IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
Plaintiff,	§	**Civil Action No.**
vs.	§	
HOME SOLUTIONS OF AMERICA, INC., FRANK J. FRADELLA, BRIAN M. MARSHALL, JEFFERY M. MATTICH, RICK J. O'BRIEN, STEPHEN C. GINGRICH, THOMAS L. DAVIS, AND JEFFREY T. CRAFT,	§	
Defendants.	§	

COMPLAINT

The Securities and Exchange Commission ("Commission"), Plaintiff, files this Complaint against Defendants Home Solutions of America, Inc., Frank J. Fradella, Brian M. Marshall, Jeffery M. Mattich, Rick J. O'Brien, Stephen C. Gingrich, Thomas L. Davis and Jeffrey T. Craft and would respectfully show the Court as follows:

SUMMARY

1. Home Solutions of America, Inc. ("HSOA" or the "Company"), is a Dallas and New Orleans-based issuer that presented itself to investors as a leading remediation and construction company. During 2005 and 2006, in the aftermath of Hurricane Katrina and other weather-related disasters, the company issued press releases and made Commission filings falsely boasting of multimillion dollar contracts and robust financial results. As a result, HSOA's stock price, then quoted on the NASDAQ, reached

a peak of more than $13 in May 2006. Thereafter, HSOA's stock price plummeted in light of large insider stock sales, public allegations of fraud, the filing of private securities suits and the Company's public announcement that it would restate its financial statements for the first and second quarters of 2007.

2. During fiscal years 2004 to 2007, HSOA and several of its senior officers and employees engaged in an escalating pattern of maneuvers aimed at misleading the public about HSOA's true financial condition, and defrauding HSOA's major lender. Specifically, at year-end 2004 and continuing into 2006, HSOA's CEO and President, Frank Fradella, initiated an expense-deferral scheme to inflate earnings by expensing year-end bonuses when paid rather than when earned. In addition, beginning in 2006, Fradella and other HSOA senior executives engaged in a series of revenue inflation schemes, booking millions of dollars of bogus revenue by invoicing and recording receivables on work that had never occurred. HSOA compounded the fraud by issuing false and misleading press releases that materially misrepresented revenues, the terms of contracts with third parties, and the financial health of the company. At the peak of a series of materially false and misleading press releases in 2006, Fradella dumped approximately $6.8 million of stock into the inflated market.

3. Separately, in 2006 and 2007, Brian Marshall, the president of HSOA's largest subsidiary, Fireline Restoration, Inc. ("Fireline"), embarked on his own revenue-inflation scheme at Fireline. Marshall, in concert with others, including Stephen Gingrich and Tom Davis, booked more than $9 million of fake revenue on undisclosed, related-party transactions between Fireline and entities Marshall controlled. The

purported revenue was reported by HSOA as a result of its consolidation of Fireline's financial statements.

4. The Commission, in the interest of protecting investors from any further illegal activity, brings this action against the defendants seeking permanent injunctive relief, disgorgement of illicit profits and benefits the defendants received plus accrued prejudgment interest, civil monetary penalties, officer and director bars and other equitable relief.

JURISDICTION

5. This Court has jurisdiction over this action pursuant to § 22(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77v], § 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78aa], and Section 3(b) of the Sarbanes-Oxley Act of 2002 [15 U.S.C. § 7202(b)]. Defendants, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, practices and courses of business described in this Complaint. Venue is proper because certain of the transactions, acts, practices and courses of business described below occurred within the jurisdiction of the Northern District of Texas.

PARTIES

6. **Home Solutions of America, Inc.,** is a Delaware corporation that maintained its headquarters in Dallas, Texas, before relocating to New Orleans, Louisiana, in July 2008. The Company's common stock is registered with the Commission under Section 12(g) of the Exchange Act and trades in the Pink Sheets OTC

Markets under the symbol "HSOA." It was delisted from the NASDAQ National Market on January 7, 2008, for failure to file timely periodic reports.

7. **Frank J. Fradella ("Fradella")**, 53, a resident of Covington, Louisiana, was HSOA's Chairman from 2001 through March 18, 2008, CEO from 2001 until he resigned effective March 31, 2009, and a director until he resigned May 4, 2009.

8. **Brian M. Marshall ("Marshall")**, 45, a resident of Tampa, Florida, founded Fireline, a general contractor company licensed in Florida and Louisiana, in 1996. He sold Fireline to HSOA in July 2006. After the acquisition, Marshall was president of Fireline and a vice president of HSOA until he resigned in February 2008. Additionally, he was a director of HSOA from August 2006 until he resigned in May 2008. In response to the Commission's subpoenas, Marshall asserted his Fifth Amendment privilege against self-incrimination and refused to produce documents or respond to questions.

9. **Jeffrey M. Mattich ("Mattich")**, 48, a resident of Plano, Texas, served as HSOA's CFO from January 2006 through March 2008. Mattich was licensed as a CPA in the state of Pennsylvania until his license expired in December 2007.

10. **Rick J. O'Brien ("O'Brien")**, 45, a resident of Dallas, Texas, served as an HSOA vice president from July 2003 until December 2003, a senior vice president and CFO from December 2003 until January 2006, and president and COO from January 2006 through April 2007.

