IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

Securities and Exchange Commission,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:08-cv-00675
	)	
American Italian Pasta Company,	)	
	)	
Defendant.	)	

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") for its complaint alleges as follows:

I. SUMMARY

1) From its fiscal year 2002 through the second quarter of its fiscal year 2004, American Italian Pasta Company ("AIPC"), through certain of its senior executives, engaged in a fraudulent scheme to mislead the investing public about the growth of the company's earnings and to increase artificially the company's stock price. As a result, AIPC fraudulently overstated its pre-tax net income during that time period by more than $36 million and fraudulently overstated earnings per share ("EPS") by approximately 23 percent in fiscal year 2002; by approximately 41 percent in fiscal year 2003; by approximately 59 percent in the first quarter of fiscal year 2004; and by approximately 8 percent in the second quarter of fiscal year 2004.

2) On June 16, 2008, AIPC filed restated consolidated financials statements. The restatement corrected both fraudulent errors and errors arising from inadequate internal

controls and reduced AIPC's pre-tax income for fiscal year 2002 through the second quarter of fiscal year 2004 by approximately $59 million or 66 percent. AIPC admitted in the June 16, 2008 filing that the restatement "corrects errors arising from poor record keeping, recording transactions without economic substance, recording unsupported journal entries to the general ledger, not maintaining a proper tone as to internal controls and failure to adjust accounts for required amounts."

3) The Commission brings this action pursuant to the authority conferred upon it by Sections 21(d) and (e) of the Exchange Act, 15 U.S.C. §§ 78u(d) and (e), for an order permanently restraining and enjoining AIPC and granting other equitable relief.

II. JURISDICTION AND VENUE

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

5) In connection with the transactions, acts, practices, and courses of business described in this Complaint, AIPC, directly and indirectly, has made use of the means or instrumentalities of interstate commerce or of the mails.

6) AIPC does business in and has its corporate headquarters in this judicial district. Moreover, certain of the transactions, acts, practices and courses of business constituting the violations of law alleged herein occurred within this district.

III. DEFENDANT

7) **American Italian Pasta Company** is a Delaware corporation with its principal place of business in Kansas City, Missouri. AIPC claims to be the largest producer and marketer

of dry pasta in North America. At all relevant times, AIPC's common stock was registered pursuant to Section 12(b) of the Exchange Act, and the company filed annual, quarterly, and current reports with the Commission on Forms 10-K, 10-Q, and 8-K, respectively. The company's fiscal year end is the last Friday of September or the first Friday of October, resulting in either a 52 or 53-week fiscal year.

8) AIPC's common stock was traded on the New York Stock Exchange ("NYSE") until December 20, 2006, when the NYSE suspended trading based on AIPC's failure to keep current its Commission filings. AIPC's stock is currently quoted on www.pinksheets.com, which is operated by Pink OTC Markets, Inc.

IV. FACTS

A. AIPC Promised Superior EPS Growth

9) AIPC's goal was to be a high-growth company in the low-growth food producers segment of the market. From its 1997 IPO through fiscal year 2001, the company achieved rapid revenue and earnings growth based primarily on market share gains by its private label business unit, which generally sold pasta to be marketed under grocery chains' store brands.

10) As senior AIPC executives planned for fiscal year 2002, they determined that the company's EPS growth rates relative to other food companies would drive increases in its stock price and developed a "Long Range Plan" for fiscal year 2002 through fiscal year 2004 predicated on top and bottom line annual growth of 15 to 20 percent. Internally, senior executives rallied support for the plan by asserting that its execution would produce, by fiscal year 2004 at the latest, annual revenues of $500 million, earnings (before interest and taxes) of $100 million, and EPS of three dollars. Senior executives

called these results "5-1-3 Triple Crown Performance" and predicted they would drive AIPC's stock price to $75. AIPC touted to Wall Street analysts the company's consistent track record of meeting or beating consensus earnings estimates, and promised that AIPC would continue to "stand out from the crowd" of food companies through high growth.

