

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	
)	
BIO DEFENSE CORPORATION,)	JURY TRIAL DEMANDED
MICHAEL LU, Individually and Doing)	
Business as MAY'S INTERNATIONAL)	
CORPORATION, JONATHAN MORRONE,)	
Individually and Doing Business As)	
JM INTERNATIONAL, INC., Z. PAUL)	
JURBERG, Individually and Doing Business As)	
BROOKLINE CAPITAL PARTNERS, INC.,)	
BRETT HAMBURGER, Individually)	
and Doing Business As JCBH)	
CONSULTING, LLC, ANTHONY ORTH,)	
Individually and Doing Business As)	
GRAND TRAVERSE EQUITIES, INC.,)	
)	
Defendants,)	
)	
and)	
)	
MAY'S INTERNATIONAL CORPORATION,)	
)	
Relief Defendant.)	
)	
)	

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") alleges the following against defendants Bio Defense Corporation ("Bio Defense"), Michael Lu, individually and doing business as May's International Corporation ("Lu"), Jonathan Morrone, individually and doing business as JM International, Inc. ("Morrone"), Z. Paul Jurberg, individually and doing

business as Brookline Capital Partners, Inc. (“Jurberg”), Brett Hamburger, individually and doing business as JCBH Consulting, LLC (“Hamburger”), Anthony Orth, individually and doing business as Grand Traverse Equities, Inc. (“Orth”), and relief defendant May’s International Corporation (“May’s International”):

SUMMARY

1. This case is about a small company that became a deceptive vehicle for promoting a scheme to defraud. The company, Bio Defense, originated as a start-up proposing to develop and manufacture a machine that irradiated mail in order to destroy pathogens, such as anthrax. From inception, the company has funded itself through the unlawful unregistered offering and sale of its securities. In making offers and sales of these unregistered securities from 2004 through August 2008, Bio Defense’s principal officers, Defendants Michael Lu, Jonathan Morrone, and Paul Jurberg, have made false claims that Bio Defense employees and officers were not being paid cash for their efforts on behalf of the company, deferring their compensation until the company became profitable or underwent an initial public offering of stock. In reality, during these years, Bio Defense’s largest expense was the money that it paid to its executives, much of which was paid to Lu, Morrone and Jurberg.

2. By the spring of 2008, Bio Defense, Lu, Morrone and Jurberg attracted the attention of state securities regulators. After the entry of a cease and desist order in Texas and receiving a subpoena from the Massachusetts Securities Division, Bio Defense, Lu, Morrone and Jurberg decided to focus the company’s securities sales activities overseas.

3. In pursuit of this overseas sales activity, beginning in August 2008, the defendants began an operation that transformed the company into a deceptive scheme to defraud investors. Bio Defense, through Lu, Morrone and Jurberg, engaged the services of Brett Hamburger, an

individual previously convicted of conspiracy to commit securities fraud, and Anthony Orth, a self-described “marketer.” Hamburger and Orth, in turn, connected Bio Defense with a series of international boiler-room operations that would offer and sell Bio Defense’s securities overseas in exchange for payment of seventy five percent of all money raised from investors. Bio Defense began this fraudulent scheme by entering a deceptive “business alliance agreement” with Agile Consulting, a purported Cyprus-based firm. The terms of the deceptive agreement used vague and indefinite language, leaving silent the material facts that (1) Agile would provide boiler-room call centers to solicit offers to purchase Bio Defense securities; and (2) these boiler-rooms would charge Bio Defense an exorbitant fee in the amount of seventy-five percent of all money raised. In addition to this deceptive “business alliance agreement,” Bio Defense agreed to pay Hamburger and Orth an additional fee for arranging and managing the relationship between Bio Defense and various boiler-room call center operations. These agreements provided that Hamburger would be paid twelve and a half percent and Orth would be paid fifteen percent of the net investor proceeds received by Bio Defense after the boiler-room operators’ cut.

4. In furtherance of this scheme to defraud, Bio Defense, through its principal officers, solicited offers from, and sold Bio Defense securities to, persons contacted by the boiler-room call centers and, in doing so, knowingly made false and misleading statements about Bio Defense’s securities offering and the expenses associated with the offering.

5. Through this scheme to defraud, Defendants transformed Bio Defense from a legal business enterprise into a deceptive and fraudulent device. By partnering with Agile and the other boiler-room call centers and paying their exorbitant transaction-based fees, Bio Defense became a deceptive Trojan-horse whose primary purpose served to defraud investors and enrich the company’s fraudulent promoters. From August 2008 through July 2010, the defendants,

working in concert amongst each other and with the boiler-room operators, raised a total of \$11.9 million from investors. Bio Defense ultimately paid over \$8 million of that money to the boiler-room operators, Hamburger and Orth.

6. By engaging in the conduct alleged herein, Bio Defense, Lu, Morrone, Jurberg and Orth violated Sections 5(a), 5(c) and 17(a)(1), (2), and (3) of the Securities Act of 1933 (“Securities Act”) and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5(a), (b) and (c) thereunder; Lu, Morrone, Jurberg, and Orth violated Sections 15(a)(1) of the Exchange Act; in the alternative, Lu and Morrone are liable as control persons under Section 20(a) of the Exchange Act for Bio Defense’s violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; and Hamburger violated Section 17(a)(1) and (3) of the Securities Act, and Sections 15(a)(1) and 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder.

7. Based on these violations, the Commission seeks: (1) entry of a permanent injunction prohibiting Defendants from further violations of the relevant provisions of the federal securities laws; (2) disgorgement of Defendants’ ill-gotten gains, plus pre-judgment interest; (3) disgorgement by relief defendant May’s International of all unjust enrichment and/or ill-gotten gain received, plus prejudgment interest; (4) the imposition of a civil monetary penalty due to the egregious nature of Defendants’ violations, and (5) the imposition of officer and director bars against Lu, Morrone, Jurberg, and Orth.

JURISDICTION AND VENUE

8. The Commission brings this action pursuant to the enforcement authority conferred upon it by Section 20(b) of the Securities Act [15 U.S.C. §77t(b)] and Section 21(d) of the Exchange Act [15 U.S.C. §§78u(d)]. This Court has jurisdiction over this action pursuant to

28 U.S.C. §1331, Section 22(a) of the Securities Act [15 U.S.C. §77v(a)] and Sections 21(d) and (e) and 27 of the Exchange Act [15 U.S.C. §§78u(e) and 78aa].

9. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2), Section 22(a) of the Securities Act [15 U.S.C. §77v(a)] and Section 27 of the Exchange Act [15 U.S.C. §78aa] because a substantial part of the acts constituting the alleged violations occurred in the District of Massachusetts, because all of the Defendants transacted business in Massachusetts, because Lu, Morrone, and Jurberg live in Massachusetts, and because the principal place of business of Bio Defense is in Massachusetts.

