UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,	)	
Plaintiff,	)	Electronically Filed
v.	)	Civil Case No.
	)	FILED: FEBRUARY 5, 2009
WACHOVIA SECURITIES, LLC	)	09CV743
	)	JUDGE KENDALL
Defendant.	)	MAGISTRATE JUDGE BROWN

COMPLAINT

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Plaintiff Securities and Exchange Commission ("Commission") alleges the following against Defendant Wachovia Securities, LLC ("Wachovia" or "Defendant"):

NATURE OF THE ACTION

1. Wachovia misled its customers about the fundamental nature and increasing risks associated with auction rate securities ("ARS") that it underwrote, marketed and sold. Wachovia and A.G. Edwards & Sons, Inc. ("A.G. Edwards"), whose broker-dealer operations were consolidated into Wachovia, misrepresented to its customers that ARS were safe, highly liquid investments comparable to cash or money market instruments. As a result, numerous customers purchased ARS using funds that they needed to remain available on a short-term basis.

2. Wachovia reinforced the perception of liquidity by committing it own capital to support ARS auctions for which it served as sole or lead broker-dealer to ensure that those auctions did not fail. Wachovia also routinely purchased ARS from A.G. Edwards' customers between auctions, a service it referred to as par daily liquidity. Wachovia's sales personnel, or Financial Advisors ("FAs"), did not, however, adequately disclose that: (1) auctions could fail, rendering customers' ARS holdings illiquid, (2) an auction's success may depend on a broker-

dealer, such as Wachovia, placing support bids in an auction, and (3) the par daily liquidity service offered to A.G. Edwards' customers could be withdrawn at any time.

3. In late 2007 and early 2008, Wachovia became aware of mounting evidence that the firm and its customers could no longer rely on the historical stability of the ARS market. Investor concerns about the creditworthiness of monoline insurance companies (who insured certain ARS), higher than normal ARS inventory levels at A.G. Edwards, and auction failures in certain segments of the ARS market indicated that the risk of auction failures had materially increased. Wachovia's FAs, nevertheless, continued to market ARS to its customers as highly liquid investments.

4. On February 13, 2008, the day after a significant number of auctions failed, Wachovia stopped providing par daily liquidity. On February 14, Wachovia followed the lead of other broker-dealers and stopped supporting auctions. Without broker-dealer support, ARS auctions failed and Wachovia's customers were left holding over $14 billion in illiquid ARS, without any practical means of redeeming, selling or deriving value from them.

5. By engaging in the conduct described in the Complaint, Wachovia violated Section 15(c) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78o(c)]. Accordingly, the Commission seeks: (a) entry of a permanent injunction prohibiting Wachovia from further violations of the relevant provision of the Exchange Act; (b) the imposition of a civil penalty against Wachovia; and (c) any other relief this Court deems necessary and appropriate under the circumstances.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to Sections 21(d)(1), 21(e), 21(f) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1), 78u(e), 78u(f) and 78aa].

7. Wachovia, directly or indirectly, has made use of the mails and means and instrumentalities of interstate commerce in connection with the acts, practices, and courses of business alleged herein.

8. Venue is appropriate in this District pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa]. The acts and transactions constituting the violations alleged herein occurred within the Northern District of Illinois and elsewhere, and Wachovia transacts business within the Northern District of Illinois and elsewhere.

DEFENDANT

9. Wachovia is a Delaware limited liability company with its headquarters in St. Louis, Missouri. It is a broker-dealer registered with the Commission pursuant to Section 15(b) of the Exchange Act and a registered investment adviser pursuant to Section 203(c) of the Investment Advisers Act of 1940. Wachovia offers a variety of financial advisory, brokerage, asset management and other services to millions of retail customers nationwide. Wachovia is a wholly owned subsidiary of Wachovia Securities Financial Holdings, LLC.

RELATED PARTY

10. A.G. Edwards is a division of Wachovia. Wachovia Corp. and A.G. Edwards, Inc. merged on October 1, 2007, and A.G. Edwards was consolidated into Wachovia's broker-dealer operations on January 1, 2008. A.G. Edwards' ARS trading desk and book of business remained separate from Wachovia's through February 2008. (The term "Wachovia" refers to the combined operations of Wachovia and A.G. Edwards, while the terms "Wachovia Legacy" and "A.G. Edwards" refer to their separate operations.)

