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2009 JUN 24 AM 10:38

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

12 vs.

13 MOISES PACHECO, ADVANCED MONEY
14 MANAGEMENT, INC., and BUSINESS
DEVELOPMENT & CONSULTING CO.,

15 Defendants,

16 and

17 AP PREMIUM VALUE FUND I LIMITED-
18 LIABILITY LP; AP PREMIUM VALUE
19 FUND II, LLC; AP PREMIUM VALUE
20 FUND III, LLC; AP PREMIUM VALUE
21 FUND IV, LLC; CAPITAL PARTNERSHIP
22 GROUP, LLC; AP CAPITAL, LLC; REAL
ESTATE INVESTMENT GROUP, LLC;
23 MATTHEW LA MADRID; THE PREMIUM
RETURN FUND III LIMITED-LIABILITY
LP; PALLADIUM HOLDING COMPANY;
DONALD E. LOPEZ; FOUR SQUARE
PRODUCTIONS, INC.; and ARTURO
CASTANARES,

24 Relief Defendants.
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Case No. '09CV 1355 W RBB
COMPLAINT FOR VIOLATIONS OF
THE FEDERAL SECURITIES LAWS

1 Plaintiff Securities and Exchange Commission (“Commission”) alleges as follows:

2 **JURISDICTION AND VENUE**

3 1. The Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1)
4 and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77t(b), 77t(d)(1) &
5 77v(a); Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27 of the Securities Exchange Act of 1934
6 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa; and Sections 209(d),
7 209(e)(1) and 214 of the Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. §§ 80b-
8 9(d), 80b-9(e)(1) and 80b-14.

9 2. Venue is proper in this district pursuant to Section 22(a) of the Securities Act, 15
10 U.S.C. § 77v(a), Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and Section 214 of the
11 Advisers Act, 15 U.S.C. § 80b-14, because certain of the transactions, acts, practices, and courses
12 of conduct constituting the violations alleged herein occurred within the Southern District of
13 California, each of the entity defendants is located in this district, and the individual defendant
14 resides in this district.

15 3. The Defendants, directly and indirectly, have made, and are making, use of the
16 means and instrumentalities of interstate commerce and of the mails or of the facilities of a
17 national exchange in connection with the acts, practices, and courses of business alleged herein
18 in the Southern District of California and elsewhere.

19 **SUMMARY**

20 4. This matter concerns a Ponzi-like scheme operated by defendant Moises Pacheco,
21 and the two entities he controls, Advanced Money Management, Inc. (“AMM”) and Business
22 Development & Consulting Co. (“BD&C” and, collectively with Pacheco and AMM,
23 “Defendants”). Since January 2005, AMM and BD&C acted as the investment adviser to five
24 purported hedge funds (collectively, the “Funds”). From January 2005 through June 2008, the
25 Defendants raised more than \$14.7 million from more than 200 investors in the Funds through an
26 unregistered offering of securities in the form of investment contracts.

27 5. Pacheco told investors that the Funds exclusively relied upon the purchase and
28 sale of covered call options to generate substantial trading profits ranging from 30% to 48% per

1 year. In reality, the returns Pacheco provided to Fund investors were almost entirely financed
2 with investor principal. Trading activity in the Funds generated cumulative profits of only about
3 \$367,000, yet the Funds paid cumulative purported returns totaling more than \$9.7 million to
4 their investors. In short, Pacheco operated the Funds as a Ponzi-like scheme.

5 6. The Defendants also deployed investor principal in ways that significantly
6 deviated from their avowed covered call options trading strategy. The most egregious example
7 of this occurred in September 2007, when, unbeknownst to the Fund investors, the Defendants
8 contributed \$3 million of investor monies toward a joint \$10 million investment in relief
9 defendant Palladium Holding Company, for the ostensible purpose of engaging in currencies
10 trading and the overseas trading of medium-term notes. Most of this money was quickly
11 dissipated by Palladium Holding and its principal, relief defendant Donald E. Lopez. The
12 Defendants transferred nearly \$2 million to several other relief defendants, as well as directly to
13 Pacheco, all of which was undisclosed to Fund investors.

14 7. The Defendants, by engaging in the conduct described in this Complaint, violated
15 the antifraud and securities registration provisions of the federal securities laws. The
16 Commission requests that the Court permanently enjoin each of the Defendants from further
17 violations of these laws, impose a substantial civil penalty on each of the Defendants, require the
18 Defendants to disgorge with prejudgment interest all monies representing proceeds from the
19 Defendants' fraudulent conduct and from third parties receiving monies from the Funds
20 (collectively, the "Relief Defendants"). In addition, the Commission seeks the appointment of a
21 receiver over entity defendants AMM and BD&C.

