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U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

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15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 **CV-07 4634 MMM(VBK)**

18 **U.S. SECURITIES AND**  
19 **EXCHANGE COMMISSION,**

20 Plaintiff,

21 v.

22 **ALAN D. LIBMAN,**  
23 **A/K/A DAMIAN VANDERHAUS**

24 Defendant.

25 Case No. \_\_\_\_\_

26 **COMPLAINT**

27 Plaintiff, U.S. Securities and Exchange Commission (the "Commission")  
28 alleges that:

## SUMMARY OF ALLEGATIONS

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2           1.     Alan D. Libman (“Libman” or Defendant) is a securities fraud  
3  
4     recidivist, and as alleged in this complaint, engaged in the fraudulent offer  
5     and sale of securities. Through Investment Strategies, a non-existent entity,  
6     Libman offered investors the opportunity to invest in purported celebrity-  
7     related and historical memorabilia and artwork. The investments that  
8     Libman offered and sold to investors were securities because they qualify as  
9     “investment contracts” under the federal securities laws.  
10

11           2.     Libman made numerous material misrepresentations to  
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13     investors regarding the investments. For example, Libman often promised  
14     specific, large rates of return over brief periods, usually 30-120 days.  
15  
16     Although Libman initially paid returns to some of the investors, he  
17     eventually stopped paying his investors the promised returns and evaded  
18     contact with them. In 2004, he fled to Canada and did not return to the  
19     United States until 2006. Moreover, instead of using the investors’ funds as  
20     he promised, Libman used their money for other purposes, including to  
21     cover his personal expenses and life style. Since the investments did not  
22     yield the claimed returns, investors lost most of their investments.  
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25           3.     From 2000 through 2004, Libman’s false representations led at  
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27     least twenty investors to give him more than \$1 million for the schemes that  
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1 he carried out through Investment Strategies. While Libman's victims reside  
2 throughout the United States, many live in metropolitan Los Angeles.

3 4. By soliciting investors, negotiating over investment terms, and  
4 representing that he would accept compensation for his efforts from the  
5 investment proceeds, Libman acted as a broker under the federal securities  
6 laws. Libman failed, however, to register as a broker with the Commission  
7 and, consequently, acted as an unregistered broker. Libman also failed to  
8 register with the Commission any of the securities that he offered and sold to  
9 investors.  
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12 5. Libman, unless restrained and enjoined, is reasonably likely to  
13 continue to engage in the acts and practices set forth in this complaint and in  
14 acts and practices of similar purport and object. The Commission requests  
15 that this Court enjoin Libman permanently from future violations of Sections  
16 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15  
17 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b), 15(a)(1), and  
18 15(b)(6)(B)(i) of the Securities Exchange Act of 1934 ("Exchange Act") [15  
19 U.S.C. §§ 78j(b), 78o(a)(1), and 78o(b)(6)(B)(i)], and Exchange Act Rule  
20 10b-5 [17 C.F.R. § 240.10b-5]. The Commission also seeks an order  
21 requiring Libman to disgorge his ill-gotten gains plus prejudgment interest  
22 and to provide an accounting for the receipt and disposition of all investor  
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1 funds. Further, pursuant to Section 21(e) of the Exchange Act [15 U.S.C. §  
2 78u(e)], the Commission seeks an order requiring Libman to comply with  
3 an administrative broker-dealer bar order previously entered against him and  
4 such other equitable relief as the Court may deem appropriate. Finally, the  
5 Commission seeks civil penalties from Libman pursuant to Section 20(d) of  
6 the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange  
7 Act [15 U.S.C. § 78u(d)].  
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#### 10 JURISDICTION AND VENUE

11 6. This Court has jurisdiction over this action pursuant to Section  
12 22(a) of the Securities Act [15 U.S.C. § 77u(a)] and Sections 21(d), 21(e)  
13 and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].  
14 Libman, directly or indirectly, singly or in concert, made use of the means or  
15 instruments of transportation and communication in and the means or  
16 instrumentalities of, interstate commerce, or of the mails, in connection with  
17 the acts, transactions, practices and courses of business that this complaint  
18 alleges.  
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22 7. Certain of the transactions, acts, practices, and courses of  
23 business that this complaint alleges took place in the Central District of  
24 California. That conduct includes the offer, purchase, and sale of securities,  
25 and acts and transactions involved in the misappropriation of investor funds  
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1 and securities. Venue properly lies in this district pursuant to Section 22(a)  
2 of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange  
3 Act [15 U.S.C. § 78aa].  
4