FACTS

A. Description of ARS

11. ARS are bonds issued by municipalities, student loan entities, and corporations, or preferred stock issued by closed-end mutual funds, with interest rates or dividend yields that are periodically reset through auctions, typically held every seven, fourteen, twenty-eight or thirty-five days. ARS are usually issued with maturities of thirty years, but the maturities can range from five years to perpetuity.

12. The issuer of each auction rate security selects one or more broker-dealers to underwrite the offering and to manage the auction process. If the issuer selects more than one broker-dealer, then the issuer designates one of the broker-dealers as the lead broker-dealer. Other "contractual" broker-dealers may enter into agreements with the issuer to participate in the auctions. Only sole, lead or contractual (collectively "participating") broker-dealers can submit customer orders directly to the auction agent, who runs the auction.

13. ARS are auctioned at par. Before an auction, each participating broker-dealer accepts orders from its customers, as well as from non-participating broker-dealers, and then submits the orders to the auction agent. Customers bid the lowest interest rate or dividend they are willing to accept. The auction clears at the lowest rate bid that is sufficient to cover all of the securities for sale, and that rate applies to all of the securities in the auction until the next auction. If there are not enough bids to cover the securities for sale, the auction fails.

14. If an auction fails, the issuer pays a maximum "penalty" rate which is either a pre-determined flat rate or a rate set by a pre-determined formula described in the disclosure documents. The penalty rate may be higher or lower than the prior auction rates and the rates available for securities of comparable credit quality and duration.

15. Before February 2008, the sole or lead broker-dealer customarily placed "support" bids in each and every auction. If there were not enough bids placed by customers to purchase all of the securities sold in an auction, the sole or lead broker-dealer purchased the remaining ARS into its own inventory to prevent a failed auction.

B. Wachovia's Role in the ARS Market

16. Wachovia underwrote and acted as sole or lead broker-dealer on approximately ninety-six ARS offerings, totaling $3.5 billion. Wachovia also acted as a contractual broker-dealer in hundreds of other ARS auctions.

17. Wachovia followed industry practice of using its own capital to place support bids in every auction for which it acted as sole or lead broker-dealer. If Wachovia's support bid was "filled," or accepted, then Wachovia would purchase into its inventory the amount of ARS necessary to prevent a failed auction.

18. For customers who purchased ARS through accounts at A.G. Edwards, Wachovia provided a secondary market between auctions. The par daily liquidity service allowed customers to reduce their ARS holdings to cash by selling their ARS directly to A.G. Edwards' inventory without waiting to place an order on the next auction date. Wachovia did not place any limitations on par daily liquidity.

19. As of February 2008, Wachovia customers held over $14 billion in ARS in about 97,000 accounts. Wachovia's ARS customers were primarily retail customers rather than institutional customers.

C. Wachovia FAs Marketed ARS to Customers as Cash Alternatives or Money Market Instruments

20. Through its FAs, Wachovia marketed ARS to its customers as highly liquid securities that were alternatives to cash or money market funds. FAs described ARS to

customers as, among other things, "as good as cash," "safe, liquid and secure," "just like money market investments with a better return," "cash equivalents," "just like a seven day CD," and "highly liquid."

21. Certain customers told FAs that their money needed to remain readily available to meet short-term expenses, such as medical costs, down payments on homes, or retirement living expenses. FAs assured these customers that any investment in ARS would be liquid.

22. Some A.G. Edwards FAs represented to customers that A.G. Edwards would provide same-day liquidity and that customers could reduce their ARS holdings to cash without waiting for an auction to occur.

23. In some cases, Wachovia bank employees directed bank customers to FAs representing that the FAs could help them earn higher interest rates on their deposited funds. The FAs then sold ARS to the customers on the basis that ARS were, or were like, money market funds.

24. Wachovia Legacy and A.G. Edwards both created documents that disclosed their auction practices and procedures, but Wachovia did not take adequate steps to ensure that FAs were aware of the practices and procedures or that FAs provided an accurate description of the product to customers.

25. In a May 2007 document titled "Considerations and Disclosures for Investors in Auction Rate Securities," Wachovia Legacy disclosed that it may support auctions and that auctions may fail. Wachovia Legacy posted the document on its intranet site for its FAs, but did not post it on its public website. Other documents posted on the intranet site, however, treated ARS as money market securities.