22 THE DEFENDANTS

23 8. **Moises Pacheco**, age 41, is a resident of Chula Vista, California. Pacheco is an
24 officer and director of AMM and controls BD&C. Through his control of AMM and BD&C,
25 Pacheco controls the Funds. In addition, Pacheco is the managing member of relief defendant
26 AP Capital, LLC, and controls relief defendant Real Estate Investment Group, LLC. Pacheco
27 also does business as AP Capital and Real Estate Investment Group. Pacheco is not registered as
28 an investment adviser under the Advisers Act.

1 9. **Advanced Money Management, Inc.** is a Nevada corporation located in Chula
2 Vista, California. It is not registered with the Commission in any capacity and it has not
3 registered any offering of its securities under the Securities Act or a class of securities under the
4 Exchange Act. AMM is controlled by Pacheco, who is its sole director. AMM is the general
5 partner of AP PVF I.

6 10. **Business Development and Consulting Co.** is a California corporation located in
7 Chula Vista, California. It is not registered with the Commission in any capacity and it has not
8 registered any offering of its securities under the Securities Act or a class of securities under the
9 Exchange Act. BD&C is controlled by Pacheco. BD&C is the managing member of AP PVF II,
10 AP PVF III, AP PVF IV and CPG.

11 **THE RELIEF DEFENDANTS**

12 11. **AP Premium Value Fund I Limited-Liability LP** is a Nevada limited
13 partnership formed in December 2004. Its general partner is AMM. Between January 2005 and
14 June 2008, AP PVF I raised more than \$5.8 million from more than 80 investors. It is not
15 registered with the Commission in any capacity and it has not registered any offering of its
16 securities under the Securities Act of a class of securities under the Exchange Act.

17 12. **AP Premium Value Fund II, LLC** is a California limited liability company
18 formed in November 2005. Its managing member is BD&C. Between February 2006 and May
19 2008, AP PVF II raised more than \$2.3 million from more than 35 investors. It is not registered
20 with the Commission in any capacity and it has not registered any offering of its securities under
21 the Securities Act of a class of securities under the Exchange Act.

22 13. **AP Premium Value Fund III, LLC** is a California limited liability company
23 formed in April 2006. Its managing member is BD&C. Between June 2006 and May 2008, AP
24 PVF III raised almost \$2.4 million from more than 35 investors. It is not registered with the
25 Commission in any capacity and it has not registered any offering of its securities under the
26 Securities Act of a class of securities under the Exchange Act.

27 14. **AP Premium Value Fund IV, LLC** is a California limited liability company
28 formed in April 2006. Its managing member is BD&C. Between September 2006 and May

1 2008, AP PVF IV raised more than \$2.2 million from more than 35 investors. It is not registered
2 with the Commission in any capacity and it has not registered any offering of its securities under
3 the Securities Act of a class of securities under the Exchange Act.

4 15. **Capital Partnership Group, LLC** is a California limited liability company
5 formed in January 2007. Its managing member is BD&C. Between March 2007 and May 2008,
6 CPG raised more than \$1.9 million from more than 25 investors. It is not registered with the
7 Commission in any capacity and it has not registered any offering of its securities under the
8 Securities Act of a class of securities under the Exchange Act.

9 16. **AP Capital, LLC** is a California limited liability company formed in October
10 2006. Pacheco is a managing member of AP Capital.

11 17. **Real Estate Investment Group, LLC** is a Nevada limited liability company
12 formed in 2004. REIG Capital, Inc. is the managing member of REIG; Pacheco is a director of
13 REIG Capital.

14 18. **Matthew La Madrid** is a resident of Jamul, California. La Madrid formerly did
15 business as Vision Quest Investments, which received \$3 million from the Funds for investment
16 with Palladium Holding Company. La Madrid was the president and treasurer of Plus Money,
17 Inc., a Nevada corporation based in El Cajon, California that managed The Premium Return
18 Funds, a collection of purported hedge funds, until April 2008, when Plus Money and the
19 Premium Return Funds were placed into receivership. On March 3, 2009 a Judgment of
20 Permanent Injunction and Other Relief was entered against La Madrid in *SEC v. Plus Money,*
21 *Inc., et al., Case No. 08-CV-0764 MMA (NLS)*, a matter pending in the U.S. District Court for the
22 Southern District of California.

