Judge Berman

08 CIV 10753

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CITIGROUP GLOBAL MARKETS, INC.

Defendant.

ECF CASE

Civil Action No.

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COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges the following against Defendant Citigroup Global Markets Inc. ("Citi" or "Defendant"):

NATURE OF THE ACTION

1. This is a case in which the Defendant misled tens of thousands of its customers regarding the fundamental nature and increasing risks associated with auction rate securities ("ARS") that Citi underwrote, marketed and sold. Through its financial advisers ("FAs"), sales personnel, and marketing materials, Citi misrepresented to customers that ARS were safe, highly liquid investments comparable to money market instruments. As a result, numerous customers invested in ARS funds they needed to have available on a short-term basis.

2. Citi historically had committed it own capital to support ARS auctions for which it served as the lead manager so that those auctions did not fail. During the fall of 2007, the credit crisis and deteriorating market conditions caused Citi to have to support its auctions to a greater extent. Citi knew the ARS market was deteriorating and Citi's

inventory of ARS was significantly increasing. Accordingly, Citi knew the risk of failed auctions had materially increased. Citi knew these material facts but did not disclose to its customers timely, complete, and accurate information about them.

3. In mid-February 2008, Citi decided to stop supporting the auctions. On February 11, 2008, Citi stopped supporting its student loan ARS auctions, and those auctions failed. On February 12, 2008, Citi stopped supporting its auctions for other ARS with low maximum rate resets, and those auctions failed. As a result of failed auctions, tens of thousand of Citi customers held approximately $45 billion of illiquid ARS, instead of the liquid short-term investments Citi had represented ARS to be.

4. By engaging in the conduct described in the Complaint, the Defendant 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 the Defendant from further violations of the relevant provision of the Exchange Act; (b) the imposition of a civil penalty against the Defendant; and (c) any other relief this Court deems necessary and appropriate under the circumstances.

JURISDICTION AND VENUE

5. 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].

6. Citi, directly or indirectly, used the mails and means and instrumentalities of interstate commerce in connection with the acts, practices, and courses of business alleged herein.

7. Venue is appropriate in this District pursuant to Section 27 of the Exchange Act because Citi is found, has its headquarters and principal executive offices, and transacts business in this District.

DEFENDANT

8. Citigroup Global Markets Inc., a wholly-owned brokerage and securities subsidiary of Citigroup Inc., is incorporated and has its headquarters, principal executive offices, and short-term trading desk in New York, New York. Citigroup Global Markets is registered with the Commission as a broker-dealer. Among other services, Citi provided underwriting services for issuers of ARS and marketed ARS to retail and other customers located throughout the United States.

FACTUAL ALLEGATIONS

Description Of ARS

9. 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 frequent auctions, typically 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.

10. The issuer of each ARS selects one or more broker-dealers to underwrite the offering and/or 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, which is primarily responsible for managing the auction process. Customers can only submit orders for that ARS through the selected broker-dealers.

11. 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, which runs the auction. 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, then the auction fails. If an auction fails, then the issuer pays a maximum rate, which either is a pre-determined flat rate or a rate set by a pre-determined formula described in the disclosure documents. The maximum rate may be higher or lower than the prior auction rates or the rates available on similar securities of similar credit quality and duration in the market place.

<u>**Citi's Role In The ARS Market**</u>

12. Citi marketed ARS to public and private issuers as an attractive way to obtain financing. ARS are long-term obligations that re-price frequently using short-term interest rates, which typically are lower than long-term rates.

13. Citi marketed ARS to customers as an investment that offered "[c]ompetitive short-term interest rates compared with other money market instruments."

14. For certain ARS, Citi was the sole or lead broker-dealer. Citi's practice, as was the practice of other broker-dealers participating in the ARS market, was to submit cover or support bids in all auctions for which it was the lead broker-dealer so that the auctions would not fail.

15. If Citi's cover bid was "hit," then Citi would purchase for its inventory the amount of ARS necessary to prevent a failed auction. Citi tried to sell the inventory in

the secondary market between auctions and submitted sell orders for any ARS it still held at the next auction.