26. In a 2006 document titled "Auction Practices and Procedures for Auction Rate

Securities" and in a September 2007 document titled "Auction Rate Securities: A Short Term Investment Alternative," A.G. Edwards disclosed that it may support auctions, that auctions may fail and that its offer to purchase ARS from its customers between auctions was discretionary. Both documents were posted on A.G. Edwards' intranet and on its public website.

27. A.G. Edwards downplayed the disclosures on its website by including ARS in the group of fixed income products that it described as "Cash (and Cash Alternatives)." Also included in this group were money market funds, treasury bills and government agency discount notes. ARS were the only product within this group that could not be redeemed on demand or did not mature within one year.

28. Wachovia did not take adequate steps to ensure that its FAs made disclosures to customers that were consistent with the disclosure documents. Nor did it take adequate steps to ensure that the FAs gave the disclosure documents to customers before, at the time of, or after the purchase of ARS, or to direct customers to A.G. Edwards' public website to view the available documents. Wachovia knew that most customers did not receive a prospectus because they typically purchased ARS in the secondary market rather than in the initial public offering of those securities.

29. Wachovia had no checklist or guidance for FAs to follow when selling ARS to ensure that customers understood the nature and risks of the product. Indeed, some FAs did not fully understand the risks associated with ARS and, thus, could not adequately communicate them to their customers.

30. Monthly account statements sent to Wachovia's customers categorized ARS as debt or equity securities, but some customers received conflicting portfolio analysis reports from their FAs. The reports, which the FAs used to provide customers with a portfolio overview,

categorized a customer's investments among such categories as cash equivalents, fixed income, equity and alternative investments. The software used to generate the reports automatically classified ARS under the "cash equivalents" asset category.

31. As a result, many customers did not receive an accurate description of or meaningful disclosures about ARS. They were not advised of one or more of the following: (a) that ARS were not like cash or money market funds; (b) that ARS were complex securities; (c) that an auction's success may depend on support from broker-dealers, like Wachovia; (d) that without broker-dealer support, auctions may fail; (e) that the penalty rate set for a failed auction may not be high enough to compensate the customer for loss of liquidity or to encourage the issuer to redeem the ARS; and (f) that Wachovia could withdraw par daily liquidity for A.G. Edwards accounts without notice, at any time.

D. Wachovia Knew that its FAs Marketed ARS to Customers As Cash Alternatives or Money Market Instruments Because that is how the Firm Described ARS to its FAs

32. Information posted on Wachovia Legacy's and A.G. Edwards' intranet sites for FAs characterized ARS as short-term, liquid investments. A "Money Market Securities" fact sheet posted on Wachovia Legacy's intranet site classified ARS as one of seven types of money market securities, including treasury bills and commercial paper, which were "short-term debt securities that mature in one year or less." Also posted on Wachovia Legacy's intranet site was an "Auction Rate Securities" fact sheet. While it disclosed the risk of auction failures, it also stated that, because ARS auctions "provide the opportunity for current investors to receive principal back at par, [ARS] are typically treated as money-market instruments despite their long final maturities."

33. A.G. Edwards' intranet site emphasized ARS' liquidity by categorizing ARS

within the group of fixed income products described as "Cash Investment Alternatives." The other products included in this group were money market funds, treasury bills, U.S. government agency discount notes, commercial paper and VRDOs. ARS were the only products in this group that could not be redeemed on demand or did not mature within a year.

34. Wachovia did not update these materials to reflect the evolving views of its Advisory Services Group. The Group's chief fixed income strategist wrote a report in August 2007, stating that ARS "offer yields that are competitive with short-term money market alternatives." On February 5, 2008, he wrote that ARS "should not be viewed as money market substitutes."

35. A.G. Edwards' ARS traders gave periodic presentations to FAs over A.G. Edwards' intranet site that stressed ARS liquidity. During these presentations, the traders described ARS as attractive alternatives to money market funds because ARS shared the same liquidity feature while providing a higher interest rate. They also presented A.G. Edwards' par daily liquidity service as a major selling point that distinguished it from other broker-dealers. In a recorded presentation that was eventually posted on A.G. Edwards' intranet site, one trader described the regularly-scheduled auctions as a "put feature" that ensured customer liquidity. The trader downplayed the risk of auction failures by stating that broker-dealers that were the lead managers for particular ARS were "required" to support the auctions – "it's our role, it's our duty to make sure that the auctions are covered and that our clients are granted liquidity."