5 **DEFENDANT**

6 8. Alan D. Libman, 63 years old, resided in California prior to his  
7 incarceration in November 2006. At the time of the alleged violations, he  
8 was a California resident who maintained offices in Santa Monica,  
9 California and New York, New York. Libman has used the alias "Damian  
10 Vanderhaus" in connection with some of his fraudulent activity.  
11

12  
13 9. On May 26, 1992, in a settled action that the Commission  
14 brought, the U.S. District Court for the Central District of California  
15 enjoined Libman permanently from violating and/or aiding and abetting  
16 violations of the antifraud, securities registration, and other provisions of  
17 federal securities laws including, specifically, Sections 5(a), 5(c), and 17(a)  
18 of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], and Sections  
19 10(b), 15(c)(2), and 17(a) of the Exchange Act [15 U.S.C. §§ 78j(b),  
20 78o(c)(2), and 78q(a)], and Exchange Act Rules 10b-5, 10b-9, 15c2-4, 17a-  
21 3, and 17a-4 [17 C.F.R. §§ 240.10b-5, 240.10b-9, 240.15c2, 240.17a-3 and  
22 240.17a-4]. *See SEC v. Alan D. Libman*, C.A. No. 88-5919 MR (1992).  
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25 (Attachment A). The complaint in that action alleged that Libman and  
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1 others participated in unregistered public offerings of securities through  
2 nationwide telephone solicitations. That complaint further alleged that  
3 Libman made, or caused to be made, material misrepresentations to  
4 investors concerning, among other things, the use of proceeds of the  
5 offerings, the financial condition and business prospects of the four  
6 companies in which individuals invested, the projected increase in the  
7 market value of the securities, and the safety of the investments. The order  
8 also required Libman to pay \$25,000, representing funds he received as  
9 compensation from proceeds of the offering fraud.  
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13 10. On February 4, 1994, pursuant to a settlement with Libman, the  
14 Commission entered an Order permanently barring Libman from association  
15 with any broker, dealer, investment adviser, investment company, or  
16 municipal securities dealer based on the prior entry of the injunction against  
17 him. *See In the Matter of Alan D. Libman*, Admin. Proc. File No. 3-7803  
18 (February 4, 1994). (Attachment B).  
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21 11. On November 7, 2006, a Grand Jury sitting in the U.S. District  
22 Court for the Central District of California indicted Libman on multiple  
23 counts of mail fraud and money laundering. *See United States v. Libman*, 06  
24 CR 835 (C.D. Cal., November 7, 2006). (Attachment C). The indictment  
25 states that Libman “knowingly and with the intent to defraud, devised,  
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1 participated in, and executed a scheme to defraud victims as to a material  
2 matter, and to obtain money or property from such victims by means of  
3 materially false and fraudulent pretenses, representations, and promises, and  
4 the concealment of material facts.” Indictment, ¶ 3. The indictment further  
5 outlines that, in “furtherance of the fraudulent scheme,” Libman “met with  
6 and telephoned victims and falsely informed these victims that Investment  
7 Strategies was a reputable company that offered short-term investments in  
8 high-grade collectibles, including rare historical documents, presidential  
9 memorabilia, and other rare and limited collectibles.” Indictment, ¶ 4.a. In  
10 connection with that indictment, federal criminal authorities arrested Libman  
11 on November 20, 2006. He presently remains in custody of those authorities  
12 pending his criminal trial.

## 17 FACTS

### 18 Libman’s Fraudulent Scheme

19 12. “Investor A” was Libman’s family dentist for nearly 20 years.  
20 Beginning in or about 2000, Libman, using the business name Investment  
21 Strategies, solicited money from nine investors, including Investor A and  
22 Investor’s A’s dental hygienist, his friends, and his family members.  
23 Libman promised to use their money to fund the purchase or manufacture,  
24 under Libman’s direction, of valuable collectibles. Those collectibles  
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1 included "D-Day" commemorative coin sets and memorabilia pertaining to  
2 the late President Ronald Reagan and the late Princess Diana of Great  
3 Britain. Libman represented, orally and in writing, that he would then sell  
4 these collectibles at a significant profit for the benefit of these investors. In  
5 total, Libman raised over \$800,000 from these nine individuals.  
6

