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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
NOV 21 2007  
CLERK, U.S. DISTRICT COURT  
By *[Signature]*  
Deputy

MADAWD LLC, a New York limited liability  
company, and JONJOR LLC, a New York limited  
liability company,

Plaintiffs,

vs.

ENERGYTEC, INC., a Nevada corporation,  
FRANK W COLE an individual and d/b/a as  
FRANK W COLE ENGINEERING,  
DON LAMBERT, DOROTHEA KREMPEIN,  
PAUL WILLINGHAM, ERIC BREWSTER,  
BEN T. BENEDUM, B. CHARLES SPRADLIN,  
and MASSOUD METGHALCHI,

Defendants.

Case **07 CV 1947**

16855

COMPLAINT

COMES NOW Madawd LLC, a New York limited liability company ("Plaintiff Madawd"), and Jonjor LLC, a New York limited liability company ("Plaintiff Jonjor" and collectively with Plaintiff Madawd, the "Plaintiffs"), and for their causes of action against the Defendants, Energytec, Inc., a Nevada corporation ("Defendant Energytec"), Frank W Cole ("Defendant Cole"), individually and doing business as Frank W Cole Engineering ("Defendant Cole Engineering"), Don Lambert ("Defendant Lambert"), Dorothea Krempein ("Defendant Krempein"), Paul Willingham ("Defendant Willingham"), Eric Brewster ("Defendant Brewster"), Ben T. Benedum ("Defendant Benedum"), B. Charles Spradlin ("Defendant Spradlin"), and Massoud Metghalchi ("Defendant Metghalchi") [hereinafter collectively referred to as the "Defendants"], allege and state as follows:

## JURISDICTION AND VENUE

The Plaintiffs' claims for relief are based on statutory laws and common law, as hereinafter more fully described.

1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §1332. The citizenship of each Plaintiff is completely diverse from the citizenship of each of the Defendants, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

2. This Court also has subject matter jurisdiction over this case pursuant to 28 U.S.C. §1331. The Plaintiffs are alleging violations of the Securities Exchange Act of 1934, as amended.

3. This Court has supplemental jurisdiction over all of the Plaintiffs' allegations made pursuant to the statutory laws and the common law of the State of Texas pursuant to 28 U.S.C. §1367. Each of the Plaintiffs' allegations under Texas law are so related to the Plaintiffs' allegations made within this Court's original jurisdiction pursuant to 28 U.S.C. § 1331 and §1332, that such allegations form part of the Plaintiffs' same case and controversy.

4. Venue of the United States District Court for the Northern District of Texas is proper pursuant to 28 U.S.C. §1391(b) because certain Defendants reside, or resided, in this district at the time that the allegations arose, and certain acts necessary to effectuate the violations which are claimed in this Complaint arose in this district.

## PARTIES

5. The Plaintiffs are New York limited liability companies with their principal places of business located in the City of New York, New York. The Plaintiffs each have a single member, who they share in common, who is a New York resident with an address located in the City of New York, New York. The Plaintiffs common single member, at the time of the Plaintiffs' investments,

had no prior knowledge of, or experience in, the oil and gas industry or in oil and gas investments.

6. Defendant Energytec is a Nevada corporation with its principal place of business located, at the time of the Plaintiffs' investments, at 14785 Preston Road, Suite 550, Dallas, TX 75254. Defendant Energytec is also herein referred to as the "Corporate Defendant."

7. Defendant Cole was, at the time of the Plaintiffs' investments, the Chairman of the Board of Directors, Chief Executive Officer and Chief Financial Officer of Defendant Energytec, and was a Texas resident with his residence located at 6130 Spring Valley, Dallas, TX 75254. Defendant Cole was also, at the time of the Plaintiffs' investment, upon information and belief, the owner and operator of Defendant Cole Engineering located in Dallas, Texas. Defendant Cole Engineering was, upon information and belief, at the time of the Plaintiffs' investment, located in Dallas, Texas. Upon information and belief, Defendant Cole, an individual, was the owner of, and conducted business as, Frank W Cole Engineering ("Defendant Cole Engineering").

8. Defendant Cole Engineering prepared engineering and evaluation reports of the oil and gas leases and oil wells owned and operated by the Defendants, including the engineering and evaluation reports of the leases and oil well interests purchased by the Plaintiffs, and which reports were also utilized by the Defendants as part of their promotional and sales material. Defendant Cole and Defendant Cole Engineering are also collectively referred to herein as the "Defendant Cole."

9. Defendant Lambert, at the time of the Plaintiffs' investments, was Executive Vice President and Chief Operating Officer of Defendant Energytec, and upon information and belief was a Texas resident residing at 14719 FM 986, Terrell, Texas 75160, with a United States Securities and Exchange Commission listed address of 14785 Preston Road, Suite 550, Dallas, TX 75254.

10. Defendant Krempein, at the time of the Plaintiffs' investments, was Vice

President-Finance and Chief Accounting Officer of Defendant Energytec, and upon information and belief, was a Texas resident residing at 5849 Pebblestone Lane, Plano, Collin County, Texas 75093, with a United States Securities and Exchange Commission listed address of 14785 Preston Road, Suite 550, Dallas, TX 75254.

11. Defendant Willingham is Vice President-Controller of Defendant Energytec and upon information and belief was, at the time of the Plaintiffs' investments, a Texas resident residing at 1170 Sorrenco Drive, Frisco, TX 75035, with a United States Securities and Exchange Commission listed address of 14785 Preston Road, Suite 550, Dallas, TX 75254.

