



securities offering obtained approximately \$5.1 million from at least 66 investors. Hubert A. Jeffreys, a/k/a Hugh Jeffreys (“Jeffreys”), Earthboard’s founder and president, made numerous materially false claims to entice investors to purchase Earthboard shares. Most significantly, Jeffreys and registered representatives Timothy F. Bell (“Bell”) and Tracy A. Edwards (“Edwards”) falsely told investors that Vans Inc., a Nasdaq-traded footwear company, planned to acquire Earthboard in a one-for-one share exchange that would provide each investor as much as twenty-four dollars for each dollar invested in Earthboard stock. In reality, Vans never had any dealings of any kind with Earthboard; Jeffreys fabricated the purported acquisition in order to fraudulently induce investors to purchase Earthboard stock.

2. Ultimately, Jeffreys misappropriated at least \$1.9 million of investor funds. He used the stock sale proceeds to buy a waterfront home in Newport Beach, three undeveloped plots in a residential community in Lake Havasu, Arizona, a house in his girlfriend’s name, a thirty-foot fishing boat and an accompanying mooring on Santa Catalina Island, and other valuable property. Bell, Edwards, and companies that they controlled received over \$200,000 from their involvement in this scheme.

3. By engaging in this scheme, the Defendants violated certain antifraud and registration provisions of the federal securities laws. Accordingly, the Commission seeks injunctive relief, disgorgement, and civil penalties to address this conduct and to prevent the Defendants from engaging in similar fraud in the future.

### **JURISDICTION AND VENUE**

4. The Commission brings this action pursuant to authority conferred by Section 20(b) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77t(a)], and Section 21(d) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u(d)]. The Commission asks the Court to permanently enjoin Defendants from violating the securities laws as alleged in this complaint. Unless enjoined, the Defendants will continue to violate these securities laws. The Commission also seeks a final judgment ordering Defendants to pay civil money penalties and for other relief pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 21(d) of the Exchange Act [15 U.S.C. § 77u(d)].

5. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 77u(e), and 78aa]. The Defendants, directly and indirectly, singly or in concert, have used the means or instrumentalities of transportation or communication in, or the instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged in this complaint.

6. Venue lies in this district pursuant to 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]. Certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the District of Columbia.

### **DEFENDANTS**

7. Earthboard Sports U.S.A., Inc., a manufacturer of all-terrain skateboards, is a California corporation with its principal place of business in Costa Mesa, California.

8. Hubert A. Jeffreys (a/k/a Hugh Jeffreys), age 38, resides in Lake Havasu, Arizona. Jeffreys incorporated Earthboard in California in August 1998. At all relevant times, Jeffreys served as president, CFO, and CEO of Earthboard.

9. Timothy F. Bell, age 42, resides in Leesburg, Virginia. At all relevant times, Bell was a registered representative who held National Association of Securities Dealers (“NASD”) Series 7 and 63 licenses. The NASD suspended Bell’s licenses in November 2001.

10. Tracy A. Edwards, age 37, resides in San Diego, California. Edwards was a registered representative who held NASD Series 6, 7, and 63 licenses. The NASD suspended Edwards’s Series 7 and 63 licenses in November 2001.

### **FACTS**

#### **Unlawful Unregistered Offering of Earthboard Shares**

11. From 1998 to 2003, Earthboard sold its stock for between \$1 and \$6 per share in a private placement offering to at least 66 investors. In total, Earthboard raised at least \$5.1 million through this private placement offering. The sales purportedly took place pursuant to an exemption from registration of the securities under Rule 506 of Regulation D of the Securities

Act. Rule 506 permits an issuer to sell unregistered securities to any accredited investor and up to 35 other unaccredited purchasers. However, Rule 502 of Regulation D required Earthboard to provide certain financial information to any of these 35 unaccredited purchasers.

12. At least 12 of the 66 investors who purchased Earthboard securities were not accredited investors as defined in Rule 501 of Regulation D. Twelve other purchasers either did not complete the sections of the subscription agreements that would disclose whether they were accredited investors or did not complete any subscription agreement or other paperwork revealing their financial status. Rule 502 required Earthboard to supply any of the individuals who were unaccredited investors with, at a minimum, an “audited” copy of “the issuer’s balance sheet, which shall be dated within 120 days of the start of the offering...” Although Earthboard and Jeffreys provided some Earthboard investors with a Private Placement Memorandum (“PPM”), they did not supply the unaccredited investors with the required audited financial statements.