11. **Stephen C. Gingrich ("Gingrich")**, 41, a resident of Treasure Island, Florida, was hired as Fireline's controller in March 2006 and continued in that position when Fireline was acquired by HSOA in July 2006. Since Fireline ceased operations in

spring 2008, Gingrich has been employed by HSOA. Gingrich was licensed as a CPA in the state of Pennsylvania until his license expired in April 2002.

12. **Thomas L. Davis ("Davis"),** 50, a resident of Tampa, Florida, was Fireline's vice president from May 2005 to mid-2007.

13. **Jeffrey T. Craft ("Craft")**, 35, a resident of Tampa, Florida, is Marshall's business partner in Craftmar Construction, Inc., a Tampa-based development company, and in several other entities formed to develop projects in Florida.

BACKGROUND FACTS

14. From 2004 to 2007, HSOA materially inflated its net income by improperly deferring expenses, recording fictitious revenues and accounts receivable in advance of anticipated acquisitions, and prematurely recording revenues and costs on related party construction projects, many of which never got off the ground. HSOA, although required to do so, has not restated its financial statements for these periods. The effects of HSOA's misstatements of net income for years-ended 2004, 2005, and 2006, and the first two quarters of 2007 ranges from 6.8% to 307.8%. Similarly, HSOA's net income for the first, second, and third quarters of 2006 were misstated by approximately 130%, 184%, and 42%, respectively.

The Expense-Deferral Scheme

15. Beginning in 2004 and continuing in 2005, HSOA improperly deferred bonus expenses from the year they were earned to the year they were paid. In 2006, HSOA accrued a liability for bonuses earned by management, but based its accrual on an unrealistically low estimate of its actual liability for bonuses. HSOA's accounting for the bonuses did not comply with Generally Accepted Accounting Principles ("GAAP") under

Statement of Financial Accounting Standards No. 5, "Accounting for Contingencies" ("FAS 5"), paragraph 8. FAS 5 states, in part, a loss contingency shall be accrued by a charge to income if information exists prior to issuance of the financial statements that a liability has been incurred at the date of the financial statements and that the amount of the loss can be reasonably estimated. HSOA's failure to comply with FAS 5 resulted in HSOA misstating its 2004, 2005, and 2006 net income by 9.8%, 6.8%, and 2.8%, respectively.

16. Under the bonus plan approved by the Company's board of directors in 2004, the board committed to fund a bonus pool of not less than 5% of earnings before interest, taxes, depreciation, and amortization ("EBITDA"), if the Company's actual EBITDA exceeded the board-approved EBITDA target. Fradella and HSOA's CFO knew at the time they approved the Company's 2004 and 2005 financial statements that management had earned EBITDA bonuses and that the financial statements did not reflect accruals for the liability.

17. HSOA's auditors, KMJ Corbin & Company, LLP ("KMJ"), alerted Fradella and the Company's CFO to their concerns that HSOA had not accrued the EBITDA bonuses both at year-end 2004 and year-end 2005. For instance, shortly after the Company filed its 2004 Form 10-KSB, the KMJ engagement partner responsible for the 2004 audit sent HSOA's CFO detailed e-mails questioning HSOA's deferral of bonuses, and suggested that the only way KMJ could be satisfied with HSOA's accounting treatment of bonuses was if HSOA could represent that: (i) the CEO had discretion to pay an amount less than the bonus pool approved by the board, and (ii) that the bonuses were not fully vested, because recipients had agreed in writing to repay a

prorata share of their bonuses, if they left the company before the end of the calendar year in which the bonuses were paid. Nothing in the company's bonus plan, or its past practices, suggest that Fradella exercised or had discretion whether to pay out the bonuses approved by the Board, or that employees who departed within a year were required to pay back their bonuses. Nevertheless, with Fradella's knowledge, HSOA's CFO instructed the company's corporate controller to draft and provide to KMJ a memorandum from Fradella making the representations suggested by KMJ.

18. Similarly, in connection with KMJ's 2005 audit, the KMJ partner unequivocally reiterated his serious concerns to the Company's CFO by e-mail, stating, "I don't feel comfortable this year in allowing this amount to be recorded in 2006 – all my instincts and experience tells me that any reasonable outsider/stakeholder looking at this transaction would believe it to be (and expect it to be) a 2005 transaction. . . . it's now time to get the accounting right." The Company's CFO reviewed and signed, and Fradella signed and certified, the Company's 2005 Form 10-K, which was filed on March 31, 2006.

19. At year-end 2006, Fradella and Mattich failed to accrue a reasonable estimate of bonuses earned by management. Pursuant to a new bonus plan adopted by HSOA's board of directors in August 2006, management earned cash bonuses under a tiered structure. As applied by the board, HSOA awarded first tier cash bonuses if the Company exceeded an approved EBITDA target and second tier cash bonuses if the Company exceeded the first tier target by 20%. By December 2006, it was obvious that the Company had exceeded both the first and second tier EBITDA target set by the board. Nevertheless, HSOA recorded a $600,000 liability for bonuses, which was based only on

bonus amounts payable under the first tier. Both the corporate controller and KMJ questioned the adequacy of the accrual, but Mattich failed to make an additional accrual. KMJ ultimately relied upon Mattich's and Fradella's representation that "they feel $600,000 is more reflective of the amount that will be paid for 2006 performance." Without correcting HSOA's accounting, Fradella and Mattich signed and certified the Company's 2006 Form 10-K, which was filed on March 19, 2007. In fact, HSOA paid bonuses of $1.2 million for 2006, which was consistent with bonuses payable under the first and second tiers.

