

Karen L. Martinez (Bar No. # 7914)  
Thomas M. Melton (Bar No. # 4999)  
Lindsay S. McCarthy (Bar No. # 5216)  
Attorneys for the Plaintiff  
SECURITIES AND EXCHANGE COMMISSION  
15 W. South Temple, Suite 1800  
Salt Lake City, UT 84101  
(801) 524-5796

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

FEB 09 2005

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

TEK CORPORATION, a Utah Corporation,  
THOMAS J. ROBBINS, DOUGLAS L.  
LITSTER, CLAIR W. COX AND RICHARD  
C. BYBEE,

Defendants.

Civil No.

**COMPLAINT**

Judge Paul G. Cassell  
DECK TYPE: Civil  
DATE STAMP: 02/09/2005 @ 10:07:27  
CASE NUMBER: 2:05CV00107 PGC

**INTRODUCTION**

Plaintiff, Securities and Exchange Commission ("Commission") for its complaint against TEK Corporation ("TEK"), Thomas J. Robbins ("Robbins"), Douglas L. Litster ("Litster"), Clair W. Cox ("Cox"), and Richard C. Bybee ("Bybee"), alleges as follows:

1. TEK is a Utah corporation headquartered in Salt Lake City, Utah that claims to be in the business of locating and providing funding for the advancement of educational opportunities throughout the world. TEK's securities are not registered with the Commission nor are they listed on any exchange or quoted through any quotation medium.

2. Beginning in approximately January 2002, TEK, through Robbins, Litster, Cox and Bybee caused over 100 investors to invest \$4,545,723.44 in two bogus investment schemes.

3. Initially, defendants solicited money from investors to provide Robbins with funds to conduct day trading in a brokerage account he managed. Defendants told day trading investors that they would be guaranteed a monthly return of 25% on their principal and interest for two years.

4. Later, in September 2002, defendants began soliciting new investors and rolling over preexisting day trading investors into a new bank trading investment program. Under this new investment program, Robbins purportedly used investor funds to trade in investment grade instruments of European issuers. Defendants told investors in the bank trading investment program that they were guaranteed a return of 100% per month on their principal and interest.

5. Under both investment schemes, defendants claimed that the funds invested would not be at risk and that defendants would not use investor money for their personal use.

6. Instead of investing funds as represented, defendants misappropriated investor's money for their personal use and operated a Ponzi scheme. Defendants paid cash distributions to investors that defendants represented as trading profits when in fact, the source of the purported profits was newly-invested money.

## **STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED**

7. Defendants, have engaged and, unless enjoined, will continue to engage, directly or indirectly, in transactions, acts, practices, and courses of business which constitute violations of Section 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77e(a) and 77e(c)].

8. Defendants, have engaged and, unless enjoined, will continue to engage, directly or indirectly, in transactions, acts practices, and courses of business which constitute violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

9. Defendant, TEK has engaged and, unless enjoined, will continue to engage, directly or indirectly, in transactions, acts, practices, and courses of business which constitute violations of Section 7(a) of the Investment Company Act of 1940 ("Company Act") [15 U.S.C. § 80a-7(a)].

10. Defendant, Robbins has engaged and, unless enjoined, will continue to engage, directly or indirectly, in transactions, acts, practices, and courses of business which constitute violations of Section 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. § 80b-6(1) and 80b-6(2)].

11. Defendants conduct occurred in connection with the purchase and sale of TEK's securities.

## **JURISDICTION AND VENUE**

12. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)], Sections 21(d)(3), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u(e) and 78aa], Sections

209(d) and 214 of the Advisers Act [15 U.S.C. §§ 80b-9(d) and 80b-14] and Sections 42(d) and 44 of the Company Act [15 U.S.C. §§ 80a-42(d) and 44].

13. The defendants, directly or indirectly, have made use of the mails, means or instruments of transportation or communication in interstate commerce, or means or instrumentalities of interstate commerce in connection with the transactions, acts, practices and courses of business described in this Complaint.

14. Venue over this action is proper pursuant to Section 22(a) of the Securities Act, Section 27 of the Exchange Act [15 U.S.C. §§ 77v(a) and 78aa], Section 214 of the Advisers Act [15 U.S.C. § 80b-14], and Section 44 of the Company Act [15 U.S.C. § 80a-44] .