13. Rule 506 also requires that all unaccredited investors have “such knowledge and experience of financial and business matters” to be capable of evaluating the merits and risks of the prospective investment or that Earthboard “reasonably believe[d] immediately prior to making any sale” the investor came “within this description.” Jeffreys and Earthboard also failed to comply with this requirement. Several individuals who purchased Earthboard private placement securities had limited experience investing in even publicly traded securities and never had invested in the privately traded securities sold in Earthboard’s private placement offering.

### **Fraudulent Offer and Sale of Earthboard Securities**

#### **The Scheme**

14. In 1998, Jeffreys recruited Bell and Edwards, two registered representatives, to solicit investors for Earthboard. From 1998 until November 2001, Bell and Edwards raised approximately \$2.4 million in sales of Earthboard stock.

15. Jeffreys, Bell, and Edwards used multiple false stories to induce investors to purchase Earthboard shares.

### **The Vans Misrepresentations**

16. Jeffreys, Bell, and Edwards told investors that Vans, a Nasdaq-traded footwear company, planned to acquire Earthboard in a one-for-one unrestricted share exchange that would generate liquidity and a financial windfall for Earthboard shareholders of as much as 24 times their original investment.

17. Jeffreys, acting as president, CFO, and CEO of Earthboard caused Earthboard to issue a series of news releases to existing and prospective investors touting the purported acquisition. Although the releases do not mention Vans by name, the first release dated December 14, 2001, states that Earthboard “[a]nnounced today that it has a definitive agreement to have 100% of the issued and outstanding common stock acquired by a publicly traded major footwear company (NASDAQ).” Two subsequent news releases, dated May 6 and May 24, 2002, gave updated information regarding the purported acquisition.

18. Jeffreys, Bell, and Edwards falsely told investors by telephone and in person that Vans was the company referred to in the releases.

19. Jeffreys told certain investors that the Vans acquisition was a “done deal” and that it was their “lucky day.” When some investors asked why Jeffreys was letting them in on the deal, he claimed that he was only selling “friends and family” shares to certain individuals. Jeffreys told one investor that he was selling shares to help his friends make money, claiming he “wasn’t a greedy man.”

20. Jeffreys pressured at least six of the investors to invest quickly by claiming that the Vans deal was nearly completed.

21. When the acquisition failed to materialize, Jeffreys falsely told investors verbally and through Earthboard news releases that negotiations had delayed the Vans deal. He told some investors that Earthboard intended to sue Vans for non-performance. On May 24, 2002, Earthboard distributed a news release to investors that falsely stated that a “deal point was to impose a fine on the acquisition party for not meeting time lines.”

22. In fact, Vans never had any merger, acquisition, or any other discussions, arrangements, or agreements with Earthboard.

### **The Jeep Misrepresentations**

23. On October 18, 2000, Jeffrey drafted a news release announcing that Earthboard signed a letter of intent with Jeep's exclusive worldwide licensing agent, Joester Loria Group, to distribute Earthboards as an accessory to the sixtieth year anniversary model of DaimlerChrysler Corporation's Jeep model.

24. Jeffrey distributed through Earthboard news releases describing Jeep's purported product placement agreement and attached it to many of the PPMs given to prospective investors in Earthboard.

25. In fact, Joester Loria, DaimlerChrysler, and Jeep never had such an arrangement with Earthboard.

### **The Wal-Mart Misrepresentations**

26. In November and December 1998, Jeffrey drafted news releases that Earthboard distributed to investors and prospective investors announcing that Earthboard had secured a \$5.5 million purchase order from Wal-Mart Stores, Inc. ("Wal-Mart").

27. Earthboard also distributed a PPM to certain prospective Earthboard investors in the offering. The Earthboard PPM specifically references the purported \$5.5 million Wal-Mart purchase order and often attached a news release containing the Wal-Mart claim.

28. Wal-Mart never placed a purchase order with Earthboard.

### **Other Misrepresentations**

29. Jeffrey falsely told at least five investors about "huge" purchase orders placed by unnamed companies located in Japan, Argentina, and Australia. Jeffrey has not identified any of these companies, and no such purchase orders were ever completed.