12. Defendant Brewster, at the time of the Plaintiffs' investments, was a Director and Secretary of Defendant Energytec, and upon information and belief, was a Texas resident with his residence at 217 Santa Fe Trail, Waxahachie, Texas 75165.

13. Defendant Benedum, at the time of the Plaintiffs' investments, was a Director of Defendant Energytec, and upon information and belief, was an Oklahoma resident with a United States Securities and Exchange Commission listed address of First Fidelity Bank Building, Suite 200, 131 East Main Street, Norman, Oklahoma 73069.

14. Defendant Spradlin, at the time of the Plaintiffs' investments, was a Director of Defendant Energytec, and based upon information and belief, was a Texas resident with his residence located at 301 E. Main Street, Kilgore, Texas 75662.

15. Defendant Metghalchi, at the time of the Plaintiffs' investments, was a Director of Defendant Energytec, and based upon information and belief, was a Texas resident with his residence located at 22 Sugar Berry Circle, Houston, Texas 77024. Defendants Metghalchi, Cole, Lambert, Krempein, Brewster, Benedum, and Spradlin are collectively referred to herein as the

“Officer and Director Defendants.”

GENERAL ALLEGATIONS

16. The Plaintiffs hereby incorporate by reference paragraphs 1 through 15 of the Complaint and further state that the Defendants have been operating a scheme to defraud investors involving the offer and sale of unregistered securities, through unregistered broker-dealers, using the interstate mails and other means of interstate commerce in violation of federal and state securities laws. In furtherance of their scheme, and to aid in inducing the Plaintiffs to invest, the Defendants made oral and written false, misleading, and fraudulent statements to the Plaintiffs in violation of federal and state securities laws, state statutory law, and state common law, failed to file or filed misleading reports with the United States Securities and Exchange Commission, fraudulently concealed their actions from the Plaintiffs, unlawfully converted the Plaintiffs' investment funds, and breached their contract with the Plaintiffs.

17. In November 2005, the Corporate Defendant and the Officer and Director Defendants, either directly or through their agents, approached the Plaintiffs and offered investment opportunities whereby the Plaintiffs were offered the opportunity to purchase working interests in two oil investment schemes entitled “Income Program 211” and “Income Program 212” (the “Income Programs”).

18. The Income Programs each allegedly consisted of certain working interests in oil and gas leases owned by the Corporate Defendant, named “Hoffman-Bankhead,” and oil wells located on such property, numbered 230BD, 231BD, and 232BD, owned and operated by the Corporate Defendant in Titus County, Texas.

19. In connection with the offer to sell working interests in the Income Programs to the

Plaintiffs, the Corporate Defendant and the Officer and Director Defendants, either directly or indirectly through their agents, stated and represented to the Plaintiffs:

- (a) that the Plaintiffs were being offered the opportunity to purchase "Units" in Defendant Energytec's Income Program 211, at \$7,000 per Unit, and in Defendant Energytec's Income Program 212, at \$7,000 per Unit;
- (b) that the Plaintiffs' purchase of 16 Units for \$112,000 in Income Program 211 would constitute the purchase of an undivided 4.5% working interest in the Hoffman-Bankhead leases, and the related three oil wells numbered 230BD, 231BD, and 232BD, and that the Plaintiffs' purchase of 16 Units for \$112,000 in Income Program 212 would also constitute the purchase of an additional undivided 4.5% working interest in the Hoffman-Bankhead leases, and the related three oil wells numbered 230BD, 231BD, and 232BD;
- (c) that upon receipt of the Plaintiffs' investment funds, Defendant Energytec would prepare an Assignment of Oil and Gas Lease for the Plaintiffs in their respective Income Program wells (the "Assignments"), and that Defendant Energytec would record such Assignments with the appropriate county clerk;
- (d) that the Hoffman-Bankhead wells numbered 230BD, 231BD, and 232BD should produce similar amounts of oil as near and adjoining properties' wells which had purportedly produced over 225,000 barrels of oil per well;
- (e) that the Plaintiffs' 4.5% working interests in the three oil wells of Income Program 211 would return a combined projected net operating income of \$3,240 per month, and that the Plaintiffs' 4.5% working interests in the three

oil wells of Income Program 212 would also return a combined projected net operating income of \$3,240 per month ; and

(f) that checks would be issued to the Plaintiffs beginning in mid-April 2006.

20. Based on the representations and statements made by the Corporate Defendant and the Officer and Director Defendants, either directly or through their agents, Plaintiff Madawd purchased 16 Units of Income Program 211 and Plaintiff Jonjor purchased 16 Units of Income Program 212 by entering into contracts titled "Purchase Agreement" in November 2005, and Plaintiff Madawd made a payment of \$112,000 in November 2005, and Plaintiff Jonjor made a payment of \$112,000 in November, 2005, to Defendant Energytec; thereby fulfilling the Plaintiffs' payment obligations under the Purchase Agreements.

21. By executing the Purchase Agreement contracts between the Plaintiffs and the Corporate Defendant, the Defendants sold, and the Plaintiffs purchased a "security," as defined in the Securities Act of the State of Texas, the Securities Exchange Act of 1934, and by investing money, with other investors, with the expectation of receiving profits based solely on the efforts of the Corporate Defendant and the Officer and Director Defendants regarding the Hoffman-Bankhead wells of the Income Programs.