The Revenue-Inflation Schemes

20. In 2006 and 2007, HSOA augmented its ongoing expense-deferral scheme with separate, revenue-inflation schemes. Specifically, in each of the first three quarters of 2006, Fradella, assisted at times by the Mattich, caused HSOA to report revenue from fictitious transactions with the targets of anticipated HSOA acquisitions, including C&B Services, Inc. ("C&B"), Fireline, and Associated Contractors, LLC. At the same time, Fradella caused HSOA to issue false and misleading press releases to inflate HSOA's stock price, and then sold HSOA stock, reaping millions of dollars in profits. Further, in the first and second quarters of 2007, Fradella, Marshall, and Mattich caused HSOA to recognize revenue of another public company -- RG America, Inc. -- as its own. Collectively, these schemes resulted in HSOA recording in excess of $40 million in bogus revenue.

C&B Services, Inc.

21. Fradella orchestrated a scheme to defraud investors regarding HSOA's contractual relationship with C&B, which was HSOA's largest customer, accounting for approximately 23% of HSOA's 2005 revenues, and like HSOA, was a hurricane-

restoration company. Between January and mid-April 2006, HSOA sought to acquire C&B. Through HSOA's due diligence, Fradella and O'Brien were familiar with C&B's business and financial condition. In early April, even though HSOA believed it was on the cusp of acquiring C&B, C&B's president and Fradella negotiated a new business arrangement between the companies. This arrangement was memorialized in two identical agreements between C&B and the HSOA entities (the "C&B Agreements"). The C&B Agreements were standard subcontract agreements that set the labor rates and other terms of any future services, but did not obligate C&B to hire HSOA to perform any work. While such agreements typically set rates for a set period of time, the C&B Agreements defined their scope as "all contracted work, not to exceed $20,000,000 ... beginning as of April 1, 2006." In other words, the first $20 million of work performed by each of the HSOA entities would be at the defined rates, without regard to when the work would be complete.

22. C&B's president executed the C&B Agreements for C&B on April 7, 2006, and faxed them to Mattich on April 11, 2006. That same day, on April 11, 2006, Fradella authorized HSOA to issue a press release announcing the C&B Agreements. The market reacted favorably to the release; HSOA's stock closed up 10.5% from the prior day, on four times the average volume of the previous 30 trading days. The press release declared that C&B had awarded HSOA two contracts "valued at up to" $40 million and falsely stated that work was expected to begin immediately and be complete by the end of 2006. The press release did not disclose that HSOA was in merger discussions with C&B, and that the outcome of those merger discussions could have a material effect on HSOA's ability to generate revenue under the contracts. The press release also did not

disclose other material facts, including that: the C&B Agreements were merely pricing arrangements; C&B was not awarding, or obligated to award work to HSOA; and, C&B itself did not have $40 million of work it expected to award to HSOA. In fact, C&B did not have any on-going projects at the time the agreements were drafted, and C&B had no immediate needs for labor from HSOA.

23. Due to his close involvement with the C&B merger discussions, O'Brien understood and objected to the press release on the basis that any work HSOA might perform for C&B was likely to disappear if the C&B acquisition negotiations fell through and, alternatively, that if the acquisition happened, the press release was meaningless. Fradella responded to O'Brien's objections by making vague references to having spoken with C&B's president, by identifying a handful of small jobs with C&B, and by editing the press release to remove references to earnings guidance.

24. Shortly after HSOA issued the C&B press release, C&B's president informed Fradella that C&B was terminating its merger negotiations with HSOA. Several weeks later, on June 5, 2006, C&B agreed to be acquired by a competitor of HSOA. This significantly reduced the likelihood that C&B would subcontract any additional work to HSOA – exactly the scenario O'Brien anticipated.

25. In order to avoid a precipitous decline in HSOA's revenues and earnings, Fradella persuaded C&B's president to sign retroactive amendments to the C&B Agreements and used them as a basis to record $3 million of bogus first quarter revenues. On Saturday, May 6, two weeks after the merger negotiations fell through and shortly before HSOA would report earnings for the first quarter of 2006, Fradella e-mailed C&B's president, stating, "I need to advance bill some stuff... It's OK you don't have to

pay me . . . we can settle up at the end of '06. I may need you to initial a change in our contract to do that."

26. Subsequently, Fradella told O'Brien and Mattich that C&B had orally agreed that the two HSOA entities that were counterparties to the C&B Agreements could each bill C&B up to $1 million per month, starting in January 2006, for so-called standby and mobilization services. Under this arrangement, the HSOA entities could supposedly unilaterally bill C&B up to $2 million per month purely by committing to have laborers on "standby." Purportedly, the entities could bill C&B regardless of whether they incurred costs to actually have employees on standby to do work, or whether they were awarded or performed any work under the C&B Agreements. Moreover, if any work did occur, C&B would receive no credit for the "standby" fees, but instead would be obligated to pay HSOA additional amounts, at the hourly rates stated in the C&B Agreements. Based on Fradella's description of the arrangement, Mattich instructed his assistant to type new provisions in the bottom margin on the first page of each the two C&B Agreements previously signed by C&B's president on April 7, 2006. The standby provisions, typed in a conspicuously different font than the rest of the document, state that the HSOA entities "will invoice C&B Services up to $1,000,000 per month for Stand-By and Mobilization Services, beginning January 2006." Mattich then caused the revised first pages of the C&B Agreements to be faxed to C&B's president on May 11, 2006. C&B's president initialed the standby provisions as requested and faxed the pages back on May 12, 2006.