### **Jeffrey's Misappropriation of Earthboard's Stock Sale Proceeds**

30. Earthboard's PPM states that funds raised through the sale of Earthboard shares would be used to increase the company's manufacturing ability and for advertising, marketing expenses, and working capital.

31. Instead, during the course of the offering, Jeffrey transferred \$1,579,000 raised

through the sale of Earthboard securities from Earthboard's operating bank account to Earthboard's corporate counsel's California State Bar Client Trust Account. Two Earthboard investors also wired an additional \$200,000 directly to this account.

32. At Jeffrey's instruction, Earthboard's corporate counsel disbursed at least \$1,137,000 of these funds for Jeffrey's personal use.

33. Although Jeffrey told investors that Earthboard would use the proceeds for its operations, in reality, he used \$260,685 to pay off his home mortgage, \$129,197 to purchase another home in the name of his girlfriend, \$52,154 for a down-payment for three vacant lots in Lake Havasu, Arizona, \$100,000 to invest in another private placement, \$175,000 to buy a fishing boat, and \$100,000 for a boat mooring on Santa Catalina Island.

34. Jeffrey further directed Earthboard's corporate counsel to transfer \$200,000 into a client trust account in the name of a limited liability company incorporated in the name of Jeffrey's girlfriend. These funds were wired to a real estate escrow company and later deposited into Jeffrey's personal bank account. Earthboard's corporate counsel also had wired \$120,000 directly to Jeffrey's personal bank account.

35. In response to a Commission request, Jeffrey produced to the Commission minutes of fictitious board meetings that he fabricated in an effort to exculpate himself. Specifically, Jeffrey produced minutes of four supposed Earthboard Board of Director meetings from 2001 and 2002 in which the Board authorized Jeffrey to take approximately \$825,000 in loans from Earthboard that were not payable until 2005, to receive \$500,000 for licensing a trademark to Earthboard, and to invest \$100,000 in another company for Earthboard in his own name. The signature of Earthboard's Secretary appears on the second page of each of the four supposed minutes documents.

36. On February 9, 2004, years after the purported Board meetings, Jeffrey faxed Earthboard's Secretary several signature pages. Jeffrey told the Secretary he needed his signature to document past board meetings, but Jeffrey failed to fax him the corresponding Board minutes pages for each signature page.

37. Although Earthboard's Secretary did not see the actual minutes, he signed the

signature pages and faxed them back to Jeffreys.

38. Earthboard's Secretary never voted on or authorized Jeffreys to take any loans or compensation from Earthboard, and he never attended any meetings in which the Board discussed loans or compensation to Jeffreys.

39. In addition to misappropriating investor funds from Earthboard's corporate counsel's client trust account, Jeffreys used Earthboard's corporate bank accounts as his own, paying for meals, a \$36,000 truck, gas, marina fees, home improvement projects, and other personal items from these accounts.

40. From these accounts, which were funded almost exclusively by investors' deposits, Jeffreys paid \$445,896 as a down payment on a waterfront house he purchased in Newport Beach and transferred an additional \$124,521 to personal bank and brokerage accounts in his name. He also made cash withdrawals on a regular basis for unknown purposes and paid commissions to his stock sales agents from the accounts.

#### **Bell and Edwards**

41. In return for their solicitation of investors, Earthboard paid Bell and Edwards a commission of 10% of the money they raised.

42. Earthboard paid sales commissions of \$110,450 to Bell and \$35,740 to Edwards. Earthboard made additional commission payments of \$66,555 directly to Specialty Markets Group, Inc., a company incorporated by Bell and Edwards.

43. In sales pitches, Bell and Edwards told several investors that they themselves each owned shares in Earthboard when, in fact, they owned none.

#### **Examples of Investors**

##### **Jeffreys, Bell and Edwards Defraud Elderly Couple**

44. From 1996 to 1997, Bell and Edwards worked at Cruttenden and Roth Inc., a registered broker-dealer, where they inherited the account of an elderly, retired couple living on a fixed income.

45. Bell and Edwards introduced the elderly couple to Jeffreys, and the couple soon developed a close relationship with the three men, referring to Jeffreys as their "adopted son."

