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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

KENNETH W. HAWK,  
MICHAEL J. DELARGY, and  
THOMAS R. DE JONG,

Defendants.

Civil Action No. CV-N-05-0172-LRH-VPC

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“Commission”) alleges for its Complaint as follows:

**SUMMARY**

1. From at least 1999 through March 2001, defendants Kenneth W. Hawk (“Hawk”), Michael J. Delargy (“Delargy”), and Thomas R. de Jong (“de Jong”) (collectively, the “Defendants”), all former senior officers of iGo Corporation (“iGo” or the “Company”), engaged in fraudulent accounting practices that caused iGo to materially overstate its revenues by millions of dollars and materially understate its losses. Among other things, the Defendants collectively caused iGo to improperly recognize revenue on consignment sales, to improperly recognize revenue on products that were not shipped or that were shipped after the end of a fiscal

quarter, and to falsify inventory and shipping records to show the receipt and subsequent shipment of products not yet in inventory. Hawk and Delargy also signed false and misleading management representation letters to the Company's independent auditors.

2. The Defendants' fraudulent scheme created the illusion to investors that iGo had substantially more revenues and less net losses in fiscal years 1999 and 2000 than the Company had represented to its shareholders and to the public in filings with the Commission and in earnings releases. As a result of the Defendants' misconduct, iGo's stock traded at prices higher than it would have had investors known the truth about the Company's financial status.

3. By engaging in fraudulent and other improper conduct, the Defendants each violated Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5, 13b2-1, and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1, and 240.13b2-2]. Defendants also aided and abetted 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 Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a -1, and 240.13a-13]. Additionally, Hawk, pursuant to Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)], is liable as a controlling person of iGo for iGo's violations of Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), and 78m(b)(2)(B)] and Exchange Act Rules 10b-5, 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, and 240.13a-13].

4. Unless permanently restrained and enjoined, the Defendants are likely to commit similar violations of the federal securities laws in the future. They should be enjoined from doing so and ordered to pay appropriate civil money penalties. Defendants also should be ordered to disgorge any ill-gotten gain, including compensation or other remuneration, they

received as a result of their fraudulent conduct, with prejudgment interest thereon. In addition, Defendants should be prohibited from acting as officers or directors of any public company that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) [15 U.S.C. § 78o(d)] of the Exchange Act.

### **JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

6. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa]. The Defendants, directly and indirectly, used the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices, and course of business alleged in this Complaint.

7. Certain of the acts, practices, and courses of conduct constituting the violations of law alleged in the Complaint occurred within this judicial district and, therefore, venue is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

8. The Defendants, directly and indirectly, have engaged in, and unless permanently restrained and enjoined by this Court will continue to engage in, transactions, acts, practices, and courses of business that violate the antifraud, periodic reporting, books and records, internal controls, and/or lying to the auditors provisions of the federal securities laws, Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5, 13b2-1, and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1, and 240.13b2-2], or aid and abet violations of the periodic reporting, books and records, and/or internal controls provisions of the

federal securities laws, 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)(A) (B)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

### **DEFENDANTS**

9. Kenneth W. Hawk, age 41, was iGo's Chairman of the Board, Chief Executive Officer ("CEO") and President from its inception in 1993 until he resigned on or about March 26, 2001. As of December 31, 2000, Hawk was the largest single holder of iGo stock, owning 4,486,806 shares, or 19.3% of the Company's outstanding common stock.

10. Michael J. Delargy, age 41, was iGo's Chief Financial Officer ("CFO") from July 1999 to December 2000, and its Chief Operating Officer ("COO") from December 2000 until May 2001. Delargy is, and at all relevant times was, a certified public accountant ("CPA") with a cancelled license, due to non-renewal, in California. Delargy was an auditor with Peat Marwick from 1987 to 1992. As of December 31, 2000, Delargy owned 91,600 shares of iGo stock.

11. Thomas R. de Jong, age 40, served as iGo's Senior Vice President of Cellular and International Sales from March 2000 to November 2000, and its Senior Vice President of Sales from November 2000 until March 2001. De Jong was a Company officer throughout his employment with iGo. De Jong currently owns an insurance and financial services agency in Reno, Nevada, and holds National Association of Securities Dealers Series 6 and 63 licenses. As of December 31, 2000, de Jong owned 29,167 shares of iGo common stock.

### **RELEVANT ENTITY**

12. At all relevant times, iGo was a Delaware corporation with headquarters in Reno, Nevada that manufactured and distributed parts and accessories for mobile technology products

such as laptops, cellular phones, and wireless devices. IGo's common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the NASDAQ National Market System. During the relevant period, iGo's fiscal year ended on December 31. On September 4, 2002, Mobility Electronics, Inc. acquired iGo and the Company ceased to be a public company.

## **FACTS**

### **Improper Revenue Recognition in the Fourth Quarter of Fiscal Year 1999**

13. On December 31, 1999, the last day of the fiscal year, Hawk and Delargy caused iGo to materially overstate its fourth quarter and fiscal year 1999 revenue by approximately \$912,100, a 12.9% overstatement for the fourth quarter and a 4.5% overstatement for the fiscal year, by improperly recording revenue on two transactions. The overstated revenue was reported in the financial statements to iGo's 1999 Annual Report on Form 10-K, which was filed with the Commission on March 29, 2000, and in the Company's earnings release for that quarter and fiscal year, dated January 26, 2000. Hawk and Delargy prepared, reviewed, and signed the 1999 Form 10-K and drafted and approved the January 26, 2000 earnings release. Hawk and Delargy caused iGo to overstate its revenue in these public documents by improperly recording revenue on a consignment sale and by improperly recognizing a loan as a sale, all in contravention of Generally Accepted Accounting Principles ("GAAP"). The two transactions represented approximately 40% of iGo's total receivables as of December 31, 1999.

