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13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16 **WESTERN DIVISION**

17 SECURITIES AND EXCHANGE
18 COMMISSION,

19 Plaintiff,

20 vs.

21 ROBERT HURD, YOUR BEST
22 MEMORIES INTERNATIONAL, INC.,
and KENNETH GROSS,

23 Defendants,

24 and SMOKEY CANYON FINANCIAL,
25 INC.,

26 Relief Defendant.

Case No.

**COMPLAINT FOR VIOLATIONS OF
THE FEDERAL SECURITIES LAWS**

27

28

1 Plaintiff Securities and Exchange Commission (the “Commission”) alleges the
2 following against Defendant Robert Hurd (“Hurd”), Defendant Your Best Memories
3 International, Inc. (“YBMI”) and Defendant Kenneth Gross (“Gross”), and against
4 Relief Defendant Smokey Canyon Financial, Inc. (“Smokey Canyon”):

5 **JURISDICTION AND VENUE**

6 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
7 20(d), and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a); and
8 Sections 21(d), 21(e), and Section 27 of the Exchange Act, 15 U.S.C. §§ 78u(d),
9 78u(e), and 78aa.

10 2. This Court has personal jurisdiction over the Defendants, and venue is
11 proper in the Central District of California, because many of the Defendants’ acts
12 and transactions constituting violations of the Securities Act and the Exchange Act
13 occurred in the Central District of California. In addition, the principal place of
14 business for Defendant YBMI is in the Central District of California, Defendant
15 Hurd resides in the Central District of California, Hurd managed YBMI’s
16 operations from the Central District of California, and YBMI received investor
17 contributions at its address in Los Angeles, California.

18 3. In connection with the conduct alleged in this Complaint, the
19 Defendants, directly and indirectly, individually or in concert with others, have
20 made use of the means or instrumentalities of interstate commerce, the means or
21 instruments of transportation and communication in interstate commerce, and the
22 mails.

23 4. Hurd and YBMI’s conduct involved fraud, deceit, or deliberate or
24 reckless disregard of regulatory requirements, and resulted in substantial loss, or
25 significant risk of substantial loss, to other persons.

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

1 **SUMMARY**

2 6. From in or about July 2010 through in or about November 2012,
3 Defendant Hurd and Defendant YBMI, a corporation created by Hurd to raise
4 investor capital to develop and market purportedly memory-enhancing products
5 (the “products,”) engaged in a fraudulent scheme to sell unregistered securities of
6 YBMI. In total, Hurd and YBMI (and their agents, including Defendant Gross)
7 raised almost \$1.2 million from at least 50 investors in at least 18 different states,
8 including California.

9 7. Hurd and YBMI and their agents made false and misleading
10 statements to investors while selling unregistered YBMI shares. Specifically, Hurd
11 and YBMI and their agents misrepresented to investors: (a) how the proceeds
12 raised from investors through YBMI’s offering of securities would be used; and (b)
13 whether one of the products touted to investors by Hurd and YBMI had received
14 approval from the U.S. Food and Drug Administration (the “FDA”) as a treatment
15 for Alzheimer’s disease.

16 8. Hurd also used money from later investors to make payments to
17 earlier investors (i.e., Ponzi payments) and funneled YBMI investor funds to
18 himself and Relief Defendant Smokey Canyon, a corporation he controlled. The
19 funds re-routed to Smokey Canyon by Hurd were used, among other things, to
20 finance Hurd’s private car collection.

21 9. By engaging in the conduct alleged herein:

- 22 a. Hurd, YBMI and Gross violated Sections 5(a) and 5(c) of the
23 Securities Act of 1933;
- 24 b. Hurd and YBMI violated Section 17(a) of the Securities Act of
25 1933 (“Securities Act”), Section 10(b) of the Securities
26 Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5
27 thereunder;
- 28 c. Hurd is liable for YBMI’s violations of the Exchange Act as a

1 controlling person of YBMI under Section 20(a) of the
2 Exchange Act;

3 d. Hurd aided and abetted YBMI's violations of Section 17(a) of
4 the Securities Act, Section 10(b) of the Exchange Act, and Rule
5 10b-5 thereunder;

6 e. Gross violated Section 15(a) of the Exchange Act by acting as
7 an unregistered broker-dealer while employed as a sales
8 representative by Hurd and YBMI.