10. In connection with the conduct alleged in this Complaint, Defendants directly or indirectly made use of the means or instruments of transportation or communication in interstate commerce, the facilities of a national securities exchange, or the mails.

11. Defendants' conduct involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss, or significant risk of substantial loss, to other persons.

12. Unless enjoined, Defendants will continue to engage in the securities law violations alleged herein, or in similar conduct that would violate the federal securities laws.

DEFENDANTS

13. Bio Defense Corporation is a Delaware corporation with a principal place of business located at 12 Channel Street, Boston, Massachusetts. Neither Bio Defense nor its securities offerings have ever been registered with the Commission.

14. Michael Lu, age 57, is a resident of Lexington, Massachusetts. Lu was the founder of Bio Defense and, from its inception until mid-July 2011, served as the company's CEO and as the Chairman of its board of directors. Lu is also the President and Treasurer of

May's International Corporation ("May's International"), through which Bio Defense paid Lu compensation. Lu has never been associated with a registered broker or dealer. In 2008, the Texas State Securities Board ordered Lu to cease and desist from offering to sell Bio Defense's unregistered securities in violation of Sections 7 and 12 of the Texas Securities Act. During the period of misconduct alleged in this Complaint, Lu was heavily involved in Bio Defense's day-to-day operations and had ultimate authority over its officers' and agents' actions and statements.

15. Jonathan Morrone, age 45, is a resident of Newton, Massachusetts. From 2002 through 2011, Morrone served as the only Senior Executive Vice President at Bio Defense and as a member of the company's board of directors. Morrone is also the principal of JM International, Inc., a now-defunct Delaware corporation, through which Bio Defense paid Morrone compensation. Morrone was affiliated as a registered representative with various brokerage firms from 1994 to August 2007. Although Morrone was a registered representative associated with a broker-dealer until August 2007, his activities in offering and selling Bio Defense securities during the time of his association, as alleged in this Complaint, were outside the scope of his association with the registered broker-dealer and not under the supervision or approval of the broker-dealer with which he was associated. In 2008, the Texas State Securities Board ordered Morrone to cease and desist from offering to sell Bio Defense's unregistered securities in violation of Sections 7 and 12 of the Texas Securities Act.

16. Z. Paul Jurberg, age 65, is a resident of Brookline, Massachusetts. From at least 2003 through the present, Jurberg has served as a senior officer of Bio Defense, most recently as a Senior Vice President, Sales and Marketing. From February 2000 through March 2006, Jurberg was President of Brookline Capital Partners, Inc., a now-defunct Massachusetts corporation, through which Bio Defense paid Jurberg compensation. Jurberg was a registered

representative with various brokerage firms from 1985 to 1997. Jurberg has not been associated with a registered broker or dealer since at least 1998. In 2008, the Texas State Securities Board ordered Jurberg to cease and desist from offering to sell Bio Defense's unregistered securities in violation of Sections 7 and 12 of the Texas Securities Act.

17. Anthony Orth, age 42, is a resident of Tustin, California. From 2007 through 2011, Orth served Bio Defense as its Vice President, Marketing. In 2003, Orth incorporated Grand Traverse Equities, Inc. ("Grand Traverse") as a Michigan corporation and served as its President until July 2007, when it was dissolved by law for failure to file annual reports. Bio Defense paid Orth compensation through Grand Traverse. Orth has not been associated with a registered broker or dealer since 1995.

18. Brett Hamburger, age 41, is a resident of Delray Beach, Florida. In July 2009, Hamburger formed JCBH Consulting, LLC, which has also been known as JCB Consulting and JBC Consulting, (hereinafter, "JCBH Consulting"), a Florida limited liability company, and served as its manager until the company was administratively dissolved in September 2010 for failure to file annual reports. Bio Defense paid Hamburger compensation through JCBH Consulting. From 1989 to 1997, Hamburger was affiliated as a registered representative with various brokerage firms, but was barred by the National Association of Securities Dealers in October 2000 as a result of, among other things, acting as an unregistered broker. Hamburger has not been associated with a registered broker or dealer since at least 1997. In March 2003, the United States District Court for the Eastern District of New York adjudged Hamburger guilty of conspiracy to commit securities fraud. The Court sentenced Hamburger to serve 10 months of home detention and placed him on 5 years of probation.

RELIEF DEFENDANT

19. May's International Corporation is a Delaware corporation. Lu is the President and Treasurer of May's International. From at least January 2004 through 2010, Lu received Bio Defense compensation through May's International.

FACTUAL ALLEGATIONS

20. Incorporated in 2001, Bio Defense purports to be in the business of developing, manufacturing and selling the "MailDefender," a machine that allegedly processes packets of mail to render deadly pathogens, such as anthrax, inert.

21. While Bio Defense's "operations" have generated approximately \$26.8 million in cash payments to the company from 2004 through early 2011, only a small fraction of that cash has been income generated from the sales of its purported product. Instead, \$26.2 million, or ninety-seven percent of this cash has been generated from the unlawful unregistered offering and sale of Bio Defense securities to investors.

22. Bio Defense has never generated profit. Since 2004, each year it has generated over \$2 million in losses. In 2008 and 2009, the company generated net losses of over \$5 million.

23. Despite the lack of financial success, from 2004 through 2010, Bio Defense has handsomely paid its senior officers, either directly or through their business entities. The company has paid Lu over \$1.6 million, Morrone approximately \$1.3 million, and Jurberg approximately \$1.2 million.

I. The Unlawful Offer and Sale of Bio Defense's Unregistered Securities from 2004 through August 2008.

24. The unregistered offering and sale of Bio Defense's securities from 2004 through August 2008 was perpetrated by Bio Defense through Lu, Morrone and Jurberg.

25. During that time, Lu, Morrone, and Jurberg solicited investors directly, or indirectly through third-parties, by telephone, regular mail, or electronic mail for offers to purchase Bio Defense securities.

26. Bio Defense paid Lu, Morrone and Jurberg transaction-based compensation for the money successfully raised from the sale of Bio Defense securities. According to Bio Defense, the compensation with respect to selling company shares generally ranged between five and ten percent of the amount raised. On occasion the amount would be twenty percent if more than one individual was involved in the selling effort.