16. Citi received a fee from ARS issuers for underwriting the ARS offering. Citi also received an annual fee from ARS issuers for remarketing the ARS. For ARS that it placed with customers or held in inventory, Citi received higher fees than for other short-term instruments.

Citi Marketed ARS As Money Market Alternatives

17. Through its FAs and sales personnel, Citi marketed ARS to its customers as money market alternatives and liquid investments that could be liquidated at the customer's demand on the next auction date. As a result, some customers invested in ARS funds that they might need for short-term requirements, such as for a down payment on a house, medical expenses, college tuition, or taxes. In many cases, Citi did not adequately advise these and other customers that, under certain circumstances, any funds invested in ARS could become illiquid, possibly for long periods.

18. Monthly account statements sent to Citi customers listed certain types of ARS under the heading "money market and auction instruments." These characterizations could have caused customers who received such statements to reasonably believe that the safety and liquidity features of their ARS investments were similar to those of other money market instruments.

19. Citi's association of ARS with money market alternatives was misleading because of the illiquidity risks associated with ARS.

Citi's Disclosures Did Not Negate Citi's Misleading Marketing of ARS

20. Citi posted its ARS practices and procedures on its website, but these disclosures were inadequate and did not negate Citi's marketing of ARS as liquid investments that were an alternative to money market instruments.

21. According to Citi's practices and procedures, "From an investor's perspective,...ARS are generally viewed as an alternative to money market funds."

22. Citi had disclosures relating to, among other things, an "Existing Holder's Ability to Resell Auction Rate Securities May be Limited" that stated in part:

> Existing holders will be able to sell the ARS in an auction only if there are bidders willing to purchase all the ARS offered for sale in the auction. If sufficient clearing bids have not been made, existing holders that have submitted sell orders will not be able to sell in the auction all, and may not be able to sell any, of the ARS subject to such submitted sell orders. ... Citigroup may submit a bid in an auction to keep it from failing, but it is not obligated to do so. There may not always be enough bidders to prevent an auction from failing in the absence of Citigroup bidding in the auction for its own account. Therefore, failed auctions are possible, especially if the issuer's credit were to deteriorate, if a market disruption were to occur or if, for any reason, Citigroup were unable or unwilling to bid.

Citi's disclosures regarding auction failures, however, were inconsistent with its description of ARS as "an alternative to money market funds" and inconsistent with its marketing of ARS as liquid, short-term investments.

23. In addition, Citi did not disclose the extent to which the liquidity of ARS depended upon Citi bidding in the auctions. Citi used its support of auctions, and corresponding record of no failed auctions, to imply safety and liquidity in promoting its ARS to certain customers. Consequently, even if a customer had been informed that there were liquidity risks associated with ARS, the customer would not know that that the

liquidity risk, to a significant degree, depended upon Citi's discretion to bid to support auctions.

24. Moreover, Citi did not take adequate steps to adequately ensure that its FAs and sales personnel were aware of Citi's practices and procedures and/or aware that auctions could fail and render the ARS illiquid. At least some FAs and sales personnel did not know this information, and, consequently, did not provide this information to customers. As a result, many Citi customers indicated that they understood from their FAs that ARS were short-term, liquid instruments to manage their cash.

Citi Knew Or Was Reckless In Not Knowing That Its FAs And Sales Personnel Marketed ARS To Customers As Money Market Alternatives And Did Not Adequately Disclose The Risks Associated With These Securities

25. Citi was aware that its FAs and sales personnel marketed ARS to customers as liquid investments and money market alternatives.

26. In August 2007, when concerns about ARS were heightened at Citi, internal documents provided to senior management discussed the implications if Citi were to stop supporting auctions. The documents stated, "Investors and issuers might believe that there is implied liquidity provided by Citi because we have marketed the fact that we have never had a failed auction as lead manager in twenty years," and also identified the risk of lawsuits. Short-Term Trading management also discussed the implications in a separate document: "Implied liquidity: bankers, salespeople and trades have implied the concept of liquidity provided by Citi for investors and issuers for over 20 years." The document also identified "a risk of lawsuits initiated by thousands of retail investors, high net worth clients and institutional clients because Auction Rate Securities (ARS) have

been marketed as 'money market alternatives' and 'liquid investments' for 20 years. The hundreds of ARS issuers may also seek litigation against Citi."