46. Jeffreys initially told the elderly couple that Earthboard soon would be “going public.” The elderly couple invested in Earthboard based on misrepresentations made by Jeffreys, Bell, and Edwards.

47. In early 2001, Bell and Edwards told the elderly couple about the supposed impending Vans acquisition, promising it was a “once in a lifetime opportunity,” and claimed the couple would receive between fourteen and sixteen dollars for each dollar they invested in Earthboard.

48. Bell and Edwards provided the couple with a written investment strategy that indicated a \$95,000 investment in Earthboard shares would be worth \$950,000 in six months and that they would have access to the money at that time.

49. Bell and Edwards also told the couple that they themselves each owned shares in Earthboard when, in fact, they owned none.

50. After the elderly couple had no more money to invest, in February 2001 Bell and Edwards arranged for them to secure a \$500,000 mortgage on their home, which the couple had previously owned free and clear. The couple invested a portion of these loan proceeds in Earthboard stock.

51. Bell and Edwards guaranteed the elderly couple, in a signed document, that they would personally pay any penalty the couple might incur for prepaying their new mortgage when they received their promised financial windfall from the Vans acquisition.

52. Of the \$500,000 borrowed by the couple under the mortgage agreement, the couple invested \$110,000 in Earthboard stock. From the remaining funds, a check for \$8,500 was made out to Bell personally, a \$15,000 check was written to Bell and Edwards’s company Specialty Markets Groups, a \$42,999.98 check was written to cash, three checks totaling \$60,000 were made out to three other companies in which Bell and Edwards were selling private placement shares.

53. When the acquisition failed to take place and payments on the mortgage came due, Jeffreys gave the elderly couple excuses for the delay and the couple eventually obtained an additional \$100,000 loan to cover temporarily the mortgage payments.

54. Ultimately, the elderly couple could not make their mortgage payments and had to sell their home.

55. In total, the elderly couple invested approximately \$465,000 in Earthboard.

56. Bell and Edwards also sold stock to the elderly couple's three adult children, making similar misrepresentations about the pending Vans acquisition and using various high-pressure sales tactics. The elderly couple's oldest daughter invested \$35,000 in Earthboard, their younger daughter invested \$10,000, and their son invested \$75,000. Bell told one of the daughters, in order to gain her trust, that "he was Christian . . . went to church . . . and wouldn't lie to her."

57. In addition to encouraging this family to invest a total of \$585,000 in Earthboard, Bell and Edwards also took from the elderly couple tens of thousands of dollars in personal loans that they never repaid. Between January 1999 and December 2001, the elderly couple wrote 70 checks totaling \$303,575 to Bell personally, 6 checks totaling \$22,500 to Edwards personally, and 13 checks totaling \$62,825 to Specialty Markets Group. Many of the checks written to Bell and Edwards personally contain notations of the names of different investments. The elderly couple also kept records that indicate that most of the checks they gave to Bell and Edwards were not loans but were for particular investments in designated stocks.

58. The couple paid an additional \$20,000 to Old Pro Sports, a company for which Bell and Edwards worked after the NASD had suspended them.

59. Numerous investors have reported that Bell and Edwards told them about Earthboard's supposedly imminent, one-for-one share exchange with Vans. Bell and Edwards also told prospective investors to expect windfall profits from the merger.

60. The elderly couple, their children, and the mortgage broker who handled the loan have stated Bell and Edwards actively assisted the couple in obtaining the mortgage.

#### **Ohio and Kentucky "Group of Seven"**

61. Although most investors paid \$1 per share, the price listed in Earthboard's PPM, seven investors in Ohio and Kentucky paid \$6 per share for a total investment of \$1,143,000 in Earthboard.

62. These investors state that they did not receive PPMs or any other materials describing the company prior to their investments. In addition, Jeffreys never told them that the other investors in the same offering had paid just \$1 per share.

63. Jeffreys held a conference call with several of the \$6 investors before they decided to invest, and explained that Earthboard was going to be acquired by “a publicly traded major footwear company.” At least some of the \$6 investors decided to invest because of Jeffreys’s claims that Earthboard would be acquired imminently by Vans.