II. The No-Financial-Compensation Lie.

27. During this period from 2004 through August 2008, Lu, Morrone and Jurberg knowingly or recklessly solicited investors and obtained their investments by means of false or misleading statements about whether Bio Defense employees were receiving financial compensation from the company. As a start-up company with few product sales and ongoing development issues, one of the biggest issues for Bio Defense and its investors was the company's use of its limited cash, most of which was raised from investors. Lu, Morrone, and Jurberg knowingly or recklessly created a false impression with potential investors that Bio Defense preserved its cash assets by having employees who worked for no, or very little, pay, suggesting that these employees were working solely or primarily for "sweat equity" shares, which might later become valuable when the company became profitable or went public.

28. For example, in the course of soliciting an offer to purchase Bio Defense securities from Investor A in the fall of 2004, Lu and Morrone told Investor A that none of the Bio Defense employees received paychecks in Bio Defense's history. Lu and Morrone knew or were reckless in disregarding the fact that this statement was materially false and misleading. In

fact, in 2004 alone, Bio Defense paid approximately \$1 million in compensation to its officers and employees, well over half of which was paid to Lu, Morrone and Jurberg. By September of 2004, Bio Defense had already paid \$192,000 to Lu, \$114,000 to Morrone, and \$82,000 to Jurberg. By the end of 2004, Bio Defense paid Lu over \$385,000, Morrone over \$222,000, and Jurberg over \$160,000. The omitted fact that Bio Defense was paying its employees several hundred thousand dollars in compensation was a material fact that would have assumed actual significance in the deliberations of a reasonable investor. Following these false and misleading statements by Lu and Morrone, Investor A purchased Bio Defense securities in exchange for payment of \$20,000.

29. As a further example, in the course of soliciting an offer to purchase Bio Defense securities from Investor B in the fall of 2004, Lu, Morrone, and Jurberg told Investor B that employees were not getting paid. Lu, Morrone and Jurberg knew or were reckless in disregarding the fact that this statement was materially false and misleading. In fact, in 2004 alone, Bio Defense paid approximately \$1 million in compensation to its officers and employees, well over half of which was paid to Lu, Morrone and Jurberg. By September of 2004, Bio Defense had already paid \$192,000 to Lu, \$114,000 to Morrone, and \$82,000 to Jurberg. By the end of 2004, Bio Defense paid Lu over \$385,000, Morrone over \$222,000, and Jurberg over \$160,000. The omitted fact that Bio Defense was paying its employees several hundred thousand dollars in compensation was a material fact that would have assumed actual significance in the deliberations of a reasonable investor. Following these false and misleading statements by Lu, Morrone and Jurberg, Investor B purchased Bio Defense securities in exchange for payment of \$20,000.

30. As a further example, in the course of soliciting an offer to purchase Bio Defense securities from Investor C in 2006, Lu, Morrone, and Jurberg told Investor C that no one at the company was being paid, other than an engineer A.N. who was receiving a small salary. Lu, Morrone and Jurberg also told Investor C that they were only receiving shares of Bio Defense stock for their efforts on behalf of the company. Lu, Morrone and Jurberg knew or were reckless in disregarding the fact that these statements were materially false and misleading. In 2004, Bio Defense paid approximately \$1 million in compensation to its officers and employees, well over half of which was paid to Lu, Morrone and Jurberg. That year, Lu received approximately \$385,000 in compensation. Morrone received approximately \$233,000 in compensation. Jurberg received approximately \$161,000 in compensation. In 2005, Bio Defense paid approximately \$980,000 to its employees and officers, well over half of which was paid to Lu, Morrone and Jurberg. In 2005, Lu received approximately \$203,000 in compensation. Morrone received approximately \$177,000 in compensation. Jurberg received approximately \$190,000 in compensation. The omitted fact that Bio Defense had been paying its employees several hundred thousand dollars a year in compensation, for a total of over \$2 million for the previous two years, was a material fact that would have assumed actual significance in the deliberations of a reasonable investor. Following these false and misleading statements by Lu, Morrone and Jurberg, Investor C purchased Bio Defense securities in exchange for payments totaling approximately \$225,000.

III. Bio Defense Attracts Attention of State Regulators.

31. Between at least March 2005 and September 2007, Lu, Morrone, and Jurberg, acting directly and through a third-party agent, offered and sold shares of Bio Defense stock in Texas, in violation of Sections 7 and 12 of the Texas Securities Act.

32. On March 28, 2008, Lu, Morrone and Jurberg entered an “agreed cease and desist order,” with the Texas State Securities Board, pursuant to which they consented to entry of findings of fact and conclusions of law that they offered and sold Bio Defense’s stock in Texas in violation of the Texas Securities Act. They also agreed to cease and desist from offering or selling any security in Texas in violation of Texas law.

33. In the spring of 2008, Bio Defense received a subpoena from the Massachusetts Securities Division. In October 2008, the Massachusetts Securities Division filed an administrative complaint against Bio Defense and Lu, alleging, among other things, that Bio Defense, Lu, Morrone and Jurberg had unlawfully sold unregistered Bio Defense securities to Massachusetts residents. The complaint further alleged that Bio Defense had paid Lu, Morrone and Jurberg transaction-based compensation for their efforts in the offer and sale of these securities.

IV. Bio Defense’s Transformation into a Deceptive Scheme to Defraud.

34. After receiving notice of the Texas and Massachusetts regulator inquiries, Bio Defense, Lu and Morrone decided that it would be more advantageous to offer and sell Bio Defense’s securities to potential investors located outside the United States. To that end, although Bio Defense continued to sell some securities in the United States, sometime in the first seven months of 2008, Bio Defense, Lu and Morrone sought the guidance and assistance of defendants Brett Hamburger and Anthony Orth to formulate a plan to offer and sell Bio Defense’s securities overseas. In turn, Hamburger and Orth connected Bio Defense with a series of international boiler-room operations that would offer and sell Bio Defense’s securities overseas in exchange for payment of seventy five percent of all money raised from investors. By agreeing to pay boiler-room call centers seventy five percent of every dollar raised, the defendants transformed the company into a deceptive scheme to defraud investors.

35. Brett Hamburger is a felon. In March 2003, the United States District Court for the Eastern District of New York adjudged Hamburger guilty of conspiracy to commit securities fraud. The Court ordered Hamburger to pay restitution in the amount of \$290,000 as well as monthly payments of \$500 to the Court and of another \$500 to a particular victim for five years. The Court also sentenced Hamburger to serve 10 months of home detention and placed him on 5 years of probation. Hamburger's probation therefore ended March 31, 2008.

36. In 2008, both Lu and Morrone knew that Hamburger was a felon and that his conviction related to securities fraud. Hamburger had told them.