27. Senior managers received an internal presentation, dated November 1, 2007, that stated, "Investors purchase ARS as a high-yielding money market alternative to CP [commercial paper] and CD's."

28. Moreover, Citi was aware that at least some customers in ARS were unsophisticated investors.

29. Citi also was aware that many of its customers did not understand the liquidity risks associated with ARS, including that ARS are long term securities without assured liquidity other than through the auction process.

Citi Failed To Disclose That, By Late 2007, Citi's Ability To Support Auctions Was Impaired

30. Prior to February 2008, Citi had supported its ARS auctions, and, consequently, had never had a failed auction since it began marketing ARS in the 1980s.

31. Historically, Citi's inventory from supporting auctions ranged from approximately $1 to $2 billion, and this amount of ARS inventory was within the balance sheet limit that Citi had set as the amount of capital resources that Short-Term Trading could use to purchase the ARS necessary to prevent failed auctions. Accordingly, Citi historically was willing and able to support its ARS auctions. That situation began to be stressed in August 2007.

32. By August of 2007, the credit crisis had created significant balance sheet stress for Citi, as well as for other financial services firms. This balance sheet stress affected Citi's ability to purchase additional assets, including ARS, because Citi would have had to use its capital resources for the purchase. At the same time, the ARS market was

deteriorating. In mid-August, an internal email stated that "there are definitely cracks forming in the market. Inventories are starting to creep higher in the market and failed auction frequency is at an all time high."

33. Beginning in August 2007, as Citi increasingly had to purchase ARS inventory to prevent failed auctions, the dollar amount of Citi's ARS inventory reached the internal balance sheet limit that Citi had set for its ARS inventory.

34. Short-Term Trading management, and the heads of banking units that underwrite ARS, realized that without an increase to the inventory limit set for ARS, Citi could not purchase the ARS necessary to continue to support the auctions and auctions would fail. Consequently, on August 16, 2007, Short-Term Trading management emailed senior management, "We need to discuss the current state of the auction rate market, our commitment to the auctions, its impact on our balance sheet and the effect of our actions on our clients…our actions will have broad-reaching implications to all of our constituents, the market, and our franchise."

35. On August 19, 2007, Short-Term Trading management outlined the ramifications if Citi allowed widespread failed auctions, including the "implied liquidity" and risk of lawsuits by customers who had been marketed ARS as "money market alternatives" and "liquid investments" for 20 years," discussed previously. These general points were included in a document provided to more senior managers the next day.

36. The balance sheet limit for ARS ultimately was increased, and Citi continued to support auctions. The balance sheet limit had to be increased additional times throughout the fall of 2007 and beginning of 2008 to accommodate Citi's ARS inventory as it

increased from approximately $4 billion to more than $10 billion in February 2008 when Citi stopped supporting auctions.

37. As early as August 2007, Citi recognized that the amount of available ARS exceeded the demand, but Citi continued to increase the amount of ARS that Citi underwrote and marketed, thereby contributing to the inventory and balance sheet problems that threatened its ability to continue supporting auctions. For instance, Citi still explored opportunities to take over ARS from other broker-dealers as those broker-dealers struggled in the deteriorating market. Citi investment bankers also wanted to continue bringing new ARS to market, to earn fees and to maintain their position vis-à-vis bankers at other broker-dealers, despite the need to control the supply and inventory of ARS. Not until early November 2007 did Citi finally curtail new ARS issuances for the year.

38. As the fall of 2007 passed and the likelihood of failed auctions significantly increased, Citi did not provide current, complete, and accurate information to its customers to make them aware of this increased risk.

39. Citi knew that its ARS were marketed to institutional and retail customers, and that retail customer participation was essential to the success of the ARS market. Citi also knew or was reckless in not knowing that its retail customers expected liquidity on demand and that Citi-managed auctions historically had provided that liquidity. As Citi's ARS inventory grew in late 2007, diminishing Citi's ability to continue providing liquidity, Citi failed to ensure that new or existing customers were advised of these risks associated with buying or holding ARS.

