially false and misleading statements. Finally, throughout the relevant period, Imperato participated in the drafting and dissemination of private placement memoranda for Imperiali that were used to solicit investors.

14. Defendant Fiscina resides in Palm Beach Gardens, Florida. Fiscina served as CFO of Imperiali from July 2006 to August 2007. Fiscina has an undergraduate degree in microbiology and biochemistry from the University of Miami, an accounting degree from Farleigh Dickenson University and an advanced degree in finance from the NYU Stern School of Business. While CFO, Fiscina reviewed and drafted PPMs, signed and reviewed, and had ultimate authority over, registration statements and reports filed with the Commission and disseminated to investors.

15. Defendant O'Donnell resides in Aurora, Colorado. O'Donnell has an accounting degree from the University of Denver and received a certificate to practice as a CPA in the state of Colorado in 1977. O'Donnell has been operating as a sole proprietor in his own CPA practice for the last 10 years, which was previously registered with the PCAOB. In October 2010, the PCAOB revoked his sole proprietorship's registration, permanently barred O'Donnell from associating with a registered public accounting firm, and ordered him to pay a civil penalty of \$75,000. The Colorado Division of Registrations revoked his CPA license on October 8, 2010. O'Donnell served as Imperiali's auditor between 2007 and 2008, and issued audit opinions that were submitted to the Commission in registration statements and current and periodic reports and disseminated to investors.

16. Throughout the relevant period, the Defendants schemed to defraud existing and prospective investors—first through a private offering and later, after the Company's securities were registered with the Commission, through filing with the Commission materially false and misleading reports—by making Imperiali appear to be something other than the shell company it really was.

The Fraudulent Securities Offering

17. From 2005 through 2008, Imperato used his company, Imperiali, to carry out a securities-fraud scheme targeting Imperiali investors. In documents distributed to investors, Imperato, along with Fiscina and O'Donnell, portrayed Imperiali as a thriving, multinational corporation that owned multiple, valuable subsidiaries. In reality, Imperiali was just a shell corporation, having virtually no assets or operations. Its subsidiaries were worthless or, in some cases, even non-existent. From at least December 2005 through at least June 2007, Imperiali sold stock to approximately 60 investors, raising approximately \$2.5 million.

18. In 2005, Imperato—Imperiali's the sole officer at the time—hired a sales staff to solicit investors via the internet and by telephone "cold calls" and to disseminate to investors various versions of an Imperiali PPM. Directly and through his sales staff, Imperato disseminated PPMs to investors. These PPMs contained untrue and misleading statements, creating the false appearance that Imperiali had legitimate business operations and an extensive staff of highly trained professionals. Included among the untrue and misleading statement in the PPMs were the following:

A. A PPM listed Daniel Mangru as Imperiali's chief compliance officer and as a member of its board of directors. It touted Mangru as the founder of a Palm Beach-based advisory firm that focused on globalization, public relations, strategic partnering, real estate development, mergers and acquisitions, and new business development. In reality, Mangru was a recent college graduate who had worked part-time at securities firms while he was attending college. The so-called advisory firm was nothing more than a fax-blasting business owned by Imperato used to solicit shareholders for Imperiali. And Mangru served as a salesman peddling Imperiali stock.

B. A PPM contained the claim that Imperiali's board was comprised of individuals with extensive business and securities experience. It listed Raul Garron and Steven Lopez as independent board members. Garron's description included extensive experience working for the United Nations and The World Bank, among others. Lopez's description included over 35 years of international banking experience at organizations such as First Fidelity Bank, and Chemical Bank. In reality, Garron and Lopez were not on Imperiali's board. Imperiali had no board.

C. A PPM contained the claim that Imperiali would use the money raised from the offering to fund a BDC, which would invest in five small-to-midcap and ten Pink Sheet companies that showed growth potential in international markets. In reality, at the time this PPM was disseminated to investors, Imperato and Fiscina knew that none of the funds raised up to that point (\$760,000) had been used to purchase securities issued by any companies, and the intent was to use any funds raised to fund companies that Imperato established.

D. A PPM contained the claim that Imperiali had purchased the assets of an entity called "Imperiali Organization" for "\$4 million plus \$10 million (sic) shares of stock." It said that Imperiali Organization had acquired interests in a number of publicly-traded companies. It further said that Imperiali Organization owned and controlled enterprises bearing the following names: i1Connect, i1Education, Imperiali Telecom Services, i1tv Broadcast Network, and i1Films, Inc. In reality, Imperiali never acquired Imperiali Organization or its assets. And most of the enterprises purportedly owned by Imperiali Organization had no

business activities at the time of the solicitation

E. A PPM included sales projections for Imperiali “portfolio companies” of \$250 million in 2008 and \$500 million in 2009, and projected profits of over \$150 million in 2008 and over \$350 million in 2009. In reality, Imperiali’s portfolio companies had no operations, no products or services, and no revenue; so there was no reasonable basis for the projections.