15. Certain of the transactions, acts, practices and courses of business constituting violations alleged herein occurred within the state of Utah. TEK's headquarters is located in Salt Lake City, Utah. Robbins and the other defendants engaged and transacted business within the state of Utah during the time they solicited investors and distributed notes and investment contracts to investors. All of the defendants traveled throughout the state of Utah and conducted and participated in investor educational meetings at investors' homes or from TEK's office in Salt Lake City, Utah.

#### **DEFENDANTS**

16. TEK Corporation ("TEK") is a Utah corporation headquartered in Salt Lake City, Utah. TEK claims to be in the business of locating and providing funding to build and operate educational centers throughout the world to the poor and underprivileged. To date, TEK has not built or operated any educational centers.

17. Thomas J. Robbins (“Robbins”), age 50, is a resident of Fillmore, Utah. Robbins is the president, CEO, and a director of TEK. Robbins solicited and invested funds contributed by investors on behalf of TEK. Robbins also claims to be a skilled day trader and in facilitating trades in European issuers of investment grade instruments.

18. Douglas L. Litster (“Litster”), age 56, has been a resident of Wellington, Utah and is believed to be currently residing in Salt Lake City, Utah. Litster solicited investors on behalf of TEK and was responsible for handling TEK’s investor relations.

19. Clair W. Cox (“Cox”), age 58, is a resident of Ogden, Utah. Cox is a law school graduate and a current active member of the Georgia State Bar. Cox served as secretary/treasurer, CFO and a director of TEK. He also served as in-house counsel for the company. Cox, with Robbins’ assistance, was responsible for drafting and providing investors with copies of TEK’s notes as part of the day trading scheme as well as the investment contracts for TEK’s bank trading program.

20. Richard C. Bybee (“Bybee”), age 44, is a resident of Salt Lake City, Utah. Bybee served as TEK’s vice president, COO and a director. Bybee was responsible for soliciting investors and in designing TEK’s Internet web site.

### **BACKGROUND**

21. Beginning in January 2002, defendants solicited money from investors on behalf of TEK. Investors understood, based on defendants’ representations, that Robbins would engage in day trading with their investment.

22. Defendants told investors that Robbins, through his banking connections within the world of international finance, had access to a proprietary computer software

program that allowed Robbins to make a guaranteed 2% profit on every stock transaction he completed.

23. Defendants instructed investors to make their investment checks or wires payable to I Trust, an entity controlled by Robbins, in order to participate in the day trading program.

24. Defendants also suggested to investors that they could invite friends and family to participate in the day trading program as well. Through defendants' solicitation efforts approximately forty individuals invested in the Robbins' day trading program.

25. Defendants provided investors with a promissory note drafted by Cox and Robbins. The note stated that investors were making a loan to TEK for twenty-four months. Under the terms of the note, investors would receive a guaranteed monthly return of 25% generated by Robbins through day trading. Robbins, on behalf of TEK, would take 25% of the profit; the remaining 50% of the profits would be reinvested by Robbins in the day trading program.

26. The promissory notes were signed by Robbins and Cox.

27. Defendants represented that Robbins and his computer trading program were so efficient that he was actually making over 1000% per month on his day trading activities.

28. Defendants told investors that they could withdraw their investment principal and interest at any time.

29. Defendants explained to investors that every dollar invested with TEK would be used in Robbins' day trading program. None of the funds were to be used to fund

TEK's operations. According to defendants, every dollar invested in TEK would be used to earn profits for the benefit of investors.

30. Investors understood that their money was going to be pooled with other investor funds so Robbins would have a larger block of money with which to day trade.

31. Investors were also told by defendants that Robbins was responsible for making the buy and sell decisions regarding their investment and that every dollar invested with TEK would be used to earn profits for the benefit of investors.

32. During January 2002 through August 2002, investors deposited approximately \$781,416.98 in the I Trust bank account at defendants' direction.

33. In January and February 2002, Robbins transferred \$531,700.00 of investor funds from the I Trust bank account into an I Trust brokerage account at Ameritrade.

34. By June 2002, most of the money transferred to Ameritrade was transferred back to I Trust's bank account. By the end of August 2002, Robbins' day trading activities had resulted in a loss of \$52,358.11. The loss was attributable to Robbins' buying stocks that performed poorly and his having to pay margin interest and fees associated in maintaining the brokerage account.

