E-FILED
Monday, 14 January, 2008 10:04:13 AM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

SECURITIES AND EXCHANGE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 99 CV 3072 (JES)
	)	
WAYNE F. GORSEK, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM OF LAW IN SUPPORT OF MOTION BY PLAINTIFF SECURITIES AND EXCHANGE COMMISSION FOR CREATION OF A FAIR FUND, APPROVAL OF A DISTRIBUTION PLAN, AND APPOINTMENT OF A DISTRIBUTION AGENT AND TAX ADMINISTRATOR

Plaintiff Securities and Exchange Commission ("Commission") respectfully submits this Memorandum of Law in Support of its Motion for an Order (i) authorizing the Commission to create a distribution fund for the approximately $272,037.33 currently being held in the Court's non-invested registry for this matter ("Fair Fund"); (ii) approving the Commission's plan to distribute the Fair Fund ("Distribution Plan"); (iii) appointing Gordon J. Brumback as Distribution Agent and Tax Administrator; and (iv) directing the Clerk of the Court to assist Gordon J. Brumback in the distribution, as necessary and appropriate, in accordance with the Distribution Plan.

I. BACKGROUND

On January 7, 1999, the Commission filed its original action in this matter against Defendants Wayne F. Gorsek ("Gorsek"), P. Brenden Gebben ("Gebben"), Lyndell F. Parks ("Parks"), and Troy Justus ("Justus"). (d/e 1) The Commission's Complaint alleged various violations of the federal securities acts and regulations related to the Defendants' promotion of

approximately 20 micro-cap companies through Strategic Investment Advisory, Inc. ("SIA"), a Springfield, Illinois-based company. (Id.) The Complaint alleged that SIA deceived investors into believing that it was an independent securities research firm providing objective investment advice about certain companies when, in fact, SIA was merely a paid promotional firm that uncritically published glowingly optimistic recommendations of the securities of its clients in exchange for cash and securities. (Id.) In addition, the Complaint alleged that during the SIA promotional scheme, Gorsek and Parks were co-owners and registered representatives at Strategic Investments, Inc. ("SII"), a broker-dealer. (Id.) As SII registered representatives, Gorsek and Parks defrauded brokerage customers by recommending the purchase of securities issued by SIA clients without disclosing that they received cash and securities from the issuers of those securities. (Id.)

On August 19, 2002, this Court issued an Order of Final Judgment of Permanent Injunction and Other Relief against Defendant Gorsek. (d/e 251) Among other things, the Court ordered Gorsek to pay a total of $250,000, consisting of $105,000 in disgorgement of ill-gotten gains, $70,000 in prejudgment interest, and a civil penalty of $75,000. (Id.)

On September 9, 2002, the Court issued an Order of Final Judgment against Defendants Gebben and Parks. (d/e 256) The Court ordered Gebben to pay a total of $27,337.33, consisting of $10,208.50 in disgorgement of ill-gotten gains, prejudgment interest totaling $7,128.83, and a civil penalty of $10,000. (Id.) In addition, the Court ordered Parks to pay a total of $150,000, consisting of $105,000 in disgorgement of ill-gotten gains, prejudgment interest of $35,000, and a $10,000 civil penalty.[1] (Id.)

[1] In an Order of Final Judgment of Permanent Injunction and Other Equitable Relief dated March 30, 2001, the Court ordered Justus to pay disgorgement in the amount of $5,888, plus prejudgment interest. (d/e 145.) However, the Court waived payment of these amounts, and declined to impose civil penalties, based on Justus's demonstrated inability to pay. (Id.)

In an Endorsed Order dated August 20, 2002, the Court granted the Commission's Motion (d/e 249), allowing civil penalties paid by Gorsek to be added to the disgorgement fund for the benefit of aggrieved investors, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 ("SOX").

To date, Defendants Gorsek and Gebben have satisfied the Court's Orders of Final Judgment by depositing funds into the Court's non-invested registry.[2] (d/e 258, 260) Parks, however, has not fully satisfied his judgment. He still owes $145,300 plus prejudgment interest, after making six payments between January 20, 2004, and December 22, 2005, totaling $4,700. (d/e 261) According to the registry ledger for this case, as of January 14, 2008, a total of $272,037.33 has been paid by the Defendants and is available for distribution.