22. Contrary to the Corporate Defendant's and the Officer and Director Defendants' representations and statements to the Plaintiffs, and contrary to the terms of the Purchase Agreements, the Plaintiffs did not begin to receive payments based on their working interests in the Income Programs beginning in mid-April 2006. Instead, the Plaintiffs began to receive written material from the Corporate Defendant and the Officer and Director Defendants, or their agents, containing representations and statements which concealed the Defendants' fraudulent activities

from the Plaintiffs, and lulled the Plaintiffs into believing that, although no returns on their investments were being paid, their investments were secure and that the Plaintiffs would eventually receive either the promised returns on their investments as previously represented by the Corporate Defendant and the Officer and Director Defendants, or that the Plaintiffs would receive a refund of their investments, the amount of which was to be determined by Defendant Energytec after the year end 2006, and which would be calculated according to the Corporate Defendant's "final rescission/refund plan." In the months subsequent to the year end 2006, when the final rescission/refund plan failed to provide any rescission or refund, it became apparent to the Plaintiffs that the Defendants had defrauded the Plaintiffs and had violated federal and state securities laws and other laws.

23. On information and belief, the Plaintiffs allege that the material misrepresentations and false statements made by the Corporate Defendant and the Officer and Director Defendants were known by them to be false, misleading, and incorrect, and were stated to the Plaintiffs in order to induce the Plaintiffs to enter into the two Income Program investments, and to pay the amounts represented in the Purchase Agreements. Specifically, the Plaintiffs allege that the Corporate Defendant and the Officer and Director Defendants, either directly or through their agents, made the following false statements:

- (a) that the Corporate Defendant and Officer and Director Defendants, after receipt of investment funds from the Plaintiffs, would assign the contracted for working interests in the Hoffman-Bankhead oil and gas leases and oil wells of the Income Programs to the Plaintiffs;
- (b) that the Hoffman-Bankhead oil wells of Income Program 211 and Income Program



- 212 were to be drilled and were to be producing oil wells;
- (c) that the Hoffman-Bankhead wells numbered 230BD, 231BD, and 232BD should produce similar amounts of oil as the adjoining properties' wells which were represented to have purportedly produced over 225,000 barrels of oil per well;
  - (d) that the Plaintiffs' 4.5% working interests in the three oil wells of Income Program 211, and the Plaintiffs' 4.5% working interests in the three oil wells of Income Program 212 would each return a combined projected net operating income of approximately \$3,240 per month;
  - (e) that checks consisting of returns on the Plaintiffs' investments in the Income Programs would be issued to the Plaintiffs beginning in mid-April 2006;
  - (f) that Plaintiffs' investment funds would be used to purchase interests in the Hoffman-Bankhead wells or would be used as operational funds in the alleged Income Programs; and
  - (g) that the Corporate Defendant would refund the Plaintiffs' investment funds under the terms of the Corporate Defendant's "final rescission/refund plan."

24. The statements made by the Corporate Defendant, the Officer and Director Defendants, and their agents, as alleged in paragraph 23, were false for the following reasons:

- (a) contrary to the representations made to the Plaintiffs by the Corporate Defendant and Officer and Director Defendants, the Corporate Defendant and Officer and Director Defendants did not assign the contracted for working interests in the Hoffman-Bankhead oil wells of the Income Program 211 or Income Program 212 to the Plaintiffs;

- (b) contrary to the representations made to the Plaintiffs by the Corporate Defendant and Officer and Director Defendants, the oil wells in which the Plaintiffs were allegedly investing were not to be drilled and have not been drilled to date;
- (c) contrary to the representations made to the Plaintiffs by the Corporate Defendant and Officer and Director Defendants, the Hoffman-Bankhead wells numbered 230BD, 231BD, and 232BD, if drilled and operated would not and did not produce similar amounts of oil as the adjoining properties which have allegedly, according to the Defendants and their agents, purportedly produced over 225,000 barrels of oil per well;
- (d) contrary to the representations made to the Plaintiffs by the Corporate Defendant and Officer and Director Defendants, the Plaintiffs' 4.5% working interests in the three oil wells of Income Program 211, and the Plaintiffs' 4.5% working interests in the three oil wells of Income Program 212, did not each return a combined projected net operating income of approximately \$3,240 per month, nor have the Plaintiffs received any return on their investments or refund of their investments in any amount;
- (e) contrary to the representations made to the Plaintiffs by the Corporate Defendant and Officer and Director Defendants, checks consisting of returns on the Plaintiffs' investments in the Income Programs were not issued to the Plaintiffs beginning in mid-April 2006, and no returns or refunds on the Plaintiffs' investments have been received at all by check or any other method of payment;
- (f) contrary to the representations made to the Plaintiffs by the Corporate Defendant and

Officer and Director Defendants, the funds from the Plaintiffs' investments were not used to purchase working interests in the Hoffman-Bankhead wells, nor were such funds used as operational funds in the alleged Income Programs. Upon information and belief, the Plaintiffs' investment funds were converted for other uses, used to fund the Defendants' "ponzi" scheme, or, if any such funds remain, are being controlled by, and held solely for the benefit of the Corporate Defendant and the Officer and Director Defendants to the hostile exclusion of the Plaintiffs; and

- (g) contrary to the representations made, and to the materials and information sent, to the Plaintiffs by the Corporate Defendant and Officer and Director Defendants, the Corporate Defendant did not refund the Plaintiffs' investment funds under the terms of the Corporate Defendant's "final rescission/refund plan," and upon information and belief, no such "final rescission/refund plan" was actually created or implemented by the Corporate Defendant as represented to the Plaintiffs.