19. In 2006 and 2007, Imperato drafted press releases on behalf of Imperiali, describing the company’s operations and its securities offering. Through a subordinate, he distributed the press releases to the public by “fax blast.” These press releases contained untrue statements, as follows:

A. A June 28, 2006 press release stated, “Imperiali Inc. has expanded and grown rapidly into the global marketplace with potential investment partners, strategic partners, and a global sales force in place along with the expansion of its West Coast Office in Los Angeles, CA and its targeted acquisition in Basel, Switzerland European Headquarters.” In reality Imperiali had no operations, sales, or revenue, and its Los Angeles office was nothing more than a salesman.

B. A March 2, 2007 press release stated, “Imperiali Announces Invitation to Participate with \$53 Billion Euros (sic) of Global Infrastructure Projects.” In reality, Imperiali was not involved in any global infrastructure projects valued at 53 billion Euros.

C. A March 4, 2007 a press release indicated that Imperiali was announcing a proposed sale and spin-off of its assets. The press release indicated that shareholders of record would receive a dividend. This information was false and

misleading because it failed to disclose that the so-called subsidiaries were worthless shell companies.

D. An August 8, 2007 press release stated that Imperiali was responding to an SEC inquiry including issues relating to its asset valuations. The press release indicated that Imperiali's valuations were accurate and that they had been "submitted to the auditors, signed off by the auditors." In reality, the valuations were not accurate and the auditor never agreed to the valuation. The press release also said that one of Imperiali's companies was valued at \$250 million. This valuation was false, having no reasonable basis in fact.

20. Imperato served the role of "closer" for the sales staff he hired. He received and reviewed all of the subscription agreements for the stock sales that occurred between November 2005 and July 2006 and supervised the receipt and disbursement of the offering proceeds. During this time, Imperato was not registered as a broker or dealer and was not associated with a Commission-registered broker or a dealer.

21. Imperato solicited investors on behalf of Imperiali through the false and misleading PPMs and press releases, ultimately raising \$2,535,500. One version of the PPM contained representations that Imperiali would use the offering proceeds to fund a BDC and to invest in small, mid-cap, or Pink Sheet public companies. In reality, Imperato used the offering proceeds to pay for personal expenses, including travel expenses during his 2008 Presidential campaign, and to pay the Imperiali's operational costs. Imperiali therefore did not invest funds or invest in other companies as represented.

22. Fiscina knew how Imperiali disposed of the offering proceeds because he handled the company's accounting records. Moreover, Imperato directed Fiscina to use investor funds to

pay for Imperato's travel and personal expenses.

O'Donnell's First Audit

23. In May 2006, Imperato retained O'Donnell to perform an audit of Imperiali's financial statements. O'Donnell completed his audit in September 2006. Fiscina—hired by Imperiali in July 2006—interacted only briefly with O'Donnell in the audit. Imperato supplied O'Donnell Imperiali's financial statements and other information used in the audit by O'Donnell. The audited financial statements, for the period ended August 31, 2006, reflected Imperiali's actual financial condition, namely that Imperiali was merely a shell, with no significant operations or revenue, and that its only asset was cash raised in the stock offering.

Imperiali's Registration Statements

24. On October 19, 2006, at Imperato's direction, Fiscina signed and filed a Form 10-SB registration statement ("October Form 10") on behalf of Imperiali that included a copy of Imperiali's financial statements for the period ended August 31, 2006. The October Form 10 repeated misrepresentations from the PPMs, including the misleading description of Mangru and the false claim that Imperiali had a board.

25. In December 2006, at Imperato's direction, Fiscina caused Imperiali to issue five million shares of convertible preferred shares to Imperato. The preferred shares were convertible into common shares of Imperiali with a conversion rate of three common shares for each one share of preferred stock. There was no expiration date on the conversion feature. On January 18, 2007, at Imperato's direction, Fiscina signed and filed with the Commission a Form 10 for Imperiali ("January Form 10"). The January Form 10 included Imperiali's audited financial statements for the period ended August 31, 2006. It contained essentially the same information as the October Form 10, including the misrepresentations about Mangru and a board, with two

exceptions. First, Item 4 was changed to read, in relevant part, that the company has issued five million shares of preferred stock to Imperiali Organization. Second, the wording in Item 7 (Item 5 in the October Form 10) was changed from “is issuing” to “has issued” preferred stock to Imperiali Organization.

