

hiding expenses and to making California Amplifier's "P+L look better."

3. Kusatzky's "confession," however, did not reveal the whole story. Kusatzky's confession neither revealed the extent of his misstatement of California Amplifier's financial statements, nor acknowledged his insider trading. In January 2000, well before his written confession, and before his fraud was discovered, Kusatzky illegally profited from his misdeeds. At that time, with full knowledge of his wrongdoing, Kusatzky exercised all his vested options and sold all his 15,000 shares of California Amplifier stock while in possession of material, non-public information that the Company's earnings were materially overstated. Kusatzky knew that California Amplifier's earnings for the quarter ended November 27, 1999 were materially overstated because he was solely responsible for overstating them. Kusatzky's illegal sales enabled him to avoid losses of over \$350,000.

4. As a result, Kusatzky violated Section 17(a) of the Securities Act of 1933 (the "Securities Act"), [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b) and 15 U.S.C. § 78m(b)(5)] and Rules 10b-5, 13b2-1 and 13b2-2 thereunder [17 C.F.R. §§ 240.10b-5, 240.13b2-1, and 240.13b2-2] and aided and abetted California Amplifier's violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13] thereunder.

5. The Commission seeks a permanent injunction prohibiting future violations of these provisions, disgorgement including prejudgment interest, and civil penalties pursuant to Sections 21(d)(3) and 21A of the Exchange Act, [15 U.S.C. § 78u(d)(3) and § 78u-1] and Section 20(d)(1) of the Securities Act [15 U.S.C. § 77t(d)]. The Commission also seeks an order permanently barring Kusatzky from serving as an officer or director of a public company.

JURISDICTION

6. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) [15 U.S.C. §§ 77t(b) and 77v(a)] of the Securities Act and Sections 21A and 27 [15 U.S.C. §§ 78u-1 and 78aa] of the Exchange Act.

7. Defendant has, directly or indirectly, made use of the means or instrumentalities of interstate commerce and/or of the mails in connection with the transactions described in this Complaint.

DEFENDANT

8. Barry Richard Kusatzky, age 52, is currently an Illinois resident. Kusatzky was California Amplifier's corporate controller from January 1997 to March 2001. As controller, Kusatzky reported directly to the Company's Chief Financial Officer ("CFO") and was the second ranking accounting officer in the Company. Most importantly, Kusatzky played a significant role in preparing California Amplifier's consolidated financial statements. He was also the primary Company contact with auditors during California Amplifier's annual audit. Kusatzky misrepresented himself to the Company as a certified public accountant with an accounting degree. He has never held a professional designation and does not have a degree in accounting.

OTHER RELEVANT PARTY

9. California Amplifier, Inc. is a Delaware corporation located in Oxnard, California that manufactures microwave telecommunications products. California Amplifier's common stock is registered with the Commission under Section 12(g) of the Exchange Act and trades on NASDAQ's National Market System. For fiscal years 1999, 2000 and 2001, California Amplifier had annual actual revenues of \$33 million, \$79 million and \$117 million respectively.

FACTS

A. Background

10. In April 1999, California Amplifier acquired certain assets, properties and rights of Gardiner Communications Corp., a then-Delaware corporation ("Gardiner") that was in the business of designing and manufacturing microwave components for home satellite systems. Gardiner produced a satellite dish component in its Texas facility from parts supplied from its Hong Kong operations. California Amplifier acquired Gardiner because it was able to manufacture the satellite dish component at far lower per unit margins than California Amplifier. California Amplifier planned on producing the satellite dish components using Gardiner's facilities until such time as a plant could be set up at California Amplifier's business location.

11. Kusatzky, in addition to his duties as controller, was responsible for preparing forecasts of the projected expenses concerning the Gardiner acquisition. His duties also included the monitoring and reporting of these expenses to California Amplifier management.

12. The timing of California Amplifier's acquisition of Gardiner coincided with a large increase in demand for Gardiner's products. In the rush to meet this demand, the cost of production at the Gardiner facilities escalated.

13. Although Company officials expected California Amplifier's expenses to increase as a result of Gardiner's operations, they were unsure of how high the expenses would be. As the fiscal year progressed, it became apparent to Kusatzky that expenses arising from Gardiner operations were far higher than he projected.

14. As explained below, Kusatzky engaged in accounting fraud to hide the escalating costs of the Gardiner operations. According to Kusatzky, he did so to hide his failure to accurately project expenses and to save his job.