7 13. Each of the investors wrote checks to Investment Strategies,  
8 which Libman deposited in bank accounts held in the name of Investment  
9 Strategies at Washington Mutual Bank in Santa Monica, CA and Sterling  
10 National Bank in New York, NY. Libman also deposited some investor  
11 funds into a bank account in his own name at First Federal Bank in West  
12 Hollywood, CA.  
13  
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15 14. With respect to most of these investments, Libman gave the  
16 nine investors a one-page investment contract referencing a specific rate of  
17 return on their investment. The rate of return was usually from 30% to 55%  
18 for a fixed time, typically three months. At first, Libman made some timely  
19 payments of purported profits (usually ranging from \$3,000 to \$6,000) to the  
20 investors. At the end of the three-month periods, Libman often encouraged  
21 the investors to roll over the principal into a new investment, for which he  
22 provided a new contract.  
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1           15.    In 2004, Libman stopped paying purported profits and started  
2 rolling over investments without the investors' permission, and he no longer  
3 returned phone calls from investors. Libman made the last "profit" payment  
4 in April 2004. In June and early July 2004, Libman's assistant sent a letter  
5 to investors which stated that, because Libman had been working in Europe  
6 and on the West Coast, he had been unable to liquidate assets and return  
7 investor funds due to "difficult market conditions."  
8

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10           16.    At some point in 2004, Libman's former offices in Santa  
11 Monica, California became vacant and his whereabouts unknown. After  
12 Libman disappeared from contact with these investors, they lost the  
13 remainder of their investments. By June 2004, the referenced accounts that  
14 previously held investors' funds contained nothing. On some occasions,  
15 Libman used investors' money for his living expenses and other personal  
16 purposes, instead of purchasing memorabilia and collectibles.  
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19           17.    One example of Libman's conduct illustrates the extent of his  
20 deceit. On July 2, 2003, Libman induced "Investor B," who is Investor A's  
21 brother, to give him a check for \$50,000 so that Libman could fund the  
22 minting and subsequent sale of a three-piece coin set commemorating the  
23 "End of Camelot" and the late President John F. Kennedy. With respect to  
24 this scheme, Libman executed a contract on Investment Strategies letterhead  
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1 and gave it to Investor B. The contract stated that Investment Strategies  
2 would sell these coins on television for \$995, with \$5 per coin set sold to go  
3 to Investor B until this sales program was over. The contract stated, "I  
4 guarantee that you shall at least recover back the dollar amount invested  
5 regardless of the number of coin sets sold." It also stated, "Should the  
6 television campaign not commence by August 15, 2003, or any extension  
7 thereof, you shall be entitled to a refund in full." With respect to this  
8 contract, Libman told Investor B that he, Libman, would take a percentage  
9 of the proceeds from reselling the coin sets.  
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13 18. For this same scheme, "Investor C" personally handed Libman  
14 a check for \$200,000 for the same Kennedy coin set investment. Prior to  
15 their investments in the Kennedy coin sets, Libman made numerous oral  
16 representations to Investors B and C concerning the coins, including the  
17 representation that Libman had personally negotiated with the government  
18 of Ghana to have the coins approved as official currency in that country, that  
19 Libman was negotiating a contract to sell the coins with ShopNBC, a  
20 television shopping channel, and that the investment was basically risk-free.  
21 Libman also told Investor C that, because Libman was investing the majority  
22 of the money for the project himself, he would be the first to lose money if  
23 the project did not succeed. Libman signed and gave Investor C a contract  
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1 for the coin sets similar to the contract Libman executed with Investor B.  
2 Under the terms of that contract, however, Investor C's "investment in the  
3 amount of \$200,000 [entitled him] to a payment of \$20 per coin set sold."  
4 That distinction from the contract with Investor B apparently resulted from  
5 the fact that Investor C had invested more money than Investor B.  
6