25. The Corporate Defendant and the Officer and Director Defendants, and their agents, made misleading statements, and omissions of material facts which were necessary in order to make the statements which the Defendants made not misleading to the Plaintiffs, including, but not limited to, the following:

- (a) the Corporate Defendant and the Officer and Director Defendants omitted to reveal to the Plaintiffs that, upon information and belief, the Defendant Energytec was not going to assign any working interests in the oil wells which comprise the alleged Income Programs to the Plaintiffs;
- (b) the Corporate Defendant and the Officer and Director Defendants misled the

Plaintiffs by making verbal and written statements, including those in the Purchase Agreement, stating that the Plaintiffs' investment funds would be used to purchase working interests in oil wells in Income Program 211 and Income Program 212. The Corporate Defendant and the Officer and Director Defendants omitted to reveal, and continue to omit to reveal, to the Plaintiffs that the Plaintiffs' investment funds were not to be used to purchase working interests in such wells or would not be used as operational funds in the alleged Income Programs;

- (c) the Corporate Defendant and the Officer and Director Defendants misled the Plaintiffs by making verbal and written statements, including those in the Purchase Agreement and in a program evaluation report written by Defendant Cole and used as promotional material by the Corporate Defendant and the Officer and Director Defendants, to believe that the Hoffman-Bankhead oil wells were to be producing oil wells, which had the same high capacity of other nearby oil wells;
- (d) the Corporate Defendant and the Officer and Director Defendants omitted to state, and continue to omit to reveal, that the oil wells in which the Plaintiffs invested were either not drilled, not to be drilled, never drilled, were not to be producing at all, or were not producing the amounts of oil and revenue that the Corporate Defendant and the Officer and Director Defendants claimed that the wells would produce;
- (e) the Corporate Defendant and the Officer and Director Defendants misled the Plaintiffs, and fraudulently concealed their wrongs committed upon the Plaintiffs, by making verbal statements to the Plaintiffs or to their agents, and in written materials mailed to the Plaintiffs, describing a final rescission/refund plan, and showing the

Hoffman-Bankhead wells' status as "in process," that the Plaintiffs' investments were secure, and that either the Plaintiffs would receive returns on their investments in accordance with the statements previously made by the Corporate Defendant and the Officer and Director Defendants, or that the Plaintiffs would receive the promised returns on their investment.

- (f) the Corporate Defendant and the Officer and Director Defendants misled the Plaintiffs by establishing a scheme involving an interstate telephone hotline which was alleged by the Defendants to provide truthful and accurate information to the Plaintiffs regarding their investments, yet contrarily provided inaccurate and false information regarding the status of the Income Programs' oil wells and Plaintiffs' investments, and which fraudulently concealed the Defendants' fraudulent acts committed upon the Plaintiffs and lulled the Plaintiffs into believing that their investments were secure and that the Plaintiffs would receive the returns on their investments as promised by the Defendants or that the Plaintiffs would receive a refund of their investment funds;
- (g) the Corporate Defendant and the Officer and Director Defendants omitted to state, that, upon information and belief, such Defendants had, and have, no intention of returning or refunding the Plaintiffs' investment funds;
- (h) the Corporate Defendant and the Officer and Director Defendants omitted to state that the "Units" which the Plaintiffs purchased were "securities" under federal securities laws and under the laws of the states of the Defendants' and the Plaintiffs' residences, and were not registered, or were improperly registered, with the

Defendants' or the Plaintiffs' state securities commission or with the United States Securities and Exchange Commission;

- (i) the Corporate Defendant and the Officer and Director Defendants omitted to state that the Corporate Defendant the Officer and Director Defendants, and any agents used in the offer and sale of such unregistered securities, were not brokers registered to sell securities in the Plaintiffs' or the Defendants' residence states, nor with the United States Securities and Exchange Commission, and that such agents were receiving commissions based on the sale of such securities;
- (j) the Corporate Defendant and the Officer and Director Defendants omitted to state that agents of the Corporate Defendant and the Officer and Director Defendants offering and selling such unregistered securities were not registered to sell securities pursuant to federal law or the state laws of the Defendants' or the Plaintiffs' residences, and that such agents were selling such securities for compensation with the knowledge of, or under the control of, the Corporate Defendant and the Officer and Director Defendants;
- (k) the Corporate Defendant and the Officer and Director Defendants omitted to state any of the material risks of an investment in Income Program 211 or Income Program 212 or in the related Hoffman-Bankhead wells to the Plaintiffs;
- (l) the Corporate Defendant the Officer and Director Defendants, and their agents failed to determine whether either Plaintiff was an accredited investor pursuant to the Securities Act of 1933, as amended, as defined in Rule 501(a) of Regulation D promulgated thereunder; and

- (m) the Corporate Defendant and the Officer and Director Defendants omitted to provide material information to the Plaintiffs which is required to be disclosed to the Plaintiffs by the Defendants and their agents pursuant to the securities laws of the Plaintiffs' and the Defendants' residences and pursuant to the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended.