37. Two years earlier, in 2006, Lu and Morrone both provided support to Hamburger in a request to modify his criminal sentence. Lu appeared at the modification hearing as Hamburger's "employer." Morrone provided Hamburger's defense counsel with information concerning the purported value of Bio Defense stock. As part of the sentence modification request, Hamburger attempted to offer his previous victims shares of Bio Defense stock as a form of restitution. Despite Morrone's proffer of estimated value, the District Court rejected Hamburger's offer to provide Bio Defense stock as a form of restitution to his previous securities fraud victims.

38. Despite knowledge of Hamburger's previous conviction for securities fraud, in early 2008, Bio Defense, Lu and Morrone relied on him and Orth to find Bio Defense a means for offering and selling the company's securities overseas.

39. In approximately August 2008, Hamburger introduced Lu, Morrone and Jurberg to Daniel Marsh Consultors, S.L., which purported to be European subsidiary of Agile Consultants, Ltd., a company purported to be located in Cyprus (collectively, "Agile Consultants"). Lu, Morrone and Jurberg learned through Hamburger that Agile would offer and

sell Bio Defense's securities to potential investors overseas in exchange for payment of seventy-five percent of all money raised.

40. Through Hamburger, Agile provided Bio Defense, Lu and Morrone with a proposed "Business Alliance" agreement. The agreement itself made no mention of the real reason Bio Defense was hiring Agile: to solicit overseas investors for offers to purchase Bio Defense stock. It also made no mention of the exorbitant seventy-five-percent fee. Instead, the agreement provided vague and indefinite terms, which were designed to mask the unlawful activity to which the parties would enter agreement.

41. On August 1, 2008, Bio Defense entered the business alliance agreement with Agile. Although Lu was the only Bio Defense officer to sign the deceptive agreement, Lu, Morrone, Jurberg and Hamburger knew that they and the company were agreeing to have Bio Defense's securities offered and sold in Europe by an allegedly Cypress-based entity that would be paid seventy-five percent of all money raised. In addition, as will be explained in further detail below, Bio Defense and its officers agreed and knew that they and the company would be following up these call center solicitations with direct offers of securities from Bio Defense itself, which required their substantial participation in the scheme. While Agile and its boiler rooms would be making initial solicitations for offers to purchase Bio Defense securities, Bio Defense and its officers would be responsible for (i) sending out investor offering documents to solicited investors, (ii) receiving proposed subscription agreements from prospective investors, (iii) receiving investor money in connection with those proposed subscription agreements, (iv) issuing Bio Defense stock certificates for completed agreements, (v) distributing seventy-five percent of every dollar received to Agile and its boiler-room operators, and (vi) responding to inquiries from prospective investors and investors. As described below, during the course of this

scheme, Lu, Morrone and Jurberg all substantially participated in these home office activities to support the scheme to defraud facilitated by Hamburger, Orth and their international call centers.

42. Hamburger managed the call center activities for Bio Defense and coordinate communications between the boiler-rooms and Bio Defense. For this management and coordination, Bio Defense agreed to pay Hamburger a fee of twelve and a half percent of the net investor proceeds retained by the company after payment of the boiler-room call centers.

43. As discussed below, Orth eventually assumed Hamburger's role in identical fundraising projects for Bio Defense. For his management and coordination, Bio Defense agreed to pay Orth a fee of fifteen percent of the net investor proceeds retained by the company after payment of the boiler-room call centers.

A. *Preparation Activities*

44. Contemporaneously with the signing of the Agile business alliance agreement, Bio Defense, Lu, Morrone, Jurberg, Hamburger and Orth worked together to prepare the process for capitalizing on the initial high-pressure solicitations of potential overseas investors.

45. Hamburger, Morrone and Lu oversaw the creation of a "weekly report" designed to track investors solicited by the boiler-room operations. The report tracked the date of solicitation, the name of the solicited investor, the amount of money committed by the investor, the number of shares sold, and the assignment of a "reference" number to track the particular solicitations and investments. The weekly report actually used by the defendants included additional columns for identification of wire transfer payees as well as calculation of the seventy-five percent fee owed to Agile each week.

46. Hamburger and Morrone worked together to create a form solicitation letter, under Morrone's signature, to be sent to prospective investors.

47. Morrone also provided Hamburger with Bio Defense offering documents, including multiple draft copies of a Bio Defense subscription agreement. Morrone also provided Hamburger with “key corporate updates” for use by the boiler-room operations in soliciting offers to purchase Bio Defense securities.

48. Jurberg provided company letterhead to Hamburger for use by the boiler-rooms in soliciting potential Bio Defense investors.

49. Orth created a caller script for the boiler-room operations, which he shared by email with Morrone and Jurberg. This script was materially false and misleading. The script described Bio Defense as a “defense manufacturer” that manufactured a “mail decontamination system called the mail defender.” This description was materially misleading and false because, from at least August 2008 through approximately July 2010, Bio Defense’s most substantial source of cash generation and expense was its securities promotion and sales activities. The cash inflows and outflows of the company were devoted to the selling of its securities, not manufacturing its purported product. This omitted fact would have assumed actual significance in the mind of a reasonable investor. Morrone and Jurberg forwarded this caller script to Hamburger for use with the boiler-room operations.

50. Lu opened a bank account at a U.S. banking institution in the name of Bio Defense Corporation for the specific purpose of receiving investor funds and transferring those funds to the overseas call centers. Once the account was opened, Lu provided the bank account information for wiring instructions, including the account number as well as the bank’s routing number and international identifier code (necessary for international wire transfers), to Morrone, Jurberg, and Hamburger. Over the course of the three year operation, Bio Defense, through Lu

or a person working at Lu's direction, opened several different accounts for the overseas boiler-room projects.

51. Morrone and Hamburger arranged for the creation of Bio Defense email accounts to be used by call center employees.

52. The boiler-room operations were run out of, among other places, Spain and Portugal. In the first week of August 2008, Hamburger was in Spain preparing for the boiler-room operations. On August 4, Morrone sent copies of the Bio Defense draft offering documents by facsimile to Hamburger's hotel room in Spain and sent an additional copy by email. On August 5, Morrone sent Hamburger, by facsimile and email, a copy of the signed Business Alliance Agreement and a copy of the revised introduction letter. On August 5, Morrone sent Hamburger, by facsimile and email, another copy of the payment instructions for use with potential Bio Defense investors. During this time, Morrone was also in daily cell phone contact with Hamburger.

B. Operation of the Scheme To Defraud

53. Once the boiler-room operations were up and running, the scheme worked generally as follows. The boiler-rooms called potential investors in the United Kingdom to solicit offers to purchase Bio Defense stock using high pressure sales tactics. If a potential investor expressed interest in purchasing Bio Defense securities, that investor's name was passed to Bio Defense along with an investor reference number. Bio Defense then sent the potential investor an "investor packet" by email or overnight courier. The investor packet included (i) a cover letter from Jonathan Morrone, (ii) a proposed subscription agreement, and (iii) payment instructions.