35. In September 2002, Robbins returned approximately \$382,973.00 of the investors' own money to them as purported profits from his day trading activities.

36. At this time investors were told by defendants that it was becoming too difficult to achieve such high returns in the stock market, therefore, Robbins, and the other defendants, had decided to take the investors retained principal and interest and invest those funds in a "high yield" bank trading investment program.

37. Defendants neglected to inform investors that the cash distributions they received were not profits from Robbins' trading activities. Instead, investors received their own money. Contrary to defendants' representations, Robbins' day trading program had failed to produce any profits.

38. Defendants also failed to disclose that they had used investors' funds to pay for personal expenses and business expenses of TEK.

39. As an inducement to new investors and to convince previous day trading investors to roll over their prior investment into the "high yield" bank trading program, defendants represented this new investment program would now guarantee a return of 100% per month of the investor's principal and interest with no risk of loss.

40. As before, investors were provided with banking instructions which directed them to deposit or wire funds into the same I Trust bank account.

41. Investors were also told they could add to their investment amount and withdraw their principal and interest at any time, provided that defendants were given fifteen days written notice of the investor's intent to withdraw funds.

42. Defendants promised investors that the investors would split the trading profits on a 50/50 basis with TEK.

43. Defendants explained to investors that they should feel good about investing in TEK because the company was acquiring property, building educational centers and providing computers for individuals to better themselves in a world-wide humanitarian effort. Investors were also told that TEK would not be adverse to funding charities or other non-profit causes that the investors believed had merit since the trading profits would be so substantial.



44. Defendants represented that Robbins, on behalf of TEK, and a bank official associated with the trust department of a trading bank would facilitate multiple buys and sells of investment grade instruments, on a daily basis, as quickly as European issuers would make their investment instruments available.

45. Robbins and the other defendants assured investors that the bank which assisted Robbins in executing the trades would allow TEK's investors to have their funds on deposit with a reputable US or European bank in a "non-depletion" account.

46. Defendants explained to investors that a "non-depletion" account meant that Robbins would never take the investor's principal out of the I Trust bank account and subject it to the risk of loss. Defendants told investors that once their investment funds were on deposit at the bank, the bank viewed the funds as collateral. Thus, the bank was willing to use its own funds to purchase the investment instruments on behalf of TEK.

47. Investors' funds were not deposited into a non-depletion account. Instead, defendants deposited the money into an ordinary checking account.

48. Prior to being allowed to invest in the new bank trading program, defendants required investors to sign a written investment contract with a minimum investment of \$100,000. Many investors told defendants that they did not have the individual net worth to invest \$100,000 but that they were pooling funds from family and friends to meet the minimum contribution requirement.

49. To entice new investors, defendants provided potential investors with a document entitled Initial Earnings/Payout Summary that showed prior investors' money had earned 100% per month. That representation was false. Robbins' day trading program

had not resulted in any profits whatsoever and no money was ever really invested in the bank trading program.

50. Bank records reflect that approximately \$3,762,315.46 in new investor money was invested into the bank trading program. Investors received back \$1,621,150.00 as purported profits from Robbins' bank trading activities.

51. In December 2002, investors began receiving daily e-mails from defendants representing that Robbins was successfully trading instruments and that profits were being earned as represented in the investment contract. These representations were false.

52. At this time, investors began making written requests to withdraw some of their profits, however, defendants would only release a portion of the requested amount. Defendants continued to release small amounts to investors until February 2003 at which time Robbins and the other defendants stopped making any payments to investors.

53. Investors were told by defendants that because of unforeseen technicalities within the banking industry, combined with instability in the Middle East, the bank trading program was experiencing difficulties in returning profits to the U.S.

54. In May 2004, defendants told investors that several bank trades were in progress and their investment funds would be returned to them shortly. To date, investors have not received a return of their investment.

#### **MISREPRESENTATIONS AND OMISSIONS**

55. Defendants' claims that TEK was making profits for investors in both the day trading and bank trading program were false.

56. Robbins did not make day trading profits for investors. Robbins lost money on his day trading program.

57. The bank trading program did not exist at all. The I Trust bank records reflect that defendants made absolutely no investment in the bank trading program.

58. Instead of investing funds as represented, defendants misappropriated investor funds for personal use. Robbins misappropriated approximately \$320,107.91 of investor money to fund TEK's business operations in Utah. Robbins, himself, took an additional \$2,026,651.28 for personal use. The remaining defendants took approximately \$192,850.25 of investor funds.