23 19. **The Premium Return Fund III Limited-Liability Limited Partnership** is a
24 Nevada-based limited partnership formed in February 2006. It was controlled by La Madrid
25 through Plus Money, its general partner, until placed into receivership in April 2008. Premium
26 Return Fund III received transfers totaling \$75,000 from the Defendants. Premium Return Fund
27 III is a relief defendant in *SEC v. Plus Money.*

1 20. **Palladium Holding Company** is a Colorado corporation formed in August 2003.
2 In November 2007, La Madrid wired \$10 million to Palladium, which sum included \$3 million
3 which the Funds had provided to La Madrid. Palladium is a relief defendant in *SEC v. Plus*
4 *Money*.

5 21. **Donald Lopez** is a resident of Denver, Colorado. Lopez incorporated Palladium
6 and is its sole director. Lopez is a relief defendant in *SEC v. Plus Money*. On May 26, 2009,
7 Lopez was indicted on charges of obstruction of justice and criminal contempt stemming from
8 his conduct in the *Plus Money* matter, by a grand jury convened in the U.S. District Court for the
9 Southern District of California, *United States of America v. Donald Lopez, Case No. 09-CR-2006*
10 *MMA*.

11 22. **Arturo Castanares** is the CEO of Four Square Productions, Inc., and controls a
12 bank account in its name to which Pacheco wired \$960,000 in November 2006.

13 23. **Four Square Productions, Inc.** is a California corporation formed in 1977 and
14 located in San Diego, California.

15 **FACTUAL BACKGROUND**

16 **A. The Defendants Conducted an Unregistered Offering of Securities**

17 24. Pacheco controls AMM and BD&C, and through AMM and BD&C, he controls
18 the Funds.

19 25. Between January 2005 and June 2008, Pacheco, through AMM and BD&C, raised
20 more than \$14.7 million from more than 200 investors in the Funds.

21 26. Pacheco told Fund investors that he had developed a lucrative investment strategy
22 involving the purchase and sale of covered call options. Pacheco claimed that the Funds had
23 generated returns ranging from 2.5% to 4% per month during their existence, and continued to
24 claim that they generated returns in that range until January 2008, when he reduced the returns to
25 1.25% per month. Pacheco told Fund investors that the reduction was due to deteriorating
26 economic conditions.

27 27. Investors were told that these monthly payments represented returns on their
28 investments as a result of Pacheco's covered call option trading strategy.

1 28. Investors were principally solicited through word of mouth referral. Most Fund
2 investors live in or around the Chula Vista, California area, and know either Pacheco, one of his
3 friends or family members, or another investor. Some investors reside in other states, including
4 Arizona.

5 29. Pacheco did not utilize written offering documents and investors did not sign
6 written investment agreements. Pacheco provided investors with certificates of ownership
7 memorializing their interest in the appropriate Fund.

8 30. Pacheco made no effort to determine whether investors were accredited or
9 sophisticated, and did not provide investors with financial statements.

10 31. Pacheco controlled all trading activity in the Funds' brokerage accounts, had sole
11 signature authority on all of the Funds' bank accounts, and made all investment decisions on
12 behalf of the Funds.

13 32. Monthly account statements for the Funds' bank and brokerage accounts were
14 sent to Pacheco's home and/or business addresses.

15 33. Pacheco created and disseminated monthly statements and occasional letters
16 containing representations about purported Fund profitability to Fund investors.

17 34. Although each Fund utilized separate bank and brokerage accounts, and issued
18 separate monthly spreadsheets and certificates of ownership, there was no functional difference
19 between the Funds. The representations about the Funds' investment strategies and rates of
20 return were identical.

21 35. Pacheco did not specify the amount of any fee or commission to which he was
22 entitled.

23 36. AMM, BD&C and the Funds are not registered with the Commission in any
24 capacity and have not registered any offering of their securities under the Securities Act or a
25 class of securities under the Exchange Act.