9 10. Based on these violations, the Commission seeks: (1) entry of
10 permanent injunctions prohibiting Hurd, YBMI and Gross from committing further
11 violations of the relevant provisions of the federal securities laws and specifically
12 prohibiting Hurd from directly or indirectly, including, but not limited to, through
13 any entity owned or controlled by him, participating in the issuance, purchase,
14 offer, or sale of any security, provided, however, that such injunction shall not
15 prevent him from purchasing or selling securities for his own personal accounts;
16 (2) disgorgement of the Defendants' ill-gotten gains, plus pre-judgment interest;
17 (3) disgorgement by the Relief Defendant of all unjust enrichment and/or ill-gotten
18 gains received from the Defendants, plus prejudgment interest; (4) the imposition
19 of civil monetary penalties against the Defendants; and, (5) other and further relief
20 as the Court deems just and proper.

21 **DEFENDANTS AND RELIEF DEFENDANTS**

22 **A. Defendants**

23 11. Hurd, 72, resides in Los Angeles, California, and is the president of
24 YBMI. In 2009, the Pennsylvania Securities Commission entered a cease-and-
25 desist order against Hurd to prevent him from offering securities in the state of
26 Pennsylvania. *In the Matter of Smokey Canyon Financial, et. al*, Admin. Proc.
27 Docket No. 2009-07-12 (July 28, 2009). Hurd has never been registered with the
28 Commission in any capacity.

1 12. YBMI is a Nevada corporation with its principal place of business in
2 Los Angeles, California. YBMI purports to be in the business of raising money for
3 Moving Pictures, Inc. (“Moving Pictures”), a Massachusetts corporation that
4 develops products intended to improve memory function. YBMI commenced its
5 securities offering in approximately July 2010. Neither YBMI nor its securities
6 have ever been registered with the Commission in any capacity.

7 13. Gross, 67, resides in Northridge, California. In or about October
8 2010, Gross was hired by Hurd to work as an independent contractor to YBMI, and
9 was responsible for both soliciting YBMI investors and overseeing other securities
10 sales agents who worked for Hurd and YBMI. Gross has held a Series 15
11 securities license (for Registered Foreign Currency Options Representatives) and a
12 Series 4 securities license (for Registered Options Principals) but is not currently
13 associated with a registered broker-dealer.

14 **B. Relief Defendant**

15 14. Smokey Canyon is a Nevada corporation located in Reno, Nevada that
16 Hurd formed in January 2007. In 2009, Pennsylvania entered a cease-and-desist
17 order against Smokey Canyon for failing to register as a broker-dealer. *In the*
18 *Matter of Smokey Canyon Financial, et. al*, Admin. Proc. Docket No. 2009-07-12
19 (July 28, 2009). Smokey Canyon has never been registered with the Commission
20 in any capacity.

21 **FACTUAL ALLEGATIONS**

22 **C. Background Concerning the YBMI Offering of Securities**

23 15. Moving Pictures was founded in 2009 by an individual residing in
24 Massachusetts (the “Moving Pictures Founder”) to develop and sell treatments for
25 memory loss. Initially, Moving Pictures focused on the development and sale of a
26 product called “Photographic Journeys,” a personalized set of DVDs. The DVDs
27 contained a slideshow of digital photographs of people and places familiar to the
28 person suffering from memory loss, accompanied by background music, and the

1 Moving Pictures Founder maintained that the DVDs helped restore memories in
2 individuals suffering from Alzheimer's or memory loss. Later, Moving Pictures
3 began selling a second product called "Your Best Memory Oil," a virgin coconut
4 oil also billed as a memory-enhancing therapy.

5 16. In or about June 2010, Hurd entered into an informal agreement with
6 the Moving Pictures Founder to form YBMI as a vehicle to raise investor funds for
7 Moving Pictures. Under the agreement between YBMI and Moving Pictures,
8 YBMI would sell securities in the form of shares in itself, with 40% of investor
9 funds allocated to Moving Pictures to develop and market the purportedly
10 memory-enhancing products, and 60% of investor funds allocated to YBMI for
11 continued fundraising.

12 17. In or about July 2010, Hurd began the YBMI offering of securities out
13 of YBMI's offices in California. Hurd and Gross supervised other sales agents in
14 YBMI's offices, where Hurd, Gross and the other sales agents placed telephone
15 calls to potential investors nationwide.

16 18. The YBMI sales agents used a scripted sales pitch drafted in part by
17 Hurd. The initial sales pitch was limited to the Photographic Journeys product, but
18 was later changed to include information on Your Best Memory Oil. The sales
19 script referred to Photographic Journeys and Your Best Memory Oil as "2 proven
20 treatments for Alzheimer's disease."