7 19. Libman did not use the \$250,000 in funds he received from  
8 Investors B and C to further the sale of Kennedy coin sets. Instead, he  
9 transferred a large portion of these funds to his personal checking account  
10 and used the funds he received from Investors B and C to make payments to  
11 his ex-wife, his girlfriend, and to cover various personal and lifestyle  
12 expenses. Over the next year, Libman gave a series of excuses in person, on  
13 the phone, and via e-mail to Investors B and C for the delay in the sale of the  
14 Kennedy coin set sales. After June 2004, Libman failed to respond to  
15 messages from Investors B and C. From that point onward, Investors B and  
16 C could not make contact with Libman. Libman never refunded any of that  
17 \$250,000 to Investors B or C.  
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22 20. In another instance of Libman's fraudulent scheme, in  
23 approximately February 2004, Libman represented to Investor A that he had  
24 identified a customer for three Abraham Lincoln montages and that Libman  
25 was trying to raise \$1,000,000 for this investment. Libman told Investor A  
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1 that, by April 1, 2004, Investor A would receive a 55% return on his  
2 investment. On February 20, 2004, Investor A pooled his money with two  
3 other family members and gave Libman's assistant a \$15,000 check made  
4 out to Investment Strategies. Libman then gave Investor A a receipt, which  
5 acknowledged his \$15,000 investment in these montages. Libman never  
6 gave Investor A the promised 55% return on his investment or the montages,  
7 nor did he return Investor A's \$15,000 investment.  
8  
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10 21. During the period 2000 to 2004, at least twenty other people in  
11 the Los Angeles area, Florida, and elsewhere, invested with Libman in  
12 similar purported valuable collectibles and have been unable to recover part  
13 or all of their invested funds. In connection with these investments, Libman  
14 made similar false representations regarding the use to which the invested  
15 funds would be put and the promised returns on the investments.  
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18 22. By engaging in the conduct described above, Libman offered  
19 and sold securities to investors. The investments that Libman offered and  
20 sold to investors were securities because they qualify as "investment  
21 contracts." Libman obtained investments of money from investors claiming  
22 that they would receive profits as a result of his efforts. Libman also told  
23 certain investors that his own funds were invested as well and that he would  
24 profit or lose his own funds based upon the success or failure of the venture.  
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1 Libman knew, or was reckless in not knowing, that he made material  
2 misstatements or omissions of fact to investors in offering and selling the  
3 investment contracts.  
4

5 **Lack of Registration with the Commission**

6 23. Libman did not file any registration statements with the  
7 Commission in connection with the investment contracts he offered and sold  
8 to investors. No exemption from registration applied to the investment  
9 contracts offered and sold by Libman. Consequently, Libman engaged in  
10 the unregistered offer and sale of securities.  
11

12 24. By soliciting investors, negotiating over investment terms, and  
13 representing that he would accept compensation for his efforts from the  
14 investment proceeds, Libman acted as a broker. Libman failed, however, to  
15 register as a broker or dealer with the Commission. Moreover, Libman  
16 acted as a broker while subject to the previously issued Commission  
17 administrative order barring Libman from association with any broker,  
18 dealer, investment adviser, investment company, or municipal securities  
19 dealer. *See In the Matter of Alan D. Libman*, Admin. Proc. File No. 3-7803  
20 (February 4, 1994). (Attachment B).  
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2 **FIRST CLAIM**

3 **Violations of Section 10(b) of the Exchange Act and Exchange Act Rule**

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5 **10b-5**

6 25. Paragraphs 1 through 24 above are realleged and incorporated  
7 by reference herein.

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9 26. As set forth more fully above, defendant Libman, directly or  
10 indirectly, by use of the means or instrumentalities of interstate commerce or  
11 of the mails, or of the facilities of a national securities exchange, in  
12 connection with the purchase or sale of securities, knowingly or recklessly  
13 has: (1) employed devices, schemes, and artifices to defraud; (2) made  
14 untrue statements of material fact, or omitted to state material facts  
15 necessary in order to make the statements made, in light of the  
16  
17 circumstances under which they were made, not misleading; and (3) engaged  
18 in acts, practices and courses of business which have operated or would have  
19 operated as a fraud or deceit upon purchasers of the securities or other  
20  
21 persons.  
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23 27. By reason of the foregoing, defendant Libman violated Section  
24 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-  
25 5 [17 C.F.R. § 240.10b-5].  
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**SECOND CLAIM**

**Violations of Section 17(a) of the Securities Act**

28. Paragraphs 1 through 27 above are realleged and incorporated by reference herein.

29. As set forth more fully above, defendant Libman, directly or indirectly by use of the means or instruments of transportation or communication in interstate commerce, or of the mails, in the offer or sale of securities, knowingly or recklessly: (1) employed devices, schemes, and artifices to defraud; (2) obtained money or property by means of untrue statements of material fact, or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (3) engaged in transactions, practices and courses of business which have operated or would have operated as a fraud or deceit upon purchasers of the securities or other persons.