26 **B. The Defendants Operated a Fraudulent Ponzi-Like Scheme**

27 37. Each month, Pacheco provided Fund investors with a spreadsheet that identified
28 (a) each investor in the Fund, (b) the amount of his or her investment, (c) the rate of return to be

1 paid that month, and (d) the dollar amount to be returned to each investor. These spreadsheets
2 were often accompanied by documents identifying the trading activity in the Fund that month
3 and/or the Fund's positions at month's end. These documents – and the monthly payments made
4 by Pacheco – provided Fund investors with assurance that they were investing profitably and that
5 their reliance on Pacheco's trading expertise was well-placed.

6 38. Pacheco did not generate the returns he claimed to have made. According to
7 these documents, the Funds were generating trading profits of 2.5% to 4% per month. In reality,
8 from January 2005 through June 2008 – a span of 42 months – the Funds had net profits of
9 \$367,001 on the millions of dollars under their management, a return of about 1% per year.

10 39. During the same time period, the Funds paid out more than \$9.7 million in
11 purported monthly profits to Fund investors. To bridge the enormous difference between the
12 actual profits and the ersatz ones, Pacheco drew upon the only financial resource available to him
13 – investor principal. Thus, the Defendants' representations that the monthly payments were
14 funded with trading profits were false.

15 **C. The Defendants Failed to Disclose Their Departure From Their Avowed**
16 **Investment Strategy**

17 **1. The Transfers to La Madrid Through Vision Quest Investments**

18 40. Undisclosed to investors, in the fall of 2007, Pacheco authorized wire transfers
19 totaling \$3 million from the Funds to a bank account in the name of Vision Quest Investments, a
20 dba of relief defendant Matthew La Madrid. Specifically, on September 18, 2007, Pacheco
21 wired \$500,000 each from AP PVF III and IV and \$1 million from CPG; and on October 8,
22 2007, Pacheco wired \$250,000 from AP PVF III, \$500,000 from AP PVF IV, and \$250,000 from
23 CPG. La Madrid and Plus Money, Inc., which La Madrid controlled, transferred an additional \$7
24 million to Vision Quest.

25 41. On November 14, Vision Quest transferred \$10 million – including the \$3 million
26 provided by Pacheco – to relief defendant Palladium Holding Company, a Denver based entity
27 controlled by relief defendant Donald Lopez.

1 42. La Madrid and/or Lopez told Pacheco that Palladium would use the monies
2 provided by Vision Quest in an overseas trading program involving the purchase and sale of
3 medium-term notes and the trading of foreign currencies. These strategies represented a stark
4 departure from the Funds' avowed strategy of engaging solely in the trading of covered calls.

5 43. Upon receipt of the \$10 million from Vision Quest, Palladium transferred \$5
6 million to its brokerage account and, within the next month, wired \$4.5 million to various
7 individuals and entities, including \$500,000 back to La Madrid, \$1.8 million to several real estate
8 title companies, \$95,000 to the purchase of two automobiles, and another \$90,000 to a Denver
9 car dealership.

10 44. Palladium quickly began dissipating the \$5 million transferred into its brokerage
11 account by engaging in numerous short-sell transactions involving Treasury bonds. By April
12 2008, this activity had caused Palladium to lose more than half of the account's value.

13 45. Pacheco did not timely disclose to Fund investors that he had transferred Fund
14 monies to Vision Quest, his reasons for doing so, or the extent to which Palladium had dissipated
15 Fund assets. It was not until March 2008 that Pacheco disclosed to Fund investors that, because
16 prospects in the equities markets were dim, he had decided, at some prior unspecified time, to
17 commit an unspecified amount of investor monies to currencies trading in order to generate the
18 returns to which Fund investors had become accustomed. And it was not until June 2008 that
19 Pacheco disclosed to Fund investors that he had invested \$3 million of their monies with La
20 Madrid and Palladium, that the monies had been lost, and that "[unspecified] millions have been
21 lost in other [unspecified] investments."

22 **2. The Transfers to Four Square Productions and Arturo Castanares**

23 46. On November 16, 2006, Pacheco authorized wire transfers of \$660,000 and
24 \$300,000 from AP PVF III and IV, respectively, to Four Square Productions, Inc. and Arturo
25 Castanares.

26 47. The monies were not used to purchase or sell covered calls and they did not
27 generate any return for investors in the Funds.

1 48. The fact of the transfers, their purpose, and the relinquishment of Pacheco's
2 control over investor monies were never disclosed to Fund investors.

3 **3. The Transfers to Premium Return Fund III**

4 49. In January 2008, Pacheco authorized wire transfers of \$30,000 and \$45,000 from
5 AP PVF III and CPG, respectively, to Premium Return Fund III, the purported hedge fund
6 controlled by La Madrid.