B. Third Quarter Ended November 27, 1999

15. Beginning in November 1999, Kusatzky knowingly prepared false financial statements to make it appear that California Amplifier was more profitable than it actually was. To do this, Kusatzky, who had a significant role in preparing the Company's consolidated financial statements, input the financial statements of each of the Company's divisions into a spreadsheet on his desktop computer. Kusatzky had formulated the spreadsheet to automatically, but improperly, lower California Amplifier's validly and properly incurred expenses and accounts payable so that they would be more consistent with his earlier projections.

16. For the quarterly period ended November 27, 1999, Kusatzky used his desktop computer spreadsheet to improperly reduce the Company's validly incurred expenses and accounts payable by \$3.6 million. Kusatzky then provided these materially false and misleading financial statements, generated from his desktop spreadsheet, to California Amplifier's CFO, knowing that they would be publicly reported and thereafter incorporated into the Company's Form 10-Q filed with the Commission. Kusatzky did not, at this point in time, alter the company's general ledger. Kusatzky not only supplied the false information, he also reviewed the Form 10-Q before it was filed with the Commission.

17. By falsifying the Company's financial statements, Kusatzky caused California Amplifier to overstate pretax income by \$3.37 million (376%) and overstate shareholders' equity by \$3.05 million (14%). The overstatement of pretax income caused California Amplifier to report an after-tax profit of approximately \$1.58 million, concealing the fact that the Company had actually incurred an after-tax loss of \$572,000 for the quarter ended November 27, 1999.

C. The False Financials are Publicly Disclosed and Filed

18. After the market closed on December 8, 1999, California Amplifier publicly

reported the false financial results for the quarterly period ended November 27, 1999. The market responded favorably to the news that the Company reported a quarterly profit of \$1.58 million, and on December 9, 1999, California Amplifier's stock price opened at \$31.44 per share, \$4.44 (approximately 16%) over its closing price of \$27.00 per share on December 8, 1999. Thereafter, on January 11, 2000, the Company filed its Form 10-Q with the Commission, incorporating the false and misleading information previously provided by Kusatzky to the Company's CFO. Kusatzky knew that instead of turning an after-tax profit of \$1.58 million for the third quarter of fiscal year 2000, the Company had actually incurred an after-tax loss of \$572,000 for this quarter.

D. Kusatzky Sells All His Holdings of California Amplifier Stock

19. After the false financials were reported on December 8, 1999, Kusatzky took advantage of his material, non-public information that the Company's reported financial statements were materially false, misleading and concealed losses, by exercising all his vested options on California Amplifier stock, representing 15,000 shares of that stock. On January 6 and 20, 2000, Kusatzky sold all 15,000 shares of this California Amplifier stock for total proceeds of \$463,500. However, the true value of Kusatzky's 15,000 shares on January 6 and 20, 2000 was only approximately \$105,000. By selling his holdings of California Amplifier while in possession of material non-public information that the Company's financial statements were materially false and misleading, Kusatzky avoided losses of over \$350,000.

E. Fiscal Year Ended February 26, 2000

20. Prior to the closing of the fiscal 2000 year-end, Kusatzky realized that he could not continue to fabricate the financial statements using his desktop computer and his spreadsheet (as he had in the prior quarter). Kusatzky suspected that the Company's auditors would likely verify the figures on the fabricated financial statements generated via his computer spreadsheet with those on the general ledger and thereby discover his fraud. Kusatzky understood that in order to avoid detection by the auditors, he needed to falsify the Company's general ledger so that it matched the spreadsheet on his computer containing the false financial statements of the previous quarter.

21. Accordingly, on or about February 26, 2000, (just before the annual audit was to begin), Kusatzky made a large journal entry, reducing various cost of sales accounts (expense accounts) and accounts payable by approximately \$3.6 million each. By making this adjustment, the false financial statements for the third quarter on his computer now agreed with the general ledger.

22. In addition to the false journal entry of \$3.6 million (described above), during the fourth quarter of fiscal year 2000, Kusatzky further inflated income and equity through additional improper adjustments to the Company's general ledger. For example, Kusatzky increased a bank balance from Gardiner's Hong Kong operations from \$65,000 to \$265,000 and eliminated a valid accounts payable balance from the Hong Kong operations that totaled \$2.1 million.

