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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

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2003 DEC 22 AM 8:43
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
BY _____

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JAMES P. LEWIS, JR., **individually**
and doing business as FINANCIAL
ADVISORY CONSULTANTS,
INCOME FUND, ETD. AND
GROWTH FUND, LTD.,

Defendant.

Case No. CV03-9354 JSL (VBKx)

COMPLAINT FOR VIOLATIONS OF THE
FEDERAL SECURITIES LAWS

Plaintiff Securities and Exchange Commission {"Commission"} alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1) and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d)(1) & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78(u)(d)(1), 78u(d)(3)(A), 78u(e) & 78aa. Defendant has, directly or indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, or

1 **of the** facilities of a national securities exchange in connection with the
2 transactions, acts, practices and **courses** of business alleged in this Complaint.

3 2. Venue is **proper** in this district pursuant to Section 22(a) of the
4 Securities **Act**, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15U.S.C.
5 § 78aa, because the defendant resides in this district and certain **of the**
6 **transactions**, acts, practices and courses of conduct constituting violations of the
7 **federal securities** laws **occurred** within this district,

8 SUMMARY

9 3. For almost 20 **years**, James P. Lewis, Jr. has been **doing** business as
10 Financial Advisory Consultants ("FAC"). Financial **Advisory** Consultants offers
11 and **sells** securities in the Income **Fund**, Ltd. and the Growth Fund, Ltd.
12 (collectively, the "Funds").

13 4. Defendant has sold **securities** in the Funds to over 5,200 investor
14 accounts whose combined balances in the Funds (i.e., the **principal** investment
15 **plus purported** profits minus any **withdrawals**) **exceed \$813** million.

16 5. No registration statement **has** been **filed** or **been** in effect with **respect**
17 to Financial Advisory Consultants or **either** of the Funds.

18 6. **In** response to requests **from** investors to withdraw funds, Defendant
19 **has defrauded** his investors **by** misrepresenting **that the Funds' accounts** are frozen
20 by the Department of Homeland **Security** when the Department **of** Homeland
21 **Security** has **not** frozen, **and** does not **have** the authority to freeze, the Funds'
22 accounts.

23 7. Defendant, by engaging in the conduct described in this **Complaint**,
24 **has violated** the antifraud provisions **of Section 17(a) of the Securities Act and**
25 **Section 10(b) of the Exchange Act and Rule 10b-5** thereunder.

26 THE DEFENDANT

27 8. James **P.** Lewis, Jr. **has** residences in Laguna Niguel and **Palm** Desert,
28 California, and is doing business under the fictitious business name of Financial

1 **Advisory Consultants ("FAC"), an unincorporated entity with offices in Lake**
2 **Forest, California.**

3 **9.** Lewis, individually and doing business **through FAC**, offers and **sells**
4 securities in the Income Fund, Ltd. (the "Income Fund") and **the** Growth Fund,
5 Ltd. (the "**Growth Fund**") (collectively, the "Funds"). The Funds are
6 unincorporated entities controlled by **Lewis**.

7 **THE OFFERINGS**

8 **10.** The Income Fund purportedly invests in **equipment** Teasing and
9 **insurance** premium financing **programs and** has purportedly **realized** an average
10 annual return **of** more than 19% **per** year since **its** inception in 1983.

11 **11.** The **Growth Fund** purportedly buys **and** sells distressed businesses
12 **and** has purportedly realized an average **annual** return of almost 39% **per** year
13 **since its** inception in **1987**.

14 **12.** Defendant pools investors' monies in a common enterprise, **the** Funds,
15 **which**, according to **the** Funds' offering brochure, **are** "comprised of a variety of
16 investments; each investor owns an interest **in** every investment."

17 **13.** **FAC** receives a management **fee** equal **to** 5% of the Funds' total
18 **return**, with the remaining 95% purportedly **going** to the investors.

19 **14.** The interests in the Funds **are** securities in the form of investment
20 **contracts in that the** investors' funds are **pooled with** the **expectation of** profit from
21 **Lewis'** management of the Funds.

22 **15.** Fund investors receive \$1.6 million per month in **regular** withdrawals
23 **and until** recently **\$4** to **\$7** million **through** special or non-scheduled withdrawals,
24 Investors who do not receive regular withdrawals have their purported **profits**
25 **reinvested** in the Funds.

26 **16.** The investors do not receive audited financial statements or any other
27 details concerning the accomplishments of the Funds. Instead, offering materials,
28 **including offering** brochures **and** monthly newsletters, **describe** the **activities of** the

1 Funds **in a** generic manner that is absent of detail. For example, the Income Fund
2 **is said to** have "provided financing for several companies" in **2001** and the Growth
3 Fund **is said** to have "closed **26** projects . . . [whereby FAC] purchased the
4 businesses for cash and then resold them **at a profit**" that same **year**, without
5 identifying **any of the** involved entities. Monthly newsletters **make** similar claims
6 **in** similarly **vague** terms.