#### **Consignment Sale – The Laptop Lane Transaction**

14. On or about December 17, 1999, Hawk negotiated an agreement with Laptop Lane ("Laptop Lane") for the sale of iGo products. In a side-letter to this agreement signed by Hawk, Hawk gave Laptop Lane the right to unlimited "stock balancing." This transaction -- the

first of its kind involving a sale of iGo products to Laptop Lane -- in actuality was a consignment sale. The “stock balancing” right allowed Laptop Lane the guaranteed right to return any products that it ordered from iGo. As a result, Laptop Lane did not take title to, or assume the risk of loss on, the iGo products and it was not in conformity with GAAP for iGo to record revenue on the entire sale at year end.

15. On or about December 30, 1999, Hawk determined how much revenue iGo needed to make its fourth quarter revenue numbers and directed iGo personnel to ship \$474,933 worth of products to Laptop Lane. The products were shipped on December 31, 1999. Hawk knew this shipment would be recorded as a sale by iGo at the end of iGo’s fourth quarter of fiscal year 1999.

16. IGo’s former Vice President of Operations informed Delargy before the 1999 Form 10-K was filed on March 29, 2000, that Hawk had determined how much revenue iGo needed to make its fourth quarter 1999 numbers and instructed iGo personnel to ship that much product to Laptop Lane. Additionally, Delargy, as CFO, was required to review all transactions over \$50,000. Delargy, therefore, knew, or was reckless in not knowing, that revenue had been recorded improperly on the Laptop Lane transaction.

17. Hawk and Delargy knew, or were reckless in not knowing, that the improperly recorded revenue on the Laptop Lane consignment sale caused iGo to overstate its revenue for the fourth quarter of fiscal year 1999 by approximately 6.7%. They also knew, or were reckless in not knowing, that this overstatement caused iGo to include false and misleading financial statements in its 1999 Annual Report on Form 10-K that was filed with the Commission on March 29, 2000, and in its January 26, 2000 earnings release announcing financial results for the fourth quarter and 1999 fiscal year.

### Recognition of a Loan as a Sale – HardwareStreet.com Transaction

18. In late December 1999, Hawk negotiated the terms of a loan transaction with HardwareStreet.com (“HardwareStreet”). The transaction arose out of a debt that HardwareStreet owed to one of its major suppliers, Ingram Micro, Inc. (“Ingram”), that exceeded \$1 million. HardwareStreet wanted to complete the purchase of approximately \$437,000 worth of products from Ingram but Ingram refused to ship HardwareStreet any more products, and placed HardwareStreet’s account on hold until HardwareStreet paid off a portion of this debt. IGo agreed to loan HardwareStreet as much as \$500,000 so HardwareStreet could buy the products it had already ordered from Ingram. IGo agreed to send the funds directly to Ingram.

19. In return for this loan, HardwareStreet agreed to split with iGo the profit margin of approximately \$50,000 on the resale of the Ingram goods. IGo and HardwareStreet also agreed that iGo would not accept any returns from HardwareStreet’s customers, the ultimate purchasers. Additionally, under the terms of the agreement, HardwareStreet had 90 days or the earlier of the closing date of its next financing or merger to repay iGo, otherwise iGo had the option to convert the loan into HardwareStreet stock. Delargy sent an e-mail confirming the terms of the transaction to HardwareStreet on December 30, 1999, which the CEO of HardwareStreet signed and accepted.

20. Delargy and HardwareStreet approached Ingram with the proposed transaction. At Delargy’s direction, iGo sent Ingram \$500,000 on December 30, 1999. After receiving the funds from iGo, Ingram drop-shipped the goods directly to HardwareStreet’s customers on December 30 and 31, 2000. Ingram credited \$431,893.66 of the \$500,000 to HardwareStreet’s account to pay for these shipments. Ingram credited the remaining \$68,106.34 to iGo’s account with Ingram. After Ingram shipped the goods to HardwareStreet’s customers, HardwareStreet

billed its customers directly. HardwareStreet's customers were not aware of iGo's involvement in the transaction.

21. Upon sending the funds to Ingram, Hawk and Delargy caused iGo to improperly record the transaction in the fourth quarter of 1999 as a sale of \$437,254 worth of goods by iGo to HardwareStreet. IGo's invoice to HardwareStreet contained no information in the "PO number" and "Shipping Method" captions, information required by iGo's typical invoicing process, and listed one item with a unit price of \$437,274.82. IGo, however, had no one single item even remotely costing that much.

22. Under GAAP, four criteria must be met in order to recognize revenue on sales: persuasive evidence of an arrangement must exist; delivery has occurred or services have been rendered; the seller's price to the buyer is fixed or determinable, and collectibility is reasonably assured.

23. Under GAAP and iGo's customary business practices, persuasive evidence of an arrangement would have required iGo to have received a purchase order from HardwareStreet, defining the terms of the transaction, prior to the shipment of products or recognizing revenue on the sale of products. Instead, an arrangement already existed between Ingram and HardwareStreet prior to iGo's payment. HardwareStreet had already given Ingram its purchase orders for these products and Ingram accounted for the transaction as a sale to HardwareStreet, not to iGo. The invoice iGo sent to HardwareStreet is not sufficient evidence of an arrangement because it did not accurately reflect, or reflect at all, information customarily included on an iGo invoice. Moreover, iGo did not know the order numbers, products ordered, or customers at the time of the transaction. In addition, iGo never obtained title to the products, or assumed the risk of their loss, because pursuant to the prior agreement between HardwareStreet and Ingram,



Ingram shipped the goods directly to HardwareStreet's customers. Finally, collectibility was not reasonably ensured because Hawk and Delargy were aware that HardwareStreet was experiencing significant credit problems.