27. It made absolutely no economic or business sense for C&B to allow HSOA the option of invoicing C&B up to an aggregate of $2 million per month

retroactive to January 1, 2006. Indeed, C&B had only $473,000 of revenues for March 2006, a fact known to Mattich based on e-mail correspondence with C&B's CFO as a result of HSOA's due diligence in connection with its failed attempt to acquire C&B. C&B's president consented to initial the standby provisions only after Fradella orally agreed that HSOA could not bill C&B unless C&B first issued a purchase order requesting standby and mobilization services. C&B never issued such a purchase order to HSOA.

28. Nonetheless, Fradella and Mattich instructed subordinates to record an aggregate of $3 million of revenue for the quarter ended March 31, 2006. This was not in accordance with GAAP. First, because C&B never issued purchase orders to HSOA, collection on the invoices purportedly issued to C&B was not reasonably assured as required under Accounting Research Bulletin No. 43, "Restatement and Revision of Accounting Research Bulletins," Chapter 1A, paragraph 1. Furthermore, even if there was a basis to record revenue on the agreements, there was no basis to record that revenue in the first quarter of 2006. Fradella did not even suggest the standby provisions to C&B's president until May 6, which was midway through the second quarter.

29. Fradella and Mattich signed, certified, and caused the Company to file its Form 10-Q on May 15, 2006. In this filing, HSOA reported materially inflated revenues by $3 million (18%) and net income by approximately $1.2 million (59%). Without the false revenues from C&B, HSOA would have reported a 50% decline in sequential quarterly earnings rather than reporting record earnings and a 40% decline in EPS rather than a 100% increase. Although HSOA did not continue to record additional standby revenues in the remaining quarters of 2006, HSOA took no steps to correct the inflated

revenues reported in the first quarter 2006. Rather, Fradella and Mattich signed, certified and caused the Company's remaining quarterly and year-end 2006 filings to be filed with the $3 million still on HSOA's books.

30. In connection with KMJ's review engagements for the first quarter of 2006, Fradella, Mattich, and O'Brien signed a letter of representation to KMJ specifically representing, "All amounts recognized in connection with the standby and mobilization services provided to C&B have been properly recognized in accordance with GAAP, as all required services have been performed and collectability is reasonably assured." Fradella, Mattich and O'Brien made the same representation to KMJ in connection with KMJ's second quarter review. With respect to KMJ's third quarter 2006 review, Fradella, Mattich, and O'Brien, and with respect to KMJ's year-end 2006 engagements, Fradella and Mattich also signed letters of representation to KMJ, stating that HSOA's financial statements were fairly presented in all material respects in conformity with GAAP. The third quarter and year-end 2006 letters of representation, however, did not include specific representations related to the standby and mobilization services provided to C&B.

31. Between May 24 and May 26, 2006, Fradella sold 581,586 shares of HSOA common stock, garnering gross proceeds of approximately $6.8 million. Fradella did not inform the HSOA board of directors, or investors, however, that the company's stock price was inflated due to HSOA's issuance of false and misleading press releases, HSOA's reporting of fictitious revenue related to C&B, as well as HSOA's reporting of inflated net income for 2004 and 2005 as a result of the deferral of year-end bonuses.

Fictitious $8.4 Million Vista Deal in Advance of Fireline Acquisition

32. In the second quarter of 2006, Fradella, with Marshall and Mattich's assistance, launched another revenue-inflation scheme. As a result of this scheme, HSOA recorded $8.4 million of revenues purportedly related to work on a project named Vista Royale Condominiums and, in return, paid more than $2.7 million of invoices and accrued an additional $600,000 of invoices owed by Fireline to subcontractors on Vista Royale and other, unrelated projects.

33. In late May 2006, Marshall, the owner of Fireline, initiated negotiations with Fradella and Mattich that culminated in HSOA acquiring Fireline effective July 1, 2006. Even before executing a letter of intent on June 20, 2006, however, Marshall assisted HSOA in generating bogus revenues by agreeing with Fradella and Mattich to "award" a subcontract agreement to HSOA to perform work on Vista Royale. The purported subcontract agreement was never finalized or executed, and HSOA never performed work on Vista Royale. Indeed, most, if not all, of the work had been performed before Marshall even met anyone from HSOA. Nevertheless, in June, HSOA sent $8.4 million in invoices to Marshall, purportedly for work that was performed by HSOA on Vista Royale. Unlike HSOA invoices for legitimate work, the invoices did not detail the number of hours worked or the applicable labor rates. Based on these invoices, HSOA recorded $8.4 million in bogus revenues in the second quarter of 2006.

34. As consideration for Marshall's role in facilitating HSOA's revenue-inflation scheme, HSOA sent checks to Marshall for approximately $2.7 million, made out to contractors who supposedly worked on the Vista Royale project. At least $1.3 million of the $2.7 million total was paid to entities owned or controlled by Marshall.