21 19. After making initial telephone contact, YBMI sales representatives
22 mailed or emailed potential investors a package of materials that included, among
23 other things, a private placement memorandum ("PPM") describing the purported
24 investment opportunity, a subscription agreement for investors to complete and
25 submit if they wanted to make an investment, a document stating *inter alia* that
26 YBMI would pay to investors a cash distribution of 8% per year, payable each
27 quarter at 2%, and newsletters containing company news.

28

1 20. By November 2012, YBMI had raised almost \$1.2 million from more
2 than 50 investors in 18 states.

3 21. Under the federal securities laws, many securities offered for sale to
4 investors must be registered with the Commission unless there is an applicable
5 registration exemption listed in the securities laws or regulations. No securities
6 registration statement has been filed or was in effect with the Commission in
7 connection with the sale of YBMI stock, nor is YBMI entitled to any registration
8 exemption under the federal securities laws.

9 **D. Fraud in the Sale of YBMI Shares**

10 22. In connection with the sale of YBMI shares, Hurd and YBMI
11 employed schemes to defraud and made various material misrepresentations and
12 omissions to investors verbally and in writing about: (a) how the YBMI securities
13 offering proceeds were to be used; and (b) whether the FDA had approved one of
14 Moving Pictures' purportedly memory-enhancing products as a treatment for
15 Alzheimer's disease.

16 **1. Misuse of Offering Proceeds**

17 23. Starting in or about July 2010, potential YBMI investors were
18 explicitly informed by Hurd, YBMI sales agents and the written offering materials
19 sent by YBMI that their funds would, in large part, fund the development and
20 marketing of Moving Pictures' products. For example, a letter sent to new
21 shareholders stated: "Your purchase of stock in YBMI gives us and our partner
22 Moving Pictures Inc., (MPI) the ability to grow and to provide our products and
23 services to a global marketplace." So too, the PPM states in one section that: "it is
24 anticipated that approximately 60% of the gross proceeds of the offering is to be
25 applied to Working Capital." (emphasis added) Working Capital is defined in the
26 PPM and does not include sales commissions. Another part of the PPM represents
27 that 80% of the offering proceeds will be used for Working Capital.

28 24. However – unbeknownst to YBMI investors and contrary to YBMI's

1 verbal and written representations – a mere 17% of the funds raised by YBMI were
2 forwarded to Moving Pictures for development and marketing of its purportedly
3 memory-enhancing products. Moreover, Hurd funneled at least 37% of the
4 investor funds to himself, by transferring money to Smokey Canyon or simply by
5 making cash withdrawals. As of November 2012, Hurd had misappropriated
6 approximately \$450,000 of the funds raised by YBMI from investors. Neither
7 Hurd nor YBMI ever disclosed to investors those transfers by Hurd.

8 25. The PPM also contains misleading disclosures concerning the
9 payment of sales commissions. For example, one particular section of the PPM
10 states: “In the event [that] Management sells the Common Stock or any part
11 thereof, it is contemplated that no sales commissions will be paid to Management.”
12 (emphasis added). Another section of the PPM states that sales commissions paid
13 to broker-dealers will range from 10% to 18%, but is silent on commission rates
14 for YBMI’s employees, management and unregistered brokers. With regard to
15 salaries, the PPM states that executive officers of YBMI “currently do not receive
16 any salary compensation. All compensation . . . will be in the form of stock and/or
17 stock options for the foreseeable future.”

18 26. In fact, Hurd and YBMI used at least 22% of the funds raised from
19 YBMI investors to pay commissions to sales representatives. Neither Hurd nor
20 YBMI ever disclosed to investors that 22% of their investment would be used to
21 pay sales commissions.

22 27. What few payments to investors YBMI made, Hurd falsely
23 characterized as distributions from revenue generated by Moving Pictures’ sales of
24 the products. In a letter to prospective investors signed by Hurd, Hurd represented
25 that “YBMI has paid (and will continue to pay) to each of its Common Stock
26 shareholders a Cash Distribution of 8% per year payable each quarter at 2% based
27 upon a per share cash equity formula. These monies come from the net revenues
28 of [Moving Pictures].” This statement was false. YBMI never paid stockholders a

1 cash distribution of 8% per year. Further, Moving Pictures never generated
2 sufficient revenue to fund any distribution payments to YBMI investors. Indeed,
3 during the relevant time period, Moving Pictures sold only one Photographic
4 Journeys product, for \$300, and never sold any quantity of Your Best Memory Oil.
5 Consequently, any distributions paid by YBMI to shareholders were made with
6 money raised from subsequent YBMI investors, not the net revenues of Moving
7 Pictures. At no time did Hurd or YBMI disclose to investors that the distributions
8 they received were Ponzi payments.