24. An Ingram employee who was familiar with the transaction from her conversations with Delargy stated in an email that iGo's purpose for the transaction was to show revenue on its books before the end of the fiscal year. Several other Ingram employees considered the transaction highly unusual because iGo, a non-bank and HardwareStreet competitor, was paying for goods HardwareStreet had already ordered.

25. Hawk and Delargy knew, or were reckless in not knowing, that the transaction involving HardwareStreet was not a sale and that iGo should not have recorded the amount of \$437,245 as revenue. Delargy decided on the accounting treatment for this transaction and discussed it with Hawk, who agreed with the treatment.

26. Hawk and Delargy knew, or were reckless in not knowing, that the improperly recorded revenue on the HardwareStreet loan caused iGo to overstate its revenue for the fourth quarter of fiscal 1999 by approximately 6.2%. They also knew, or were reckless in not knowing, that this overstatement caused iGo to include false and misleading financial statements in its 1999 Annual Report on Form 10-K that was filed with the Commission on March 29, 2000, and in its January 26, 2000 earnings release announcing financial result for the fourth quarter and fiscal year 1999. HardwareStreet never paid iGo the amount it was owed and iGo never availed itself of the option to convert the amount into HardwareStreet stock. Ultimately, iGo wrote off the entire amount on December 31, 2001.

**Hawk and Delargy Sign False and Misleading Management Representation Letters  
Provided to iGo's Independent Auditors**

27. Hawk and Delargy, as officers and/or directors, each signed false and misleading management representation letters, dated January 25, 2000 and March 23, 2000, which were provided to the Company's independent auditors, in connection with the fiscal year 1999 audit and the preparation of iGo's Form 10-K filed with the Commission on March 29, 2000.

28. Hawk and Delargy falsely represented, among other things, that the financial statements that iGo presented to the auditors were in conformity with GAAP, there was no fraud involving management or employees with significant roles in internal control, and the Company had disclosed all sales terms, including rights of return.

**Improper Revenue Recognition in the Third Quarter of Fiscal 2000**

29. Hawk, Delargy, and de Jong caused iGo to materially overstate its reported revenue for the third quarter of fiscal year 2000 in iGo's Form 10-Q filed with the Commission on November 14, 2000, and in iGo's October 25, 2000 earnings release announcing its results for the third quarter of fiscal year 2000. The defendants, collectively, caused this overstatement by prematurely and fraudulently recording revenue on a transaction with M.Block & Sons, Inc. ("M.Block") and improperly recognizing revenue on consignment sales with Laptop Lane. As a result, iGo overstated its third quarter revenue by approximately \$795,470 (7.6%) and understated its net loss by approximately \$478,472 (9.3%) in its third quarter Form 10-Q and October 25, 2000 earnings release.

30. Delargy signed the third quarter Form 10-Q and Hawk reviewed it. Hawk and Delargy drafted and approved the issuance of the earnings release. De Jong substantially participated in the preparation of these documents by supplying false and misleading information to iGo's accounting department regarding the M.Block transaction that he knew, or was reckless

in not knowing, would be incorporated into these documents, and/or by committing deceptive acts in furtherance of these defendants' fraudulent scheme to improperly book the M.Block transaction as a third quarter sale.

Premature and Fraudulent Revenue Recognition – the M.Block Transaction

31. At the end of the third quarter of fiscal year 2000, Hawk and Delargy pressured sales personnel to find a way to book a transaction with M.Block in the third quarter. Hawk and Delargy stated on a number of occasions that the transaction had to get booked in the third quarter. Hawk, Delargy, and de Jong caused iGo to prematurely recognize revenue of approximately \$688,111 on a sale to M.Block, the largest sale in Company history, in iGo's third quarter. As a result of this fraudulent conduct, iGo overstated its third quarter 2000 revenue by approximately 6.6%, and understated its quarterly loss by approximately 9.0%.

32. Delargy signed a purchase order from iGo to the vender ordering the products on September 29, 2000 third quarter. The purchase order indicated that the products were promised to M.Block on November 10, 2000, iGo's fourth quarter. IGo, however, invoiced the products to M.Block on September 29, 2000, iGo's third quarter.

33. Prior to the end of the third quarter of fiscal year 2000, M.Block did not take title to, or assume ownership of, the goods. M.Block provided no written purchase orders for the goods in the third quarter, only verbal estimates for the products it wanted to order from iGo. M.Block first provided hand-written purchase orders to iGo on October 4, 2000, through iGo's agent. The purchase orders, which Delargy reviewed on or about October 4, 2000, did not indicate the method of shipping, but indicated that additional terms were on the back of the purchase orders. M.Block then provided system-generated purchase orders dated October 25, 2000 to iGo's agent. These purchase orders expressly stated on the back that M.Block did not

accept title to the ordered products until they arrived at M.Block's warehouse and were inspected upon receipt. In light of the fact that the shipping terms section of the handwritten purchase orders was blank and referred to additional terms on the back, Delargy was at least reckless for not obtaining the shipping terms from M.Block before recording revenue on the transaction in the third quarter.

34. The products for the M.Block transaction arrived in bulk from Taiwan and Korea at various times in September and October 2000. Because the goods required additional assembly, Delargy and one of his subordinates, with Hawk's knowledge, arranged for the products to be sent to a third-party warehouse in Reno, where they were stored until November 11, 2000. During October 2000, the third-party warehouse employees, with Delargy and Hawk's knowledge, packaged the products for resale at the warehouse and built display racks for the products. iGo paid for shipping from the Far East, as well as storage and labor at the third-party warehouse.