26. Defendant Energytec has brought a civil action against Defendant Cole, Defendant Energytec's former executive secretary and bookkeeper, and various unnamed unregistered broker-dealers in the United States District Court for the Northern District of Texas, Dallas Division, 3:06-CV-0933-L, *Energytec, Inc. v. Frank W. Cole and Josephine Jackson* (consolidated with 3:06-CV-0871-L, *Energytec, Inc. v. Philip M. Proctor, et al.*). The aforementioned civil lawsuit contains dissimilar parties and causes of action, but related factual issues to this matter, and in its Complaint in such case, Defendant Energytec describes, and judicially admits to, the "ponzi" scheme which it perpetrated on oil well working interest owners such as the Plaintiffs. In such Complaint, Defendant Energytec alleges against Defendant Cole, *inter alia*, violations of the federal securities laws, fraud, and conversion, and upon its information and belief, claims as factual statements the following::

- (a) that Defendant Cole, while acting as Chairman, Chief Executive Officer and Chief Financial Officer of Defendant Energytec, operated "a scheme to defraud investors, falsify records of Energytec, file false reports with federal and state agencies, and/or waste the corporate assets of Energytec;"
- (b) that Defendant Cole, while acting as Chairman, Chief Executive Officer and Chief Financial Officer of Defendant Energytec, "retained numerous unlicensed individuals to act as brokers to solicit and sell working interests in oil and gas properties owned

by [Defendant] Energytec and/or stock in Energytec to investors, and caused Energytec to pay undisclosed and illegal commissions to these unlicensed individuals" fees of over seven million dollars (\$7,000,000) to such unregistered individuals, and such fees were kept hidden by falsifying corporate records and making false statements on documents filed with the United States Securities and Exchange Commission to hide the same;

- (c) that Defendant Cole, while acting as Chairman, Chief Executive Officer and Chief Financial Officer of Defendant Energytec, made false statements on filings with the United States Securities and Exchange Administration relating to the "accredited investor" status of purchasers of working interests in oil wells when no such "accredited investor" status was in fact verified by Defendant Cole (the "accredited investor" status of the present Plaintiffs was never determined by the Defendants); and that Defendant Cole filed false reports with the United States Securities and Exchange Commission relating to the commissions paid to unregistered brokers for their participation in the offer and sale of its common stock and/or working interests in wells;
- (d) that Defendant Cole, while acting as Chairman, Chief Executive Officer and Chief Financial Officer of Defendant Energytec, purposefully or negligently created false oil well projections of the properties owned by Defendant Energytec and used such projections to secure investments in income programs such as the one in which the present Plaintiffs invested;
- (e) that Defendant Cole, while acting as Chairman, Chief Executive Officer and Chief



Financial Officer of Defendant Energytec, effectively ran a "ponzi" scheme with such income programs, fraudulently paying out advance returns to certain investors based on false oil production projections created by Defendant Cole, and "did not disclose to purchasers of the working interests that the excess payments received by them would have to be recouped by Energytec out of the future production from the oil properties;" and

- (f) that Defendant Cole, while acting as Chairman, Chief Executive Officer and Chief Financial Officer of Defendant Energytec, improperly operated Defendant Energytec's properties causing regulatory and permit issues with the agency governing oil well production and operations in Texas, the Texas Railroad Commission, participated in the laundering and removal of restrictive stock legends in violation of the federal securities laws, improperly pledged oil and gas properties owned by Defendant Energytec and converted funds, and made numerous misrepresentations to the public in its public filings with the United States Securities and Exchange Commission.

27. Through the statements made in its Complaint in the above referenced Northern District of Texas civil action relating to the fiduciary breaches and fraudulent acts of its Chief Executive Officer, Defendant Energytec has effectively judicially admitted that, through its Chief Executive Officer, Defendant Energytec has committed the acts described in paragraph 26 above against the Plaintiffs in this action.

28. Because of such admission, Defendant Energytec is therefore liable to the Plaintiffs on such a theory of judicial admission, and accordingly, the Defendants are liable for the same acts and

wrongdoings to the Plaintiffs based upon theories of control person liability, respondeat superior, and agency for the damages that Plaintiffs sustained because of the actions asserted against Defendant Cole in paragraph 26 above.

#### CAUSE OF ACTION I

##### Fraud in the Offer or Sale of Securities under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 Thereunder

29. The Plaintiffs hereby incorporate by reference the allegations contained in paragraphs 1 through 28 above, and further allege:

30. The Corporate Defendant and the Officer and Director Defendants, by engaging in the conduct described in the preceding paragraphs above, directly, indirectly, or through persons they controlled, offered to sell or sold unregistered securities, by the use of the means or instruments of transportation or communication in interstate commerce or of the mails and by means of documents and of oral communication, which included untrue statements of material facts or omitted to state material facts necessary in order to make the statements made in light of the circumstances under which they were made, not misleading. Thereafter, the Defendants fraudulently concealed, and continue to conceal, the fraudulent acts and other wrongs committed upon the Plaintiffs by the Defendants.

31. By reason of the foregoing, the Corporate Defendant and the Officer and Director Defendants directly, indirectly or through persons they controlled, violated, and are subject to liability under Section 10(b) and Section 20 of the Securities Exchange Act of 1934 [15 U.S.C. §78j(b) and §78t], and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

32. The Corporate Defendant and the Officer and Director Defendants, by engaging in the

conduct described in the preceding paragraphs above, directly, indirectly, or through persons they controlled, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce, or of the mails, with scienter,

- (a) employed, devised, and perpetrated, schemes or artifices to defraud;
- (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon the Plaintiffs.

33. By reason of the foregoing, the Corporate Defendant and the Officer and Director Defendants directly, indirectly or through persons they controlled, violated and are subject to liability under Section 10(b) and Section 20 of the Securities Exchange Act of 1934 [15 U.S.C. §78j(b) and §78t], and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

## CAUSE OF ACTION II

### Offers and Sales of Securities by Unregistered Brokers

34. The Plaintiffs hereby incorporate by reference all the allegations contained in paragraphs 1 through 33 above, and further allege:

35. The Corporate Defendant and the Officer and Director Defendants, engaged in the conduct described in the preceding paragraphs above, directly, indirectly, or through persons they controlled, by the use of the means or instrumentalities of interstate commerce, or of the mails, induced, attempted to induce, or sold securities, or sold securities through their control of, brokers not registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended [15 U.S.C.