9 **2. Alleged FDA Approval**

10 28. Hurd and YBMI made misleading statements suggesting that the Your
11 Best Memory Oil product had been approved by the FDA for the treatment of
12 Alzheimer’s disease. The summer 2012 YBMI newsletter sent to investors opened
13 with “It’s coming. Hold onto your hats! We now have FDA approval on Your Best
14 Memory Oil our USDA Organic, Cold Pressed Virgin Coconut Oil . . . Labeling
15 and packaging designed are complete and our Sales & Marketing staff is ramping
16 up for our huge product launch” (emphasis added) and included a copy of the
17 product label touting its health benefits. The product label includes a statement
18 that the product “can help slow the progression of Alzheimer’s Disease.” The
19 label also contains a list of various health problems, including Alzheimer’s,
20 epilepsy, heart disease, and cancer, followed by a statement that “[n]o promises
21 can be made BUT . . . Organic Virgin Coconut Oil has been shown to HELP with
22 everything above and much more.” The product label that was included in the
23 newsletter is reproduced below:

24 //
25 //
26 //
27 //

THE COCONUT OIL EXPLOSION

It's coming. Hold on to your hats! We now have FDA approval on **Your Best Memory Oil** our USDA Organic, Cold Pressed Virgin Coconut Oil. A number of shipments of our product are now in route from our importer in India. Labeling and packaging designs are complete and our Sales & Marketing staff is ramping up for our huge product launch.

Your Best Memory Oil

100% ORGANIC VIRGIN COCONUT

Can Help Slow The Progression of
ALZHEIMER'S DISEASE

Use 2 to 3 tablespoons a day
for the most benefits

No Refrigeration Needed

Nutrition Facts	
Serving Size 11 Tbsp 14 g	
Servings Per Container 28	
Amount Per Serving	
Calories 125	Calories from Fat 125
Total Fat 14 g	22%
Saturated Fat 12 g	66%
Polysaturated Fat 1.5 g	1
Monounsaturated Fat 1 g	1
Cholesterol 0 mg	0%
Medicinal Chain Triglycerides (MCTs)	
Lauroic Acid 100mg	1
Capric Acid 100mg	1
Caprylic Acid 100mg	1
Oleic & Polyunsaturated Fat	
Linoleic Acid 100 mg	1
Oleic & Monounsaturated Fat	1
Docic Acid 100 mg	1

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Manufactured by
PHOTOGRAPHIC JOURNEYS
On a MISSION to help those
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THE MIRACLE OF ORGANIC VIRGIN COCONUT OIL

- Alzheimer's
- Weight Loss
- Epilepsy
- Skin Care
- Hair Care
- Heart Disease
- Cancer

No Promises can be made **BUT...**
Organic Virgin Coconut Oil
has been Shown to **HELP**
with everything above
& much more

In truth and in fact, YBMI never received FDA approval to claim that coconut oil can help with any medical condition, let alone Alzheimer's disease.

29. Hurd approved all newsletters before they were distributed to investors and knew, or was severely reckless in not knowing, that YBMI had not received FDA approval for marketing claims about coconut oil.

30. Hurd also told at least one prospective investor that YBMI had a "cure" for Alzheimer's disease. This statement was false and misleading. Hurd knew or was severely reckless in not knowing that neither Photographic Journeys nor Your Best Memory Oil had been approved by the FDA as a "cure" for Alzheimer's disease.

1 **3. Gross Worked as an Unregistered Broker for YBMI**

2 31. Starting in or about October 2010, when Hurd hired him as an
3 independent contractor, Gross called potential investors to promote YBMI
4 securities and to advise as to the merits of an investment in YBMI, as well as
5 supervised other sales agents making such calls. Gross also received compensation
6 in excess of \$200,000 between October 2010 and November 2012 from YBMI
7 based on his successful promotion efforts that resulted in purchases or sales of
8 YBMI securities.

9 32. Under the Exchange Act, Gross was required to be registered as or
10 associated with a registered broker-dealer in order to sell securities. However, at
11 no time during his work as an independent contractor for YBMI was he registered
12 as or associated with a registered broker-dealer as legally required.