Citi Increased Its Efforts To Sell Its Growing Inventory As It Continued To Try To Support ARS Auctions

40. As Citi's ARS inventory grew, Citi increased its efforts to sell the inventory.

41. For example, on August 30, 2007, an email to ARS traders stated, "Make sure you don't leave any stones unturned today. We are currently at our extended limit. Hit all bids....Times like these, we need to do whatever is necessary. Just make sure all hands are on deck and paper is sold."

42. Although commissions for selling ARS were among the highest for short-term products, in early November 2007, Citi raised its commission to FAs for seven-day municipal ARS from twenty to twenty-five basis points. Although this increase impacted approximately 25% of the ARS auctioned through Citi, these ARS were primarily purchased by retail customers. The email to FAs alerting them of the increase stated, "The risks for all ARS remain the same." In contrast, an internal memorandum explained that the increased commissions were to "help to move increasing inventory while capital is sparse," "assist in managing another large year of new issuance distribution," "make[] the product more attractive relative to other options," and "answer[] the call of banking and management to find additional methods to augment distribution."

43. Citi also took steps to sell its inventory of ARS to customers by offering discounts and other promotions. For example, in mid-December, Citi offered certain ARS to customers with as much as six days of interest free. The offer meant that customers did not have to pay for the inventory until six days after the auction but received the interest on the ARS as if the customers had held the ARS for the entire period. Citi lost money on ARS after two days of free interest.

44. In early January, Citi raised some of the fees for other broker-dealers that sell Citi's ARS: subordinate ARS increased from ten to twenty basis points, and all other auction products, excluding seven-day municipal debt, increased from ten to fifteen bps.

45. Even during the days leading up to when Citi allowed auctions to fail, Citi still was trying to sell inventory. An email instructed ARS traders and others to "sell anything you can" and "if there is an opportunity to reduce our book, then we have to hit it ASAP."

Citi Failed To Disclose To Customers That Certain ARS Had Low Maximum Rate Resets And That It Was Supporting ARS That Were Not "Viable" Structures In The Deteriorating Market

46. When Citi discussed the possibility of failed auctions, Citi often stated that ARS have high, above market, maximum rate resets if an auction failed to compensate the holder for the lack of liquidity and to create incentives for the issuer to restructure the ARS, thereby providing liquidity to the holder. Citi failed to disclose that, at least under market conditions at that time, certain ARS had low, below market, maximum rate resets.

47. Certain types of ARS, such as certain classes of municipal ARS, did have fixed maximum rate resets as high as fifteen or twenty percent, and, thus, well above market rates for instruments of similar credit quality and duration. In contrast, however, other ARS, such as Student loan ARS (which Citi generally did not sell to retail customers) and preferred ARS issued by closed-end funds (which Citi sold to institutional and retail customers), had formulaic maximum rate resets that were determined by reference to certain market indices. At least since August 2007, these market indices were generally low, so the formulas for certain ARS resulted in reset rates lower than the rates set in

auctions, and, thus, a rate below market rates for instruments of similar credit quality and duration.

48. For example, in a presentation in the fall of 2007 specifically on student loan ARS, most of which had low formulaic maximum rate resets, Citi stated that "the failed auction rate is intended to be a punitive level for the issuer and to compensate the customer for the lack of liquidity in the auction."

49. As early as August 2007, Citi knew that student loan ARS, which had low maximum rate resets, comprised a significant amount of its inventory.

50. During the fall of 2007, Citi increasingly became aware that ARS with low maximum rate resets were not "viable" instruments in the market conditions at that time because if an auction failed, a holder of these ARS would receive a below-market rate, rather than an above-market rate to compensate the holder for the illiquidity. These ARS contributed to Citi's increasing inventory and balance sheet stress.

51. By early December 2007, Citi was aware that certain customers were beginning to distinguish between whether the ARS had a low or high maximum rate reset. Citi began to track its inventory based upon the type of rate reset.