59. Defendants further misrepresented that investors received profits from defendants' investment activities. Instead, investors received their own money or newly invested funds, not profits generated by TEK's investment strategies.

60. Those misrepresentations were material. A reasonable investor would have thought it important to know that defendants were not investing their money as represented and that the purported trading profits they received were in fact newly invested money or a return of their own capital.

61. Defendants knew, or were reckless in not knowing, that the forgoing misrepresentations and omissions were false and misleading.

62. As a result of the sales efforts discussed above, over 100 investors in nine states purchased unregistered securities of TEK.

### **FIRST CAUSE OF ACTION**

#### **OFFER AND SALE OF UNREGISTERED SECURITIES**

##### **Violations of Section 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) & 77e(c)]**

63. The allegations contained in paragraphs 1 through 62 are realleged and incorporated by reference.

64. Defendants, and each of them, by engaging in the conduct described in paragraphs 1 through 62 above, directly or indirectly, through use of the means or instruments of transportation or communication in interstate commerce or the mails, offered to sell or sold securities in the form of investment contracts or, directly or indirectly, or carried such securities to be carried through the mails or in interstate commerce, for the purpose of sale or delivery after sale.

65. No registration statement has been filed with the Commission or has been in effect with respect to these securities.

66. By reason of the foregoing, the defendants, directly or indirectly violated, and unless enjoined will continue to violate Section 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e(a) and 77e(c)].

## **SECOND CAUSE OF ACTION**

### **EMPLOYMENT OF DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD**

#### **Violations of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)]**

67. The allegations contained in paragraphs 1 through 62 are realleged and incorporated herein by reference.

68. Defendants, each of them, by engaging in the conduct described in paragraphs 1 through 62 above, directly and indirectly in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or of the mails, with scienter, employed devices, schemes, or artifices to defraud.

69. By reason of the foregoing, defendants, directly or indirectly, violated, and unless restrained and enjoined will continue to violate 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)].

**THIRD CAUSE OF ACTION**

**FRAUD IN THE OFFER AND SALE OF SECURITIES**

**Violations of Section 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. § 77q (a)(2) and 77q(a)(3)]**

70. The allegations contained in paragraphs 1 through 62 are realleged and incorporated herein by reference.

71. Defendants, and each of them, by engaging in the conduct described in paragraphs 1 through 62, directly and indirectly, in the offer and sale of securities of TEK, by the use of means or instruments of transportation or communication in interstate commerce or of the mails, obtained money or property by means of untrue statements of material fact or by omitting 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 engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers of such securities.

72. By reason of the forgoing, defendants, directly or indirectly, violated, and unless restrained and enjoined will continue to violate, Section 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(2) and 77q(a)(3)].

**FOURTH CAUSE OF ACTION**

**FRAUD IN CONNECTION WITH THE PURCHASE AND SALE OF SECURITIES**

**Violations of Section 10 (b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]**

73. The allegations contained in paragraphs 1 through 62 are realleged and incorporated herein by reference.

74. Defendants, by engaging in the conduct described in paragraphs 1 through 62 above, directly or indirectly, in connection with the purchase and sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly, with scienter: (1) employed devices, schemes or artifices to defraud; (2) made untrue statements of material facts or 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 (3) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon other persons.

75. By reason of the foregoing, defendants, directly or indirectly, violated, and unless restrained and enjoined, will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **FIFTH CAUSE OF ACTION**

#### **FRAUD BY AN INVESTMENT ADVISOR**

##### **Violations of Section 206(1) and 206(2) of the Investment Advisers Act of 1940 [15 U.S.C. § 80b-6 (1) and 80b-6(2)]**

76. The allegations contained in paragraphs 1 through 62 are realleged and incorporated herein by reference.

77. Defendant, Robbins, was paid for providing advice to clients regarding the value of securities or as to the advisability of investing in, purchasing, or selling securities.

78. Defendant, Robbins, by engaging in the conduct described in paragraphs 1 through 62 above, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly (1) employed a device, scheme, or artifice to defraud a client or prospective client; and (2) engaged in a transaction, practice, or course of business which operated as a fraud or deceit upon any client or prospective client.