26. Although these changes accurately reflected that preferred stock had been issued, they conflicted with information in the audited financial statements. The audited financial statements provided that no preferred stock had issued. Moreover, Item 7 incorrectly stated that the preferred stock was issued to Imperiali Organization, when in fact it was issued to, and in the name of, Imperato. The January Form 10 likewise failed to disclose that each preferred share was convertible into three shares of common stock and therefore could dilute the holdings of existing shareholders.

27. On March 2, 2007, at Imperato’s direction, Imperiali filed with the Commission an amended Form 10 signed by Fiscina (“March 2 Form 10”). All reference to preferred stock was removed from Item 4. And Item 7 reflected that five million shares of common stock (not preferred stock) had been issued to Imperiali Organization in exchange for “companies and business projects rendered” (as opposed to “services rendered”). It further indicated that the two business projects were i1Connect and i1Search.

28. In addition, the March 2 Form 10 contained O’Donnell’s original audit report. However, Fiscina, at Imperato’s direction, altered the underlying financial statements by inflating Imperiali’s assets and stockholder’s equity by \$3.5 million. The altered financial statements listed a \$3.5 million investment in portfolio companies as an asset on the balance sheet, overstated the number of shares of common stock outstanding by five million shares, and included statements of change in net assets and investments that purported to show an investment

in the common stock of Imperiali Organization valued at \$3.5 million.

29. As altered, the financial statements in the March 2 Form 10 were materially false and misleading. Imperato and Fiscina changed them without O'Donnell's knowledge or consent. Moreover O'Donnell had not authorized Imperiali to include his altered audit report in the March 2 Form 10. And, as a limited liability company, Imperiali Organization could not legally issue common stock, thereby making it impossible for Imperiali to hold \$3.5 million in stock of Imperiali Organization.

30. On March 21, at the direction of Imperato, Imperiali filed with the Commission a second amended Form 10 signed by Fiscina ("March 21 Form 10") that contained essentially the same information as the March 2 Form 10, with the exception that the financial statements had been altered once again so that the Statement of Investments listed \$2 million in common stock of i1Search and \$1.5 million in common stock of i1Connect. The reference to stock held in Imperiali Organization had been removed.

31. The March 21 Form 10 contained a copy of an audit report by O'Donnell that purported to cover attached financial statements. However, as with the financial statements included in the March 2 Form 10, the changes to the financial statements were done without O'Donnell's knowledge or consent.

32. The March 21 Form 10 also represented that Imperiali owned stock in i1Connect and i1Serarch. This, however, was impossible; i1Connect was not incorporated until July 2007, and i1Search has never been incorporated. Therefore neither entity could legally issue common stock at this time. As a result, this disclosure was materially false and misleading.

Imperiali's Commission Reports

33. On January 25, 2007, at the direction of Imperato, Imperiali filed with the Commission a Form 10-QSB, signed by Fiscina, for the period ended November 30, 2006 (“January 10-Q”) that conflicted with information contained in the January Form 10 filed several days earlier. The balance sheet in the January 10-Q failed to list the preferred stock issued to Imperato in December, and the unaudited financial statements made no reference to the \$3.5 million in securities of Imperiali Organization or the portfolio companies (i1Connect and i1Search) listed in the January Form 10.

34. On March 2, at Imperato’s direction, Imperiali filed an amended Form 10-Q, signed by Fiscina, for the period ended November 30, 2006 (“March 2 Form 10-Q”). The Statement of Investments contained in the March 2 Form 10-Q reflected holdings of \$3.5 million in common stock of Imperiali Organization—unlike the March 2 Form 10, which reflected holdings in two portfolio companies—and the balance sheet listed a corresponding amount in assets as of August 31, 2006, and November 30, 2006.

35. On March 21, at the direction of Imperato, Imperiali filed a second amended Form 10-Q, signed by Fiscina, for the period ended November 30, 2006 (“March 21 Form 10-Q”). It reflected the same information contained in the March 21 Form 10. Instead of an investment in Imperiali Organization, the Statement of Investments in the March 21 Form 10-Q reflected common stock investments in i1Search and i1Connect of \$2 million and \$1.5 million, respectively, and the balance sheet listed assets of \$3.5 million in the companies as of August 31, 2006 and November 30, 2006.

36. On April 16, 2007, at the direction of Imperato, Imperiali filed a Form 10-Q for the period ended February 28, 2007 (“April 16 Form 10-Q”), and the following day filed a third amended Form 10-Q for the period ended November 30, 2006, both signed by Fiscina. In both

Forms 10-Q, the Statement of Investments in the financial statements reflected \$2 million common stock in i1Search and \$1.5 million in common stock in i1Connect. However, unlike both March Forms 10-Q, the balance sheet for the April 16 Form 10-Q reflected assets for the portfolio companies of \$3.5 million as of February 28, 2007, but no value for the portfolio companies as of August 31, 2006.