23. During the audit of California Amplifier's financial statements for the year ended February 26, 2000, Kusatzky provided the falsified general ledger to the auditors. As the primary contact person with the auditors, Kusatzky also had constant interaction and communications with them. During these communications, Kusatzky omitted to state material information regarding the accuracy of the information contained in the general ledger.

24. Moreover, Kusatzky also provided false documents to the auditors, such as a falsified

accounts payable report to hide the improper \$2.1 million reduction of the accounts payable of Gardiner's Hong Kong operations. Kusatzky also misled California Amplifier's auditors as to the procedures governing the payment of the Hong Kong accounts payable, to avoid the auditors' detection of his false entry and the corresponding false report.

F. Kusatzky Continues Fabricating California Amplifier's Financial Statements During Fiscal Year 2001

25. Throughout the first three quarters of fiscal 2001, Kusatzky continued to use his computer spreadsheet to improperly decrease validly incurred expenses to falsify the Company's financial statements. As he did during the third quarter of fiscal 2000, Kusatzky formulated his spreadsheet to improperly lower California Amplifier's validly incurred expenses that were derived from the Company's general ledger.

G. First Quarter of Fiscal 2001: February 27, 2000 to May 27, 2000

26. For the first quarter of fiscal 2001, California Amplifier overstated pretax income by \$906,000 (38%). Through the use of his computer spreadsheet, Kusatzky generated financial statements that improperly lowered California Amplifier's validly incurred expenses by at least \$677,000, and was therefore responsible for at least \$677,000 (74%) of the \$906,000 total overstatement for this quarter. Kusatzky then provided these materially false and misleading financial statements, generated from his desktop spreadsheet, to California Amplifier's CFO, knowing that they would be publicly reported and thereafter incorporated into the Company's Form 10-Q filed with the Commission. The false financial statements were incorporated into the Company's Form 10-Q and filed with the Commission on July 10, 2000.

H. Second Quarter of Fiscal 2001: May 28, 2000 to August 26, 2000

27. During the second quarter of fiscal 2001, California Amplifier overstated pretax

income by \$1.29 million (58%). Through the use of his computer spreadsheet, Kusatzky generated financial statements that improperly lowered California Amplifier's validly incurred expenses by at least \$1.19 million and was therefore responsible for at least \$1.19 million (92%) of the \$1.29 million total overstatement of pretax income for this quarter. Kusatzky then provided these materially false and misleading financial statements, generated from his desktop spreadsheet, to California Amplifier's CFO knowing that they would be publicly reported and thereafter incorporated into the Company's Form 10-Q filed with the Commission. The false financial statements were incorporated into the Company's Form 10-Q and filed with the Commission on October 4, 2000.

I. Third Quarter of Fiscal 2001: August 27, 2000 to November 25, 2000

28. During the third quarter of fiscal 2001, California Amplifier overstated pretax income by \$688,000 (24%). Through the use of his computer spreadsheet, Kusatzky generated financial statements that improperly lowered California Amplifier's validly incurred expenses by at least \$80,000, and was therefore responsible for at least \$80,000 (11%) of the total \$688,000 overstatement for this quarter. Kusatzky then provided these materially false and misleading financial statements, generated from his desktop spreadsheet, to California Amplifier's CFO knowing that they would be publicly reported and thereafter incorporated into the Company's Form 10-Q filed with the Commission. The false financial statements were incorporated into the Company's Form 10-Q and filed with the Commission on January 8, 2001.

J. Kusatzky Confesses To His Fraud

29. On March 23, 2001, the morning that California Amplifier's auditors were scheduled to begin their annual audit, Kusatzky arrived early and left a written confession with Company officials. In his confession, Kusatzky admitted to hiding expenses and making the P&L look better.

The written confession stated:

I did an incredibly stupid thing. I don't know how to get out of it and I am panicking.

I hid expenses and made the P+L look better. This started in Nov. 99. I added a 2nd A/P person and when they caught up, I got hit with \$3.0 million in expenses and continued.

I am trying to figure out why I did it and I have come up with 2 reasons or excuses. The first being I was scared I was going to get fired. I love working here and I like the people I worked with. The second reason/excuse is that I wanted to fit in – "be one of the guys". I have always been shy and find it hard to fit in anywhere.

I didn't say they were good reasons/excuses and I told you I did an incredibly stupid thing.

I am too ashamed right now to stay around. I need to think. I know this is probably not even near enough but I am very very very sorry for what I did and there is really no excuse for what I did.

I also know that I have to face up for what I did but I just can't now. I will call you in about a week.

I left my badge, keys + phone on my desk.