79. By reason of the foregoing, defendant, directly or indirectly, violated, and unless restrained and enjoined, will continue to violate, Section 206(1) and 206(2) of the Advisers Act [15 U.S.C. § 80b-6 (1) and 80b-6(2)].

**SIXTH CAUSE OF ACTION**

**DEFENDANT TEK OPERATED AS AN UNREGISTERED INVESTMENT COMPANY**

**Violations of Section 7(a) of the Investment Company Act of 1940  
[15 U.S.C. § 80a-7(a)]**

80. The allegations contained in paragraphs 1 through 62 are realleged and incorporated herein by reference.

81. From January 2002 to the present, Defendant, TEK, has been primarily engage in the business of investing, reinvesting or trading in securities.

82. Defendant, TEK, by engaging in the conduct described in paragraphs 1 through 62 above, by the use of the mails or any means or instrumentality of interstate commerce directly or indirectly, offered securities for sale.

83. Defendant, TEK, is not registered with the Commission as an investment company as required by Section 8 of the Investment Company Act [15 U.S.C. § 80a-8].

84. As a result of TEK's failure to register as an investment company pursuant to Section 8 of the Investment Company Act, shareholders have been denied benefits of the Investment Company Act, including several provisions designed to protect them from, among other things, theft, self dealing, fraud and breach of fiduciary duty.

85. By reason of the foregoing, defendant, directly or indirectly, violated, and unless restrained and enjoined, will continue to violate, Section 7(a) of the Company Act [15 U.S.C. § 80a-7(a)].

## **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

### I.

Issue findings of fact and conclusions of law that the defendants committed the violations charged and alleged herein.

### II.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders permanently enjoining defendants, and their officers, agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Section 5(a) and 5(c) of the Securities Act.

### III.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders permanently enjoining defendants, and their officers, agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.



IV.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders permanently enjoining defendant, Robbins, and his officers, agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with him, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Section 206(1) and 206(2) of the Advisers Act.

V.

Issue an Order requiring TEK to comply with Section 7 of the Investment Company Act by:

- (a) Registering as an investment Company pursuant to Section 8 of the Investment Company Act; or, in the alternative,
- (b) Restructuring or reducing its securities holdings such that TEK shall come into compliance with the Investment Company Act; or
- (c) Taking such other steps such that TEK shall come into compliance with the Investment Company Act.

VI.

Issue an Order of Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, enjoining Defendant, TEK, its officers, agents, servants, employees, assigns, attorneys and those persons in active concert or participation with them who receive actual notice of the Order of Permanent Injunction by personal service or otherwise, and each of them, from, directly or indirectly:

(a) Offering for sale, selling or delivering after sale, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security, whether the issuer of such security is TEK or another person; or offering for sale, selling, or delivering after sale any such security or interest, having reason to believe that such security or interest will be made the subject of a public offering by the use of the mails or any means or instrumentality or interstate commerce; or

(b) Purchasing, redeeming, retiring, or otherwise acquiring or attempt to acquire, by the use of the mails or any means or instrumentality of interstate commerce, any security, or any interest in a security, whether the issuer of such security is TEK or another person; or

(c) Controlling any investment company which does any of the acts enumerated in (a) or (b) above; or

(d) Engaging in any business in interstate commerce, in violation of Section 7(a) of the Investment Company Act.

## VII.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders permanently enjoining defendant, TEK, and its officers, agents, servants, employees, attorneys, and accountants, and those persons in active concert or participation with it, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Section 7(a) of the Company Act.

VIII.

Enter an order directing defendants, to disgorge all sums unjustly realized in the transactions identified in this Complaint, together with prejudgment interest on disgorgement amounts.

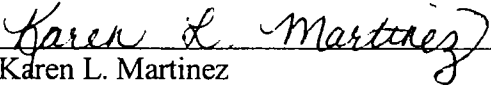
IX.

Enter an order directing each defendant, except TEK, to pay civil money penalties pursuant to Section 20(d) of the Securities Act, Section 21(d)(3) of the Exchange Act and Section 209(e)(2) of the Advisers Act.

X.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Dated this 9<sup>th</sup> day of February, 2005.

  
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Karen L. Martinez  
Thomas M. Melton  
Lindsay S. McCarthy  
SECURITIES AND EXCHANGE COMMISSION  
Salt Lake District Office  
15 West South Temple, Suite 1800  
Salt Lake City, Utah 84101  
(801) 524-5796