37. On June 8, 2007, at the direction of Imperato, Imperiali filed with the Commission a Form 8-K (“June 2007 Form 8-K”), signed by Fiscina, which (a) stated that the audited financial statements for the year ended August 31, 2006 (contained in several Forms 10) and the unaudited financial statements for the period ended November 30, 2006 (contained in several Forms 10-Q) could no longer be relied upon, (b) included revised financial statements for the year ended August 31, 2006, and (c) indicated that the matter had been discussed with its auditor.

38. The June 2007 Form 8-K was materially false and misleading because no one at the Company discussed the valuation issues with O’Donnell or any other auditor prior to filing the Form 8-K. Furthermore, its Statement of Investment indicated that Imperiali owned shares in i1search and i1connect valued at \$2 million and \$3 million, respectively, which was false.

39. On July 9, 2007, at Imperato’s direction, Imperiali filed a Form 10-Q for the period ended May 31, 2007, signed by Fiscina, representing that Imperiali held common stock in Imperiali Organization valued at \$70 million with a cost of \$33.5 million (not stock in i1Connect and i1Search as had been reported in prior filings). Not only was it impossible for the Company to hold stock in Imperiali Organization, but these valuations were baseless, and therefore materially false and misleading.

40. On August 17, 2007, at Imperato’s direction, Imperiali filed a Form 8-K, signed

by Fiscina, that compared i1Search to “U-tube” and Google, and concluded that a \$70 million valuation was conservative in light of a competitive analysis of similar companies. In reality, the valuation was based primarily on Imperato’s arbitrary determination after reading a newspaper article on Google’s Initial Public Offering.

41. On October 4, 2007, Imperato fired Fiscina from Imperiali, but an Imperiali Form 8-K filed at Imperato’s direction, falsely stated Fiscina’s departure was voluntary.

42. On October 8, 2007, Imperiali hired Stuart Ferguson as interim Chief Financial Officer and Keith Feldman as interim Chief Compliance officer. On November 12, 2007, Imperato fired Feldman and Ferguson. Imperiali announced their departures in a Form 8-K filed with the Commission on November 16, 2007 and signed by Imperato as “Interim Chief Executive Officer.” The Form 8-K falsely stated that Feldman and Ferguson had voluntarily resigned from the Company.

43. On November 29, 2007, Imperiali filed a Form 10-KSB for the year ended August 31, 2007, signed by Imperato. It included financial statements audited by O’Donnell and an audit report signed by O’Donnell. The Statement of Investments listed common stock held in i1Telcom Services, Inc., i1Connect, Inc., and i1Films, Inc. valued at \$30 million, \$40 million, and \$0, respectively, with no mention of i1Search. The financial statements, however, listed total assets of just \$199,133, with no value for any portfolio companies. The valuations contained in the Statement of Investments were baseless and false because none of the entities had any operations, revenue, or sales.

44. Because Imperiali’s Statement of Investments overstated the value of the purported investments and the total value did not match the corresponding assets reported on its balance sheet, its financial statements did not comply with GAAP.

45. O'Donnell knew that his audit report would be included in reports filed with the Commission. Yet, his audit report falsely stated that Imperiali's financial statements were presented in conformity with GAAP and falsely stated that his audit was conducted in accordance with PCAOB Standards.

46. On January 14, 2008, Imperiali filed a Form 10-QSB for the period ended November 30, 2007 ("January 2008 Form 10-Q"), signed by Imperato. In the filing, Imperiali stated that on November 19, 2007, it had entered into a merger agreement with Kaiser Himmel Corp. ("KHC"), whereby KHC would transfer 1.6 million restricted shares of Sprint Nextel Corp. common stock ("Sprint Stock") to Imperiali in return for 10 million Imperiali shares. The Statement of Investments listed holdings in Sprint, i1Connect and i1Telecom with a combined value of \$269,326,000. But the balance sheet listed total assets of only \$199,594,857—a figure that included the purported value of the Sprint Stock but none of the other portfolio companies.

47. In Note 6 to financial statements included in the January 2008 Form 10-Q, the Company tried to explain the preferred stock issuance, stating (a) that at a meeting on May 15, 2006, the Board of Directors resolved to issue five million shares of preferred stock to Imperato for past management services; (b) that each share was convertible into three shares of common stock at the sole discretion of Imperato; and (c) that the agreement was executed on May 30, 2006 and effective on June 26, 2006. This disclosure was false and misleading because it failed to mention that the preferred stock was both issued and converted *after* Imperiali's BDC election in November 2006.