54. The cover letter from Morrone instructed prospective investors to fill in the “highlighted areas” of the subscription agreement and “fax it back to Jonathan Morrone” at Bio Defense and send the originals to him by mail. Through letter, Morrone told investors that “[u]pon receipt of payment for the shares, [he] would mail to [them] by overnight express [their] share certificate.”

55. Morrone’s letter also contained false and misleading statements to maintain the atmosphere of urgency and exclusivity created by the boiler-room operations. Morrone’s letter told investors: “Please be advised that there are only 10 million shares available for this offering and I can only hold your allocation for 10 days from the receipt of paperwork. **Immediate attention is required.**” Morrone knew these statements were false and misleading. Bio Defense did not have any specific numeric or time limitations on its purported “offering.” In fact, the company did not have any corporate resolutions creating any specific offering of stock for these investors. Morrone’s statements concerning offering amounts and time limitations were pure fiction to keep the pressure on prospective investors.

56. The subscription agreement included in the investor packet purported to be an offer to purchase securities from the prospective investor. The last page of the subscription agreement was the “Subscription Signature Page,” which purported to be the offer to purchase Bio Defense stock that had been solicited from prospective investors. On this page, Bio Defense pre-filled the form with the number of shares of common stock subscribed as well as the total payment amount, which had been supplied by the boiler-rooms. To complete the form, the prospective investor was required to provide certain personal information, including a name for the stock certificate, and then sign the offer. The first lines of the subscription signature page told prospective investors to “fax this back immediately” to Bio Defense’s facsimile line in

Boston, Massachusetts. The subscription purported to be completed upon delivery of the subscription agreement to Bio Defense along with payment for the shares to Bio Defense's bank account.

57. Bio Defense incurred irrevocable liability for the sale of its securities when the company accepted delivery of the prospective investor's subscription agreement in Massachusetts and confirmed receipt of the investor's payment in a Bio Defense's bank account within the United States. In addition, because Bio Defense was issuing stock certificates to these investors from its principal place of business in Boston, Massachusetts, title to these securities passed from Bio Defense to these investors within the United States.

58. The subscription agreement contained a materially misleading statement concerning "fees and expenses." According to the agreement, "[e]ach of the parties hereto shall pay its own fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Subscription Agreement and the transactions contemplated hereby whether or not the transactions contemplated hereby are consummated." This statement was misleading because it omitted the material fact that Bio Defense had agreed to pay its boiler-room stock promoters a fee of seventy-five percent of every dollar raised from investors--a fact that would have assumed actual significance in the deliberations of a reasonable investor.

59. With regard to the attached payment instructions, there were at least two versions sent by Bio Defense to prospective investors. In the first version, investors were requested to mail their checks and the original, completed subscription agreement to Bio Defense. To accomplish this delivery, the instructions asked prospective investors to "contact DHL to request a pick up" and "ask the customer representative to have the courier bring" an international

waybill and an express envelope. The instructions provided the United Kingdom telephone number for DHL. They also provided the prospective investor with an account number to use in the waybill so that Bio Defense would be charged the cost of the international delivery. The instructions further provided that the receiver address should read: “Bio Defense Corporation, Attn: Jonathan Morrone, 12 Channel Street, 9th Floor, Boston, Massachusetts 02210, USA.” The second version of the payment instructions provided wiring instructions to Bio Defense’s bank accounts and instructed potential investors to “complete and sign these instructions and give them to your bank.” These payment instructions required the prospective investor to fill in his or her name, account number, and payment amount in United States dollars. This payment instruction form also had pre-filled information, including a reference number linking the subscription payment to a particular boiler-room solicitation, as well as Bio Defense’s bank account details.

60. Bio Defense, through the individual defendants and the boiler-room call centers, conducted four rounds of soliciting U.K. investors. Bio Defense labeled these four rounds, individually: “EU Project,” “PT Project,” “CA Project,” and “GH Project.”

61. Hamburger managed the boiler-room call center operations for the EU and PT projects. Lu, Morrone, and Jurberg, and persons working at their direction, managed Bio Defense’s follow up solicitations and sales of Bio Defense securities, as well as the payment of the call centers and Hamburger.

62. Bio Defense paid Hamburger twelve and a half percent of the net fund raising proceeds (after the call centers’ cut) for his services in managing the EU Project and the PT Project.

63. Orth managed the boiler-room operations for the CA and GH projects. Lu, Morrone, and Jurberg, and persons working at their direction, managed Bio Defense's follow up solicitations and sales of Bio Defense securities, as well as the payment of the boiler-room call centers and Orth.

64. Bio Defense paid Orth fifteen percent of net investor fundraising proceeds (after the call centers' cut) for his services in managing the CA Project and the PT Project.

i. *The EU and PT Projects*

65. From approximately August through December 2008, Hamburger, Lu, Morrone, and Jurberg ran the EU Project in concert with the solicitations made by the Agile call centers.

66. Each week during this time period, Agile provided Bio Defense with the names of the solicited U.K. investors, the amounts verbally committed by these investors, and the investors' addresses. Morrone, Jurberg, or Bio Defense staff working at their direction sent out the investor packages by an international mail delivery service. As investors faxed in their subscription signature pages, they were received by Morrone or Jurberg, or Bio Defense staff working at their direction. Morrone and Jurberg then ensured that Lu signed a Bio Defense stock certificate in the name of the new Bio Defense investor. Bio Defense then confirmed receipt of the investor money and sent a copy of the stock certificate to the investor by international mail service. Bio Defense would then pay the seventy-five percent fee to Agile and the twelve-and-a-half percent fee to Hamburger in his name or the name of his consulting company.

67. As money came pouring into Bio Defense's bank accounts, Lu sent copies of the bank statements to Hamburger, Morrone and Jurberg by email, so that they could see the large amount of money being generated by the boiler-room call center solicitation efforts. In addition,

Lu copied Hamburger, Morrone and Jurberg on Agile invoices and Bio Defense's wire payment of those invoices.

68. In addition, for the duration of the project, Bio Defense's accounting department sent out a weekly project report to Hamburger, Morrone and Jurberg. The report showed the names of investors, the amount paid by the investor, and the investor's reference number. The report also tallied the amount raised each week and the grand total for the completed weeks along with a calculation of the seventy-five-percent fee owed to Agile.

69. During the course of the EU Project, Lu, Morrone, Jurberg, and Orth received emails clearly indicating that Bio Defense's potential investors were being subject to high-pressure sales tactics.

70. On September 26, 2008, Morrone received an email from solicited investor S.D. In the email, S.D. reported: "Jonathan--Just to confirm that I will not be pursuing the Offer of Biodefense shares. I have tried to explain to Matthew Bellamy of World Capital (?), but his ability to talk greatly exceeds his ability to listen."