II. ARGUMENT

A. The Court Should Create a Fair Fund

The Commission seeks an order distributing to defrauded investors the funds paid by Gorsek, Gebben, and Parks. Pursuant to Section 308 of SOX, 15 U.S.C. § 7246, the so-called "Fair Fund" provision of SOX, the Commission seeks to include in the Fair Fund the civil penalties paid by Gorsek and Parks, in addition to the disgorgement and prejudgment interest already paid to the Court's registry by Gorsek, Gebben, and Parks.[3] Section 308(a) of SOX provides:

> If in any judicial or administrative action brought by the Commission under the securities laws . . . the Commission obtains an order requiring disgorgement

[2] Gebben attempted to satisfy his judgment by paying $27,337.33 to the Commission via check dated October 29, 2002. Of this amount, the Commission segregated the $10,000 civil penalty and transferred it to the U.S. Treasury as required by 15 U.S.C. § 78u(d)(3). The Commission forwarded the remaining $17,337.33 to the Clerk of Court for the Central District of Illinois. See d/e 260. Consequently, Gebben's $10,000 civil penalty has never been in the Court Registry and is not included in the Fair Fund in this matter.

[3] As noted in the prior footnote, Gebben's $10,000 civil penalty amount was paid over to the U.S. Treasury by the Commission. Consequently, the Commission does not seek now to add Gebben's $10,000 civil penalty to the Fair Fund in this matter.

> against any person for a violation of such laws or the rules or regulations thereunder, or such person agrees in settlement of any such action to such disgorgement, and the Commission also obtains pursuant to such laws a civil penalty against such person, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of the disgorgement fund for the benefit of the victims of such violation. 15 U.S.C. § 7246(a).

The Commission brought this action under the securities laws. As a result of this action, Gorsek, Gebben, and Parks were ordered to pay disgorgement, prejudgment interest, and penalties. Accordingly, the requirements of SOX Section 308(a) have been satisfied. Furthermore, permitting civil penalties paid by Gorsek and Parks to be aggregated with the available disgorgement funds will permit the Commission to return more money to investors, consistent with the purpose of the Fair Fund provision.[4] As already noted, the Court previously agreed to add Gorsek's $75,000 civil penalty to the disgorgement fund in this case for the benefit of investors, pursuant to Section 308 of SOX. (d/e 249) To the extent that any of his deposits in the Court's registry were tendered toward his civil penalty, the Commission respectfully requests that the Court permit all amounts paid by Parks to be added to disgorged funds, and thereby approve the creation of a Fair Fund.

B. The Court Should Approve the Commission's Distribution Plan

1. *Legal Standard*

To the best of the Commission's knowledge, the United States Court of Appeals for the Seventh Circuit has never explicitly addressed the scope of the district court's discretion in fashioning distribution plans in Commission enforcement actions. However, other appellate courts have. The Second Circuit has said that a court has broad discretion in fashioning relief and protective measures in Commission actions. See Official Comm. of Unsecured Creditors of

[4] Before enactment of the Fair Fund provisions, civil penalties were required to be paid to the United States Treasury. See Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u(d)(3)(C)(i).

Worldcom, Inc. v. SEC, 467 F.3d 73, 81 (2d Cir. 2006). The Second Circuit has repeatedly held that crafting a remedy for violations of the Securities Exchange Act of 1934 ("Exchange Act") lies within the district court's broad equitable discretion. See, e.g., SEC v. First Jersey Sec., Inc., 101 F.3d 1450, 1474 (2d Cir. 1996); SEC v. Manor Nursing Centers, Inc., 458 F.2d 1082, 1103 (2d Cir. 1972). "[I]t remains within the court's discretion to determine how and to whom the money will be distributed, and the district court's distribution plan will not be disturbed on appeal unless that discretion has been abused." SEC v. Fischbach Corp., 133 F.3d 170, 175 (2d Cir. 1997); see also In re San Vicente Med. Partners Ltd., 962 F.2d 1402, 1406 (9th Cir. 1992) ("federal courts enjoy wide discretion in fashioning relief and protective measures in SEC actions"). This discretion extends to consideration and approval of a plan of distribution.