48. On March 24 and 25, 2008, Imperiali filed a Form 8-K and an amended Form 8-K, respectively, both signed by Eric Skys as CEO of the Company (listed therein as "Kaiser Himmel Imperiali"). Both Forms 8-K contained Imperiali's financial statements as of February

29, 2008, and for the six months then ended, audited by O'Donnell. The Statement of Investments listed investments in Sprint, i1Telecom, and i1Connect at values of \$81 million, \$30 million and \$40 million, respectively, for a total of \$151 million. However, only the \$81 million value for the Sprint Stock was reflected as an asset on the balance sheet. Imperiali's audited financial statements failed to comply with GAAP because they reported inflated valuations of portfolio companies and because the statement of investments did not match the corresponding assets reported on the balance sheet.

49. O'Donnell knew or was reckless in not knowing: (a) that his audit report falsely stated that Imperiali's financial statements were presented in conformity with GAAP and (2) that his audit report falsely stated that his audit was conducted in accordance with PCAOB Standards.

50. On March 31, 2008, Imperiali filed with the Commission a Form 10-QSB for the quarter ended February 29, 2008, signed by Skys. Imperato provided substantial assistance in preparing the Form 10-QSB. It contained financial statements identical to the financial statements in the March 2008 Forms 8-K. Once again, the assets in financial statements did not match the information in the Statement of Investments, which reflected inflated valuations of Imperiali's portfolio companies.

51. On May 29, 2008, Imperiali filed a Form 8-K stating that it was reevaluating the KHC transaction. This filing followed the arrest of Eric Skys by the FBI in April 2008 for attempted bank fraud when he attempted to obtain a loan by pledging the purported Sprint Stock.

52. On July 22, 2008, Imperiali filed a Form 10-QSB for the period ended May 31, 2008, signed by Imperato. The Statement of Investments listed i1Telecom Services and i1Connect with values of \$30 million and \$40 million, respectively, for a total of \$70 million. Once again, however, the \$70 million was not reflected as an asset on the balance sheet. Note 5

in the filing stated “On May 31, 2007 management revalued the i1Connect project. The internet search engine was fully operational. Based on comparison of other comparable companies, management revalued the i1Connect project at \$40,000,000.” This value was not reflected as an asset on the balance sheet.

53. On September 24, 2008, Imperiali filed amended Forms 10-QSB for the periods ended May 31, 2008, February 29, 2008, November 30, 2007, August 31, 2007, May 31, 2007, February 28, 2007, and November 30, 2006, signed by Imperato. The Statements of Investments listed no value for i1Telecom Services or i1Connect. An explanation statement in each filing contained a statement that it was being filed to restate the company’s financial statements to remove the common stock issued for investments “until conditions of restrictions are satisfied.”

O’Donnell’s Issuance of Improper Audit Reports

54. As a result of numerous discussions with Company management and others between April and July 2007, as well as through the audit work that he performed, O’Donnell knew or was reckless in not knowing that: (1) the March 2 and March 21, 2007 Forms 10 included false audit reports on financial statements he did not audit; (2) Imperiali’s financial statements contained glaring internal inconsistencies; and (3) serious questions existed regarding the valuation of portfolio companies.

55. On September 18, 2007, O’Donnell sent a letter addressed to Imperiali’s Board that he had discovered evidence of possible illegal acts as defined in Section 10A of the Exchange Act, including using his audit report on financial statements that he did not audit.

56. Nevertheless, subsequent to the issuance of the Section 10A letter, O’Donnell conducted another audit of Imperiali’s financial statements and reviewed several Forms 10-Q that included unaudited financial statements for the Company. The financial statements audited

by O'Donnell contained information and valuations that he knew, or was severely reckless in not knowing, were false and misleading. Yet he issued an audit report on these subsequently reviewed financial statements indicating that they properly reflected the company's financial condition in accordance with GAAP.

FIRST CLAIM

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

By Imperiali and Imperato

57. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

58. Imperiali and Imperato, singly and in concert with others, by engaging in the conduct described above, directly or indirectly, through the use of the means or instruments of transportation or communication in interstate commerce or the mails, offered to sell or sold securities, or carried such securities through the mail or interstate commerce for the purpose of sale or delivery after sale.

59. No registration statement was filed with the Commission or in effect with respect to the offer or sale of Imperiali securities prior to October 2006.

60. By reason of the foregoing, the Defendants Imperiali and Imperato have violated and, unless enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

SECOND CLAIM

Violations of Securities Act Section 17(a) By Imperiali, Imperato, and Fiscina

61. The Commission realleges paragraphs 1 through 56 of this Complaint by

reference as if set forth *verbatim*.