52. In late December 2007, senior Citi management was provided with a draft plan in the event of failed auctions that stated:

> [I]f we are forced to fail on a specific asset type of auction rate securities, we would try to differentiate between the program structures that failed because max rates were set too low and all other program structures which can support high max rates. It would be critical to articulate the differences between viable structures and structures that have failed.

Thus, "[a]ssuming sufficient balance sheet, Citi will support above market, fixed maximum rates…remainder of market with formulaic maximum rates will not be supported and will fail."

53. On February 1, 2008, a research analyst at Citi issued a research report about "Bond Insurers Impact on the Muni Market." The research report stated:

> Those [preferred ARS] with a medium or high penalty rate, those with strong underlying ratings, and those insured or reinsured by a strong insurer should be easily remarketable. Indeed, the 'bad news' of fail in these cases is offset by a very attractive interest rate until a successful auction is held. There are a smaller number of issues with a low reset rate. Even here, many of the issues are either backed by a strong issuer, guaranteed by a strong issuer, or in the process of being wrapped by a strong guarantor.
>
> While there are likely to be some more failed auctions, in our view, ultimately the outcome for investors should be favorable. Issuers and investment bankers have a strong incentive to make whole, and this can be done in the limited number of problem situation by a restructuring or a 'wrap' by a strong insurer.

54. In contrast to Citi's marketing materials, this research report recognized that certain ARS had a low maximum rate reset, but the report underestimated the number of ARS issues that had low rate resets, the likelihood of widespread and prolonged failures, and the impact to the holders if these ARS failed.

Citi Knew That Auction Failures In One Segment Of The ARS Market Might Trigger A Chain Reaction Across All Segments Of The ARS Market

55. As early as August 2007, Citi knew that fails at other broker-dealers were impacting the ARS market, including ARS at other broker-dealers and different types of ARS.

56. Similarly, in December 2007, an internal document provided to senior management stated that "if one segment of the ARS market experiences fails, there is a high probability that investors will lose confidence in all sectors and asset types funded in

the ARS market." The documents also listed "[c]ompeting broker-dealers failing on auctions" as one of a number of events that could force Citi to fail auctions.

Citi Knew The Risk Of Failed Auctions Had Materially Increased During The Fall Of 2007

57. A November 1, 2007 internal email from Short-Term Trading management expressed concerns about "monolines and growing illiquidity in the ARS market." Short-Term Trading management had reviewed "Citi's liquidity commitment to the short-term tax-exempt market," and stated, "A change in the outlook or a downgrade on any monoline from one of the rating agencies would hurt liquidity in the ARS market…Even apart from the potential of a monoline downgrade, the ARS market is subject to a potential liquidity crisis." They stated, "Since the credit crisis hit this summer, the ARS market has been under pressure caused by investor risk aversion and other dealers' failed auctions…As a result, liquidity has been thin. Given the difficulty of monolines… we are very concerned that a further investor pullback could increase the risk of widespread failed auctions."

58. By the beginning of December 2007, Short-Term Trading management communications discussed various scenarios under which auctions might fail. In addition, Risk Management was conducting scenario analyses to evaluate the impact of failed auctions.

59. A December 7, 2007 email stated that senior Citi officials "don't have much of a problem of letting them [ARS] go if times get much tougher."

60. On December 15, 2007, internal emails discussed subordinate student loans, which were a significant portion of Citi's inventory, and Citi potentially allowing those auctions to fail when certain maximum loss or balance sheet limits were reached. One

email stated, "Of course if they [the subs] go, everything will probably go as well. There may be an outside chance of the subs failing and talking the market into it being a specific credit issue like what has already happened with the CDO paper." Citi was aware that if certain auctions failed, other auctions also likely would fail unless investors could be convinced that the fails related to credit risks with certain ARS, which is what happened when certain ARS backed by CDO's failed in August 2007.

61. In mid-December, senior management had further discussions about the ramifications if Citi stopped supporting auctions. The handout for one such discussion stated, "If it survives at all, the ARS market will be much smaller in the future and will be primarily tax-exempt issuers." By December 24, 2007, an internal Citi document provided to senior management about the ARS market discussed Citi's current goals and objectives and its plan in the event of failed auctions.