When crafting any distribution plan, the Commission necessarily must draw lines among potential claimants, as it is the rare case in which the amount recovered by disgorgement or (now) a penalty could compensate all investors' losses. In recognition of the difficulty of the task, among other things, courts give the Commission significant discretion to set the parameters of a distribution plan. Worldcom, 467 F.3d at 82-84 (holding that the "fair and reasonable" standard of review is appropriate for Fair Fund distribution plans).

The fact that a distribution plan excludes certain potential claimants or limits certain losses does not render a proposed plan inequitable, as long as there is a reasonable basis for the underlying decisions. For example, the Second Circuit affirmed the district court's rejection of challenges to a Commission distribution plan by option traders who contended that the plan both unfairly excluded some option traders and also unfairly limited the recovery of others. See SEC v. Wang, 944 F.2d 80, 87-88 (2d Cir. 1991). After noting that the choices made by the Commission in designing the plan were reasonable in that they, among other things, conserved

the limited pool of funds to distribute to investors by minimizing administrative expenses that would be incurred by making other choices, the Second Circuit underscored the deference given to the inevitable line-drawing the Commission must make in nearly every distribution plan. Id. The Second Circuit explained that this "kind of line-drawing – which inevitably leaves out some potential claimants – is, unless commanded otherwise by the terms of a consent decree, appropriately left to the experience and expertise of the SEC in the first instance." Id. at 88; accord SEC v. Levine, 881 F.2d 1165, 1182 (2d Cir. 1989) (under consent judgments, Commission had primary authority to determine eligibility of claimants under disgorgement distribution plan); SEC v. Scherer, No. 92 Civ. 6300 (WK), 1996 WL 689350, at *1 (S.D.N.Y. Nov. 29, 1996) ("[T]he Commission has discretion in fashioning distribution plans like the disgorgement fund in this case."); SEC v. Finacor Anstalt, No. 90 Civ. 7667 (JMC), 1991 WL 173327, at *3 (S.D.N.Y. Aug. 29, 1991) (rejecting challenge to Commission's proposed disgorgement distribution plan; holding that the "equities weigh in favor of limiting payment at this time to the claimants suffering the greatest injury").

Similarly, in reviewing a district court's approval of a distribution plan proposed by a receiver acting on behalf of the Commission, the Fifth Circuit found no abuse of discretion. See SEC v. Forex Asset Mgmt. LLC, 242 F.3d 325, 331-32 (5th Cir. 2001). The Fifth Circuit reached this conclusion on the distribution plan, which provided for the pro rata distribution of all assets to all investors, despite the fact that the misappropriated funds of one pair of investors were segregated from those of other investors. Id. "'In shaping equity decrees the trial court is vested with broad discretionary power,'" the Fifth Circuit has repeatedly stated, and "'appellate review is correspondingly narrow.'" Id. at 331 (quoting Quenzer v. United States, 19 F.3d 163, 165 (5th Cir. 1993)); see also SEC v. Basic Energy & Affiliated Res., Inc., 273 F.3d 657, 670

(6th Cir. 2001) (finding no abuse of discretion where district court considered arguments of various investors, facts of the case, and fashioned a distribution plan that was fair and equitable).

2. *The Distribution Plan is Fair and Reasonable*

The Commission believes that its Distribution Plan is both fair and reasonable. The Commission proposes that the entire $272,037.33 be distributed, on a pro rata basis, to a limited number of aggrieved investors. Even though such a small distribution ultimately will not make victims of the Defendants' fraud whole, the Commission nevertheless believes that this distribution will represent a meaningful amount of money to those aggrieved investors who participate in the distribution. In light of the fact that the Fair Fund cannot fully compensate all shareholder losses, the Distribution Plan's guiding principle is to attempt to distribute the limited funds available to those shareholders with the greatest losses resulting from the fraud. The Commission submits that a limited pro rata distribution would be fair, given that preliminary total losses (using incomplete information) of eligible investors identified by the Commission exceed the amount available for compensation. With this plan of distribution, the Commission seeks to maximize the return to aggrieved investors, distribute money as quickly as possible, and minimize administrative costs.