62. Imperiali, Imperato, and Fiscina, knowingly or recklessly, and with respect to b. and c. negligently, directly or indirectly, in the offer and sale of securities, by use of any means or instruments of transportation or communication in interstate commerce, or by use of the mails:

- a. employed devices, schemes or artifices to defraud;
- b. obtained money or property by means of any untrue statements of material fact, or have omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchasers of securities.

63. By reason of the foregoing, Imperiali, Imperato, and Fiscina violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. §§ 77q(a)].

THIRD CLAIM

Violations of Section 10(b) of the Exchange Act Rule 10b-5 thereunder

By All Defendants

64. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

65. Imperiali, Imperato, Fiscina, and O'Donnell, directly or indirectly, by use of the means or instruments of interstate commerce or of the mails, or of the facility of a national securities exchange, in connection with the purchase or sale of securities, and with knowledge or recklessness: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light

of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

66. By reason of the foregoing, Imperiali, Imperato, Fiscina, and O'Donnell violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

FOURTH CLAIM

Aiding and Abetting or, in the Alternative, Controlling-Person, Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder By Imperato

67. The Commission realleges and incorporates paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

68. Imperiali, directly and indirectly, by use of the means or instruments of interstate commerce or of the mails, or of the facility of a national securities exchange, in connection with the purchase or sale of securities, and with knowledge or recklessness: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

69. Imperato, knowingly or with severe recklessness, provided substantial assistance to Imperiali in connection with its violations of Section 10(b) and Rule 10b-5 of the Exchange Act [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

70. By reason of the foregoing, Imperato aided and abetted Imperiali's violations of

Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

71. Or, in the alternative, by reason of the foregoing, as a “controlling person” under Exchange Act Section 20(a), Imperato is liable for Imperiali’s violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b); 17 C.F.R. § 240.10b-5].

FIFTH CLAIM

Violations of Section 15(a) of the Exchange Act

By Imperato

72. Plaintiff Commission re-alleges and incorporates paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

73. Defendant Imperato, directly or indirectly, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce, the purchase or sale of securities, without being registered as a broker or dealer with the Commission, or being associated with a broker or dealer registered with the Commission.

74. By reason of the foregoing, Defendant Imperato violated and, unless enjoined, will continue to violate Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

SIXTH CLAIM

Violations of Section 13(a) of the Exchange Act and Rules 12b-20,

13a-1, 13a-11, and 13a-13 thereunder By Imperiali

75. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

76. Imperiali, directly or indirectly, filed with the Commission current, quarterly and annual reports that were materially false and misleading, and failed to include, in addition to the

information expressly required to be stated in such reports, such further information as was necessary to make the statements made, in light of the circumstances in which they were made, not misleading.

77. By reason of the foregoing, Imperiali violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. § 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13].

SEVENTH CLAIM

Aiding and Abetting or, in the Alternative, Controlling-Person, Violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder By Imperato

78. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

79. Imperiali filed with the Commission current, quarterly, and annual reports that were materially false and misleading, and failed to include, in addition to the information expressly required to be stated in such reports, such further information as was necessary to make the statements made, in light of the circumstances in which they were made, not misleading.

80. As set forth above, Imperato signed one or more of Imperiali's materially false or misleading reports filed with the Commission and participated in the drafting of or editing of those he did not sign, and he knew, or was severely reckless in not knowing, that those reports contained false or misleading statements.

81. Imperato provided knowing and substantial assistance to Imperiali in filing with the Commission materially false and misleading current, quarterly, and annual reports.

82. By reason of the foregoing, Imperato aided and abetted Imperiali's violations of

Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. § 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13].

83. Or, in the alternative, by reason of the foregoing, as a “controlling person” under Exchange Act Section 20(a), Imperato is liable for Imperiali’s violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. § 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13].

EIGHTH CLAIM

Aiding and Abetting Violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-11, and 13a-13 thereunder By Fiscina

84. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

85. Imperiali filed with the Commission current and quarterly reports that were materially false and misleading, and failed to include, in addition to the information expressly required to be stated in such reports, such further information as was necessary to make the statements made, in light of the circumstances in which they were made, not misleading.

86. As set forth above, Fiscina signed one or more of Imperiali’s materially false or misleading current and quarterly reports filed with the Commission, and he knew, or was severely reckless in not knowing, that those reports contained false or misleading statements.

87. Fiscina provided knowing and substantial assistance to Imperiali in filing with the Commission materially false and misleading current and quarterly reports.

88. By reason of the foregoing, Fiscina aided and abetted Imperiali’s violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-11 and 13a-13 thereunder [17 C.F.R. § 240.12b-20, 240.13a-11 and 240.13a-13].