35. De Jong, who arranged the M.Block transaction, discussed the sale and its terms with Hawk and Delargy. De Jong knew that M.Block never agreed to accept title to the products before they reached M.Block's warehouse in the fourth quarter of 2000. Still, he knew iGo had recorded the M.Block transaction as a sale in the third quarter. De Jong told M.Block employees specifically that iGo invoiced M.Block during the third quarter of 2000 so that iGo could make its quarterly numbers. De Jong also prepared or supervised the preparation of false and misleading sales documents which were provided to iGo's accounting department to improperly record the M.Block transaction during the third quarter of 2000.

36. Hawk, Delargy, and de Jong knew, or reckless in not knowing, that critical aspects of the transaction, including one or more of the following, demonstrated that iGo, not

M.Block, owned the goods as of the end of the third quarter of 2000: that contrary to iGo's practice not to record revenue on verbal purchase orders, M.Block had verbally ordered the goods from iGo during the third quarter of 2000; that M.Block had informed iGo that it did not want to take possession of the merchandise until November 2000; that M.Block had not agreed to accept title to the products before they reached M.Block's warehouse in November 2000; that iGo had agreed to pay for storage of the goods at a third party warehouse; that the goods were incomplete when they arrived at the third-party warehouse; that iGo was obligated to pay for the additional work that was required before the goods could be shipped to M.Block; and that iGo paid for shipping from the Far East.

37. Hawk, Delargy, and de Jong knew, or were reckless in not knowing, that iGo improperly recognized revenue on the M.Block transaction by recording a sale months before the customer had agreed to take delivery of, take title to, or assume the risk of ownership of, the products.

#### Consignment Sale with Laptop Lane

38. During the third quarter of 2000, pursuant to the "stock balancing" agreement with Laptop Lane discussed above, iGo shipped \$107,359 of product to a third-party warehouse in Reno, Nevada, where iGo stored these goods at its expense until Laptop Lane took delivery. Hawk and Delargy then caused iGo to improperly record revenue of \$107,359 on this transaction in the third quarter of 2000.

39. Hawk and Delargy knew, or were reckless in not knowing, that iGo had improperly recognized revenue on this consignment sale. As a result of Hawk and Delargy's fraudulent conduct, iGo overstated its third quarter 2000 revenue by approximately 1% and understated its net loss by less than 0.5%.

**Hawk and Delargy Sign False and Misleading Management Representation Letters  
Provided to iGo's Independent Auditors**

40. Hawk and Delargy, as officers and/or directors, each signed a false management representation letter, dated October 24, 2000, that iGo provided to its independent auditors in connection with their SAS-71 review for the third quarter of fiscal year 2000, and the preparation of iGo's Form 10-Q filed with the Commission for that period. The false representations in this letter were like those made in the management representation letters relating to the fiscal 1999 audit.

**Fraudulent Revenue Recognition During the Fourth Quarter of Fiscal Year 2000**

41. During the fourth quarter of 2000, Hawk pressured his sales personnel and other iGo employees to maintain sales growth and meet the fourth quarter revenue target of \$14 million he had promised to Wall Street analysts. Wall Street analysts were more concerned with iGo's revenue growth than any other measure of the Company's financial performance. IGo was about \$2 million short of Hawk's target as it neared the end of the fourth quarter. Thereafter, the Defendants engaged in a frenzied search for revenue to make up for this revenue gap.

42. Hawk actively participated in this frenzied search and directed others to produce revenue, even giving warehouse employees and non-sales executives and personnel the unusual responsibility for selling certain amounts of inventory to meet the quarterly revenue number.

43. Hawk, in an email to iGo's Chief Financial Officer ("CFO"), proposed selling iGo's used office furniture and other items that were not part of iGo's regular inventory, and recording the proceeds as operating revenue "as a last resort." In a December 2000 meeting that included Delargy and de Jong, Hawk said that if he had to sell his house and run the revenues through iGo to make the numbers, then that is what he would do. Finally, at a pep rally in

December 2000, to encourage the sales department to find a way to meet the Company's revenue goal, Hawk said that he would sell his daughter to make the numbers for the quarter.

44. During the fourth quarter, discussions at iGo executive meetings began to center around sending goods to warehouses and recording the shipments as sales to make quarterly numbers. Delargy was asked whether shipping goods to a warehouse, rather than to customers, would count as a sale for the quarter. Delargy stated that he would get back to the party asking him the question.

45. At a meeting in November or December 2000, Troy Taylor ("Taylor"), iGo's Director of Operations at the time, raised the prospect of the Company pre-announcing that it would fall short of its quarterly targets, as it was clear that iGo would not make its numbers. The other meeting attendees, including Hawk, Delargy, and de Jong, ridiculed Taylor's suggestion. Hawk and Delargy told Taylor that he did not understand the market and that iGo's reputation would never recover if they announced that the Company would miss its numbers.

46. As described below, on or about December 29, 2000, Taylor told Hawk that iGo was attempting to improperly record revenue by falsifying iGo's books and records to reflect the fact that non-existent inventory had been received into iGo's inventory and then shipped to customers at year-end. On or about December 30, 2000, Taylor told Delargy the same information, and also told Delargy that iGo was recording sales at year-end on products being shipped to warehouses, with the knowledge that large quantities of the products would be returned to iGo after the end of the quarter.

47. During the fourth quarter of fiscal year 2000, Hawk, Delargy and de Jong collectively caused iGo to improperly record revenue on consignment sales, sham transactions, product that was not shipped, and product that was shipped after the end of the fiscal year in

contravention of GAAP. By virtue of their fraudulent conduct, the Defendants caused iGo to overstate its revenue for the fourth quarter and fiscal year 2000 by \$1,176,000 (9.8% for the fourth quarter and 2.9% for the year).

#### Sham Transaction – Buchanan Enterprises

48. In the fourth quarter of fiscal year 2000, Hawk compiled a list of iGo's highest priced and slowest selling products in an e-mail which he sent to de Jong and Delargy on December 12, 2000 and urged de Jong to focus on selling these products.