However, given the relatively small size of the Fair Fund, the Commission proposes that the Distribution Fund include several features that are not typical of the distributions normally conducted by the Commission. For instance, the Commission proposes that its attorney serve as both Distribution Agent and Tax Administrator, in order to avoid the expenses incurred for these services and avoid additional depletion of the limited funds for distribution. Given the small size of the Fair Fund, and the limited number of potential claimants (which the Commission expects may range from 30 to 75), the Commission believes that this is a workable solution. In addition,

the Commission proposes that it provide notice directly via mail to those potential claimants which it can identify, and provide general notice to the public via its website. In this manner, the Commission also can avoid depleting the limited funds available for distribution.

Furthermore, in an attempt to maximize the effect of such a small Fair Fund for distribution purposes, the Commission has attempted to narrow the class of potential claimants using several equitable considerations, which are discussed below.

3. *The Distribution Plan Limits the Class of Eligible Claimants to Deserving Victims of the Defendants' Fraud*

As an initial matter, the Commission proposes that the class of eligible claimants only include those customers of SII, a broker-dealer owned in part by Gorsek and Parks, who ultimately lost money after purchasing from Gorsek, Justus, and/or Parks, certain securities promoted by SIA, a promotional firm also owned in part by Gorsek and Parks. In addition, the Commission proposes that Defendants, their relatives, SII and SIA, and any executives or employees of these companies, be excluded from the proposed distribution, given their direct or imputed knowledge of the illegal arrangement between SIA and the various issuers. For similar reasons, the Commission proposes that all of the issuers who paid SIA to promote their securities, as well as the executives, employees, and relatives affiliated with these issuers, should be excluded from the proposed distribution. Finally, the Commission proposes that this class be further limited to those who have actually incurred aggregate net losses in excess of $100.00 from the purchase of the relevant securities within the relevant periods.

It is undisputed that Defendants, acting through SIA, disseminated materials and engaged in activities which falsely represented that SIA was a research firm that performed independent analyses of these companies and, based on such analyses, made recommendations to buy the stock of these companies due to the likelihood that their value would increase. SIA's

promotional materials and activities did not disclose the amount or type of compensation it received from these companies.

During trial, the Commission and Defendants stipulated to the names of companies that entered into contracts with SIA, providing cash and securities, among other things, to SIA in exchange for the promotion of the companies' stocks over certain periods of time. (Tr. of Proceedings on Apr. 15, 2002, at 32). The companies whose securities were promoted ("Eligible Securities") and contract dates ("Recovery Periods") which were the subject of this stipulation are set forth in the table below.

ELIGIBLE SECURITIES	RECOVERY PERIODS
Allegiant Physicians Services, Inc.	7/22/94 – 10/18/95
CryoPac Industries, Inc.	10/4/94 – 12/15/95
Deprenyl Animal Health, Inc.	8/11/93 – 5/15/94
Draxis Health, Inc.	3/30/94 – 5/31/94
Environmental Chemicals Group, Inc.	11/23/94 – 2/15/95
First Fidelity Acceptance Corp.	8/14/95 – 9/18/95
Haber, Inc.	10/13/94 – 12/1/94
Madera International, Inc.	3/30/95 – 7/10/95
Princeton American Corp.	11/11/94 – 7/12/95
United Trust, Inc.	3/1/94 – 9/30/94
Value Holdings, Inc.	11/1/94 – 12/25/94

This Court has found Justus and Parks liable of defrauding SII customers by recommending the purchase of Eligible Securities using SIA promotional materials, without disclosing that SIA received compensation for this promotional work from the companies that issued these securities. (d/e 145, 225) Similarly, this Court has also concluded that Gorsek provided SII customers with materially misleading SIA promotional materials before they purchased the Eligible Securities, without disclosing the type and amount of compensation received by SIA for production of the promotional materials, and without disclosing that SIA's opinions and recommendations were made under the direction or approval of the companies that issued the Eligible Securities, and contained no independent research by SIA. (d/e 234) And, as

an employee of SIA, Gebben was found liable for knowingly or recklessly making false and misleading statements in five postings on a stock discussion website, and for distributing false and misleading promotional materials touting stocks, without disclosing payments he received in exchange for his promotional efforts, among other things. (d/e 201, 214)

On the basis of these undisputed facts, and the ultimate findings of liability against the Defendants, the Commission proposes that the disgorgement, prejudgment interest, and penalties paid into the Distribution Fund should be distributed to those SII customers who purchased the Eligible Securities from Gorsek, Parks, and/or Justus during the applicable Recovery Periods, and ultimately suffered aggregate net losses from these transactions, regardless of when the customers sold the Eligible Securities – that is, regardless of whether or not the sales occurred within the applicable Recovery Periods.