Barry

Kusatzky's confession however failed to acknowledge the extent of his wrongdoing. In this regard, the confession failed to mention the amount of the expenses that he hid throughout the relevant period. In addition, Kusatzky's confession failed to mention that on January 6 and January 20, 2000, before his fraud was known, and with full knowledge that California Amplifier's income and equity were falsely inflated, Kusatzky sold all his 15,000 shares of California Amplifier stock and thereby avoided losses of approximately \$350,000.

K. California Amplifier Restates its Financial Statements

30. On March 29, 2001, California Amplifier issued a press release stating that its corporate controller had admitted -- in writing -- that he was responsible for concealing recorded expenses, thereby causing the company to overstate net income for fiscal year 2000. As a result of the revelation, NASDAQ halted trading in the company's stock. In addition, Arthur Andersen LLP,

California Amplifier's auditor, withdrew their report on the company's consolidated statements for the fiscal year ended February 26, 2000. After an internal investigation and review of its financial statements, the company confirmed that net income was misstated in each of the quarters of fiscal year 2000, and further revealed that net income for the first three quarters of fiscal year 2001 was also misstated. In addition, the investigation identified other inaccuracies in the company's financial statements for fiscal years 2000 and 2001. Thereafter, the company filed amendments to its Form 10-K for fiscal year 2000, and Forms 10-Q during fiscal years 2000 and 2001.

FIRST CLAIM FOR RELIEF

(For Fraud In Connection With the Purchase or Sale of Securities)

Violation of Section 10(b) of the Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]

31. Paragraphs 1 through 30 above are realleged and incorporated by reference herein.
32. Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder prohibit:
(a) employing devices, schemes, and artifices to defraud; (b) making untrue statements of material fact or omitting to state material facts necessary to make the statements not misleading; or (c) engaging in acts, practices, or a course of business which operates or would operate as a fraud and deceit upon any person in connection with the purchase or sale of any security.
33. Throughout the relevant events, Kusatzky, through commission or omission: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary to make the statements not misleading; or (c) engaged in acts, practices, or a course of business which operated, or was intended to operate, as a fraud and deceit upon the purchasers of California Amplifier stock.
34. Kusatzky used the means or instrumentalities of interstate commerce, the mails or the

facilities of a national securities exchange in undertaking the conduct described above.

Kusatzky's acts or omissions were made with scienter.

35. Kusatzky's acts or omissions occurred in connection with the purchase or sale of California Amplifier stock.

36. By reason of the foregoing allegations, Kusatzky violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

SECOND CLAIM FOR RELIEF

(For Selling California Amplifier Stock While In Possession of Material, Non-Public Information)

Violations of Section 17(a) of the Securities Act of 1933 [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange of 1934 [15 U.S.C. § 78(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]

37. Paragraphs 1 through 36 above are realleged and incorporated by reference herein.

38. As California Amplifier's controller, Kusatzky was an insider of California Amplifier and, thus, owed a fiduciary duty to California Amplifier and its shareholders. As a result, Kusatzky had a duty (i) not to trade while in possession of the material non-public information he obtained concerning the Company's financial condition and the accuracy of the Company's financial statements; and (ii) to safeguard the confidentiality of that information and not misuse it.

39. Kusatzky knew, or was reckless in not knowing, that the information that he possessed concerning California Amplifier was material and nonpublic.

40. In breach of his fiduciary duties, and for his personal benefit, Kusatzky sold 15,000 shares of California Amplifier stock while in possession of material non-public information concerning California Amplifier.

41. By reason of the foregoing, Kusatzky violated 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 [17 C.F.R. § 240.10b-5] thereunder.

THIRD CLAIM FOR RELIEF

(Knowingly Falsifying Books, Records, and Accounts of California Amplifier and Circumventing Internal Controls)

Violations of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)]

42. Paragraphs 1 through 41 above are realleged and incorporated by reference herein.
43. Section 13(b)(5) of the Exchange Act makes it illegal, among other things, for any person to knowingly circumvent an internal accounting control or falsify any book, record or account of a Section 12 registered issuer [15 U.S.C. § 78m(b)(5)].
44. As alleged above, Kusatzky knowingly falsified the books, records, and accounts of California Amplifier and circumvented the Company's internal controls.
45. Thus, Kusatzky violated Section 13(b)(5) of the Exchange Act. [15 U.S.C. § 78m(b)(5)].