36. The ARS traders for Wachovia Legacy's and A.G. Edwards' fixed income departments described ARS as highly liquid securities in daily communications with FAs. The traders were responsible for fielding hundreds of calls a day from FAs who had questions about various fixed income products including ARS. In these calls, the traders consistently described

ARS as short-term, liquid investments that were alternatives to cash and money market instruments. They downplayed the risk of auction failures as "extremely rare."

E. Wachovia Continued to Market ARS as Highly Liquid Despite Evidence that the Risk of Auction Failures Had Become Greater than Historical Experience

37. Wachovia continued to market ARS as highly liquid securities through mid-February 2008 even though its employees knew or were reckless in not knowing that the risk of auction failures had materially increased. By December 2007 or January 2008, Wachovia employees were aware of mounting evidence that put them on notice of decreasing customer demand for ARS, including: investor concerns about the creditworthiness of monoline insurance companies (who insured certain ARS), higher than normal ARS inventory at A.G. Edwards, interest rate trends in the ARS market, and the existence of auction failures.

38. Wachovia employees generally dismissed these events as isolated or cyclical issues that were unlikely to impact its retail ARS business, without meaningfully reviewing trends in its inventory, in auction interest rates or dividend rates, and in penalty rates for certain ARS products.

39. In late January or early February 2008, Wachovia senior managers realized that, in the midst of a credit crisis, other sole or lead broker-dealers might stop supporting auctions rather than continue to absorb excess ARS inventory, and knew or were reckless in not knowing that it could lead to widespread auction failures. Wachovia, therefore, did not give its customers current, complete and accurate information about increasing risks of investing in ARS.

1. Monoline Insurance Companies

40. Monoline insurance companies guarantee the timely payment of principal and interest payments if a bond issuer defaults its payment obligations. Beginning in about August 2007, monoline insurers were experiencing credit problems as a result of the subprime crisis

because they had insured mortgage-backed bonds. Their credit problems worsened in December 2007 and January 2008 when rating agencies placed certain insurers on negative credit watch and, in some cases, downgraded their ratings.

41. Wachovia Legacy's and A.G. Edwards' ARS traders knew that most of the municipal ARS sold were insured to achieve AAA ratings and that the insurers' credit problems could negatively impact municipal ARS' ratings. Indeed, A.G. Edwards' traders were aware that the auction rates for certain municipal ARS backed by troubled insurers were trending upwards as early as August 2007. The traders at both ARS desks, however, did not communicate any increased risks to FAs who asked whether there was reason for concern and, in some cases, downplayed the risks.

42. In contrast, Wachovia Legacy's Advisory Services Group issued a report in August 2007 in response to the monoline insurer issue that stated auction failures were possible given the "current turmoil in the global credit markets," but that they were "a low probability event." Wachovia Legacy's traders downplayed those concerns in some conversations with FAs.

2. Higher ARS Inventory Levels

43. A.G. Edwards' ARS trading desk maintained inventory in ARS to provide daily liquidity to customers and, if necessary, to support auctions for those ARS that A.G. Edwards acted as sole broker-dealer or lead manager. While there was no limit placed on the amount of ARS inventory that could be held, the desk had a $300 million inventory guideline for the five products it traded. If the total inventory exceeded $300 million on a given day, the ARS traders had to alert management, including the director of A.G. Edwards' fixed income department. In turn, the director reported inventory exceptions to his supervisor and to A.G. Edwards' CFO, controller and head of risk, via a daily capital report.

44. From August 21, 2007 through September 18, 2007, the ARS inventory alone exceeded the inventory guideline on 14 out of the 20 business days. Indeed, on September 11, ARS inventory exceeded the guideline by $114 million. The traders attributed the spike to customers' "flight to quality" – or to very safe investments such as treasury bills – as a result of the monoline insurers' credit problems.

45. From November 5, 2007 through November 18, 2007, the ARS inventory exceeded the $300 million guideline on all 10 business days. At the end of November 2007, A.G. Edwards' senior management decided to sell $100 million in inventory maintained by the ARS trading desk to Wachovia Legacy, which still maintained a separate book from A.G. Edwards. The sale of inventory was designed to free up capital to pay retention bonuses to FAs without exceeding capital guidelines.