**FIRST CLAIM FOR RELIEF**  
**Violation of Securities Act Section 5**  
**(Earthboard and Jeffreys)**

64. Paragraphs 1 through 63 are hereby realleged and incorporated by reference.

65. The private placement shares of Earthboard are securities within the meaning of Securities Act, Section 2(1) [15 U.S.C. § 77b(1)].

66. Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) & (c)] prohibit the sale of any security unless a registration statement is in effect with regard to that security, absent an exemption from that requirement.

67. Neither Earthboard nor Jeffreys filed a registration statement with the Commission, and none was in effect with regard to any public sale of the Earthboard securities at issue. Additionally no exemption claimed by these Defendants or any other exemption was applicable to the sale of the Earthboard securities.

68. By making use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer and sell securities, through the use or medium of a prospectus or otherwise, when no registration statement was in effect as to such securities, Defendants Earthboard and Jeffreys engaged in transactions, acts, practices, and courses of business that violate Section 5 of the Securities Act and unless enjoined will continue to violate Section 5 of the Securities Act.

## **SECOND CLAIM FOR RELIEF**

### **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder (Earthboard, Jeffreys, Bell, and Edwards)**

69. Paragraphs 1 through 68 are hereby realleged and incorporated by reference.

70. In connection with the purchase or sale of the Earthboard private placement securities, the Defendants made misrepresentations and omissions to investors and prospective investors regarding material facts, and engaged in other deceptive conduct designed to make the market for Earthboard securities appear enticing to investors and prospective investors.

71. By reason of the forgoing, Earthboard, Jeffreys, Bell, and Edwards, directly or indirectly, singly or in concert with others, knowingly or recklessly, by the use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or by use of the mails, in connection with the purchase or sale, of securities, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon the purchaser.

72. Based on the foregoing, Defendants have violated, and unless enjoined will continue to violate the provisions of 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].

## **THIRD CLAIM FOR RELIEF**

### **Violation of Section 17(a) of the Securities Act (Earthboard, Jeffreys, Bell, and Edwards)**

73. Paragraphs 1 through 72 are hereby realleged and incorporated by reference.

74. In connection with the offer or sale of the Earthboard private placement securities, the Defendants made misrepresentations and omissions to investors and prospective investors

regarding material facts, and engaged in other deceptive conduct designed to make the market for Earthboard securities appear enticing to investors and prospective investors.

75. By reason of the forgoing, Earthboard, Jeffrey, Bell, and Edwards, directly or indirectly, singly or in concert with others, knowingly or recklessly, by the use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or by use of the mails, in the offer or sale, and in connection with the purchase or sale, of securities, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon the purchaser.

76. Based on the foregoing, Defendants have violated, and unless enjoined will continue to violate the provisions of Section 17(a) of the Exchange Act [15 U.S.C. § 77q(a)].

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Securities and Exchange Commission respectfully requests that this Court enter a judgment:

I. Permanently enjoining Defendants Jeffrey, Bell, Edwards, and Earthboard, their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future 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].

II. Permanently enjoining Defendants Jeffrey and Earthboard, their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and (c)].

III. Ordering Defendants Jeffrey, Bell, Edwards, and Earthboard to disgorge an amount equal to the funds and benefits they obtained illegally as a result of the violations alleged

herein, plus prejudgment interest on that amount.

IV. Imposing the maximum civil penalties against Defendants Jeffreys, Bell, Edwards, and Earthboard pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

V. Entering an order barring Defendant Jeffreys from acting as an officer or director of any issuer required to file reports pursuant to Sections 12(b), 12(g), or 15(d) of the Exchange Act, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], as a result of his violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Section 5 of the Securities Act.

VI. Granting such other relief as this Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff demands a jury trial for any issue triable of right by a jury.

Respectfully submitted,

Dated: \_\_\_\_\_  
Washington, D. C.

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Russell D. Duncan (DC Bar #366888)  
Peter H. Bresnan (NY Bar #PB9168)  
John R. Stark (DC Bar #435187)  
N. Blair Vietmeyer (DC Bar #456885)  
Carolyn Kurr (DC Bar #455410)  
Rebecca Ebert (DC Bar #484538)  
Attorneys for Plaintiff  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549-0911  
Telephone: (202) 942-7303  
Facsimile: (202) 942-9569