11) During each annual budget process for fiscal years 2002 to 2004, AIPC's chief executive officer ("CEO") held meetings in which he established aggressive revenue and profit expectations for the upcoming year that AIPC's internal annual budget would have to support. By 2002, AIPC was consistently failing to meet legitimately its internal budget and to generate the earnings it had promised investors.

B. AIPC's Culture of Fraudulent Accounting

12) In response to its earnings shortfalls, AIPC's CEO held "Profit Achievement Task Force" ("PATF") and other meetings to close the earnings gap. At the meetings, certain senior AIPC executives committed to various "profit initiatives" to enable AIPC to overcome the shortfalls. The "profit achievement" process was complete only when net income to be reported had been lifted to meet Wall Street's consensus earnings estimate.

13) Some of the PATF initiatives were legitimate business strategies, but when AIPC faced a significant gap to the consensus earnings estimate the company turned to accounting manipulations contrary to Generally Accepted Accounting Principles ("GAAP"). Because of the "tone at the top" set by AIPC's senior executives and the PATF process, AIPC came to view improper accounting as an acceptable way to meet earnings targets.

14) From fiscal year 2002 through the second quarter of fiscal year 2004, AIPC fraudulently capitalized costs to long-lived assets and fraudulently manipulated its trade promotion

accounting to eliminate earnings shortfalls. This fraudulent accounting was facilitated by internal controls at AIPC that were inadequate or nonexistent.

15) Beginning approximately in the middle of fiscal year 2002, demand for pasta fell dramatically due in large part to increasingly popular low-carbohydrate diets. As a result, in the second half of fiscal year 2003 and the first two quarters of fiscal year 2004, AIPC's fraudulent capitalization and trade promotion accounting failed to fully eliminate the gap between the company's real earnings and the targets promised by AIPC. In response, AIPC turned to other types of fraudulent accounting including failing to write-off obsolete or missing spare parts; round-tripping of cash transactions; booking fictional receivables; and recording revenue from sales of products not yet shipped.

16) For fiscal year 2002, AIPC reported, before unusual items, EPS growth of 28 percent, exactly in line with the consensus earnings estimate. Without the fraudulent accounting errors, AIPC would have had fiscal year 2002 EPS growth of approximately 4 percent. For fiscal year 2003, AIPC reported, before unusual items, EPS growth of 13 percent, again exactly meeting the consensus estimate. Without the fraudulent accounting errors, fiscal year 2003 EPS would have declined approximately 20 percent. For the first quarter of fiscal year 2004, AIPC reported, again in line with the consensus estimate, a decline in EPS of 18 percent. Without the fraudulent accounting errors, first quarter fiscal year 2004 EPS would have declined approximately 49 percent. For the second quarter of fiscal year 2004, AIPC reported, again in line with the consensus estimate, a decline in EPS of approximately 33 percent. Without the fraudulent accounting errors, second quarter fiscal year 2004 EPS would have declined approximately 38 percent.

17) From fiscal year 2002 through the second quarter of fiscal year 2004, AIPC included these false and misleading financial results in Forms 10-K and 10-Q filed with the Commission. From fiscal year 2003 through the second quarter of 2004, the misleading results were included in earnings releases attached to Forms 8-K filed with the Commission.

C. Fraudulent Capitalization of Manufacturing Expenses

18) From fiscal year 2002 through the second quarter of fiscal year 2004, AIPC fraudulently capitalized over $10 million to manufacturing assets.

19) AIPC had significant capital projects which typically involved additions of new pasta production lines in its manufacturing plants. The line installations generally were contracted to third parties under the direction of AIPC's engineering department. When installation of a new line was completed, AIPC's engineering department "commissioned" the line through a series of test runs and equipment adjustments. During the commissioning phase, the line produced saleable pasta in quantities that steadily increased.

20) Following AIPC's IPO in 1997, the company did not have adequate systems for measuring the internal plant labor and other costs used on capital projects. Instead of implementing a suitable system, AIPC adopted a practice of capitalizing without support internal labor and other costs used on the projects. Under this practice, internal costs capitalized were not identified specifically and segregated from ordinary operating expenses and AIPC lacked compensating internal controls.

21) AIPC's senior executives fraudulently inflated capitalization to long-lived manufacturing assets in at least three ways.