46. Wachovia employees did not take any steps to determine whether the inventory spikes were indicative of any increased risk in the ARS business. The A.G. Edwards trading desk did not conduct any analysis, on its own or at the direction of management, to determine whether the inventory spikes were caused by filling support bids or meeting par daily liquidity requests until the end of January 2008, despite the risks to its balance sheet.

3. Interest Rate Trends

47. By late 2007, Wachovia knew that interest rates for certain ARS were trending upwards, indicating weakening customer demand. This trend was especially apparent when comparing the interest rates set in auctions against the corresponding maximum bid rates for student loan ARS and in the spread between interest rates for ARS and variable rate demand obligations.

48. The maximum bid rate is the highest bid that will be accepted by an auction agent.

If a bid exceeds the maximum bid rate, the auction agent will reject the bid. In November and December 2007, issuers of student loan ARS began to increase the maximum bid rates they would accept in auctions because the clearing rates in auctions were getting close to the maximum bid rates. Student loan ARS issuers were concerned that customer bids would exceed the maximum bid rates causing auctions to fail.

49. In mid-December, A.G. Edwards' ARS traders were aware that the interest rates set at auctions for student loan ARS were trending upwards. Additionally, they were aware that one of its large student loan ARS issuers was increasing its maximum bid rate "in response to recent rates in the market."

50. By early January 2008, A.G. Edwards' ARS traders were aware that the spread between interest rates for ARS and variable rate demand obligations ("VRDOs") was widening.

51. VRDOs are similar to ARS in that they are issued by municipalities and feature a short-term interest rate that is reset anywhere from a daily to a monthly basis. Unlike ARS, however, VRDOs have a "demand" or "put" feature that require issuers to redeem their bonds from holders at par plus accrued interest.

52. On January 4, 2008, A.G. Edwards' traders received an email from an A.G. Edwards investment banker noting that, while "[i]n recent years the spread between [ARS] and [VRDOs] has been minimal, with auction rate often out-performing variable rate," the spread had experienced a "dramatic widening" with ARS trading at 80 to 100 basis points higher than VRDO rates at year-end 2007.

4. Auction Failures

53. In August 2007, A.G. Edwards' fixed income department was aware that ARS issued by structured investment vehicles began to fail due to concerns about the subprime

securities underlying the vehicles. Wachovia did not market those ARS to its retail customers. Prior to August 2007, auction failures had been extremely rare.

54. In early November 2007, A.G. Edwards' ARS traders learned that an ARS not sold by A.G. Edwards failed two auctions in October and November.

55. In the last two weeks of January 2008, Wachovia employees learned that Lehman Brothers, Bank of America and Piper Jaffray had allowed ARS auctions to fail. Wachovia's senior management began closely monitoring developments in the ARS market after the Lehman auction failures.

56. By at least January 30, 2008, Wachovia knew that Lehman Brothers had failed one auction for Nuveen ARS, was exiting the ARS market and intended to stop supporting auctions in February. A risk manager who reported to the head of Wachovia's fixed income trading department considered that Lehman may have been influenced by potential balance sheet problems. He believed that if other broker-dealers had similar balance sheet problems, it could impact the ARS market.

57. Wachovia considered whether to step in as lead manager for Nuveen ARS and other Lehman-supported ARS, but concluded that there was limited financial upside to offset the potential balance sheet risk of supporting these ARS auctions. On January 30, a managing director at another broker-dealer owned by Wachovia Corp. wrote in an email that "filling in for Lehman . . . as an auction agent has very little upside for Wachovia. The retail desk is currently choking on this paper—I believe they are long approx $250mm or so that is not getting redistributed." The director of A.G. Edwards' fixed income trading department concurred with this assessment that there was little upside for filling in as auction agent for Lehman.

58. In a separate email also dated January 30, another employee of the same affiliated

broker-dealer analyzed the issues raised by Lehman's exit. He recognized that, if Lehman-supported auctions began to fail, it could "spark a chain reaction of auction failures across the entire retail market." This email was forwarded to the director of Wachovia's fixed income trading department, who then forwarded it to Wachovia's senior management.