7 **THE DEFENDANT'S FRAUDULENT SCHEME**

8 17. **Although** the Funds **permit** withdrawals **upon** notice, since **at least**
9 **Tune 2003**, Lewis **has not** honored many unscheduled withdrawal **requests** from
10 Fund **investors**. **In other** cases, Lewis **has** honored withdrawal **requests only** in
11 part and/or in piecemeal fashion.

12 18. Beginning in about June 2003 and continuing through **at least August**
13 **2003**, Lewis **told** Fund investors requesting withdrawals **that** monies **of FAC** and
14 **the Growth Fund had** been **frozen** by the Department of Homeland **Security**
15 ("DHS"). Lewis, directly and/or indirectly, told Fund investors that **DHS** had
16 **frozen FAC and the** Growth Fund monies because FAC had **received a wire**
17 transfer from the **Middle East**.

18 19. In November 2003, Lewis falsely **told** Fund **investors** requesting
19 withdrawals **that** Growth Fund monies had been frozen by DHS **because** investors
20 had **wired money** they received from **FAC** to Middle Eastern organizations.

21 20. In November and/or December 2003, Lewis **falsely told Fund**
22 **investors** requesting withdrawals that **the Internal Revenue Service was** involved
23 in, and complicating, the withdrawal process because investors should have been
24 **paying taxes on the** withdrawals.

25 21. Approximately one month ago, FAC's office received a telephone **call**
26 **from a Mr. Sanchez** purportedly from DHS about the freeze. **However, that call**
27 **was in fact placed** from Lewis' **cell phone** number.

1 c. **engaged** in transactions, practices, or courses of business which
2 operated or would operate as a **fraud** or deceit upon the purchaser.

3 27. By **engaging** in the conduct described above, defendant violated and,
4 unless restrained and enjoined, will continue to violate, Section 17(a) of the
5 Securities Act, 15 U.S.C. § 77q(a).

6 **SECOND CLAIM FOR RELIEF**
7 **FRAUD IN CONNECTION WITH THE**
8 **PURCHASE OR SALE OF SECURITIES**
9 **Violations of Section 10(b) of the Exchange Act**
10 **and Rule 10b-5 thereunder**

11 28. The Commission realleges **and** incorporates by **reference** ¶¶ I through 24
12 **above.**

13 29. Defendant, by engaging in the conduct described **above**, directly or
14 indirectly, in connection with the **purchase or** sale of a security, by **the** use of
15 **means** or instrumentalities **of** interstate commerce, of the mails, or of the facilities
16 **of a national securities exchange, with scienter:**

- 17 a. **employed** devices, schemes, or artifices **to** defraud;
- 18 b. made untrue **statements** of a material **fact** or omitted to state a
19 material fact necessary in **order** to **make** the statements **made, in**
20 the light of the circumstances under which they were made, not
21 misleading; **or**
- 22 c. engaged in acts, **practices, or courses** of business which operated
23 **or** would operate **as a fraud or** deceit **upon** other persons.

24 30. By engaging in the conduct described **above**, defendant violated **and**,
25 unless restrained and enjoined, will continue **to** violate, Section 10(b) **of** the
26 **Exchange Act**, 15 U.S.C. § 78j(b), **and** Rule 10b-5 thereunder, 17 **C.F.R.**
27 **§ 240.10b-5.**

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3 **PRAYER FOR RELIEF**

4 WHEREFORE, the Commission respectfully requests that the Court:

5 **I.**

6 Issue findings **of fact** and conclusions of law that the defendant
7 **committed the alleged violations.**

8 **II.**

9 Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d),
10 **temporarily**, preliminarily **and** permanently enjoining defendant **and his** officers,
11 **agents**, servants, **employees**, attorneys, subsidiaries **and** affiliates and those
12 persons in active concert or participation **with** him, who receive **actual** notice of
13 **the order** by personal service or otherwise, and each **of** them, from violating
14 Section 17(a) of the Securities **Act**, Section 10(b) of the **Exchange Act**, and Rule
15 10b-5 thereunder.

16 **III.**

17 **Issue in** a form consistent **with** Fed. R. Civ. P. 65, a temporary
18 restraining order and a preliminary injunction **freezing** the assets of the defendant;
19 prohibiting the defendant from destroying documents; **and ordering expedited**
20 **discovery and** accountings.

21 **IV.**

22 Order defendant to disgorge **all** ill-gotten gains from his **illegal** conduct,
23 together with prejudgment interest thereon.

24 **V.**

25 Order defendant to pay civil penalties under Section 20(d) **of the**
26 **Securities Act**, 15 U.S.C. § 77t(d) **and** Section 21(d)(3) **of the Exchange Act**, 15
27 U.S.C. § 78u(d)(3).

28 **VI.**