FOURTH CLAIM FOR RELIEF

(Falsification of Accounting Records)

Violations of Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1]

46. Paragraphs 1 through 45 above are realleged and incorporated by reference herein.
47. Exchange Act Rule 13b2-1 makes it illegal for any person to, directly or indirectly, falsify or cause to be falsified, any book, record, or account of a company registered with the Commission under Section 12 of the Exchange Act [17 C.F.R. § 240.13b2-1].
48. As alleged above, by falsifying California Amplifier's books, records and accounts, Kusatzky violated Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

FIFTH CLAIM FOR RELIEF

(Representations In Connection With Preparation of Required Reports And Documents)

Violations of Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2]

49. Paragraphs 1 through 48 above are realleged and incorporated by reference herein.

50. Exchange Act Rule 13b2-2, among other things, makes it illegal for any officer of an issuer to, directly or indirectly, (a) make or cause to be made a materially false or misleading statement, or (b) omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with any audit of an issuer's financial statements or the preparation of any document or report required to be filed with the Commission [17 C.F.R. § 240.13b2-2].

51. Due to his position with, and responsibilities at, California Amplifier, Kusatzky was an officer of California Amplifier as defined under the Exchange Act and the Rules promulgated thereunder.

52. By presenting the falsified general ledger and other documents described herein to the Company's auditors (and omitting to state material information regarding the accuracy of the information contained in the general ledger), Kusatzky violated Exchange Act Rule 13b2-2 [17 C.F.R. §240.13b2-2].

SIXTH CLAIM FOR RELIEF

(Aiding and Abetting California Amplifier's Violations of the Exchange Act and Rules thereunder)

Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)]

53. Paragraphs 1 through 52 above are realleged and incorporated by reference herein.

54. Section 20(e) of the Exchange Act imposes liability upon those who knowingly aid and abet violations of the Exchange Act or Rules promulgated thereunder by providing substantial assistance to the person or persons committing such violations [15 U.S.C. §78t(e)].

55. California Amplifier violated Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13] by, among other things, filing false and misleading Form 10-Q reports with the Commission for the quarters ended November 27, 1999, May 27, 2000, August 26, 2000, November 25, 2000, and its annual report on Form 10-K for fiscal year 2000. By overstating earnings and equity and understating expenses, California Amplifier failed to prepare those reports in conformity with Generally Accepted Accounting Principles (GAAP).

56. By knowingly and/or recklessly falsifying California Amplifier's financial statements and corporate records that he knew, or was reckless in not knowing, would appear in the Company's financial statements and in filings with the Commission, Kusatzky provided substantial assistance to California Amplifier's failure to keep books, records and accounts that, in reasonable detail, accurately and fairly reflected Company transactions and disposition of assets.

57. By falsifying financial statements and corporate records that he knew, or was reckless in not knowing, would appear in the Company's financial statements and in filings with the Commission, Kusatzky provided substantial assistance to California Amplifier's failure to maintain a system of internal accounting controls that was sufficient to provide reasonable assurance that transactions were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

58. Thus, Kusatzky is liable for aiding and abetting California Amplifier's violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13 thereunder pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment:

I.

Permanently enjoining Kusatzky from violating, directly or indirectly, 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];

II.

Permanently enjoining Kusatzky from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

III.

Permanently enjoining Kusatzky from violating Section 13(b)(5) of the Exchange Act, and Exchange Act Rules 13b2-1 and 13b2-2 thereunder;

IV.

Permanently enjoining Kusatzky from aiding and abetting pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)] violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13];

V.

Barring Kusatzky, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], from acting as an officer or director of any issuer which has a class of securities registered pursuant to Exchange Act Section 12, or which is required to file reports pursuant to Exchange Act Section 15(d);

VI.

Ordering Kusatzky to disgorge any and all ill-gotten gains, including, but not limited, to all proceeds from the sale of California Amplifier stock as a result of his wrongful conduct, including prejudgment interest thereon, and to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Sections 21(d) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u-1];

VII.

Granting such other relief as the Court deems appropriate; and

VIII.

Retaining jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Dated: April 28, 2004
Washington, D.C.

Respectfully submitted,

Michael K. Lowman (Bar No. 460190)
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D.C. 20549-0911
202/942-7253 (Lowman)
202/942-9569 (fax)
Lowmanm@sec.gov

OF COUNSEL:

Paul R. Berger
Richard W. Grime
Gregory G. Faragasso
Robert A. Giallombardo
Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D.C. 20549