30. By reason of the foregoing, defendant Libman violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

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**THIRD CLAIM**

**Violations of Sections 5(a) and 5(c) of the Securities Act**

31. Paragraphs 1 through 30 above are realleged and incorporated by reference herein.

32. Defendant Libman's investment programs described above constituted investment contracts, and hence securities, within the meaning of Section 2(a)(1) of the Securities Act [15 U.S.C. § 77b(a)(1)] and Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c(a)(10)].

33. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities and transactions described in this Complaint, and no exemption from registration exists with respect to the securities and transactions described in this Complaint.

34. As set forth more fully above, defendant Libman, directly and indirectly, has been: (1) making use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise; and (2) making use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer



1 to buy through the use or medium of any prospectus or otherwise, without a  
2 registration statement having been filed or being in effect with the  
3 Commission as to such securities.  
4

5 35. By reason of the foregoing, defendant Libman violated Sections  
6 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and (c)].  
7

8 **FOURTH CLAIM**

9 **Violations of Section 15(a)(1) of the Exchange Act**

10 36. Paragraphs 1 through 35 above are realleged and incorporated  
11 by reference herein.  
12

13 37. As set forth more fully above, defendant Libman, while not  
14 being registered as a broker or dealer with the Commission, directly or  
15 indirectly, while being either a person other than a natural person or a  
16 natural person not associated with a broker or dealer which is a person other  
17 than a natural person, made use of the mails or a means or instrumentality of  
18 interstate commerce to effect transactions in, or to induce or attempt to  
19 induce the purchase or sale of, securities.  
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22 38. By reason of the foregoing, defendant Libman violated Section  
23 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].  
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2 **FIFTH CLAIM**

3 **Violations of Section 15(b)(6)(B)(i) of the Exchange Act**

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5 39. Paragraphs 1 through 38 above are realleged and incorporated  
6 by reference herein.

7  
8 40. As set forth more fully above, defendant Libman was barred  
9 from associating with a broker or dealer pursuant to a Commission order.  
10 Section 3(a)(18) of the Exchange Act [15 U.S.C. § 78c(a)(18)] defines the  
11 term “person associated with a broker dealer” to include “any person directly  
12 or indirectly controlling, or controlled by, or under common control with  
13 such broker or dealer.” By acting as an unregistered broker or dealer,  
14 Libman “controlled” a broker or dealer and therefore was a “person  
15 associated with a broker dealer.”  
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18 41. By reason of the foregoing, Libman has failed to comply with  
19 the Commission’s 1994 order barring him from associating with a broker or  
20 dealer, in violation of Section 15(b)(6)(B)(i) of the Exchange Act [15 U.S.C.  
21 § 78o(b)(6)(B)(i)].  
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**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court enter a judgment:

(a) permanently enjoining defendant Libman from future violations of Sections 5(a), 5(c) and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b), 15(a)(1), and 15(b)(6)(B)(i) of the Exchange Act [15 U.S.C. §§ 78j(b), 78o(a)(1), and 78o(b)(6)(B)(i)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5];

(b) Ordering defendant Libman to provide an accounting for the receipt and disposition of all investor funds;

(c) Ordering defendant Libman to disgorge ill-gotten gains from the conduct alleged herein, plus prejudgment interest on that amount;


(d) Ordering defendant Libman to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

(e) Ordering defendant Libman, pursuant to Section 21(e) of the Exchange Act [15 U.S.C. § 78u(e)], to comply with the 1994 Commission Order barring him from associating with a broker or dealer; and

1  
2 (f) Granting such other and further relief as this Court deems  
3 necessary and appropriate under the circumstances.  
4

5 Dated: July 18, 2007

6 Washington, D.C.

7   
8 \_\_\_\_\_  
9 James M. McHale  
10 Assistant Chief Litigation Counsel  
11 Attorney for Plaintiff  
12 U.S. Securities and Exchange Commission

13 Of Counsel:

14 Christopher R. Conte, Associate Director  
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18 LOCAL COUNSEL:

19   
20 \_\_\_\_\_  
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