59. Information available to Wachovia indicated that ARS supply exceeded demand and, therefore, auctions would fail without broker-dealer support—at a time when broker-dealer support was less certain than historical expectations. Wachovia's senior managers did not, however, consider whether to provide any additional information to Wachovia's ARS customers. Wachovia continued to market ARS as highly liquid securities into February 2008.

F. Wachovia Did Not Disclose to Customers Important Differences in Penalty ` Rates for Certain ARS Products

60. To the extent that Wachovia informed its customers about the possibility of auction failures, it downplayed the risk by stating that ARS had high, above market, penalty rates if an auction failed to compensate the holder for the lack of liquidity and to create incentives for the issuer to provide liquidity by redeeming the ARS. Wachovia did not disclose that, at least under market conditions in late 2007 and early 2008, certain ARS had low, below market, penalty rates.

61. Student loan ARS and preferred ARS generally had formulaic penalty rates that were determined by reference to certain market indices. Beginning in August 2007, these market indices dropped so low that the formulas for certain ARS resulted in penalty rates that were lower than the rates set at successful auctions and the market rates for instruments of similar credit quality and duration. Municipal ARS, in contrast, generally had fixed penalty rates that were, in some cases, well above market rates for instruments of similar credit quality and duration.

62. Prior to widespread auction failures in mid-February 2008, the ARS traders at Wachovia Legacy and A.G. Edwards did not know what the penalty rates were for many of the ARS products marketed and sold by Wachovia, including those ARS that Wachovia underwrote and for which it acted as sole or lead broker-dealer. The information was readily available to Wachovia, but the firm did not post penalty rates for its FAs to consider when selecting among various ARS to purchase on behalf of their customers.

63. Wachovia Legacy's Advisory Services Group published reports in August 2007 and on February 5, 2008 in which its chief fixed income strategist identified liquidity and credit risk as two major risks in the ARS market. He, nevertheless, viewed the risk of auction failure to be remote and pointed to penalty rates as an incentive for issuers to provide liquidity in the event of an auction failure. For example, the February 5 report stated that "the [penalty] rate is usually set high enough that there is an economic incentive for the issuer to redeem the shares." During a conference call for FAs on the day of the February 5 report, the Group discussed the differences between preferred ARS and municipal ARS, but did not inform FAs that penalty rates may be materially different.

64. Wachovia Legacy's ARS traders continued to represent through early February 2008 that penalty rates would be substantially higher than market rates in the event of an auction failure.

G. Wachovia's Decision to Stop Providing Par Daily Liquidity and to Stop Supporting Auctions

65. In response to other broker-dealers allowing auctions to fail in early February 2008, Wachovia's senior management decided to stop A.G. Edwards' par daily liquidity service on February 13, 2008. Before this, A.G. Edwards had never refused to provide daily liquidity in any circumstance, apart from a one-week suspension after the terrorist attacks on September 11,

2001.

66. On February 14, 2008, after more auctions failed and Wachovia's ARS inventory had grown significantly, Wachovia's senior management decided to stop placing support bids in auctions for those ARS for which Wachovia acted as lead manager or sole broker-dealer.

67. Shortly thereafter, the ARS market completely seized, and Wachovia's customers were unable to liquidate about $14 billion in ARS holdings.

CLAIM FOR RELIEF

Violation of Section 15(c)(1) of the Exchange Act

68. Paragraphs 1 through 67 are realleged and incorporated by reference as if set forth fully herein.

69. The Defendant made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, securities: (a) by means of a manipulative, deceptive, or other fraudulent device or contrivance, and (b) in connection with which Defendant engaged in a fraudulent, deceptive, or manipulative act or practice.

70. The Defendant acted recklessly.

71. By engaging in the foregoing conduct, the Defendant violated Section 15(c) of the Exchange Act [15 U.S.C. §78o(c)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant an Order of Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining Defendant and its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of the Order of Permanent Injunction, by personal service or otherwise, and each of them, from directly or indirectly engaging in violations of Section 15(c) of the Exchange Act [15 U.S.C. §78o(c)];

B. Issue an Order directing the Defendant to pay civil monetary penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)];

C. 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

D. Grant such other and further relief as this Court deems necessary and appropriate under the circumstances.

Dated: February 5, 2009

Respectfully submitted,

s/ Margaret Gembala Nelson

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