35. Mattich approved HSOA's recognition of $8.4 million of revenue from Vista Royale in the quarter ended June 30, 2006. He also approved HSOA's recording the $2.7 million of payments and approximately $600,000 of payables to Fireline's subcontractors as cost of sales related to the project. Fradella and Mattich knew or were reckless in not knowing that HSOA had not earned any revenues, as it had not performed any work on the Vista Royale project. Nonetheless, HSOA included these revenues and costs in the Company's Form 10-Q for the quarter ended June 30, 2006, filed on August 15, 2006.

Bogus "A-Invoices" in Advance of the Associated Acquisition

36. In the third quarter of 2006, HSOA entered into another revenue inflation scheme, linked to its impending acquisition of New Orleans-based Associated Contractors, LLC ("Associated"). Associated historically hired HSOA as a subcontractor on Associated's projects in New Orleans, primarily rebuilding schools damaged during Hurricane Katrina. Typically, HSOA billed Associated only for actual labor at agreed upon hourly rates and for actual equipment and material costs used on Associated's construction projects. HSOA issued invoices to Associated, each numbered with the project number and a sequentially numbered suffix, and each with copies of timesheets and other supporting documentation attached. In September 2006, however, immediately in advance of HSOA's acquisition of Associated, Mattich directed subordinates to invoice an aggregate of $4 million to Associated for various items, including management fees, which HSOA had never before billed to Associated. Instead of the standard sequentially numbered suffix, these invoices bore an "A" suffix. None of the A-Invoices attached supporting documentation. Associated never agreed that HSOA could bill Associated for the amounts reflected in the A-Invoices.

37. Mattich approved HSOA's recognition of $4 million of revenue from the A-Invoices in the quarter ended June 30, 2006. Fradella and Mattich knew or were reckless in not knowing that HSOA had not earned the revenues, as Associated had not agreed to allow HSOA to bill Associated an additional $4 million.

The RG America Scheme

38. In the first and second quarters of 2007, HSOA again fabricated revenues and receivables, this time by improperly accounting for a "consulting agreement" with Texas-based construction company RG America, Inc. ("RG"), and several of its subsidiaries.

39. By the end of 2007, RG was on the verge of bankruptcy, was unable to repay its creditors, unable to complete work it had contracted to perform on various construction projects, and unable to collect on millions of dollars in existing receivables. Accordingly, RG entered into preliminary, three-party talks with HSOA and with Laurus Master Fund, Ltd., which was one of RG's biggest creditors. The terms of the proposed arrangement between RG, HSOA, and Laurus would include: (i) Fireline stepping into RG's shoes to complete RG's construction projects with money advanced by Laurus; (ii) Fireline collecting RG's receivables and remitting payments to Laurus; (iii) HSOA issuing stock to Laurus; and (iv) Laurus forgiving RG's debt. As reflected in e-mail correspondence between HSOA and Laurus, Fireline was only to have access to RG's receivables after HSOA issued stock to Laurus. Until then, all collections were to go to Laurus. The e-mails demonstrate that Fradella, Marshall, and Mattich were all aware of these terms. For example, on March 21, 2007, Marshall e-mailed Laurus, copying Mattich and Fradella: "Yes sir per our agreement and the previous e-mails all collections will go to Laurus until all is settled . . . ." Based upon this informal agreement, Laurus

advanced HSOA $1.3 million in March 2007 and an additional $3 million in April 2007, to assist HSOA in completing the RG projects. Before making the second advance, Laurus required that Fradella execute a personal guaranty that the advance would be promptly repaid when due or when accelerated.

40. Despite HSOA's assurances to Laurus regarding collection of receivables, on March 31, 2007, Marshall, Fradella, and Mattich negotiated a different agreement with RG, executed by Marshall (the "RG Agreement"). Under the RG Agreement, RG agreed that it would pay Fireline a consulting fee by assigning Fireline any amounts collected on RG's receivables. The agreement made no mention of HSOA's agreement with Laurus, including its obligation to issue stock to Laurus or its obligation to send the receivables to Laurus. Rather, under the terms of the RG Agreement, it was contemplated that Fireline was to step into the shoes of RG on the construction projects and obtain rights to all of RG's receivables as a so-called "consulting fee," but have no obligation to pay any of RG's outstanding loans. Based on the RG Agreement, Mattich directed Gingrich to make journal entries on Fireline's books. Included in the amounts HSOA recognized as revenue are the $1.3 million and $3 million of advances received from Laurus in the first and second quarters 2006, respectively.

41. HSOA's accounting with respect to the RG Agreement and the advances from Laurus was not in accordance with GAAP. The Company conceded that its accounting was improper in December 2007, when it filed a Form 8-K stating that its 2007 financial statements should not be relied upon, in part due to errors in reporting the effects of the RG Agreement. First, Laurus's advances to HSOA were not paid to HSOA for services rendered, and were subject to repayment under certain circumstances (as

evidenced by Fradella's personal guaranty). Accordingly, it was not appropriate for HSOA to record the advances as revenue under Statement of Financial Accounting Concepts No. 5, "Recognition and Measurement in Financial Statements of Business Enterprises," paragraphs 83-84.