13 **FIRST CLAIM FOR RELIEF**

14 **Sale of Unregistered Securities in Violation of Sections 5(a)**

15 **and 5(c) of the Securities Act**

16 **(Against Hurd, Gross and YBMI)**

17 33. The Commission repeats and realleges paragraphs 1 through 32 of this
18 Complaint as if fully restated herein.

19 34. No registration statement was filed or in effect with the Commission
20 pursuant to the Securities Act and no exemption from registration exists with
21 respect to the securities and transactions described in this Complaint.

22 35. Hurd, Gross and YBMI, from at least in or about July 2010 to on or
23 about November 2012, directly or indirectly, have: (a) made use of the means or
24 instruments of transportation or communication in interstate commerce or of the
25 mails to sell securities, through the use or medium of a prospectus or otherwise; (b)
26 carried securities or caused such securities to be carried through the mails or in
27 interstate commerce, by any means or instruments of transportation, for the
28 purpose of sale or delivery after sale; and (c) made use of the means or instruments

1 of transportation or communication in interstate commerce or of the mails to offer
2 to sell or offer to buy through the use or medium of any prospectus or otherwise,
3 without a registration statement having been filed or being in effect with the
4 Commission as to such securities.

5 36. By reason of the foregoing, Hurd, Gross and YBMI directly or
6 indirectly violated, and, unless enjoined, are reasonably likely to continue to
7 violate, Sections 5(a) and 5(c) of the Securities Act of 1933 (the “Securities Act”)
8 [15 U.S.C. §§ 77e(a) and 77e(c)].

9 **SECOND CLAIM FOR RELIEF**

10 **Violation of Section 10(b) of the Exchange Act and Rule 10b-5**

11 **(Against Hurd and YBMI)**

12 37. The Commission repeats and realleges paragraphs 1 through 32 of its
13 Complaint.

14 38. By engaging in the conduct described above, Hurd and YBMI directly
15 or indirectly and singly or in concert, acting intentionally, knowingly or recklessly,
16 in connection with the purchase or sale of securities, by use of the means or
17 instrumentalities of interstate commerce or the mail: (a) employed devices,
18 schemes or artifices to defraud; (b) made untrue statements of material facts and
19 omitted to state material facts necessary in order to make the statements made, in
20 light of the circumstances under which they were made, not misleading; and/or (c)
21 engaged in acts, practices and courses of business which operated or would have
22 operated as a fraud or deceit upon the purchasers of securities and upon other
23 persons.

24 39. By engaging in the conduct described above, Hurd and YBMI have
25 directly or indirectly and singly or in concert, violated, and, unless enjoined, will
26 continue to violate, Section 10(b) of the Exchange Act of 1934 (the “Exchange
27 Act”) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].
28

1 directly or indirectly and singly or in concert, acting intentionally, knowingly or
2 recklessly, by use of the means or instruments of transportation or communication
3 in interstate commerce or by the use of the mails, in the offer or sale of securities:
4 (a) employed devices, schemes, or artifices to defraud; (b) obtained money or
5 property by means of untrue statements of material fact or omissions to state a
6 material fact necessary to make the statements made not misleading in light of the
7 circumstances under which they were made; and/or (c) engaged in transactions,
8 acts, practices, or courses of business which operated or would have operated as a
9 fraud or deceit upon purchasers of securities.

10 46. By engaging in the conduct described above, Hurd and YBMI have
11 directly or indirectly and singly or in concert, violated, and unless enjoined will
12 continue to violate, Section 17(a) of the Securities Act [15 U.S.C. §77q(a)].

13 **FIFTH CLAIM FOR RELIEF**

14 **Aiding and Abetting Violation of Section 17(a) of Securities Act** 15 **(Against Hurd)**

16 47. The Commission repeats and incorporates by reference the allegations
17 in paragraphs 1 through 32 above as if set forth fully herein.

18 48. By engaging in the conduct described above, Hurd has, directly and
19 indirectly and singly and in concert, acting intentionally, knowingly or recklessly,
20 in connection with the purchase or sale of securities, by use of the means or
21 instrumentalities of interstate commerce or the mail: (a) employed devices,
22 schemes, or artifices to defraud; (b) made untrue statements of material fact or
23 omitted to state material fact(s) necessary to make statements made not misleading
24 in light of the circumstances under which they were made; and/or (c) engaged in
25 transactions, acts, practices, or courses of business which operated or would have
26 operated as a fraud or deceit upon purchasers of securities.

27 49. Hurd knowingly or recklessly provided substantial assistance to
28 YBMI's violations of Section 17(a) of the Securities Act.

1 or dealer in accordance with Section 15(b) of the Exchange Act [15 U.S.C.
2 §78o(b)].