62. Citi's plan in the event of failed auctions stated:

> A specific asset class in the ARS market may become so stressed that Citi may decide to no longer support that asset class, causing failed auctions. Should this occur, Citi will continue to attempt to support the programs that are viable. However, if a specific ARS asset class experience fails, there is a high probability that investors will lose confidence in all sectors and asset types funded in the ARS market.

63. According to the plan, "[o]n the day that auctions begin to fail, we would immediately alert the market through Citi's public relations." The public statement would state that "[u]ntil conditions improve, these 'failed auctions' will most likely continue to occur."

64. In the cover email to the December 24, 2007 document, a senior official stated that a failed auction at Citi "seems like an unavoidable eventuality."

<u>If Customers Knew About the Increased Liquidity Risk, Many Likely Would Sell Their ARS</u>

65. Citi was aware from recent events that liquidity issues in the ARS market tended to increase customers' sales of ARS.

66. In 2004, customer interest in ARS diminished during the Commission's investigation into broker-dealers' practice in connection with ARS securities. Similarly, in 2005, many public companies sold their ARS after accounting guidance was issued relating to the classification of ARS in the books and records of a public company as a "cash equivalent." The guidance indicated that this classification likely was not appropriate in many circumstances because the securities did not have guaranteed liquidity, and that companies may need to reclassify such securities as long-term investments because these instruments typically had long-term maturities. In both market events, Citi had to increase its support of ARS until the dislocation subsided.

67. As early as August 2007, Citi documents discussed its support of ARS, including its support of ARS during these other crises.

68. Thus, in late 2007 and early 2008, Citi was aware that if it disclosed to FAs and customers, or if customers learned of, the increased liquidity risk, many of these customers likely would have sold their ARS. Accordingly, on an ongoing basis, Citi noted the awareness FAs and retail customers had about ARS and the market.

<u>Final Events Leading Up To Citi's Decision To Allow Auctions To Fail</u>

69. On February 7, 2008, another broker-dealer was the first broker-dealer to allow multiple ARS auctions to fail. A Citi ARS trader provided the following market color, "Panic is now clearly evident with both retail and institutional customers. Pricing is very erratic as dealers attempt to find a new buying base for ARS."

70. That weekend, Citi assessed whether it would continue supporting the ARS market. On February 9, 2008, a senior Citi official emailed other senior officials:

> I believe that we should allow market dynamics to determine the pricing and success/failure of these auctions [student loans]. If we do so, I'd expect them to fail. There's another factor we need to consider/ We're beginning to hear from investors that they're taking dealers like GS, Leh, and JPM off of their "approved" list (due to their allowing auctions to fail) and will begin to migrate money into our auctions. We do not want to indirectly encourage this inflow. This is a market problem and we don't want to imply that we're somehow immune from this situation. Allowing fails (if indeed they will) in Monday's student loan auctions will help highlight this.

Another senior official replied:

> I agree. It's time to let the market itself try to correct the supply/demand imbalances we are experiencing. Given that we don't want to encourage investors to migrate to our auctions on the presumption that ours are not at risk of failure, we may want to think about releasing our statement Monday morning.

71. On February 11, 2008, Citi stopped supporting its student loan ARS, and all of those auctions failed. On February 12, 2008, Citi stopped supporting ARS with low, formulaic maximum rates, and all of those auctions failed. Thereafter, Citi allowed other Citi-managed auctions to fail.

72. Citi's failed auctions, and the resulting market freeze, left customers holding billions of dollars of illiquid ARS, and many of those customers still hold those illiquid securities.

CLAIM FOR RELIEF

[Violation of Section 15(c) of the Exchange Act].

73. Paragraphs 1 - 72 are realleged and incorporated by reference as if set forth fully herein.

74. 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.

75. 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. Permanently enjoin the Defendant and its respective agents, servants, employees, attorneys, assigns and all those persons in active concert or participation with it who receive actual notice of the injunction by personal service or otherwise, from directly or indirectly engaging in violations of Section 15(c) of the Exchange Act [15 U.S.C. §78o(c)];

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

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

Respectfully submitted,

Robert B. Blackburn (RB 1545)

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