NINETH CLAIM

Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

By Imperiali

89. The Commission realleges paragraphs 1 through 56_ of this Complaint by reference as if set forth *verbatim*.

90. Imperiali failed to make and keep books, records, and accounts that accurately and fairly reflected transactions and dispositions of assets and failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded as necessary to permit the preparation of financial statements in accordance with GAAP.

91. By reason of the foregoing, Imperiali violated Sections 13(b)(2)(A) and 12(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(B)(2)(A) and 78m((b)(2)(B)].

TENTH CLAIM

Aiding and Abetting Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

By Imperato and Fiscina

92. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

93. Imperiali maintained false and misleading books, records and accounts that did not accurately and fairly reflect transactions and dispositions of assets, and Imperiali also failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded as necessary to permit the preparation of financial statements in accordance with GAAP.

94. Imperato and Fiscina provided knowing and substantial assistance to Imperiali in

maintaining false and misleading books, records and accounts, and in failing to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions at Imperiali were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

95. By reason of the foregoing, Imperato and Fiscina each aided and abetted Imperiali's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(B)(2)(A) and 78m(b)(2)(B)].

ELEVENTH CLAIM

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

By Imperato and Fiscina

96. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

97. Both Imperato and Fiscina participated in the creation and authorization of various financial statements at Imperiali that, among other things, falsely and improperly overstated the valuation of the Company's assets and investments.

98. Imperato and Fiscina knowingly circumvented or knowingly failed to implement a system of internal accounting controls at Imperiali, knowingly falsified books, records and accounts at the Company subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)], or knowingly falsified and caused to be falsified, such books, records and accounts.

99. By reason of the foregoing, Imperato and Fiscina violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

TWELFTH CLAIM

Violations of Exchange Act Rule 13b2-1 By Imperato and Fiscina

100. The Commission realleges paragraphs 1 through 56 of this Complaint by reference as if set forth *verbatim*.

101. Imperato and Fiscina, directly or indirectly, falsified or caused to be falsified books, records or accounts of Imperiali that were subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

102. By reason of the foregoing, Imperato and Fiscina violated Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

THIRTEENTH CLAIM

Violations of Exchange Act Rule 13b2-2 by Imperato and Fiscina

103. The Commission realleges paragraphs 1 through 56 by reference as if set forth *verbatim*.

104. Imperato and Fiscina, directly or indirectly, made or caused to be made a materially false or misleading statement, or omitted to state or caused another person to omit to state any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with the following: (i) any audit, review or examination of the financial statements of an issuer, or (ii) in the preparation or filing of any document or report required to be filed with the Commission; or took action, or directed another to take action, to coerce, manipulate, mislead, or fraudulently influence any independent public or certified public accountant engaged in the performance of an audit or review of an issuer's financial statements required to be filed with the Commission, while knowing or while it should have been known that such action, if successful, could result in rendering the issuer's financial statements materially misleading.

105. By reason of the foregoing, Imperato and Fiscina violated, and unless enjoined will continue to violate, Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

FOURTEENTH CLAIM

Violations of Exchange Act Rule 13a-14 By Imperato and Fiscina

106. The Commission realleges paragraphs 1 through 56 by reference as if set forth *verbatim*.

107. Imperato signed personal certifications indicating that he had reviewed annual and quarterly reports, and Fiscina signed personal certifications indicating that he had reviewed quarterly reports, containing financial statements which an issuer filed with the Commission pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and that, based on their knowledge, (a) these reports did not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the report; and (b) that information contained in these reports fairly present, in all material respects, the financial condition and results of the issuer's operations. Imperato and Fiscina knew or should have known that these certifications were wrong.

108. By reason of the foregoing, Imperato and Fiscina violated, and unless enjoined will continue to violate, Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14].

FIFTEENTH CLAIM

Violations of Investment Company Act Section 18(d) By Imperiali

109. The Commission realleges paragraphs 1 through 56 by reference as if set forth *verbatim*.

110. Section 18(d) of the Investment Company Act [15 U.S.C. § 80(a)-18(d)], made applicable to BDCs through Section 61(a) of the Investment Company Act [15 U.S.C. § 80(a)-60(a)], generally prohibits registered management companies from issuing “any warrant or right to subscribe to or purchase a security of which such company is the issuer, except in the form of warrants or rights to subscribe expiring not later than one hundred and twenty days after their issuance and issued exclusively and ratably to a class or classes of such company’s securities holders...”. Section 61(a)(3) [15 U.S.C. § 80(a)-60(a)(3)], in pertinent part, allows a BDC, notwithstanding Section 18(d), to issue warrants, options, or rights to subscribe or convert to voting securities that are accompanied by securities if, among other things, the conversion rights expire by their terms within ten years.