§78o].

36. By reason of the foregoing, the Corporate Defendant and the Officer and Director Defendants directly, indirectly or through persons they controlled, violated, and are subject to liability under Section 15 and Section 20 of the Securities Exchange Act of 1934, as amended [15 U.S.C. §78o and §78t].

### CAUSE OF ACTION III

#### Violation of the Registration Provisions of the Securities Act of the State of Texas

37. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 36 above, and further allege:

38. The investment opportunities set forth in the preceding paragraphs above constitute a "security" under the Securities Act of the State of Texas (the "Texas Act") Section 4(a).

39. Section 7(a)(1) of Texas Act provides that "[N]o dealer or agent shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subsection B or by Coordination under subsection C of this Section 7 and except those which come within the classes enumerated in Section 5 or Section 6 of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner;..."

40. The oil well interest securities were not registered pursuant to Section 7 of the Texas Act prior to the offer and sale of the securities by the Corporate Defendant and the Officer and Director Defendants, or their agents, to the Plaintiffs. The securities were not exempt from registration pursuant to Section 5 or Section 6 of the Texas Act.

41. Because of the foregoing, the Corporate Defendant and the Officer and Director

Defendants are liable to the Plaintiffs pursuant to Section 33(A), (D), and (F) of the Texas Act.

#### CAUSE OF ACTION IV

##### Violations of the Anti-Fraud Provisions of the Securities Act of the State of Texas

42. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 41, and further allege:

43. Section 33(A)(2) of the Texas Act provides that “[a] person who offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person buying the security from him, who may sue either at law or in equity for rescission, or for damages if the buyer no longer owns the security.”

44. The allegations as set forth and described in the preceding paragraphs above detail the various material misrepresentations, omissions, and practices employed by the Corporate Defendant and the Officer and Director Defendants and their agents with respect to the offer and sale of the oil well interest securities. The Corporate Defendant and Officer and Director Defendants directly or indirectly through their agents violated the anti-fraud provisions of Section 33(A)(2) of the Texas Act.

45. Because of the foregoing, the Corporate Defendant and the Officer and Director Defendants are liable to the Plaintiffs pursuant to Section 33(A)(2), (D), and (F) of the Texas Act.

#### CAUSE OF ACTION V

##### Violations of the Broker Registration Requirements of the Securities Act of the State of Texas

46. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1

through 45, and further allege:

47. Section 12(A) of the Texas Act provides that “[e]xcept as provided in Section 5 of this Act, no person, firm, corporation or dealer shall, directly or through agents, offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act provided. No agent shall, in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as an agent for that particular registered dealer under the provisions of this Act.”

48. Neither the Corporate Defendant nor the Officer and Director Defendants were registered as broker-dealers or representatives pursuant to Section 12(A) of the Texas Act prior to, or during, the offer and sale of the securities by the Corporate Defendant and the Officer and Director Defendants, or their agents, to the Plaintiffs. Furthermore, any agents used by the Corporate Defendant and the Officer and Director Defendants to sell securities to the Plaintiffs were not registered pursuant to Section 12(A) of the Texas Act prior to, or during, the offer and sale of the securities by the Corporate Defendant and the Officer and Director Defendants, or their agents, to the Plaintiffs, and, such agents were paid commissions for their sales of the oil well interest securities.

49. Neither the Corporate Defendant, the Officer and Director Defendants, nor their agents were exempt from the requirements of Section 12(A) pursuant to Section 5 of the Texas Act.

50. Because of the foregoing, the Corporate Defendant and the Officer and Director Defendants violated, and are subject to liability under Section 33(A)(2), (D), and (F) of the Texas Act.

CAUSE OF ACTION VI

Common Law Fraud and Texas Statutory Fraud pursuant to Tex. Bus. & Com.  
Code Ann. Tit. 3 § 27.01

51. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 50 above, and further allege:

52. The Corporate Defendant and the Officer and Director Defendants induced the Plaintiffs to enter into their investment opportunities by making the misrepresentations and omissions concerning material facts regarding the nature and risks of the investment opportunity, as described in the preceding paragraphs above, and, therefore, directly caused the Plaintiffs to suffer monetary damages as a result of their reliance on such misrepresentations and omissions. The Defendants made false material statements, with no intention of fulfilling such promises, on which the Plaintiffs relied, thus inducing the Plaintiffs to enter into the Income Programs. The Defendants were aware that the material false statements made to the Plaintiffs were false at the time that such statements were made, and the Defendants benefitted from the Plaintiffs' reliance on the false statements and the Plaintiffs' investment funds paid to the Defendants.

53. Furthermore, the Corporate Defendant and the Officer and Director Defendants, by disclosing certain information and making certain statements concerning the Income Programs, including, upon information and belief, misleading and false public information filed with the United States Securities and Exchange Commission, assumed an obligation to provide all additional necessary information in order to make the information provided not misleading under the circumstances. Neither the Corporate Defendant, the Officer and Director Defendants, nor their agents, made such additional and complete representations to the Plaintiffs and, therefore, have

committed fraud by omission pursuant to Texas law.

54. Furthermore, the Corporate Defendant and the Officer and Director Defendants, through the use of misleading materials, and through the use of the interstate telephone system and a coordinated scheme to provide false and misleading oral information to the investors, to conceal their fraudulent activities and fraudulent acts committed upon the Plaintiffs by the Defendants, concealed and lulled the Plaintiffs into believing that their investments were secure.