49. At year-end, iGo shipped \$127,000 worth of these products to a third-party warehouse and on December 29, 2000, invoiced a fictional company named Buchanan Enterprises ("Buchanan"). Jerry Buchanan, de Jong's father-in-law, who had never done business with iGo before, did not give iGo a purchase order for the goods that he was purportedly to sell on eBay. Buchanan did not take title to the goods because de Jong granted Buchanan an unlimited right of return on all of the products.

50. In late January 2001, iGo shipped the products from the third-party warehouse to Jerry Buchanan. The products were stored in Buchanan's brother's garage and with Buchanan's mother. Buchanan made no effort to sell any of the merchandise, and he personally returned all of the unopened boxes of merchandise to iGo in March or April 2001, for full credit.

51. The Buchanan transaction was nothing more than a sham transaction de Jong had arranged, with Hawk's knowledge, in order to help iGo meet its revenue numbers for the fourth quarter of fiscal year 2000. De Jong told Hawk and Delargy (then COO) about the details of the Buchanan transaction late in the fourth quarter of 2000, including the fact that Jerry Buchanan was de Jong's father-in-law and that de Jong had given Buchanan the right to return products he was unable to sell.



52. Hawk, Delargy, and de Jong knew, or were reckless in not knowing, that the Buchanan transaction was a sham and did not meet the criteria for revenue recognition under GAAP. As a result of the Defendants' fraudulent conduct involving the Buchanan transaction, iGo improperly recorded \$127,000 in revenue in the final days of the fourth quarter of fiscal year 2000.

Use of a Distributor to Book Sales – Fry's Electronics

53. During the fourth quarter of fiscal year 2000, Hawk and de Jong attempted to complete a sale of \$273,767 of products to Fry's Electronics, Inc. ("Fry's"). Hawk and de Jong knew that Fry's refused to purchase any products from iGo before the end of 2000. In fact, Fry's informed iGo that it would not give iGo a purchase order for goods before mid to late January 2001, at the earliest.

54. Nevertheless, in order to record a sale of products to Fry's as fourth quarter 2000 revenue, de Jong, at Hawk's direction, enlisted de Jong's friend's company, Parrot Cellular, to act as a "distributor" for the purported Fry's transaction.

55. In furtherance of the fraudulent scheme, de Jong e-mailed a side-letter to Parrott Cellular on December 21, 2000, and Parrot Cellular agreed to accept the products on a consignment basis with the right to return the entire "order" if iGo was unable to sell the products to Fry's after 60 days. In addition, iGo agreed in the side-letter to store and insure the merchandise at an off-site or third party warehouse at iGo's expense until iGo received a purchase order from Fry's, at which time iGo would then package and ship the products to Fry's. iGo, through de Jong, provided Parrot Cellular with a list of products Fry's would be ordering and asked Parrot Cellular to fill out a purchase order for these goods and return it to iGo.

56. De Jong told Hawk and Delargy the terms of the purported transaction late in the fourth quarter of 2000, including that iGo gave Parrot Cellular a right of return and that Fry's was unwilling to place a written order for the goods with iGo in December 2000. This sale was considerably larger than any sale iGo had ever made to Parrot Cellular in the past.

57. On December 21, 29, and 30, 2000, iGo improperly recorded a total of \$273,767 as revenue from the "sale" of products to Parrott Cellular. In March 2001, Fry's informed iGo that it would not be purchasing any goods from iGo, and iGo subsequently brought the entire order back from the off-site warehouse and returned the products into its inventory.

58. Hawk, Delargy, and de Jong knew, or were reckless in not knowing, that this transaction did not meet the criteria for revenue recognition under GAAP. As a result of the Defendants' fraudulent conduct involving the Parrot Cellular transaction, iGo improperly recorded \$273,797 in revenue in the final days of the fourth quarter of fiscal year 2000.

#### Consignment Sale and Shipment of Non-Existent Inventory - TNT Sales

59. In order to fraudulently recognize revenue before the end of fiscal 2000, de Jong granted TNT Sales ("TNT") an unlimited right of return on the sale of \$512,200 worth of iGo products to TNT. Pursuant to this arrangement, at Hawk and de Jong's direction, iGo shipped unpackaged products to a third-party warehouse at the end of December 2000. In addition, Hawk directed that iGo record as having been shipped to the third-party warehouse products that iGo did not have in inventory.

60. During January 2001, iGo packaged and stored the products at the third-party warehouse. IGo held title to the products and paid for the shipping, packaging, and storage of the products at the third-party warehouse.

61. De Jong told Hawk and Delargy the terms of this transaction, including the guaranteed right of return, late in the fourth quarter of 2000. In addition, the minutes of an executive committee meeting on January 2, 2001, which Hawk, Delargy, and de Jong attended, indicate that as of January 2001, de Jong was still trying to get a purchase order from TNT specifying that TNT would accept the term “FOB Shipping Point” for a transaction that iGo had already recorded as a fourth quarter 2000 sale.

62. On December 28, 29, and 30, 2000, iGo improperly recorded a total of \$512,200 as revenue from the sale of products to TNT. This sale was exceptionally large compared to other sales to TNT in fiscal 2000. Hawk, Delargy, and de Jong knew, or were reckless in not knowing, that this transaction did not meet the criteria for revenue recognition under GAAP. As a result of the Defendants’ fraudulent conduct involving the TNT transaction, iGo improperly recorded \$512,200 in revenue in the final days of the fourth quarter of fiscal 2000.