22) First, prior to fiscal year 2002, senior executives instituted a practice of incorporating capitalization estimates into AIPC's annual budgets. Thereafter, month after month, through at least fiscal year 2003, AIPC booked, contrary to GAAP, capitalization based on its budget instead of on an adequate review of actual events. During fiscal year 2002 and 2003, to reduce reported manufacturing costs, AIPC increased the amount of capitalization improperly booked based on its budgets.

23) Second, from fiscal year 2002 through the first quarter of fiscal year 2004, AIPC fraudulently capitalized normal manufacturing expenses that exceeded the original manufacturing budget. AIPC measured spending in excess of the manufacturing budget on a plant-wide basis, rather than with respect to individual pasta production lines. AIPC regularly capitalized, contrary to GAAP, these plant-wide variances to the budget without performing adequate analysis to determine whether they related to capital projects. Further, AIPC often capitalized the variances even when available information indicated they were unrelated to capital projects.

24) Third, at PATF and other meetings during fiscal years 2002 and 2003, senior AIPC executives agreed to book specific amounts of additional capitalization to offset the profit impact of sales shortfalls. Contrary to GAAP, these amounts were booked without adequate justification and in some cases the additional costs were capitalized improperly to assets that were fully operational.

D. Fraudulent Capitalization of Information Technology Expenses

25) From fiscal year 2002 through the second quarter of fiscal year 2004, AIPC fraudulently and improperly capitalized over $4.5 million to information technology related assets.

26) AIPC's Management Information Systems ("MIS") department operating expense budgets included a line item for capitalized internal MIS labor. The budgeted capitalized labor was not calculated considering anticipated capitalizable tasks, the hours those tasks would require, and the compensation rates of the employees that would perform the tasks. Rather, the budgeted capitalized labor was, in general, simply a percentage of total budgeted MIS department labor. Then, during the year, contrary to GAAP, AIPC generally booked capitalization based on the budget rather than on actual events.

27) AIPC also improperly capitalized numerous other MIS expenses, in addition to the internal MIS department labor expenses. During the period from fiscal year 2002 through the second quarter of fiscal year 2004, AIPC improperly and contrary to GAAP capitalized, among other things, costs related to leasing computer hardware, software maintenance, other internal labor, communications, and outside labor.

E. Depreciation Delays

28) Under GAAP, operating assets must be depreciated. AIPC's depreciation policy called for depreciation of assets to begin after they were completed and ready for their intended use. Specifically, under AIPC's policy depreciation of assets that became ready for their intended use during a given quarter was to begin on the first day of the following quarter.

29) During fiscal years 2002 and 2003, AIPC fraudulently reduced depreciation expense by delaying for multiple quarters the depreciation start dates of manufacturing assets and information technology assets.

F. Trade Promotional Liability

30) From fiscal year 2001 through fiscal year 2003, AIPC acquired several large pasta brands. Unlike AIPC's private label business, sales of branded pasta required AIPC to incur trade promotion expenses, which included product discounts, promotions and advertising, and volume rebates.

31) In accordance with GAAP, AIPC accounted for its trade promotion spending by recognizing a promotional expense and accruing a corresponding liability at the time of sale and then reducing the liability when AIPC paid its customer for the promotion. AIPC's payment for promotions generally took the form of deductions by its customers from their payments to AIPC. AIPC based the promotional expense and liability accrual at the time of sale on its annual promotional spending estimate; the expense and liability were to be "trued up" if actual promotional spending for the year differed from the estimate.

32) During fiscal years 2002 and 2003, AIPC's actual promotional spending consistently outpaced its estimated promotional spending and, as a result, the company's promotional liability was consistently too low. Instead of recognizing an expense to eliminate the liability shortages, AIPC fraudulently booked offsetting increases to various assets. In total, from fiscal year 2002 through the end of fiscal year 2003, AIPC fraudulently understated its promotional expense by more than $10 million.