55. The Corporate Defendant and the Officer and Director Defendants have thus committed common law fraud pursuant to the laws of the State of Texas and fraud pursuant to Tex. Bus. & Com. Code Ann. Tit. 3 § 27.01.

#### CAUSE OF ACTION VII

##### Common Law Breach of Contract

56. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 55 above, and further allege:

57. The Plaintiffs and the Corporate Defendant entered into investment contracts, the Purchase Agreements, whereby the Plaintiffs promised to provide funds, and such Defendant promised to use those funds to: (i) transfer working interests of record in certain oil wells to the Plaintiffs; (ii) to operate such oil wells to a point where the wells would become producing oil wells; and (iii) sell the oil to consumers and pass on a percentage of the profits of those sales, based on the Plaintiffs' percentages of ownership in such wells, to the Plaintiffs.

58. The Plaintiffs fulfilled all of the obligations incumbent upon the Plaintiffs pursuant to the terms of the contracts.

59. The Corporate Defendant has not: (i) properly transferred working interests of record in



the Income Programs' oil wells to the Plaintiffs; (ii) did not operate such wells to a point where the wells are operating or producing oil, and (iii) did not sell any produced oil or provide the Plaintiffs with their contracted for returns on their investments, and have committed other acts in breach of its contracts with the Plaintiffs. Because of such breach, the Plaintiffs have suffered damages including actual damages in the amounts which the Plaintiffs invested.

60. Therefore, such Defendant has breached its contracts with the Plaintiffs and is subject to liability for breach of contract pursuant to the common law of the State of Texas.

#### CAUSE OF ACTION VIII

Common Law Conversion and Conversion pursuant to the Texas Theft Liability Act, Tex. Civ. Prac. & Rem. Code Ann. Tit. 6 § 134

61. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 60 above, and further allege:

62. The Corporate Defendants, the Officer and Director Defendants, and Defendant Willingham came into possession of certain funds which belonged to the Plaintiffs and were to be used for certain specific purposes.

63. Without the authority to do so, such Defendants misdirected, converted, and took exclusive and hostile possession of those funds, including the acts described in the preceding paragraphs above, contrary to the funds proper use and contrary to the rights of the Plaintiffs in those funds. Such Defendants continue to convert the Plaintiff's funds to the hostile exclusion of the Plaintiff though Plaintiffs have contractual rights to such funds and have demanded the same.

64. Therefore, the Defendants have converted the Plaintiffs' funds and are subject to liability pursuant to common law conversion and pursuant to the Texas Theft Liability Act Section 134.001

et seq.

## CAUSE OF ACTION IX

### Control Person Liability and Negligent Supervision

65. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 64 above, and further allege:

66. Under Section 20 of the Securities Exchange Act of 1934 [15 U.S.C. §78t], Section 33(F) of the Texas Act, and the common law principles of respondeat superior and agency, the Corporate Defendant and the Officer and Director Defendants were "control" persons over the conduct described in the preceding paragraphs above. The Corporate Defendant and the Officer and Director Defendants were aware of the fraudulent activities being perpetrated by the Defendants and their agents, or with the exercise of reasonable care, would have known of the existence of the facts upon which the Defendants' liability with regard to the aforementioned causes of action exists. Contrarily, the Plaintiffs could not have discovered the fraudulent acts which the Defendants committed upon it with the exercise of reasonable care because of the coordinated efforts by the Defendants to fraudulently conceal their wrongful acts and because of the Plaintiffs' inexperience and lack of knowledge regarding the oil and gas industry and oil and gas investments.

67. The Corporate Defendant and the Officer and Director Defendants negligently supervised their officers, employees, and agents. The Corporate Defendant and the Officer and Director Defendants owed a duty to the Plaintiffs to, *inter alia*, comply with federal and state securities laws and other laws and to restrain their agents from committing the frauds, conversion, and other acts, as described in the paragraphs herein, upon the Plaintiffs. Such Defendants have the duty to inquire into the actions of the Corporate Defendant and its officers, employees, and agents, and with

reasonable care would have, or should have, discovered the acts committed upon the Plaintiffs as described in the paragraphs herein. Such Defendants breached their duties to the Plaintiffs by allowing the frauds and other acts described herein to be committed upon the Plaintiffs, and such acts directly caused the Plaintiffs to sustain the damages alleged herein. Such Defendants and Defendant Willingham were further negligent in their supervision and control of the Corporate Defendant and its officers, employees, and agents after discovering the wrongs committed upon the Plaintiffs and other investors. Such Defendants had a duty to – and stated that they would – return the Plaintiffs' converted investment funds, right the wrongs committed upon the Plaintiffs, adhere to the promises made to the Plaintiffs by the Corporate Defendant and its officers, employees and agents, perform under the contracts made with the Plaintiffs, and cease committing the continuing wrongs which were being perpetrated upon the Plaintiffs. The Corporate Defendant and the Officer and Director Defendants have breached their duties relating to the same and have directly caused damage to the Plaintiffs as alleged herein.

68. Pursuant to each of the statutes and legal theories described in paragraph 66, the Corporate Defendant and the Officer and Director Defendants, as individuals, are liable, as control persons, for the wrongs committed against the Plaintiffs, as described in each cause of action alleged herein, committed by the Corporate Defendant and any and all agents of the Defendants in committing such wrongs against the Plaintiffs. Further the Defendants described in paragraph 67 are liable for the damages caused to the Plaintiff under a theory of common law negligent supervision as alleged and described therein.