111. Imperiali issued convertible preferred shares to Imperato with 3-for-1 conversion rights with no expiration date on those conversion rights. Because the conversion rights had no expiration date, Imperiali violated, and unless enjoined will continue to violate, Section 18(d) of the Investment Company Act [15 U.S.C. § 18(d)].

SIXTEENTH CLAIM

Violations of Section 31(a) of the Investment Company Act and Rule 31a-1 thereunder

By Imperiali

112. The Commission realleges paragraphs 1 through 56 by reference as if set forth *verbatim*.

113. Section 31(a) of the Investment Company Act [15 U.S.C. § 80(a)-30] made applicable to BDCs through Section 64 of Investment Company Act, requires a BDC to make and keep certain books and records as the Commission may require pursuant to rule and regulation. Investment Company Act Rules 31a-1(a) and 31a-1(b)(2) [17 C.F.R. §§

270.31a(1)(a) and 270.31a-1(b)(2)] set forth the records a BDC must keep, including ledgers of all assets, liabilities, reserve capital, income and expense accounts reflecting account balances on each day, and corporate documents such as minutes from shareholder and board meetings..

114. Imperiali failed to keep any ledgers that accurately reflected the value of its assets and investments.

115. By reason of the foregoing, Imperiali violated, and unless enjoined will continue to violate, Section 31(a) of the Investment Company Act [15 U.S.C. § 80(a)-30] and Rule 31a-1 thereunder [17 C.F.R. § 270.31a(1)].

SEVENTEENTH CLAIM

Violations of Investment Company Section 34(b)

By Imperiali, Imperato, and Fiscina

116. The Commission realleges paragraphs 1 through 56 by reference as if set forth *verbatim*.

117. Section 34(b) of the Investment Company Act [15 U.S.C. § 80-33(b)], made applicable to BDCs through Section 59 of the Act [15 U.S.C. § 80-58], provides, among other things, that in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to the Investment Company Act or kept pursuant to Section 31(a) of the Act, it shall be unlawful for any person so filing, transmitting or keeping any such document to make any untrue statement of material fact or to omit to state therein any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading. Rules 31a-1(a) and 31a-1(b)(2) [17 C.F.R. §§ 270.31a(1)(a) and 270.31a-1(b)(2)] set forth the records a BDC must keep, including ledgers of all assets, liabilities, reserve capital, income and expense accounts reflecting account balances on

each day, and corporate documents such as minutes from shareholder and board meetings. .

118. Fiscina and Imperato created, updated, and maintained ledgers for Imperiali that materially overstated the value of Imperiali's portfolio companies, which in turn overstated Imperiali's assets. Imperiali also failed to maintain documents, including board minutes, showing how it had valued its portfolio companies.

119. By reason of the foregoing, Imperiali, Fiscina and Imperato violated, and unless enjoined will continue to violate, Section 34(b) of the Investment Company Act [15 U.S.C. § 80-33(b)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Permanently enjoin Imperiali from violating Sections 5(a), 5(c) and 17(a) of the Securities Act, Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B), and of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder and Sections 18(d), 31(a), and 34(b) of the Investment Company Act and Rule 31a-1 thereunder;

II.

Permanently enjoin Imperato from violating Sections 5(a), 5(c), and 17(a) of the Securities Act, Sections 10(b), 13(b)(5), and 15(a) of the Exchange Act and Rules 10b-5, 13b2-1, 13b2-2 and 13a-14 thereunder, and Section 34(b) of the Investment Company Act, and aiding and abetting violations of Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, and, in the alternative, that as a "controlling person" under Exchange Act Section 20(a), Imperato be held liable for Imperiali's violations of Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder;

III.

Permanently enjoin O'Donnell from violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder;

IV.

Permanently enjoin Fiscina from violating Section 17(a) of the Securities Act and Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1, 13b2-2, and 13a-14 thereunder, and Section 34(b) of the Investment Company Act, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-11, and 13a-13 thereunder;

V.

Order Imperiali and Imperato to disgorge an amount equal to the funds and benefits obtained illegally, or to which they are otherwise not entitled, as a result of the violations alleged, plus prejudgment interest on those amounts.

VI.

Order Imperiali, Imperato, Fiscina, and O'Donnell to pay civil monetary penalties in an amount determined as appropriate by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 42(e) of the Investment Company Act [15 U.S.C. § 80a-41(e)] for the violations alleged herein.

VII.

Prohibit Imperato and Fiscina, 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 acting as an

officer or director of any issuer that has a class of securities registered under 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

VII.

Grant such other relief as this Court may deem necessary and proper.

DATED: January 9, 2012

Respectfully submitted,

s/Timothy S. McCole
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