In order to identify these particular individuals, the Commission proposes that the Distribution Agent, with the assistance of the Commission staff and in accordance with the terms of this distribution plan, review a spreadsheet created by the Commission from business records provided to the Commission during its investigation of this matter to identify eligible claimants to the Distribution Fund, as well as the amounts invested. The Distribution Agent shall include within the class of eligible claimants those individuals and entities that purchased, through Gorsek, Parks, or Justus, any of the Eligible Securities during the applicable Recovery Periods ("Eligible Claimants"). For the purposes of this distribution, it will be immaterial when the Eligible Claimants actually sold the Eligible Securities. The Distribution Agent shall exclude from the class of Eligible Claimants those investors who cannot claim a loss from such purchases and those investors whose loss does not exceed $100.00. The Commission typically uses the $100.00 amount as a threshold for eligibility, because the distribution of a smaller amount is not

cost-effective. In this case, use of the $100 threshold would result in 94% of the preliminarily identified investors to be eligible by the Commission. During the trial, this Court identified several of the claimants in this case as having been defrauded, most of whom are in or around Springfield, Illinois.[5]

The Commission proposes the exclusion of Gorsek, Gebben, Parks, and Justus from the class of Eligible Claimants, as well as their relatives. Even though they may have purchased the securities at issue within the periods in the table above, the Commission contends that Defendants should not now profit from their illicit conduct. Similarly, Defendants' relatives should be excluded given their direct or imputed knowledge of Defendants' fraudulent activities.

The Commission also proposes that SIA, SII, their executives, employees, and relatives should not receive any proceeds from the Distribution Fund. Similarly, the Commission proposes that any SIA clients, officers or directors of SIA clients, and their families be excluded from the class of Eligible Claimants, even if they purchased the securities at issue within the periods set forth in the table above. Even though these two groups of investors may have purchased the securities at issue within the periods set forth in the table above, the Commission contends that they should be excluded from the class of Eligible Claimants, given their direct or imputed knowledge of Defendants' fraudulent activities.

Using these conditions and upon receipt of the Court's approval, the Commission proposes that the Distribution Agent and the Commission's staff identify the Eligible Claimants and notify them directly of the distribution plan. The Distribution Agent shall make a preliminary, proprietary, and confidential calculation of the amount of each Eligible Claimant's claim. The Commission proposes that the Distribution Agent eventually allocate the distribution

[5] The Commission anticipates a small number of potential claimants. Plaintiff has identified 32 individuals and entities as potential claimants, the vast majority of whom live in or around Springfield, Illinois.

fund on a pro rata basis, upon the Court's approval, only to those Eligible Claimants who submit Proof of Claim Forms detailing the amount of the claims according to the procedures set out below. The Distribution Agent shall revise preliminary claims calculations and Eligible Claimants, as necessary, based on the information provided in the returned Proof of Claim Forms and supporting documentation provided by the Eligible Claimants. The Distribution Agent shall then propose to the Court the distribution of the fund on a pro rata basis using these figures. After distribution of the Fair Fund is completed, the Distribution Agent shall file with the Court a final accounting of all monies paid into and disbursed from the Fair Fund, whether to Eligible Claimants or to the U.S. Treasury, and all expenses incurred. Upon approval of the final accounting, Brumback shall be discharged as Distribution Agent and Tax Administrator, releasing him from any further duties.

4. *Conclusion on the Commission's Distribution Plan*

For the foregoing reasons, the Distribution Plan should be approved because it would compensate those investors most affected by the charged misconduct and exclude those who may have been responsible for the alleged fraud or those whose losses could not be reliably calculated, in a cost-effective manner that is both fair and reasonable.

C. The Court Should Appoint Gordon J. Brumback As Distribution Agent and Tax Administrator

Given the small amount of money available to aggrieved investors in this case, the Commission respectfully requests that its attorney, Gordon J. Brumback ("Brumback"), serve as Distribution Agent and Tax Administrator. The Commission submits that hiring an independent, third-party Distribution Agent and Tax Administrator would be prohibitively expensive and unnecessarily deplete the Fair Fund. Furthermore, given the relatively small number of potential claimants (which the Commission expects to be in the range of 30 to 75), and the lack of taxable

income generated by the Fair Fund, the Commission submits that hiring an independent, third-party Distribution Agent and Tax Administrator is unnecessary.

