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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

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CLERK, U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS, FLORIDA

CASE NO.:

SECURITIES AND EXCHANGE COMMISSION, )  
)  
Plaintiff, )  
)  
v. )  
)  
DAVID E. TETHER, )  
)  
Defendant. )  
)

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**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission alleges as follows:

**I. INTRODUCTION**

1. From April 2004 through February 2005, David E. Tether, the former Chief Executive Officer of Solomon Technologies, Inc. and owner of more than 30% of Solomon's outstanding shares, defrauded investors by hiding his illegal trading activity. While bound by an agreement prohibiting him from trading in Solomon stock (the "lock up agreement"), Tether transferred 200,000 shares of Solomon stock, constituting 4% of Solomon's outstanding shares, in return for a sailboat and potential cash.

2. The lock up agreement was a key provision of Solomon's 2004 initial public offering. As described in a registration statement the company filed with the Commission in 2003, the lock up agreement was an effort to attract investors in the IPO by assuring them that major Solomon shareholders such as Tether would not cause the company's stock price to fall by selling off large blocks of stock in the year after the IPO. Despite knowing this and despite

knowing the transfer directly violated the lock up agreement and rendered Solomon's representations to investors untrue, Tether failed to disclose his transfer.

3. To further his fraud, Tether caused Solomon to file a materially false and misleading Amended Annual Report with the Commission that failed to disclose his stock transfer and consequently overstated the amount of Solomon stock he owned. As Solomon's CEO, Tether falsely certified the Amended Annual Report contained no material misstatements or omissions, despite knowing the Report failed to inform the investing public of his large stock transfer in violation of the lock up agreement.

4. Tether also failed to timely disclose the transfer of his locked up shares, waiting instead until after the lock up period expired in January 2005. The transfer occurred on April 12, 2004. Although the federal securities laws required Tether to disclose the transfer in a filing with the Commission within two days, he waited ten months, until February 2005, to make this filing. He also failed to make yet another required filing with the Commission disclosing his change in stock ownership.

5. Through the conduct set forth in this Complaint, Tether violated Sections 10(b), 13(g), and 16(a) of the Securities Exchange Act of 1934 ("Exchange Act), 15 U.S.C. §§ 78j(b), 78m(g), and 78p(a), and Rules 10b-5, 13a-1, 13a-14, 13d-1(d), 13d-2(b), and 16a-3, 17 C.F.R. §§ 240.10b-5, 240.13a-14, 240.13d-1(d), 240.13d-2(b), and 240.16a-3. He also aided and abetted Solomon's violations of Section 13(a) of the Exchange Act and Rule 13(a)-1, 15 U.S.C. § § 78m(a) and 17 C.F.R. § 240.13a-1. Due to the serious nature of Tether's violations, as well as the scienter Tether demonstrated through his willful and wanton disregard for the federal securities laws, Tether has shown he will likely engage in future violations of the federal securities laws unless the Court enjoins him. Tether currently serves as the CEO of a private

company whose mission is, in part, to “spin out promising ventures to form separate publicly held subsidiaries.” Accordingly, without a Court injunction, Tether could again serve as an officer or director of a public company subject to the federal securities laws.

## **II. JURISDICTION AND VENUE**

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

7. Venue is proper in the Middle District of Florida because many of Tether’s acts and transactions giving rise to the violations alleged in this Complaint occurred in the Middle District of Florida. In addition, Solomon’s principal place of business is located in the Middle District of Florida, and Tether resides in the Middle District of Florida.

8. In connection with the conduct alleged in this Complaint, Tether, directly or indirectly, made use of the means and instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange.

## **III. DEFENDANT**

9. Tether, 56, resides in Fort Myers Beach, Florida. Tether founded Solomon in 1992 and served as the company’s CEO and chairman of its board of directors from 1992 until July 2004. Since December 2005, Tether has been CEO of a Florida limited liability corporation.

## **IV. RELEVANT ENTITY**

10. Solomon, a manufacturer and seller of electric boat engines, is a Delaware corporation with its principal place of business in Tarpon Springs, Florida. Solomon has been registered with the Commission pursuant to Section 12(g) of the Exchange Act since January 2004.

## V. FACTS

### A. The Lock Up Agreement

11. In the spring of 2003, Tether decided to take Solomon public by conducting an IPO. On August 18, 2003, in connection with preparation for the IPO, Tether signed a lock up agreement restricting him from disposing of his Solomon stock for one year from the effective date of Solomon's registration statement.