CAUSE OF ACTION X

Texas Common Law Civil Conspiracy

69. The Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 68 above, and further allege:

70. As described in the paragraphs above and as alleged by Defendant Energytec in its United States District Court for the Northern District of Texas, Dallas Division, Complaint in *Energytec, Inc. v. Frank W. Cole and Josephine Jackson* (consolidated with 3:06-CV-0871-L, *Energytec, Inc. v. Philip M. Proctor, et al.*) as described in paragraph 26 above, the Corporate Defendant and its agents, and the Officer and Director Defendants collectively conspired against the Plaintiffs and conspired to commit fraud by overtly and specifically acting to induce the Plaintiffs into investing into the Defendants unlawful "ponzi" scheme, and thereafter conspiring to fraudulently conceal the "ponzi" scheme and to lull the Plaintiffs into believing that their investments were secure and that the Plaintiffs would receive a rescission or return of their investment. Defendant Energytec judicially admits, as described in paragraph 26 above, that the "ponzi" scheme it perpetrated upon the Plaintiffs was a wrongful act, and the Defendants performed certain overt acts, including those described in the paragraphs above, to perpetuate and conceal such wrongful acts. The Officer and Director Defendants were aware of the wrongful nature of their fraudulent actions of inducing the Plaintiffs to invest in their coordinated "ponzi" scheme, aware of the unlawful and fraudulent concealment of the "ponzi" scheme thereafter, and aware of the damages suffered by the Plaintiffs because of their coordinated and conspiring actions. The Officer and Director Defendants and Defendant Willingham further conspired to convert the Plaintiffs' investment funds, to the hostile exclusion of the Plaintiffs, long after becoming aware that the

Plaintiffs' funds were wrongfully in their possession because of the fraudulent acts described above. In essence, the Corporate Defendant, the Officer and Director Defendant, and Defendant Willingham collectively conspired, for the purpose of accomplishing by concerted action, the unlawful purpose of converting the Plaintiffs' investment funds, by means of overt acts of fraudulent inducement and fraudulent concealment.

71. Therefore, the Corporate Defendant, the Officer and Director Defendants, and Defendant Willingham conspired against the Plaintiffs and conspired to commit fraud and conversion, and are liable to the Plaintiffs under the theory of common law civil conspiracy.

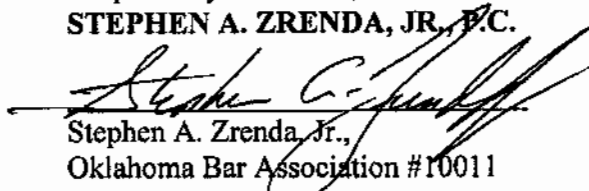
WHEREFORE, the Plaintiffs request that this Court enter judgment in its favor and against all of the named Defendants, jointly and severally, and award to the Plaintiffs:

- (a) actual damages, including prejudgment interest;
- (b) rescission of the purchase of Units in Income Program 211 and Income Program 212;
- (c) damages for loss of the benefit of the bargain;
- (d) recovery of the total amount invested plus interest from the date of payment and costs, as required by Section 33(D) of the Texas Securities Act;
- (e) punitive damages of \$1,000,000;
- (f) attorneys' fees and costs, as provided in Section 33(D) of the Texas Securities Act, and as otherwise provided by law; and
- (g) all other such relief as is deemed proper, necessary, legal and equitable pursuant to the laws of the State of Texas and the laws of the United States in order to compensate the Plaintiffs for the damages suffered at the hands of all or any of the Defendants, jointly and severally.

JURY TRIAL REQUESTED  
ATTORNEYS' LIEN CLAIMED

Dated November 15, 2007  
Submitted pursuant to LR 83.10

Respectfully submitted,  
**STEPHEN A. ZRENDA, JR., P.C.**



Stephen A. Zrenda, Jr.,  
Oklahoma Bar Association #10011

P.R. Tirrell,  
Oklahoma Bar Association #21555

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*Local counsel pursuant to LR 83.10*

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**ATTORNEYS FOR THE PLAINTIFF**

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> Madawd LLC	<b>DEFENDANTS</b> Energytec, Inc. et al.
<b>(b) County of Residence of First Listed Plaintiff</b> <u>New York, NY</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>	<b>County of Residence of First Listed Defendant</b> <u>Collin County, TX</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
<b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> Stephen A. Zrenda, Jr., P.C. 5700 NW 132nd Street Oklahoma City, OK 73142 (405) 721-7300	<b>Attorneys (If Known)</b> Unknown

307 CV 1947

RECEIVED

NOV 20 2007

<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One for Defendant)									
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;"> <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State         </td> <td style="width:33%;"> <input type="checkbox"/> 4         </td> </tr> <tr> <td>Citizen of Another State</td> <td> <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State         </td> <td> <input type="checkbox"/> 5         </td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td> <input type="checkbox"/> 3 Foreign Nation         </td> <td> <input type="checkbox"/> 6         </td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6
Citizen of This State	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4								
Citizen of Another State	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5								
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6								

<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)					
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395t) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

<b>V. ORIGIN</b> (Place an "X" in One Box Only)							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

<b>VI. CAUSE OF ACTION</b>	Brief description of cause: <u>The Securities Act of 1934, 15 USC 78a et seq. securities fraud, failure to register</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ <u>1,000,000</u>	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) PENDING OR CLOSED</b> (See instructions):	JUDGE <u>Buchmeier</u>	DOCKET NUMBER <u>3:07-cv-01801</u>
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DATE 11/16/2007 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFF \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_