Shipments after the Close of the Quarter – Bruce Goldie, Worldcell, and iScribe

63. On December 29, 2000, iGo invoiced, but did not ship until January 2001, \$24,110 of slow-moving merchandise to Bruce Goldie (“Goldie”), a liquidator of obsolete inventory. On January 4, 2001, Goldie picked up a portion of the goods, which were in a third-party warehouse, and another portion of the goods was drop-shipped directly to a Goldie customer from the third-party warehouse. IGo paid to ship the goods to the warehouse and for the storage in the warehouse. Goldie had not agreed to accept title to the product while it was at the third-party warehouse.

64. IGo also prematurely and fraudulently recorded revenue on transactions with Worldcell and iScribe on December 29 and 30, 2000, respectively, that were not in conformity

with GAAP. These two sales totaled approximately \$272,000 in revenue (Worldcell was \$141,189 and iScribe was \$130,768) and were shipped to customers in January 2001.

65. Hawk and Delargy knew, or were a reckless in not knowing, that the Goldie, Worldcell, and iScribe transactions did not meet the GAAP criteria to be recorded as revenue in the fourth quarter of 2000. Taylor had protested to Delargy at the end of December 2000, that products were being shipped to third-party warehouses, rather than to customers, with the knowledge that a large amount of the products would be returned after the end of the year. Also, Hawk and Delargy knew that Taylor had refused Hawk's directive at the end of the year to record sales on products iGo did not have in inventory and had not actually shipped. Based on Taylor's warnings, Hawk and Delargy were at least reckless in failing to review iGo's year-end sales cut-off, failing to determine which orders had been sent to third-party warehouses, and failing to determine whether customers had accepted title to products before the end of the year. These failures resulted in iGo improperly recording approximately \$291,522 in revenue on transactions with Goldie, Worldcell, and iScribe, as well as improperly recording approximately \$912,967 in revenue on transactions with Buchanan, Parrot Cellular, and TNT, in the final days of the fourth quarter of fiscal year 2000.

**Taylor Attempts to Halt the Defendants' Fraudulent Revenue Recognition Scheme**

66. On or about Friday, December 29, 2000, Taylor approached Hawk and others and showed them a list of back-ordered items for certain transactions (including TNT and Parrot Cellular). After Taylor questioned whether it was appropriate to record these items as received and shipped, Hawk told Taylor, "Those are good orders. Ship them." Hawk directed Taylor to falsify iGo's inventory and shipping records. Taylor protested, telling Hawk that several of the orders included products that were not present at iGo's warehouse and, therefore, could not

properly be recorded as being received into inventory. In fact, as Hawk knew, or should have known, goods for these orders would not be received into iGo's inventory before the end of the fiscal year because iGo did not receive inventory on Saturdays and Sundays. Hawk ordered Taylor to record the non-existent inventory into iGo's computer system as being received and to record the non-existent products as having been shipped to customers in order to cause iGo to record sales. When Taylor continued to protest and question the propriety of Hawk's directive, Hawk reiterated his instruction and told Taylor, "Don't be a chickenshit. Just ship them." Shortly after the incident, Hawk approached Taylor and told him, "Don't be such a boy scout."

67. Taylor refused to carry out Hawk's directive to falsify iGo's books and records and to circumvent its internal accounting controls. He resigned from iGo the following day, Saturday, December 30<sup>th</sup>. Following Taylor's refusal, Hawk directed one of Taylor's subordinates to engage in the same improper conduct that he had directed Taylor to engage in. That employee also refused and iGo terminated her employment approximately two weeks later. A third operations employee carried out Hawk's directive.

68. On or about December 30, 2000, Taylor left his resignation letter on his supervisor, Delargy's chair. Delargy, who was on vacation at the time, learned of Taylor's resignation, and on or about the same day, called Taylor and tried to convince him to return to iGo. Taylor told Delargy that he left iGo because: (1) Hawk had asked him to record products in inventory that iGo had not received so that iGo could record sales on those products; (2) iGo was trying to sell products that it did not physically have, and (3) iGo was shipping products to a third-party warehouse and recording these shipments as sales even though it was known that large quantities of the products would be returned to iGo after the end of the year.

69. By virtue of Taylor's warnings, Hawk and Delargy knew, or were reckless in not knowing, that iGo was improperly recording revenue, that iGo's books and records were being falsified, and its internal controls were being circumvented, so iGo could fraudulently record revenue in the last days of the fourth quarter of fiscal year 2000.

**Delargy and de Jong Mislead iGo's Independent Auditors Regarding the M.Block Transaction**

70. In January 2001, while performing their fiscal 2000 audit procedures, iGo's independent auditors sent an audit confirmation to M.Block, asking M.Block to confirm the sale as of September 30, 2000. In an e-mail dated January 24, 2001, de Jong requested that an M.Block employee confirm that the original ship date for the products was September 2000, even though M.Block did not receive the products until mid-November 2000. De Jong stated in the e-mail, "Any notations made on the form would raise a red-flag, delaying the completion of our audit." De Jong also called M.Block personnel, including the Controller, in an attempt to pressure them to return the confirmation without any notations so as to avoid "red flags."

71. The M.Block employees refused to confirm the receivable balance as of the end of the third quarter of fiscal year 2000, and instead noted on the audit confirmation that M.Block faxed to iGo's independent auditors on or about January 26, 2001, that the merchandise in question was ordered in October 2000, and shipped in November 2000.

72. In response to iGo's independent auditors' questions about the transaction, Delargy and de Jong told them that the M.Block transaction had been properly recorded in the third quarter of fiscal year 2000 because the M.Block sale was "FOB Shipping Point." This statement was false or misleading. In May 2002, after further examination by its independent auditors, iGo restated its financial results for this transaction by moving the transaction from the third quarter to the fourth quarter of fiscal 2000.

73. Based upon the forgoing, Delargy and de Jong, as officers of iGo, made materially false or misleading statements or omissions of material facts to iGo's auditors in connection with their audit and preparation of iGo's filings with the Commission.