The Commission also recommends that the Distribution Agent be excused from any requirement to post a bond, because the expense of posting such a bond would reduce the limited amount of money available to be distributed to investors. See SEC v. Universal Fin., 760 F.2d 1034, 1039 (9th Cir. 1985) (affirming district court's decision not to require receiver to post a bond, as the main effect would be to deplete further the resources available to investors and others with an interest in the receivership estate). The Distribution Agent will not be compensated from the Fair Fund or receive any compensation for his work on the distribution beyond his ordinary compensation from the Commission.

The Fair Fund is a "qualified settlement fund" under the Internal Revenue Code and Treasury Regulations, see 26 U.S.C. § 468B; see also 26 C.F.R. §§ 1.468B-1 and 1.468B-2(k)(1), and therefore must file certain informational returns with the Internal Revenue Service. With the Court's consent, Brumback will file the necessary returns with the Internal Revenue Service on behalf of the Fair Fund. Since its inception, the Fair Fund has not generated any taxable income, because the amounts Gorsek, Gebben, and Parks have paid to the Court's registry were deposited into a non-interest bearing account. Consequently, the Fair Fund owes no taxes for the years it has been in existence. Although the Fair Fund has not generated taxable income, tax returns are nevertheless required.

For the foregoing reasons, the Commission respectfully recommends that the Court appoint its attorney, Gordon J. Brumback, as Distribution Agent and Tax Administrator for the Fair Fund.

D. The Court Should Direct the Clerk of the Court to Assist in the Distribution

In order to accomplish its distribution, the Commission respectfully requests that the Court direct the Clerk of the Court, including its Finance Department, to assist the Distribution Agent in the distribution, as necessary and appropriate, in accordance with the Distribution Plan. The Commission expects to ask, in writing, that the Clerk's Finance Department issue checks in various amounts to the Eligible Claimants from the account for this matter in its non-invested registry. These checks then would be sent to the Distribution Agent for distribution to the Eligible Claimants. The Clerk's Finance Department has indicated to the Commission's staff, through informal discussions, that they would be able to accommodate this request.

III. CONCLUSION

For the foregoing reasons, Plaintiff Securities and Exchange Commission respectfully requests that the Court grant its Motion for an Order (i) authorizing the Commission to create a Fair Fund; (ii) approving the Commission's plan to distribute the Fair Fund; (iii) appointing Gordon J. Brumback as Distribution Agent and Tax Administrator; and (iv) directing the Clerk of the Court to assist Gordon J. Brumback in the distribution, as necessary and appropriate.

Dated: January 14, 2008

Respectfully submitted,

s/ Gordon J. Brumback

Gordon J. Brumback (MD. Fed. Bar No: 09013)
Kevin Guerrero (AZ Bar Number: 023673)
Attorneys for Plaintiff
Securities and Exchange Commission
100 F St., NE, Mail Stop 8549-C
Washington, DC 20549
Telephone: (202) 551-4424 (Brumback)
Telephone: (202) 551-4401 (Guerrero)
Fax: (202) 772-9240
E-mail: brumbackg@sec.gov
guerrerok@sec.gov

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following: Lyndell Parks (c/o Daniel Paul Schuering, Esq., and John Edward Kerley, Esq.). I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: Wayne F. Gorsek (c/o Phillip W. Offill, Jr., Esq.), P. Brenden Gebben (c/o Hugh J. Graham, III, Esq.), and Troy Justus, pro se.

s/ Gordon J. Brumback
Gordon J. Brumback (MD. Fed. Bar No: 09013)
Kevin Guerrero (AZ Bar Number: 023673)
Attorneys for Plaintiff
Securities and Exchange Commission
100 F St., NE, Mail Stop 8549-C
Washington, DC 20549
Telephone: (202) 551-4424 (Brumback)
Telephone: (202) 551-4401 (Guerrero)
Fax: (202) 772-9240
E-mail: brumbackg@sec.gov
guerrerok@sec.gov