33) In early fiscal year 2002, the company's promotional liability was deficient by approximately $2.9 million. In response, contrary to GAAP, AIPC capitalized $1.1 million of promotional spending to the cost of a brand acquisition and established a plan to make three "catch-up" accruals from fiscal year 2002 through fiscal year 2004 to make up the remaining $1.8 million that was under accrued.

34) At the end of the first quarter of fiscal year 2003, the promotional liability was short by approximately $5.6 million. At the beginning of the fourth quarter of 2003, the liability deficiency had grown to approximately $8 million. In response, AIPC's CEO ordered a review of all company promotional spending prior to August 2002, ostensibly to identify promotional deductions that had been improperly taken by AIPC's customers and for which AIPC could therefore attempt to seek reimbursement. The CEO instructed that the review should "target identification of $3 to $4 million."

35) The goal of the review was to justify the booking of a receivable to reduce the promotional liability shortage. An internal memorandum generated during the review, however, estimated that the success rate for obtaining reimbursement from customers would be very small, and stated that AIPC should not book a receivable for potentially improper deductions.

36) An internal October 2003 memorandum and table summarizing the review results showed that of approximately $3.4 million worth of deductions identified as "questionable," only $941,000 appeared to be actually improperly taken and estimated that AIPC could potentially recover about $679,000 of this amount.

37) Certain of AIPC's senior executives disregarded these results and instead, contrary to GAAP, booked a fraudulent $3.4 million receivable.

38) In November 2003, another AIPC internal report indicated that the original $679,000 recovery estimate was too high and predicted instead that no more than $500,000 could be collected. Nevertheless, AIPC included the fraudulent $3.4 million receivable in its fiscal year 2003 Form 10-K that it filed at the end of December 2003.

G. Obsolete and Missing Spare Parts

39) AIPC did not have adequate internal controls with respect to its equipment spare parts inventory. In fiscal year 2002, AIPC retained an outside firm to manage the spare parts inventory at AIPC's Excelsior Springs, Missouri ("ES") plant. During fiscal year 2002, with assistance from AIPC personnel, the outside firm performed a physical count of the spare parts at the ES facility that indicated that the spare parts inventory on AIPC's records was overstated by approximately $1 million.

40) From approximately March through June 2003, AIPC employees counted the spare parts at the ES facility and segregated over $1.4 million of worthless, obsolete, and missing spare parts. Although segregated and subtotaled, these entries continued to be included in the spare parts inventory total on AIPC's records.

41) In late 2003, AIPC engaged another outside consulting firm. In approximately February 2004, the consulting firm reported to AIPC that it appeared the spare parts inventory at ES was overstated by approximately $1 to $1.5 million. Then in early May 2004, the consulting firm reported that it still appeared that $1 to $1.5 million would be left unaccounted for or unidentified when initial cycle counting was completed and $1 to $2 million was expected to be identified as obsolete.

42) AIPC failed, contrary to GAAP, to reduce the value of its spare parts inventory in response to this information and thereby fraudulently overstated its net income.

H. Round-Tripping of Cash Transactions

43) In February 2003, AIPC negotiated an asset purchase agreement with an independent manufacturer of specialty pasta. Pursuant to the agreement, AIPC agreed to pay the

manufacturer's owners 100,000 shares of AIPC stock, plus future cash payments if the business met certain profitability thresholds (the "earnout payments").

44) By July 2003, the manufacturer's business had generated less income than AIPC expected. In late August 2003, senior AIPC executives attempted to recover from the former owners certain unbudgeted costs allegedly caused by manufacturing problems, but the former owners initially refused.

45) AIPC then convinced the former owners to pay for some or all of the unbudgeted costs in return for an unwarranted earnout payment. On September 18 and 19, 2003, two weeks before an earnout payment could even have been measured under the terms of their asset purchase agreement, the parties entered into separate agreements whereby the former owners agreed to pay $1.28 million to AIPC and AIPC agreed to pay the former owners an earnout payment of $1.3 million. Contrary to GAAP, AIPC fraudulently reduced operating expenses by $1.28 million in the fourth quarter of 2003.

46) In about November 2003, AIPC determined to terminate the employment of the former owners, who had been hired by AIPC after the acquisition, and to negotiate a buy-out agreement with them. AIPC and the former owners agreed that AIPC would pay the former owners $7 million in exchange for the return of their AIPC stock and the cancellation of AIPC's earnout payment and other obligations under the original asset purchase agreement.