71. On October 4, 2008, Morrone received an email from solicited investor A.T. In the email, A.T. reported: "Dear Mr. Morrone, Your contacts about the Biodefense Corporation have arrived. I am a bit puzzled to explain how we got to this stage as I understood that I clearly stated when first approached that I am not currently in a position to take up the offer! That remains the case and I am not able to take up the option, attractive though it seems to be."

72. On November 29, 2008, Morrone received an email from solicited investor C.H. In the email, C.H. reported: "Hello, I have been approached by a company, Securities Associates, wanting me to invest in your company. I am not convinced this is genuine, can you advise me please?"

73. Morrone forwarded these complaints to Hamburger, the person previously convicted of securities fraud who was being paid to manage the boiler-room call center operations for Bio Defense.

74. Morrone also was aware, from the beginning of the EU Project fund raising activities, of the flood of investor money generated by the solicitation leads of the international call centers and their excessive fees. He personally reviewed Agile's first-week invoice and the Bio Defense accounting department report for that week. These documents detailed the dollar amount raised by the call centers as well as the dollar amount of the seventy-five-percent fee. In these documents, Morrone saw that, in the first week of operations, Agile billed Bio Defense a fee of \$266,201 on investor payments of \$354,935.

75. In October 2008, Hamburger and Morrone received a breakdown of the efficiency of the call center operations. The document showed, among other things, (i) the percentage of trades written by each group; (ii) the number of trades written versus trades that actually resulted in signed subscription offers from investors; (iii) the total dollar amount written by call center solicitations versus the amount actually paid by investors. The document identified the call centers by either aliases, such as "Maserati," "Ferrari," and "C.Faxes," or simply by the range of investor reference number assigned to the call center.

76. Morrone was also provided copies of communications sent by Hamburger to the international call centers. For example, in November 2008, Hamburger sent Morrone a copy of a directive he provided to the call centers. In this communication, Hamburger told the call centers that Bio Defense would "no longer accept trades of less than \$25,000" because the company was spending "\$8,000 per week" on mailing investor packages to the large number of potential

investors solicited by call centers, but not enough of the initial solicitations were leading to actual investments of desired size.

77. As the result of the coordinated actions of Lu, Morrone, Jurberg and Hamburger, by the conclusion of the five-month EU project, Bio Defense raised approximately \$3.4 million from the sale of Bio Defense securities to U.K. investors, of which Bio Defense paid approximately \$2.5 million to Agile.

78. Beginning in approximately October 2008, Hamburger, Lu, Morrone, and Jurberg ran the PT Project in concert with the solicitations made by international boiler-room call centers.

79. During this project, Bio Defense paid the same seventy-five percent fee to boiler-room operators, but the call centers submitted invoices with new names, such as “Mute and Reboot,” “RULUSO, Ltd.,” “Red Enterprises, Inc.,” and “Conyers Consulting.” These invoices requested payment to banking institutions located in foreign countries outside the jurisdiction of the United States and the United Kingdom, such as Tanzania and Portugal.

80. Despite the change in invoicing name, however, the operations of the project were exactly the same as the EU Project. Hamburger continued to manage the boiler-room call center operations on behalf of Bio Defense. The boiler-rooms called potential investors in the United Kingdom to solicit offers to purchase Bio Defense stock using high pressure sales tactics. If a potential investor expressed interest in purchasing Bio Defense securities, that investor’s name was passed to Bio Defense. Bio Defense then sent the potential investor an “investor packet” by email or overnight courier. The investor packet included (i) the cover letter from Jonathan Morrone, (ii) the proposed subscription agreement, and (iii) payment instructions.

81. Each week during this time, the boiler-rooms provided Bio Defense with the names of the solicited U.K. investors, the amounts verbally committed by these investors, and the investors' addresses. Bio Defense, under the leadership of Lu, Morrone and Jurberg, sent out the investor packages by international mail delivery. As investors faxed in their subscription signature pages, they were received by Morrone or Jurberg, or staff working at their direction, who then ensured that Lu signed a Bio Defense stock certificate to be sent to the new Bio Defense investor. Bio Defense then confirmed receipt of the investor money and sent a copy of the stock certificate to the investor. Bio Defense then paid the seventy-five percent fee to Agile and the twelve and a half percent fee to Hamburger in his name or the name of his consulting company.

82. The PT Project ran until approximately April 2010. By the conclusion of the eighteen-month project, Bio Defense raised approximately \$3.3 million from the sale of Bio Defense securities to U.K. investors, of which Bio Defense paid approximately \$2.1 million to Agile.

83. For managing the boiler-room call center operations of both the EU and the PT projects, Bio Defense ultimately paid Hamburger, in his name or the name of his consulting company, \$357,361 of the net investor proceeds retained by the company after payment of the boiler-room call centers.

ii. The CA and GH Projects

84. Beginning in approximately March 2009, Orth, Lu, Morrone, and Jurberg ran the CA Project in concert with the solicitations made by the boiler-room call centers.

85. As in the PT Project, the boiler-room entities submitted invoices with new names, such as "M Management," "RainMax," "Hillside," "WWD, Int'l," and "Omaham Development."

These invoices requested payment to banking institutions located in foreign countries outside the jurisdiction of the United States and the United Kingdom, such as Belize, Cyprus, Panama, and the Seychelles Islands.

86. Despite the change in invoicing name, however, the operations of the project were exactly the same as the EU Project, with the exception that Orth played Hamburger's role in managing the boiler-room call center operations on behalf of Bio Defense. The boiler-rooms called potential investors in the United Kingdom to solicit offers to purchase Bio Defense stock using high pressure sales tactics. If a potential investor expressed interest in purchasing Bio Defense securities, that investor's name was passed to Bio Defense. Bio Defense then sent the potential investor the investor packet by email or overnight courier. The investor packet included (i) the cover letter from Jonathan Morrone, (ii) the proposed subscription agreement, and (iii) payment instructions.

87. Each week during this time, the boiler-rooms provided Bio Defense with the names of the solicited U.K. investors, the amounts verbally committed by these investors, and the investors' addresses. Bio Defense, under the leadership of Lu, Morrone and Jurberg, sent out the investor packages by overnight delivery. As investors faxed in their subscription signature pages, they were received by Morrone or Jurberg, or staff working at their direction, who then ensured that Lu signed a Bio Defense stock certificate to be sent to the new Bio Defense investor. Bio Defense then confirmed receipt of the investor money and sent a copy of the stock certificate to the investor. Bio Defense then paid a seventy percent fee to the boiler-rooms and, of the remaining thirty percent of investor proceeds, a fifteen percent fee to Orth in his name or the name of his consulting company.