12. The lock up agreement was meant to reassure potential investors in Solomon's IPO that Tether and other major Solomon shareholders would not lower the share price by selling large blocks of company shares until well after the IPO.

13. This intent was evidenced in the September 2003 registration statement, which explained to potential investors, "[s]ales of a substantial number of shares of our common stock in the public market, or the fact that a substantial number of shares is available for sale, could cause our stock price to fall." The registration statement went on to reassure potential investors by describing the lock up agreements as restricting the sale of Solomon stock for one year after the effective date of the registration statement.

14. The lock up agreement Tether signed provided:

[T]he undersigned stockholder hereby agrees not to offer to sell, contract or otherwise sell, dispose of, loan, pledge or grant any rights with respect to any shares of common stock ... owned directly by the undersigned or with respect to which the undersigned has the power of disposition... for a period of one (1) year from the date the Registration Statement is declared effective ("Effective Date") by the SEC.

15. The lock up agreement provided it would become null and void if Solomon's registration statement was not effective by December 31, 2003. The registration process required more time than Solomon anticipated, and the effective date of the registration statement

was not until January 7, 2004. Accordingly, Tether signed an agreement extending the lock up period for Solomon stock for one year from the January 7, 2004 effective date.

16. On January 21, 2004, Solomon filed a prospectus with the Commission dated January 7, 2004 (“January 2004 prospectus”) stating the lock up agreements would prevent the sale of the great majority of Solomon’s outstanding common stock until January 7, 2005. The prospectus further represented Tether owned approximately 31% of Solomon’s outstanding common stock.

17. Tether was well aware of the significance of the lock up agreement. Tether executed a letter dated January 22, 2004 to stockholders who had signed the original lock up agreement that technically had expired on December 31, 2003. In the letter, Tether stated “the registration process required more time tha[n] we anticipated and the SEC did not declare our registration statement effective until January 7, 2004. *The need for the lock-up agreements still urgently exists*, and we will not be able to commence trading of our securities until we have received new agreements from our stockholders.” Tether then asked the stockholders to affirm “(i) that your signed lock-up agreement on file with us is valid, notwithstanding that our registration statement was declared effective by the SEC after January 1, 2004, and (ii) that in all other respects, your lock-up agreement remains effective according to its terms.”

18. The very next day, Tether executed letters to additional Solomon stockholders who had not yet signed a lock up agreement, asking them to sign an agreement restricting their sale of Solomon stock until January 7, 2005. In making this request, Tether represented, “[a]ll members of management, including myself, are also prevented from trading our stock during this lockup period.”

19. On February 27, 2004, Solomon filed another prospectus dated February 24, 2004 (“February 2004 prospectus”), which reiterated the lock up agreements covered the great majority of Solomon’s outstanding common stock until January 2005, and also restated Tether’s 31% share of Solomon’s outstanding common stock.

20. These facts show Tether knew Solomon’s registration became effective on January 7, 2004, and the lock up agreement was in effect until January 7, 2005.

**B. Tether Violates The Lock Up Agreement**

21. Despite the lock up agreement, in February 2004, Tether began discussions with Kevin High to purchase a 47-foot catamaran sailboat using his Solomon stock. In mid-March 2004, Tether and High orally agreed to the terms of a sale based on Tether paying with 200,000 shares of his Solomon stock.

22. On March 30, 2004, Tether signed and sent to Solomon’s transfer agent a letter authorizing the transfer of 200,000 shares of Solomon stock to Bristol Charter LLC, an entity High owned and controlled. The 200,000 shares represented approximately 12% of Tether’s stock holdings in Solomon, and 4% of Solomon’s outstanding shares.

23. Based on Tether’s instructions, Solomon’s transfer agent issued a stock certificate on April 12, 2004 for 200,000 shares to Bristol. High delivered the sailboat to Tether shortly afterwards.

24. On May 10, 2004, Tether and High signed a written agreement memorializing their deal. According to the sales agreement, High would accept 175,000 shares of Tether’s Solomon stock in exchange for the vessel, valued at \$375,000. They also agreed High would use the remaining 25,000 shares Tether had transferred to compensate promoters who would tout Solomon’s stock.

25. According to the sales agreement, High had to sell as many of the 175,000 shares as he could within one year, crediting proceeds from the sales toward the sailboat's \$375,000 price. If High received less than \$375,000 from the sale of Tether's shares, Tether was obligated to pay the difference in cash. Conversely, Tether would receive cash back if the proceeds from High's sales exceeded \$375,000.

26. When the Solomon stock price did not rise high enough to make Tether's 175,000 shares worth the price of the sailboat, High, with Tether's consent, sold the 25,000 shares of stock meant for promoters and credited the proceeds towards Tether's purchase of the sailboat.