47) On or about December 12, 2003, the former owners received from AIPC a term sheet that inexplicably increased the buy-out price to $7.5 million and included a $500,000 payment from the former owners to AIPC. When the former owners sought an explanation for the

changes, a senior AIPC executive explained that they were necessary for AIPC's internal accounting purposes and stressed that the former owners would still net $7 million.

48) On about January 2, 2004, the same senior AIPC executive told the former owners the agreement had again been modified and that the buy-out amount would be changed to $8 million and the payment from the former owners would be increased to $1 million. Again, the former owners were still to net $7 million.

49) On or about January 5, 2004, the parties executed the agreement. Contrary to GAAP, AIPC fraudulently decreased operating expenses by $1 million in the first quarter of 2004.

50) Beginning in 2001, AIPC requested the U.S. Department of Commerce ("DOC") to conduct a three-year review for the purpose of removing AIPC, through its Italian subsidiary, from DOC's anti-dumping requirements. AIPC met the removal requirements for the first two years of review, for the periods ended June 30, 2001 and 2002.

51) In November 2003, AIPC learned that a customer had purchased pasta from AIPC's Italian subsidiary at prices below the subsidiary's cost to produce it during the review period ended June 30, 2003. Therefore, AIPC faced a DOC finding that the company (a) had dumped pasta on the U.S. market; (b) was not entitled to a return of all of the company's anti-dumping deposits; and (c) would have to begin a new three-year review period.

52) AIPC determined to seek from the customer a retroactive price increase amounting to $345,774 in order to pass the DOC review. In exchange, AIPC offered $400,000 to the customer in the form of promotional spending. The customer accepted the proposal.

53) On December 18, 2003, the customer paid to AIPC $345,774. Thereafter, by two separate checks in January and February 2004, AIPC paid the customer a total of $400,000.

54) The customer's agreement to the $345,774 price increase was entirely contingent on the $400,000 promotional payment from AIPC. AIPC's promotional payment was in reality a repayment to the customer of the price increase plus an incentive.

55) Contrary to GAAP, AIPC fraudulently booked as revenue the $345,774 payment and failed to expense the $400,000 so-called promotional payment.

I. Atkins Research and Development Costs

56) At the end of fiscal year 2003, AIPC negotiated an agreement for the company to produce new low-carbohydrate pasta products for Atkins Nutritionals, Inc. ("Atkins").

57) During the first quarter of fiscal year 2004, certain senior AIPC executives learned that the expenses in the plant where the new Atkins products were being manufactured were more than the amounts that AIPC had budgeted. AIPC determined that the excess costs related to research and development with respect to the Atkins products.

58) AIPC booked a $1 million receivable on the grounds that Atkins would reimburse AIPC for such research and development costs. The $1 million receivable was fraudulent and contrary to GAAP because Atkins, in fact, had not agreed to reimburse AIPC for research and development costs and never did so.

J. Revenue Recognition Prior to Shipment

59) At the end of fiscal year 2003, AIPC's sales outlook deteriorated in step with the steadily contracting pasta market. In response, AIPC engaged in a sales push by offering aggressive quarter-end promotional discounts to retailers in a process that was known internally as "quarter-end loading."

60) Because of the magnitude of the sales push, AIPC was unable to ship by the last day of the fiscal year approximately $3.2 million worth of pasta ordered by its customers. Ccontrary to GAAP, AIPC fraudulently recognized the $3.2 million as fiscal year 2003 revenue.

K. Durum Wheat Purchase Price Variance

61) AIPC used a standard cost accounting system to value its pasta inventory and to compute its cost of goods sold. Under this system, AIPC created during its annual budget process standard manufacturing costs for each type of pasta based on the manufacturing expenditures it expected to incur, which included the cost of the durum wheat that would be used to manufacture the pasta.