3 57. As part of, and in furtherance of the violative conduct, Gross regularly
4 promoted YBMI securities to investors and advised investors about the merits of
5 an investment in YBMI. Gross also received compensation directly or indirectly
6 from YBMI based on his successful promotion efforts that resulted in purchases or
7 sales of YBMI securities.

8 58. By reason of the foregoing, Gross, acting directly or indirectly and
9 singly or in concert with others, violated, and unless enjoined, will continue to
10 violate, Section 15(a) of the Exchange Act [15 U.S.C. §78o(b)].

11 **EIGHTH CLAIM FOR RELIEF**

12 **Other Equitable Relief, Including Unjust Enrichment and Constructive Trust** 13 **(Against Relief Defendant Smokey Canyon)**

14 59. The Commission repeats and realleges paragraphs 1 through 32 of this
15 Complaint as if fully restated herein.

16 60. Section 21(d)(5) of the Exchange Act [15 U.S.C. §78u(d)(5)] states:
17 “In any action or proceeding brought or instituted by the Commission under any
18 provision of the securities laws, the Commission may seek, and any Federal court
19 may grant, any equitable relief that may be appropriate or necessary for the benefit
20 of investors.”

21 61. The Relief Defendant has received investor funds under circumstances
22 dictating that, in equity and good conscience, it should not be allowed to retain
23 such funds.

24 62. Further, specific property acquired by the Relief Defendant is
25 traceable to the Defendants’ wrongful acts and there is no reason in equity why the
26 Relief Defendant should be entitled to retain that property.

27 63. As a result, the Relief Defendant is liable for unjust enrichment and
28 should be required to return its ill-gotten gains, in an amount to be determined by

1 the Court. The Court should also impose a constructive trust on property in the
2 possession of the Relief Defendant that is traceable to the Defendants' wrongful
3 acts.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, the Commission respectfully requests that the Court:

6 **I.**

7 **Permanent Injunctive Relief**

8 A. Enter a permanent injunction restraining Defendants Hurd and YBMI,
9 their officers, agents, servants, employees, attorneys, and all persons in active
10 concert or participation with them who receive actual notice of the injunction by
11 personal service or otherwise, including facsimile transmission or overnight
12 delivery service, from future violations of, and aiding and abetting future violations
13 of, Sections 5(a) and (c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c),
14 Section 17(a) of the Securities Act [15 U.S.C. §77q(a)], Section 10(b) of the
15 Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R.
16 §240.10b-5];

17 B. Enter a permanent injunction restraining Hurd, and any entity he owns
18 or controls, from directly or indirectly participating in the issuance, offer, or sale of
19 any security, provided, however, that such an injunction shall not prevent Hurd
20 from purchasing or selling securities solely for his own account;

21 C. Enter a permanent injunction restraining Gross and all persons in
22 active concert or participation with him who receive actual notice of the injunction
23 by personal service or otherwise, including facsimile transmission or overnight
24 delivery service, from future violations of Sections 5(a) and (c) of the Securities
25 Act [15 U.S.C. §§ 77e(a) and 77e(c) and Section 15(a) of the Exchange Act [15
26 U.S.C. §78o(a)].

1 **II.**

2 **Disgorgement**

3 Issue an order directing the Defendants to disgorge the ill-gotten gains they
4 received as a result of their violation(s) of the federal securities laws, plus pre-
5 judgment interest thereon, with said monies to be distributed in accordance with a
6 plan of distribution to be ordered by the Court.

7 **III.**

8 **Civil Money Penalties**

9 Issue an order directing all Defendants to pay civil money penalties pursuant
10 to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the
11 Exchange Act [15 U.S.C. § 78u(d)].

12 **IV.**

13 **Other Equitable Relief**

14 Require the Relief Defendant to disgorge all unjust enrichment and/or ill-
15 gotten gains received from the Defendants, plus prejudgment interest thereon, with
16 said monies to be distributed in accordance with a plan of distribution to be
17 ordered by the Court.

18 **V.**

19 **Further Relief**

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

21 **VI.**

22 **Retention of Jurisdiction**

23 Further, the Commission respectfully requests that the Court retain
24 jurisdiction over this action in order to implement and carry out the terms of all
25 orders and decrees that it may enter, or to entertain any suitable application or
26 motion by the Commission for additional relief within the jurisdiction of this
27 Court.

1 **JURY DEMAND**

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

3 //

4 //

5 Dated: June 20, 2013

Respectfully submitted,

6
7

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