42. Second, HSOA improperly recorded RG receivables as HSOA assets. Assets are probable future economic benefits obtained or controlled as a result of past transactions or events. According to FASB Statement of Concepts No. 6, Elements of Financial Statements, para. 26, an asset has three essential characteristics: (a) it embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows, (b) a particular entity can obtain the benefit and control others' access to it, and (c) the transaction or other event giving rise to the entity's right to or control of the benefit has already occurred. These amounts were not HSOA assets because (i) the tri-party agreement among HSOA, RG, and Laurus had not been finalized, (ii) the RG Agreement, as executed, contradicted key terms agreed upon between the three parties, and, (iii) while the RG Agreement provided that RG would assign contracts and receivables to HSOA, no such assignment had occurred at the time HSOA recorded the receivables. Indeed, RG continued to report the same receivables as assets on its books.

43. In addition to HSOA's improper accounting, Mattich and Marshall directed Gingrich to inflate HSOA's borrowing base in order to obtain additional borrowings under the Company's credit facility with Texas Capital Bank. Under the terms of the credit facility, HSOA could borrow 80% to 85% of eligible receivables. At Mattich's and Marshall's instruction, HSOA classified approximately $8.4 million of

RG's receivables as current receivables, even though the vast majority were ineligible because they were more than 180 days old. Mattich signed a borrowing base certificate to Texas Capital Bank that falsely portrayed the Company's borrowing base and compliance with the terms of the credit facility. HSOA failed to disclose in its 2007 Forms 10-Q that it had borrowed in excess of amounts it could borrow if the RG receivables had been properly excluded. As such, Mattich and Marshall caused HSOA to falsely portray its liquidity and capital resources in its 2007 Forms 10-Q.

Marshall's Separate Scheme to Defraud HSOA and its Investors

44. Starting in December 2006, separate and apart from Marshall's involvement in Fradella's and Mattich's revenue-inflation schemes, Marshall executed a scheme to inflate Fireline's receivables and related revenues. He did so by causing private companies that he controlled to enter into contracts with HSOA to perform construction work. Marshall then directed Fireline's vice president Davis, Fireline's controller Gingrich, and other Fireline employees to create documents and make accounting entries that made it appear that Fireline was performing work on these related party contracts. During the relevant period, HSOA did not disclose that a significant portion of its reported revenues were attributable to related party transactions with Marshall entities.

45. During 2006 and 2007, Marshall caused Fireline to enter into at least 10 related party contracts on various projects, including a $4 million contract for the construction of Marshall's personal residence. Fireline reported revenues and costs from these projects purportedly based on percentage of completion accounting. Contrary to documents and representations Marshall and others made to HSOA and KMJ, very little work was performed on any of the projects. When counsel to HSOA's audit committee

visited the Tampa construction sites in October 2007, most were bare lots or just in the initial stages of construction.

46. To support Fireline's accounting for the projects, Davis, at Marshall's direction, directed Fireline construction managers to create and to backdate contracts and payment applications. Davis and Marshall executed these contracts on behalf of Fireline and the related party entities. In addition, at Marshall's direction, Davis and Gingrich caused the construction managers to prepare and backdate construction documentation that significantly overstated and fabricated the costs incurred and physical progress of all the related party projects.

47. The construction managers believed that, if they did not comply with Marshall's instructions and prepare and sign the false documents, they would lose their jobs. Nonetheless, all the construction managers complained to Gingrich about being asked to sign false documentation, but Gingrich assured all of them that it was just for "internal billing" and not to worry.

48. Fireline's financial results were consolidated into HSOA's financial statements. As a result of Marshall's, Gingrich's and Davis's misconduct, HSOA's revenues and receivables were overstated at December 31, 2006, and for the year then ended by $3.2 million, and HSOA's operating income was overstated by approximately $1 million. For the six months ended June 30, 2007, HSOA's revenues and operating income were overstated on these projects by $6.9 million and $900,000, respectively.

49. To perpetuate his scheme, Marshall had his partner in some of the related party entities, Jeffrey Craft provide a false confirmation letter to KMJ. In connection with its 2006 audit of HSOA, KMJ requested that Craft confirm a $650,000 payable

related to one of the related party projects. Craft knew that the related party entity had not performed close to $650,000 worth of work on the project, and initially balked at signing the confirmation, stating in an e-mail to Marshall that he was "not willing to accept the financial and legal ramifications of executing this [confirmation] at this time." Marshall responded that the confirmation was for Fireline's audit and that "the last thing I need is a problem on an audit from a company I co-own . . . provide the information as requested." Under pressure from Marshall, Craft signed the confirmation and returned it to KMJ, without noting any discrepancies.

CLAIMS

FIRST CLAIM
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

50. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

51. Defendants HSOA, Fradella, Marshall and Mattich, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails has: (a) employed devices, schemes and 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 light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

52. As a part of and in furtherance of this scheme, Defendants HSOA, Fradella, Marshall and Mattich, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other

correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth in paragraphs 1 through 49 above.

53. Defendants HSOA, Fradella, Marshall and Mattich made the above-referenced misrepresentations and omissions knowingly or with severe recklessness regarding the truth.

54. By reason of the foregoing, Defendants HSOA, Fradella, Marshall and Mattich violated and, unless enjoined, will continue to violate the provisions 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].

SECOND CLAIM
Violations of Section 17(a) of the Securities Act

55. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

56. Defendants HSOA, Fradella, Marshall and Mattich, directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in

transactions, practices or courses of business which operate or would operate as a fraud or deceit.

57. As part of and in furtherance of this scheme, Defendants HSOA, Fradella, Marshall and Mattich, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, those statements and omissions set forth in paragraph 1 through 49 above.