**Materially False and Misleading Statements in Earnings Releases and Public Filings with the Commission in January and March 2001**

74. Hawk, Delargy, and de Jong caused iGo to issue a January 29, 2001 earnings release in which the Company overstated iGo's fourth quarter and fiscal year 2000 revenues by \$1,176,000. Hawk and Delargy drafted and/or reviewed the earnings release.

75. De Jong negotiated sham and consignment transactions, and gave customers guaranteed rights of return, in connection with fiscal year 2000 year-end transactions. He then caused his subordinates to prepare sales documents for iGo's accounting department that were used to record these fraudulent fourth quarter sales. By virtue of his conduct, de Jong substantially participated in the creation of the materially false and misleading January 29, 2001 earnings release by supplying false and misleading information that resulted in the Company reporting materially false and misleading financial results, and/or by committing deceptive acts in furtherance of the fraudulent scheme to record revenue at the end of the fourth quarter of fiscal 2000. By virtue of the conduct described above, Hawk, Delargy and de Jong knew, or were reckless in not knowing, that iGo's January 29, 2001 earnings release was materially false and misleading.

76. Hawk and Delargy caused iGo to issue a March 2, 2001 earnings release, in which the Company falsely and misleadingly stated that \$1,176,000 in fourth quarter 2000 transactions were being reversed and would be recorded in the first quarter of 2001. By virtue of the conduct described above, Hawk and Delargy, both of whom approved and/or reviewed the release, knew, or were reckless in not knowing, that this release included improperly recorded revenue from

December 2000 year-end transactions that were consignments and sham transactions. These defendants knew, or were reckless in not knowing, that the majority of this revenue could not be recorded in the first quarter of 2001. Following the issuance of this release, iGo's stock fell from \$1.16 to \$0.81, a 33% decrease.

77. Delargy caused iGo to issue a false and misleading press release on March 26, 2001, in which iGo revised its revenue figures and stated that of the \$1,176,000 previously recorded in the fourth quarter 2000, only one-third would be recorded in the first quarter of 2001 and the rest (approximately \$784,000) would not be recorded at all. This press release falsely and misleadingly stated that the revision was "based on recent events, including changes in customer purchasing decisions." By virtue of the conduct described above, Delargy, who helped draft and review the press release, knew, or was reckless in not knowing, that the statements about the reasons for the revision of iGo's revenues were false and misleading. The approximately \$784,000 represented the complete reversal of the Buchanan and Parrot Cellular transactions, and a portion of the TNT transaction. Delargy was aware that the revision was a result of iGo finally reversing these fraudulent fourth quarter transactions and not any recent changes in customer orders. Additionally, he was aware that the press release failed to disclose the fraudulent practices that had taken place at iGo, which had caused the Company to restate its revenue numbers in two were responsible for the corrective press releases. Following the announcement, iGo's stock fell to \$0.69, 8% lower than the previous day's closing price.

78. Hawk and Delargy also caused iGo to make false and misleading statements in its 2000 Annual Report on Form 10-K, filed with the Commission on March 29, 2001. Hawk and Delargy reviewed and/or signed this Form 10-K and knew, or were reckless in not knowing, that the Form 10-K included financial statements that reported overstated fourth quarter and annual



revenue for fiscal year 1999 because of the Laptop Lane and HardwareStreet transactions, and reported overstated third quarter revenue for fiscal year 2000 because of the M.Block transaction and the second Laptop Lane consignment.

79. De Jong substantially participated in the preparation of the Form 10-K. He supplied false and misleading information to iGo's auditors regarding the M.Block transaction for the purpose of causing the auditors to agree that the M.Block transaction should be recorded as a third quarter transactions in iGo's Form 10-K for fiscal year 2000. In addition, de Jong committed deceptive acts in furtherance of the defendant's fraudulent scheme in the third quarter of fiscal 2000 and the first quarter of fiscal 2001 to improperly book the M.Block transaction as a third quarter sale in the Form 10-K. De Jong also knew, or was reckless in not knowing, that the improperly recorded third quarter revenue from the M.Block transaction would be incorporated into the financial statements to iGo's Form 10-K for its fiscal year ended December 31, 2000.

#### **Hawk, Delargy, and de Jong Profit from the Fraudulent Scheme**

80. Hawk and Delargy received bonuses and stock option grants as a result of holding executive positions in fiscal year 1999. In addition, Delargy received a bonus and stock option grants as a result of holding an executive position in fiscal year 2000. De Jong received performance based compensation and/or commissions in fiscal year 2000, including commissions for fourth quarter transactions that were fraudulent and later reversed. Hawk and Delargy would not have received this compensation if the Company had not achieved its financial results due to the improperly recorded transactions described above. Hawk, Delargy, and de Jong also did not have any right to this compensation because during this period they were not acting in accordance with the duties expected of officers of a public company.

**FIRST CLAIM**  
**(Securities Fraud)**

**[Hawk, Delargy, and de Jong]**

81. Plaintiff realleges and incorporates by reference paragraphs 1 through 80 above.

82. Hawk, Delargy, and de Jong, directly or indirectly, by use of the means or instruments of interstate commerce, or of the mails, or of a facility of a national securities exchange, knowingly or recklessly: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of a material fact or omitted to state a material fact, necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon the purchasers of securities and upon other persons, in connection with the purchase or sale of a security.

83. As a result of the their conduct described above, Defendants engaged in securities fraud in violation Section 10(b) of the Exchange Act [15 U. S. C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240. 10b-5].

**SECOND CLAIM**  
**(Falsification of Books and Records and Circumvention of Internal Controls)**

**[Hawk, Delargy, and de Jong]**

84. Plaintiff realleges and incorporates by reference paragraphs 1 through 83 above.

85. Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] prohibits persons from knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account described in Section 13(b)(2) of the Exchange Act. Exchange Act Rule 13b2-1[17 C.F.R. § 240.13b2-1] prohibits

persons from directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act.