88. Orth and Lu prepared periodic summary reports showing, among other things, the 70% commissions due to specific boiler rooms based on the funds raised from individual investors, and Orth distributed these reports to Lu, Morrone, Jurberg and other Bio Defense staff.

89. The CA Project ran until approximately March 2010. By the conclusion of the twelve-month project, Bio Defense had raised approximately \$5.1 million from the sale of Bio Defense securities to U.K. investors, of which Bio Defense paid approximately \$2.6 million to the boiler-rooms.

90. Beginning in approximately April 2010, Orth, Lu, Morrone, and Jurberg ran the GH Project in concert with the solicitations made by the international boiler-room call centers.

91. In this project, the boiler-room entities submitted invoices names similar to those used in the PT Project, such as “Conyers Consulting” and “Red Enterprise.”

92. The operations of the project were exactly the same as they had been for the CA Project. Orth managed the boiler-room call center operations on behalf of Bio Defense. The boiler-rooms called potential investors in the United Kingdom to solicit offers to purchase Bio Defense stock using high pressure sales tactics. If a potential investor expressed interest in purchasing Bio Defense securities, that investor’s name was passed to Bio Defense. Bio Defense then sent the potential investor the investor packet by email or overnight courier. The investor packet included (i) the cover letter from Jonathan Morrone, (ii) the proposed subscription agreement, and (iii) payment instructions.

93. Each week during this time, the boiler-room call centers provided Bio Defense with the names of the solicited U.K. investors, the amounts verbally committed by these investors, and the investors’ addresses. Bio Defense, under the leadership of Lu, Morrone and Jurberg, sent out the investor packages by international mail delivery. As investors faxed in their

subscription signature pages, they were received by Morrone or Jurberg, or staff working at their direction who then ensured that Lu signed a Bio Defense stock certificate to be sent to the new Bio Defense investor. Bio Defense then confirmed receipt of the investor money and sent a copy of the stock certificate to the investor. Bio Defense would then pay a seventy-five percent fee to the boiler-rooms and, of the remaining twenty five percent of investor proceeds, a fifteen percent fee to Orth in his name or the name of his consulting company.

94. The GH Project ran until approximately July 2010. By the conclusion of the four-month project, Bio Defense had raised approximately \$118,000 from the sale of Bio Defense securities to U.K. investors, of which Bio Defense paid approximately \$108,740 to the boiler-rooms.

95. For managing the boiler-room operations of both the CA and the GH projects, Bio Defense ultimately paid Orth, in his name or the name of his consulting company \$407,041 of the net investor proceeds retained by the company after payment of the boiler-room call centers.

96. Ultimately, Bio Defense's sale of its securities through the four projects raised a total approximate amount of \$11.9 million, of which Bio Defense paid approximately \$8 million, or sixty-seven percent of every dollar raised, to the boiler-room operators, Hamburger, and Orth.

V. The Buy-Back Program.

97. In addition to selling shares of stock, beginning as early as 2008, Bio Defense has raised additional funds in the U.S. and internationally through a "Buy-Back Program," through which investors were offered the opportunity to invest \$50,000 purportedly to "purchase," but not take possession of, a MailDefender machine, either completed or in production, in exchange for which the investor would be repaid its principal plus a \$10,000 premium when the machine was sold and delivered to a Bio Defense customer. In other words, investors in the Buy-Back

program made an investment of money in the Bio Defense enterprise with an expectation that they would profit from the efforts of Bio Defense in manufacturing and selling the machine. Bio Defense represented the program to potential investors as a way for both the investor and Bio Defense to make profits from Bio Defense's sale of the MailDefender machines. There is no evidence, however, that any of the purported machines "sold" to investors were ever sold to any Bio Defense customer.

98. During the course of the Buy-Back Program, false statements of material fact were made to entice investor participation. For example, in approximately July 2010, Orth solicited Investor D by telephone to invest in the Bio Defense Buy Back Program. During the course of the solicitation, Orth told Investor D that the machine offered for investment had already been sold to Morgan Stanley. Orth told Investor D that the investment would be secured by the actual machine, which sells for \$300,000. Orth told Investor D that Bio Defense had already sold 175 machines and had orders for thousands more. Finally, Orth stated that he was not receiving a commission on his Buy Back Program sales. All of these statements were false. Morgan Stanley has never purchased a MailDefender machine. Bio Defense has never sold a MailDefender machine for \$300,000. In its ten year history, Bio Defense has sold fewer than ten machines. After receiving Orth's false representations, Investor D invested \$50,000 to purchase one MailDefender machine. Investor D has never been paid a return on his investment.

First Claim for Relief
(Violation of Section 17(a)(1), (2), and (3) of Securities Act By Bio Defense, Lu, Morrone, Jurberg, and Orth)

99. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

100. Bio Defense, Lu, Morrone, Jurberg and Orth, directly or indirectly, acting

intentionally, knowingly or recklessly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities: (a) have employed or are employing devices, schemes, or artifices to defraud; (b) have obtained or are obtaining money or property by means of untrue statements of material fact or omissions to state a material fact necessary to make the statements not misleading; or (c) have engaged or are engaging in transactions, practices, or courses of business which operated as a fraud or deceit upon the purchasers of such securities.

101. By engaging in the conduct described above, Bio Defense, Lu, Morrone, Jurberg and Orth have violated, and unless enjoined will continue to violate, Section 17(a)(1), (2), and (3) of the Securities Act [15 U.S.C. §77q(a)].

Second Claim for Relief
(Violation of Section 17(a)(1) and (3) of Securities Act By Hamburger

102. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

103. Hamburger, directly or indirectly, acting intentionally, knowingly or recklessly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities: (a) has employed or is employing devices, schemes, or artifices to defraud; and (b) has engaged or is engaging in transactions, practices, or courses of business which operated as a fraud or deceit upon the purchasers of such securities.

104. By engaging in the conduct described above, Hamburger violated, and unless enjoined will continue to violate, Section 17(a)(1) and (3) of the Securities Act [15 U.S.C. §77q(a)].

Third Claim for Relief

(Violation of Section 10(b) of Exchange Act and Rule 10b-5(a), (b) and (c) By Bio Defense, Lu, Morrone, Jurberg, and Orth)

105. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

106. Bio Defense, Lu, Morrone, Jurberg and Orth, directly or indirectly, acting intentionally, knowingly or recklessly, in connection with the purchase or sale of securities, by use of the means or instrumentalities of interstate commerce or the facilities of a national securities exchange or the mail: (a) have employed or are employing devices, schemes, or artifices to defraud; (b) have made or are making untrue statements of material fact or have omitted or are omitting to state material fact(s) necessary to make the statements made not misleading; or (c) have engaged or are engaging in acts, practices, or courses of business which operate as a fraud or deceit upon certain persons.