7 50. The monies were not used to purchase or sell covered calls and they did not
8 generate any return for investors in the Funds.

9 51. The fact of the transfers, their purpose, and the relinquishment of Pacheco's
10 control over investor monies were never disclosed to Fund investors.

11 **D. The Defendants Fraudulently Diverted Investor Monies to Pacheco and**
12 **Pacheco-Controlled Entities**

13 52. From January 2005 through June 2008, Pacheco transferred \$879,809 from the
14 Funds to himself and/or to entities he controls, including AP Capital (which received net
15 transfers of more than \$183,000) and REIG (which received transfers totaling \$45,000).

16 53. The monies were not used to purchase or sell covered calls and they did not
17 generate any return for investors in the Funds.

18 54. The fact of the transfers and their purpose were never disclosed to Fund investors.

19 **FIRST CLAIM FOR RELIEF**

20 **UNREGISTERED OFFER AND SALE OF SECURITIES**

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

22 **(Against All Defendants)**

23 55. The Commission realleges and incorporates by reference paragraphs 1 through 54
24 above.

25 56. Defendants AMM, BD&C, and Pacheco, and each of them, by engaging in the
26 conduct described above, directly or indirectly, made use of means or instruments of
27 transportation or communication in interstate commerce or of the mails, to offer to sell or to sell
28 securities, or to carry or cause such securities to be carried through the mails or in interstate

1 commerce for the purpose of sale or for delivery after sale.

2 57. No registration statement has been filed with the Commission or has been in
3 effect with respect to the offering alleged herein.

4 58. By engaging in the conduct described above, Defendants AMM, BD&C, and
5 Pacheco, and each of them, violated, and unless restrained and enjoined will continue to violate,
6 Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

7 **SECOND CLAIM FOR RELIEF**

8 **FRAUD IN THE OFFER OR SALE OF SECURITIES**

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

10 **(Against All Defendants)**

11 59. The Commission realleges and incorporates by reference paragraphs 1 through 54
12 above.

13 60. Defendants AMM, BD&C, and Pacheco, and each of them, by engaging in the
14 conduct described above, directly or indirectly, in the offer or sale of securities by the use of
15 means or instruments of transportation or communication in interstate commerce or by use of the
16 mails:

- 17 a. with scienter, employed devices, schemes, or artifices to defraud;
- 18 b. obtained money or property by means of untrue statements of a material
19 fact or by omitting to state a material fact necessary in order to make the
20 statements made, in light of the circumstances under which they were
21 made, not misleading; or
- 22 c. engaged in transactions, practices, or courses of business which operated
23 or would operate as a fraud or deceit upon the purchaser.

24 61. By engaging in the conduct described above, Defendants AMM, BD&C, and
25 Pacheco, and each of them, violated, and unless restrained and enjoined will continue to violate,
26 Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

1 **THIRD CLAIM FOR RELIEF**

2 **FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES**

3 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

4 **(Against All Defendants)**

5 62. The Commission realleges and incorporates by reference paragraphs 1 through 54
6 above.

7 63. Defendants AMM, BD&C, and Pacheco, and each of them, by engaging in the
8 conduct described above, directly or indirectly, in connection with the purchase or sale of a
9 security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the
10 facilities of a national securities exchange, with scienter:

- 11 a. employed devices, schemes, or artifices to defraud;
- 12 b. made untrue statements of a material fact or omitted to state a material
13 fact necessary in order to make the statements made, in light of the
14 circumstances under which they were made, not misleading; or
- 15 c. engaged in acts, practices, or courses of business which operated or would
16 operate as a fraud or deceit upon other persons.

17 64. By engaging in the conduct described above, Defendants AMM, BD&C, and
18 Pacheco, and each of them, violated, and unless restrained and enjoined will continue to violate,
19 Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §
20 240.10b-5.

21 **FOURTH CLAIM FOR RELIEF**

22 **FRAUD BY AN INVESTMENT ADVISER**

23 **Violations Of Sections 206 (1) and (2) of the Advisers Act of 1940**

24 **(Against All Defendants)**

25 65. The Commission realleges and incorporates by reference paragraphs 1 through 54
26 above.

27 66. At all times alleged in this Complaint, Defendants AMM, BD&C, and Pacheco,
28 and each of them, were investment advisers as defined under the Advisers Act. Defendants

1 AMM, BD&C, and Pacheco held themselves out as being in the business of advising others as to
2 investing in covered call options, and managed the investments of the Funds in exchange for
3 compensation.