58. Defendants HSOA, Fradella, Marshall and Mattich made the above-referenced misrepresentations and omissions knowingly or with severe recklessness with regard for the truth. Defendants HSOA, Fradella, Marshall and Mattich were also negligent in their actions regarding the representations and omissions alleged herein.

59. By reason of the foregoing, Defendants HSOA, Fradella, Marshall and Mattich violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CLAIM
Violations of Section 13(a) of the Exchange Act
and Rules 12b-20, 13a-1 and 13a-13

60. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

61. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] requires issuers to file such annual and quarterly reports as the Commission may prescribe and in conformity with such rules as the Commission may promulgate. Exchange Act Rule 13a-

1 [17 C.F.R. § 240.13a-1] requires the filing of accurate annual reports, and Exchange Act Rule 13a-13 [17 C.F.R. §240.13a-13] requires the filing of accurate quarterly reports. Rule 12b-20 [17 C.F.R. § 240.12b-20] requires an issuer to include material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading.

62. HSOA filed periodic reports with the Commission that were not prepared in accordance with Rules promulgated by the Commission.

63. By reason of the foregoing, HSOA violated and, unless enjoined, will continue to violate Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, and 13a-13 thereunder. [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

FOURTH CLAIM
Violations of Sections 13(b)(2)(A) and 13b(2)(B) of the Exchange Act

64. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

65. Defendant HSOA, having a class of securities registered pursuant to Section 12 of the Exchange Act, in the manner set forth above, failed to:

(a) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of its assets;

(b) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that —

(i) transactions are executed in accordance with management's general or specific authorization;

(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets;

(iii) access to assets is permitted only in accordance with management's general or specific authorization; and

(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

66. By reason of the foregoing, Defendant HSOA violated and, unless enjoined, will continue to violate Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act. [15 U.S.C. §§78m(b)(2)(A) and 78m(b)(2)(B)].

FIFTH CLAIM
Violations of Section 13(b)(5) of the Exchange Act

67. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

68. Defendants Fradella, Marshall and Mattich violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] by knowingly circumventing or knowingly failing to implement a system of internal accounting controls, or knowingly falsifying HSOA's books, records or accounts.

69. By reason of the foregoing, Defendants Fradella, Marshall and Mattich violated and, unless enjoined, will continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

SIXTH CLAIM
Violations of Exchange Act Rules 13b2-1 and 13b2-2

70. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

71. Defendants Fradella, Marshall and Mattich violated Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] by, directly or indirectly, falsifying or causing to be falsified, the books, records or accounts of HSOA subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]. Furthermore, Fradella, Marshall and Mattich violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] by making, or causing to be made, materially false or misleading statements or omissions to an accountant or auditor.

73. Defendants Fradella, Marshall and Mattich engaged in the above-referenced conduct in an intentional or negligent manner.

74. By reason of the foregoing, Defendants Fradella, Marshall and Mattich violated and, unless enjoined, will continue to violate Exchange Act Rules 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2].

SEVENTH CLAIM
Violations of Exchange Act Rule 13a-14

75. Plaintiff repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

76. Defendants Fradella and Mattich signed a Sarbanes-Oxley certification on behalf of HSOA. At the time each signed the certification, they were aware that HSOA's schemes had materially impacted the financial results each certified as accurate.

77. Exchange Act Rule 13a-14 requires an issuer's principal executive and financial officer to certify in each quarterly and annual report filed or submitted by the issuer under Section 13(a) of the Exchange Act, that: 1) they have reviewed the report; and 2) based on their knowledge, the report does not contain any untrue statement of material fact, or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the report. Fradella and Mattich knew, or were reckless in not knowing, that the reports each certified contained untrue statements of material fact and omitted to state material facts necessary to make the statements made therein, in light of the circumstances under which the statements were made, not misleading.

78. By reason of the foregoing, Fradella and Mattich violated and, unless enjoined, will continue to violate Rule 13a-14 [17 C.F.R. § 240.13a-14] promulgated under Section 302 of the Sarbanes-Oxley Act of 2002.

EIGHTH CLAIM
Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act

79. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

80. Defendants O'Brien, Gingrich and Davis, directly or indirectly, singly, in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of

the mails, have: (a) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (b) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

81. Defendants O'Brien, Gingrich and Davis acted negligently regarding the representations and omissions alleged herein.

82. By reason of the foregoing, Defendants O'Brien, Gingrich and Davis violated and, unless enjoined, will continue to violate Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)].

NINTH CLAIM
Aiding and Abetting Violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder

83. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

84. HSOA, as a public company whose common stock is registered with the Commission, is required to file annual, quarterly and current reports in accordance with Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder. Exchange Act Rule 12b-20 requires that reports contain, in addition to disclosures expressly required by statute and rules, such other information as is necessary to ensure that the statements made are not, under the circumstances, misleading.

85. HSOA filed, and Defendants Fradella, Marshall, Mattich, O'Brien, Gingrich and Davis aided and abetted HSOA's filing of materially inaccurate current, periodic and annual reports. Defendants Fradella, Marshall, Mattich, Gingrich and Davis

knew, or were reckless in not knowing, and Defendant O'Brien was negligent in not knowing that these filings contained materially inaccurate statements yet caused the company to file the misleading reports with the Commission and make them available to the investing public.