107. By engaging in the conduct described above, Bio Defense, Lu, Morrone, Jurberg and Orth have violated, and unless enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5(a), (b), and (c) thereunder [17 C.F.R. §240.10b-5].

Fourth Claim for Relief

(Violation of Section 10(b) of Exchange Act and Rule 10b-5(a) and (c) By Hamburger)

108. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

109. Hamburger, directly or indirectly, acting intentionally, knowingly or recklessly, in connection with the purchase or sale of securities, by use of the means or instrumentalities of interstate commerce or the facilities of a national securities exchange or the mail: (a) has employed or is employing devices, schemes, or artifices to defraud; and (b) has engaged or is

engaging in acts, practices, or courses of business which operate as a fraud or deceit upon certain persons.

110. By engaging in the conduct described above, Hamburger has violated, and unless enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5(a) and (c) thereunder [17 C.F.R. §240.10b-5].

Fifth Claim for Relief
(Violation of Section 5(a) and 5(c) of the Securities Act By Bio Defense, Lu, Morrone, Jurberg, and Orth)

111. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

112. Bio Defense, Lu, Morrone, Jurberg and Orth directly or indirectly: (a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities through the use or medium of a prospectus or otherwise; or carried securities or caused such securities to be carried through the mails or in interstate commerce, by means or instruments of transportation, for the purpose of sale or delivery after sale; and (b) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or to offer to buy, through the use or medium of any prospectus or otherwise, securities without a registration statement having been filed with the Commission or being in effect as to such securities.

113. Neither Bio Defense nor its securities offerings has ever been registered with the Commission. Through the conduct described above, Bio Defense, Lu, Morrone, Jurberg and Orth sold securities to hundreds of investors and obtained proceeds of at least \$26.2 million.

114. By reason of the foregoing, Bio Defense, Lu, Morrone, Jurberg and Orth, singly or in concert, directly or indirectly, violated, and unless enjoined will again violate, Sections 5(a)

and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

Sixth Claim for Relief
(Violation of Section 15(a)(1) of the Exchange Act By Lu, Morrone, Jurberg, Hamburger, and Orth)

115. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

116. In connection with the offer and sale of the securities of Bio Defense from 2004 through July 2010, Lu, Morrone, Jurberg, Hamburger, and Orth made use of the mails or the means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of Bio Defense securities.

117. While engaged in this conduct, Lu, Jurberg, Hamburger or Orth were neither registered with the Commission as a broker or dealer nor associated with a registered broker or dealer.

118. While Morrone engaged in this conduct from 2004 through 2007, his promotional activities on behalf of Bio Defense were not under the supervision or approval of the brokers with which he was associated. While engaged in this conduct after his disassociation in 2007 and continuing through July 2010, Morrone was neither registered with the Commission as a broker or dealer nor associated with a registered broker or dealer.

119. By engaging in the conduct described above, Lu, Morrone, Jurberg, Hamburger and Orth have violated, and unless enjoined will continue to violate, Section 15(a)(1) of the Exchange Act [15 U.S.C. §78o(a)(1)].

Seventh Claim for Relief
(Control Person Liability Under Section 20(a) of the Exchange Act Against Lu and Morrone for Bio Defense's Violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder)

120. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98.

121. Bio Defense, directly or indirectly, acting intentionally, knowingly or recklessly, by use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, in the offer or sale of securities: (a) has employed or is employing devices, schemes, or artifices to defraud; (b) has obtained or is obtaining money or property by means of untrue statements of material fact or omissions to state a material fact necessary to make the statements not misleading; or (c) has engaged or is engaging in transactions, practices, or courses of business which operated as a fraud or deceit upon the purchasers of such securities.

122. Bio Defense, directly or indirectly, acting intentionally, knowingly or recklessly, by use of the means or instrumentalities of interstate commerce, or of the mails, or of a facility of a national securities exchange, in connection with the purchase or sale of a security: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or 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 acts, practices, or courses of business which operated or would operate as a fraud or deceit upon another person.

123. Lu, as CEO and Chairman of the Board of Directors of Bio Defense, and Morrone, as senior executive vice president and a director of Bio Defense, exercised control over the management, general operations, and policies of Bio Defense, as well as the specific activities upon which Bio Defense's violations are based.

124. By reason of the foregoing, Lu and Morrone are liable as control persons under Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)] for Bio Defense's violations of Section 17(a) of the Securities Act [15 U.S.C. §77q(a)] and Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

Eighth Claim for Relief
**(Other Equitable Relief, Including Unjust Enrichment and Constructive Trust,
Against Relief Defendant May's International)**

125. The Commission repeats and incorporates by reference the allegations in paragraphs 1 through 98 above as if set forth fully herein.

126. Section 21(d)(5) of the Exchange Act states: "In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors."

127. Relief defendant May's International has received and possesses ill-gotten investor funds derived from the unlawful acts or practices of the Defendants dictating that, in equity and good conscience, it should not be allowed to retain such funds.

128. May's International has no legitimate claim to this property.

129. As a result, May's International is liable for unjust enrichment and should be required to return its ill-gotten gains, in an amount to be determined by the Court. The Court should also impose a constructive trust on the ill-gotten investor funds in the possession of May's International.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

- A. Enter a permanent injunction restraining Defendants and each of their agents, servants, employees and attorneys and those persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, including facsimile transmission or overnight delivery service, from directly or indirectly engaging in the conduct described above, or in conduct of similar purport and effect, in violation of Sections 5(a), 5(c), and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)]; Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];
- B. Require Defendants to disgorge their ill-gotten gains and losses avoided, plus pre-judgment interest, with said monies to be distributed in accordance with a plan of distribution to be ordered by the Court;
- C. Require the Relief Defendant to disgorge all unjust enrichment and/or ill-gotten gain received from Defendants, plus prejudgment interest, with said moneys to be distributed in accordance with a plan of distribution to be ordered by the Court;
- D. Require Defendants to pay appropriate civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)]; and Section 21(d)(3) of the Securities Exchange Act [15 U.S.C. § 78u(d)(3)];
- E. Order that Defendants Lu, Morrone, Jurberg, and Orth be prohibited from acting as officers or directors of any public company 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)];
- F. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

G. Grant such other and further relief as the Court deems just and proper.

JURY DEMAND

The Commission hereby demands a trial by jury on all claims so triable.

Respectfully submitted,

SECURITIES AND EXCHANGE COMMISSION

By its attorneys,

/s/ R.M. Harper II

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