4 67. Defendants AMM, BD&C, and Pacheco, by engaging in the conduct described
5 above, directly or indirectly, by the use of the mails or means and instrumentalities of interstate
6 commerce:

- 7 a. with scienter, employed and are employing devices, schemes and artifices
8 to defraud clients or prospective clients; or
- 9 b. engaged in and are engaged in transactions, practices, and courses of
10 business which operated as a fraud or deceit upon clients or prospective
11 clients.

12 68. By reason of the activities described herein, Defendants AMM, BD&C, and
13 Pacheco have violated and unless restrained and enjoined will continue to violate Sections
14 206(1) and (2) of the Advisers Act, 15 U.S.C. § 80b-6(1) and (2).

15 **FIFTH CLAIM FOR RELIEF**

16 **FRAUD BY AN INVESTMENT ADVISER**

17 **Violations of 206(4) of the Advisers Act of 1940 and Rule 206(4)-8 Thereunder**
18 **(Against All Defendants)**

19 69. The Commission realleges and incorporates by reference paragraphs 1 through 54
20 above.

21 70. At all times alleged in the Complaint, Defendants AMM, BD&C, and Pacheco,
22 and each of them, were investment advisers as defined under the Advisers Act. Defendants
23 AMM, BD&C, and Pacheco held themselves out as being in the business of advising others as to
24 investing in covered call options, and managed the investments of the Funds in exchange for
25 compensation.

26 71. Defendants AMM, BD&C, and Pacheco, by engaging in the conduct described
27 above, directly or indirectly, by use of the mails or means and instrumentalities of interstate
28 commerce:

- 1 a. engaged in transactions, practices, or courses of business which operate as
2 a fraud or deceit upon investors in the Funds;
- 3 b. made untrue statements of a material fact or omitted to state a material fact
4 necessary to make the statements made, in the light of the circumstances
5 under which they were made, not misleading, to investors or prospective
6 investors in a pooled investment vehicle; or
- 7 c. otherwise engaged in acts, practices, or courses of business that were
8 fraudulent, deceptive, or manipulative with respect to investors or
9 prospective investors in a pooled investment vehicle.

10 74. By reason of the activities described herein, Defendants AMM, BD&C, and
11 Pacheco have violated and unless restrained and enjoined will continue to violate Sections
12 206(4) of the Advisers Act, 15 U.S.C. § 80b-6(4), and Rule 206(4)-8 thereunder, 17 C.F.R. §
13 275.206(4)-8.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, the Commission respectfully requests that the Court:

16 **I.**

17 Issue findings of fact and conclusions of law that the Defendants committed the alleged
18 violations.

19 **II.**

20 Issue judgments, in a form consistent with Rule 65(d) of the Federal Rules of Civil
21 Procedure, permanently enjoining Defendants AMM, BD&C, and Pacheco, and their officers,
22 agents, servants, employees and attorneys, and those in active concert or participation with any
23 of them, who receive actual notice of the order by personal service or otherwise, and each of
24 them, from violating Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c),
25 Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), Section 10(b) of the Exchange Act, 15
26 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, and Sections 206(1), 206(2),
27 and 206(4) of the Advisers Act of 1940, 15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4), and Rule
28 206(4)-8 thereunder, 17 C.F.R. § 275.206(4)-8.

1 **III.**

2 Order the Defendants and the Relief Defendants to disgorge all ill-gotten gains from the
3 illegal conduct alleged herein, together with prejudgment interest thereon.

4 **IV.**

5 Order Defendants AMM, BD&C, and Pacheco to pay civil penalties pursuant to Section
6 20(d) of the Securities Act, 15 U.S.C. §77t(d), Section 21(d)(3) of the Exchange Act, 15 U.S.C.
7 §78u(d)(3), and Section 209(e) of the Advisers Act, 15 U.S.C. §80B-9(e).

8 **V.**

9 Issue, in a form consistent with Fed. R. Civ. P. 65, an order appointing a receiver over
10 Defendants AMM and BD&C and the assets thereof.

11 **VI.**

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

16 **VII.**

17 Grant such other and further relief as this Court may determine to be just and necessary.
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20 DATED: June 23, 2009

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22 _____
23 Peter F. Del Greco
24 Attorney for Plaintiff
25 Securities and Exchange Commission
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