27. Tether knew or was reckless in not knowing he was bound by the lock up agreement, and knew or was reckless in not knowing the agreement covered the Solomon stock he had used to buy the sailboat. Tether's January 2004 letters to shareholders, as well as the January and February 2004 prospectuses he signed and filed with the Commission, all represented the lock up agreements covered Tether's stock at the time of the sailboat deal and stock transfer. Furthermore, Tether knew or was reckless in not knowing Solomon's Board of Directors had not waived the lock up agreement restrictions.

**C. Tether Aids And Abets Solomon's Misleading Filing With The Commission**

28. Solomon filed its Form 10-KSB (the "Annual Report") and amended Form 10-KSB/A (the "Amended Annual Report") for year end 2003 with the Commission on April 14 and April 29, 2004. Both of these filings contained a form of the lock up agreement as an exhibit.

29. Tether signed the Amended Annual Report on April 27, 2004 as Solomon's CEO, certifying it contained no omissions or untrue statements of material fact. However, the report failed to disclose Tether had transferred 200,000 shares of his locked up stock and correspondingly falsely overstated the amount of stock Tether owned.

30. The Amended Annual Report stated that as of April 22, 2004, Tether beneficially owned approximately 1.6 million shares of Solomon stock. In fact, as of that date, he owned only 1.4 million shares because of his earlier transfer of the 200,000 shares for the boat.

31. Tether knew or was reckless in not knowing the Amended Annual Report contained this material misrepresentation and omission, because he signed the filing and certified it as accurate while knowing it did not reflect his April 2004 stock transfer.

**D. Tether Fails To Make Required Filings With The Commission**

32. At all times relevant to this Complaint, Tether was Solomon's CEO or beneficial owner of more than 10% of Solomon's outstanding common stock. As such, Tether was required by Section 16(a) of the Exchange Act and Rule 16a-3, 15 U.S.C. § 78p(a) and 17 C.F.R. § 240.16a-3, to file a Form 4 with the Commission within two business days of any change in his stock ownership. That meant he should have filed a Form 4 by April 14, 2004.

33. However, Tether did not file a Form 4 disclosing his transfer of the 200,000 shares until approximately one month after the expiration of the lock up period, on February 25, 2005, ten months after it was due. Tether knew or was reckless in not knowing he had to file a Form 4, because he previously had filed a Form 4 with the Commission on April 29, 2004 in which he disclosed his April 14, 2004 acquisition of Solomon stock options.

34. Additionally, Tether failed to file a Schedule 13G or an amended Schedule 13G disclosing, among other things, his name, his relation to Solomon, his residence, the number and type of shares he held, and the nature of his interest. Section 13(g) of the Exchange Act and Rules 13d-1(d) and 13d-2(b), 15 U.S.C. § 78m(g), and 17 C.F.R. §§ 240.13d-1(d) and 240.13d-2(b), required Tether, as a beneficial owner of more than 5% of Solomon's stock, to file a Schedule 13G within 45 days after the 2004 calendar year in which Solomon's registration



became effective, and to file an amended 13G within 45 days after the 2004 calendar year in which he transferred his 200,000 Solomon shares in the sailboat deal.

## **VI. CLAIMS FOR RELIEF**

### **COUNT I**

#### **Fraud in Violation of Section 10(b) and Rule 10b-5 of the Exchange Act**

35. The Commission repeats and realleges paragraphs 1 through 34 of its Complaint.

36. By his conduct described above, Tether, in connection with the purchase or sale of securities, by use of the means and instrumentalities of interstate commerce or of the mails, directly or indirectly, knowingly, willfully or recklessly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and courses of business which have operated as a fraud upon the purchasers of such securities.

37. By reason of the foregoing, Tether violated, and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act and Rule 10b-5, 15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5.

### **COUNT II**

#### **Aiding and Abetting Violations of Section 13(a) and Rule 13a-1 of the Exchange Act**

38. The Commission repeats and realleges paragraphs 1 through 34 of its Complaint.

39. Solomon failed to file an accurate periodic report with the Commission containing required material information and failed to add additional material information necessary to make the required periodic report or statement, in the light of the circumstances under which it

was made, not misleading. Solomon's Amended Annual Report falsely stated Tether's stock holdings by failing to disclose he had used 200,000 shares to buy the sailboat.

40. Tether knowingly or recklessly substantially participated in Solomon's violations of Section 13(a) of the Exchange Act and Rule 13a-1 by signing and certifying Solomon's false and misleading Amended Annual Report.