86. By reason of their acts and practices, Defendants Fradella, Marshall, Mattich, Gingrich and Davis, with general awareness and through substantial assistance, and Defendant O'Brien negligently, aided and abetted HSOA's violations and, unless enjoined, will continue to aid and abet violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)], and Commission Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13] thereunder.

TENTH CLAIM
Aiding and Abetting Violations
of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

87. Plaintiff repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

88. Defendant HSOA, having a class of securities registered pursuant to Section 12 of the Exchange Act, is required to maintain its accounting records in accordance with Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

89. HSOA failed to maintain its accounting records, and Defendants Fradella, Marshall, Mattich, Gingrich and Davis with general awareness and through substantial assistance aided and abetted HSOA's failure to maintain its accounting records in accordance with Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act. Defendant O'Brien negligently aided and abetted HSOA's failure to maintain its books and records in accordance with Section 13(b)(2)(A) of the Exchange Act.

90. By reason of the foregoing, Defendants Fradella, Marshall, Mattich, Gingrich and Davis aided and abetted and, unless enjoined, will continue to aid and abet violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act. [15 U.S.C. §§78m(b)(2)(A) and 78m(b)(2)B)]. Defendant O'Brien aided and abetted and, unless enjoined, will continue to aid and abet violations of Section 13(b)(2)(A) of the Exchange Act.

ELEVENTH CLAIM
Aiding and Abetting Violations
of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

91. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

92. Defendant HSOA, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate commerce and by use of the mails has: (a) employed devices, schemes and 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 light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

93. As a part of and in furtherance of this scheme, Defendant HSOA, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made,

in light of the circumstances under which they were made, not misleading, including, but not limited to, those set forth in paragraphs 1 through 49 above.

94. Defendant Marshall, with general awareness and through substantial assistance, aided and abetted HSOA's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in connection with the Fireline scheme while he was still acting on behalf of Fireline.

95. By reason of the foregoing, Defendant Marshall aided and abetted and, unless enjoined, will continue to aid and abet 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].

TWELFTH CLAIM
Aiding and Abetting violations of Exchange Act Rule 13b2-2

96. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

97. Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] prohibits officers and directors of issuers like HSOA from making or causing to be made materially false or misleading statements to an accountant in connection with an audit, review or examination of the issuers financial statements or in the preparation or filing of any document with the Commission or omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading in connection with an audit, review or examination of the issuers financial statements or in the preparation or filing of any document with the Commission.

98. Defendant Craft, with general awareness, provided substantial assistance to Marshall as he violated Exchange Act Rule 13b2-2 by making, or causing to be made, materially false or misleading statements or omissions to an accountant or auditor.

99. By reason of the foregoing, Defendant Craft aided and abetted and, unless enjoined, will continue to aid and abet violations of Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

THIRTEENTH CLAIM
Violations of Section 304(a) of the Sarbanes-Oxley Act

100. Plaintiff Commission repeats and incorporates paragraphs 1 through 49 of this Complaint by reference as if set forth *verbatim*.

101. HSOA filed the following statements with the Commission in material noncompliance with GAAP: 12/31/2004 10-KSB filed 3/28/05; 3/31/2005 Form 10-QSB filed 5/23/05; 6/30/2005 Form 10-QSB filed 8/15/05; 9/30/2005 Form 10-QSB filed 11/14/05; 12/31/2005 Form 10-KSB filed 3/31/06; 3/31/2006 Form 10-Q filed 5/15/06; 6/30/02006 Form 10-Q filed 8/14/06; 9/30/2006 Form 10-Q filed 11/14/06; 12/31/2006 Form 10-K filed 3/19/07; 3/31/2007 Form 10-Q filed 5/10/07; 6/30/02007 Form 10-Q filed 8/15/07. HSOA is therefore required to prepare and file accounting restatements with the Commission.

102. Fradella and Mattich received bonuses and other incentive-based or equity-based compensation during the 12 months following the filing with the Commission of the foregoing financial documents embodying financial reporting requirements. Additionally, Fradella sold HSOA securities at a time when the company should have filed an accounting restatement or within 12 months thereof.

103. Fradella and Mattich have not reimbursed HSOA for the monies each received and the Commission has not exempted Fradella or Mattich from the application of Section 304(a) of the Sarbanes-Oxley Act.

104. By engaging in the conduct described above Fradella and Mattich have violated and, unless ordered to comply, will continue to violate Section 304(a) of the Sarbanes-Oxley Act, 15 U.S.C. §7243(a).

PRAYER

The Commission respectfully requests that the Court:

105. Permanently restrain and enjoin Defendants from violating, or aiding and abetting violations, directly or indirectly, the provisions of law and rules alleged in this Complaint.

106. Order Defendants to disgorge all monies or benefits realized from the conduct alleged herein, including prejudgment interest thereon.

107. Order Defendants to pay civil money penalties, plus post-judgment interest, pursuant to Section 20(d)(2) of the Securities Act [15 U.S.C. § 77t] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] in an amount to be determined by the Court.

108. Order Defendants Fradella and Mattich to reimburse HSOA for all bonuses and other incentive-based compensation, equity based compensation or proceeds from the sale of HSOA securities as required under Section 304(a) of the Sarbanes-Oxley Act.

109. Order that Defendants Fradella, Marshall and Mattich, under Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], are prohibited from acting as

officers or directors of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78*l*] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

110. Grant such other relief as this Court may deem just or appropriate.

Dated and signed on November 30, 2009.

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