86. As a result of their conduct described above, Defendants knowingly falsified, or directly or indirectly caused to be falsified, iGo's books, records, and accounts and knowingly circumvented iGo's internal accounting controls in violation of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

**THIRD CLAIM**  
**(False or Misleading Statements to Auditors)**

**[Hawk, Delargy, and de Jong]**

87. Plaintiff realleges and incorporates by reference paragraphs 1 through 86 above.

88. Hawk, Delargy, and de Jong, all of whom were iGo officers and/or directors, made or caused to be made materially false or misleading statements or omissions of material fact to iGo's independent public accountants in connection with audits, reviews or examinations of iGo's financial statements, or the preparation of documents or reports required to be filed with the Commission.

89. As a result of their conduct described above, Defendants made materially false or misleading statements or omissions of material fact to iGo's auditors in violation of Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

**FOURTH CLAIM**  
**(Aiding and Abetting iGo's Reporting Violations)**

**[Hawk, Delargy, and de Jong]**

90. Plaintiff realleges and incorporates by reference paragraphs 1 through 89 above.

91. Section 13(a) of the Exchange Act [15 U.S.C. § 78(m)(a)] and Exchange Act Rules 13a-1 and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240 13a-13] require issuers of registered

securities to file with the Commission factually accurate annual and quarterly reports. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] provides that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

92. Based on the conduct described above, iGo violated Section 13(a) of the Exchange Act [15 U.S.C. § 78(m)(a)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13]. Hawk and Delargy prepared, reviewed, and/or signed iGo's Annual Reports on Form 10-K for fiscal years 1999 and 2000, and iGo's Form 10-Q for the third quarter of 2000, which they knew, should have known, or were reckless in not knowing, overstated revenue and understated losses for iGo. As described above, Hawk and Delargy knowingly provided substantial assistance to iGo in the commission of these violations. De Jong knew, should have known, or was reckless in not knowing, that iGo's Form 10-Q for the third quarter of 2000 and Form 10-K for fiscal year 2000 overstated revenue and understated losses for iGo. As described above, de Jong knowingly provided substantial assistance to iGo in the commission of these violations.

93. As a result of their conduct described above, pursuant to Section 20(e) of the Exchange Act [[15 U.S.C. § 78t(e)], Defendants aided and abetted iGo's violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

**FIFTH CLAIM**

**(Aiding and Abetting iGo's Books and Records and Internal Control Violations)**

**[Hawk, Delargy, and de Jong]**

94. Plaintiff realleges and incorporates by reference paragraphs 1 through 93 above.

95. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78(m)(2)(A)] requires public companies to make and keep books, records and accounts, which in reasonable detail, accurately and fairly reflect the company's transactions and disposition of its assets. Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78(m)(2)(B)] requires public companies, among other things, to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

96. Based on the conduct described above, iGo violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78(m)(2)(A) and 78(m)(2)(B)]. Hawk, Delargy, and de Jong knew, should have known, or were reckless in not knowing, that causing iGo to improperly recognize revenue would result in iGo failing to make and keep books, records, and accounts that accurately and fairly reflected iGo's transactions and disposition of its assets, and would result in iGo failing to maintain internal accounting controls sufficient to provide reasonable assurances that iGo's transactions were recorded as necessary to permit the preparation of financial statements in conformity with GAAP. Hawk, Delargy, and de Jong knowingly provided substantial assistance to iGo in the commission of these violations.

97. As a result of their conduct described above, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)], Defendants aided and abetted iGo's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78(m)(2)(B)].

**SIXTH CLAIM**  
**(Control Person Liability)**

**[Hawk]**

98. Plaintiff realleges and incorporates by reference paragraphs 1 through 97 above.

99. From 1993 through on or about March 26, 2001, defendant Hawk, directly or indirectly, was a control person of iGo for purposes of Section 20(a) of the Exchange Act [15 U.S.C. § 78t(a)].

100. Based on the conduct described above, from 1999 through 2001, iGo violated Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) and 78(m)(2)(B)] and Exchange Act Rules 10b-5, 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, and 240.13a-13].

101. As a control person of iGo during 1999 and through on or about March 26, 2001, defendant Hawk is liable with and to the same extent as iGo for iGo's violations of Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), and 78(m)(b)(2)(B)] and Exchange Act Rules 10b-5, 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, and 240.13a-13].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

I.

Make findings of fact and conclusions of law that the Defendants violated the provisions of the federal securities laws as alleged above.

## II.

Enter Orders

A. permanently restraining and enjoining Defendants from violating, directly or indirectly, Sections 10(b) and 13(b)(5) of the Exchange Act, and Exchange Act Rules 10b-5 and 13b2-1;

B. permanently restraining and enjoining Defendants from violating Exchange Act Rule 13b2-2;

C. permanently restraining and enjoining Defendants from aiding and abetting violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act;

D. permanently restraining and enjoining Defendants from aiding and abetting violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13.

## III.

Enter an Order requiring Defendants to disgorge, with prejudgment interest, all ill-gotten gains, including compensation and other remuneration they received, by virtue of the conduct alleged herein.

## IV.

Enter an Order imposing civil penalties on each of the Defendants for their unlawful acts pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

## V.

Enter an Order pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] prohibiting Defendants from acting as officers or directors of any issuer that has a class of

securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];

VI.

Grant any equitable relief that may be appropriate or necessary for the benefit of investors pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(2)];

VIII.

Retain 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, and

IX.

Grant such other relief as the Court may deem just and appropriate.

Dated: March 23, 2005

Respectfully submitted,

s/  
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\* Plaintiff's attorneys will move for admission pursuant to Local Rule IA 10-3.