41. By reason of the foregoing, Tether aided and abetted Solomon's violations of Section 13(a) of the Exchange Act and Rule 13a-1, 15 U.S.C. § 78m(a) and 17 C.F.R. § 240.13a-1.

### **COUNT III**

#### **Violation of Rule 13a-14 Promulgated Under the Exchange Act**

42. The Commission repeats and realleges paragraphs 1 through 34 of its Complaint.

43. Tether certified Solomon's Amended Annual Report for year end December 31, 2003, which Solomon filed with the Commission and which contained materially false and misleading statements and omissions concerning Tether's stock sale under the lock up agreement and his ownership of Solomon stock.

44. By falsely certifying Solomon's Amended Annual Report, Tether violated Rule 13a-14 under the Exchange Act, 17 C.F.R. § 240.13a-14.

### **COUNT IV**

#### **Violations of Section 13(g) and Rules 13d-1(d) and 13d-2(b) of the Exchange Act**

45. The Commission repeats and realleges paragraphs 1 through 34 of its Complaint.

46. Tether, as a beneficial owner of more than 5% of Solomon's stock registered with the Commission pursuant to Section 12 of the Exchange Act, was required to file a Form 13G with the Commission pursuant to Section 13(g) of the Exchange Act and Rules 13d-1(d) and 13d-2(b) thereunder.

47. After Solomon's stock became registered pursuant to Section 12 of the Exchange Act, Tether failed to file a Schedule 13G.

48. Tether also failed to file an amended Schedule 13G after the calendar year in which he transferred 200,000 shares of Solomon stock to Bristol in the sailboat deal.

49. By reason of the conduct described above, Tether violated Section 13(g) of the Exchange Act and Rules 13d-1(d), and 13d-2(b), 15 U.S.C. § 78m(g), and 17 C.F.R. §§ 240.13d-1(d) and 240.13d-2(b).

### **COUNT V**

#### **Violations of Section 16(a) and Rule 16a-3 of the Exchange Act**

50. The Commission repeats and realleges paragraphs 1 through 34 of its Complaint.

51. Tether, as an officer of Solomon and as a beneficial owner of more than 10% of Solomon's stock registered with the Commission pursuant to Section 12 of the Exchange Act, was required to file statements with the Commission pursuant to Section 16(a) of the Exchange Act and Rule 16a-3, reporting within two business days any change in his beneficial ownership of Solomon equity securities.

52. Tether failed to file with the Commission a timely statement on a Form 4 within two business days of his transferring 200,000 Solomon shares in the sailboat deal.

53. By reason of the conduct described above, Tether violated Section 16(a) of the Exchange Act and Rule 16a-3, 15 U.S.C. § 78p(a) and 17 C.F.R. § 240.16a-3.

**VII. PRAYER FOR RELIEF**

**WHEREFORE**, the Commission respectfully requests that this Court:

**I.**

**Declaratory Relief**

Declare, determine and find that Tether has committed the violations of the federal securities laws alleged in this Complaint.

**II.**

**Permanent Injunctive Relief**

Permanently restrain and enjoin Tether and his agents, servants, employees, representatives, attorneys, and assigns and those persons in active concert or participation with him, and each of them, from violating Sections 10(b), 13(g), and 16(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78m(g), and 78p(a), and Rules 10b-5, 13a-1, 13a-14, 13d-1(d), 13d-2(b), and 16a-3, 17 C.F.R. §§ 240.10b-5, 240.13a-14, 240.13d-1(d), 240.13d-2(b), and 240.16a-3, and aiding and abetting violations of Section 13(a) of the Exchange Act and Rule 13(a)-1, 15 U.S.C. § 78m(a) and 17 C.F.R. § 240.13a-1.

**III.**

**Disgorgement and Prejudgment Interest**

Order Tether to disgorge all ill-gotten gains, including prejudgment interest, resulting from the violations alleged in this Complaint.

**IV.**

**Penalties**

Order Tether to pay a civil money penalty pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

V.

**Officer and Director Bar**

Permanently bar Tether from acting as an officer or director of a publicly held company pursuant to Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2).

VI.

**Further Relief**

Grant such other and further relief as this Court may deem just and appropriate.

VII.

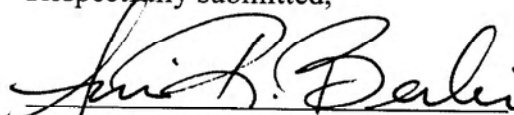
**Retention of Jurisdiction**

Further, the Commission respectfully requests that the Court retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

August 2, 2007

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