62) In fiscal year 2003, AIPC paid less for durum wheat than was budgeted in its standard manufacturing costs, such that the company's fiscal year 2003 year-end inventory balance (which was valued at standard costs) was overstated by more than $1 million. Contrary to GAAP, AIPC failed to reduce the value of its fiscal year-end inventory to the lower actual cost, and thereby fraudulently overstated pretax income.

L. Recognition of Revenue from Gooch Foods

63) On December 1, 2000, AIPC entered into a five-year agreement to supply pasta to Gooch Foods, Inc. ("Gooch"). The contract provided that Gooch would purchase a specified

minimum amount of pasta during each twelve-month period or "term" (measured from December 1 to November 30) of the contract. The agreement further provided that if Gooch failed to purchase the minimum in any contract year, the price of pasta for the following year would automatically increase pursuant to a formula set forth in the contract.

64) Near the end of the third quarter of fiscal year 2002, AIPC posted a journal entry recognizing approximately $302,000 of revenue attributable to Gooch and set up a receivable in the same amount. The revenue was not based on pasta shipped to date, but was instead based on a prediction that Gooch would not order the annual minimum for the current contract year. Specifically, AIPC recognized in the third quarter of fiscal year 2002 the predicted revenue attributable to the price increase it forecasted would occur beginning several months later in December 2002.

65) Near the end of fiscal year 2002, AIPC posted a journal entry recognizing approximately $81,000 of additional revenue in the fourth quarter of fiscal year 2002 and increasing the Gooch receivable by the same amount, to $383,000. This entry was based upon an updated prediction of the price increase that would occur in December 2002.

66) Recognizing the $383,000 as revenue in fiscal year 2002 was contrary to GAAP for at least three reasons.

67) First, the contract provided for a price increase on sales in a future period. Such revenues may not be recognized until the product is delivered. None of the product giving rise to the revenue recorded could have been delivered in AIPC's 2002 fiscal year (which ended

on September 27, 2002) because the price increase giving rise to the revenue was to occur in December 2002.

68) Second, the revenue was contingent upon Gooch buying less than the required amount in the 2002 term of the contract and the contractual minimum in the 2003 term.

69) Third, by the end of fiscal year 2002, AIPC had completed negotiations to acquire Gooch's pasta brands and it was therefore known that the forecasted sales supporting the $383,000 revenue would not occur.

70) Early in the first quarter of fiscal year 2003, AIPC closed the acquisition of the Gooch brands. The parties' acquisition agreement does not mention the purported $383,000 receivable or contain any acknowledgment by Gooch of any shortfall liability. Contrary to GAAP, AIPC fraudulently eliminated the $383,000 receivable by increasing goodwill in connection with the acquisition.

M. Gooch Assumed Wheat Liability

71) During AIPC's purchase negotiations with Gooch, AIPC learned that Gooch had not locked in a durum wheat price through forward contracts for 2003. As a result, AIPC would have to pay current market prices, which had increased substantially by the end of fiscal year 2002, for the additional durum wheat it would need to produce pasta for the Gooch brands during fiscal year 2003.

72) In an effort to prevent AIPC from recognizing in fiscal year 2003 the difference between the old and current durum wheat prices as an expense, AIPC caused language to be added to the Gooch purchase agreement to support an acquisition reserve. The additional

language lacked economic substance because it did not change the purchase price or any other substantive aspect of the agreement between AIPC and Gooch.

73) Under GAAP, no reserve should have been recognized by AIPC. AIPC, however, fraudulently booked to the Gooch acquisition a $500,000 reserve that the company used to reduce fiscal year 2003 raw materials costs by the same amount.

N. General Mills Supply Agreement and Shortfall

74) In fiscal year 2002, AIPC entered into a five-year agreement to supply pasta to General Mills, Inc. ("GM"). The agreement covered AIPC's fiscal years 2003 through 2007.

75) The agreement with GM provided that upon execution AIPC would pay a $2 million "signing incentive" to GM. AIPC initially determined to amortize the incentive on a straight-line basis, but switched to a different method in connection with its fiscal year 2003 budget. The new amortization schedule delayed the expense, with recognition heavily weighted to the later years of the contract.

76) This treatment was contrary to GAAP because (a) the contract contemplated relatively constant volume over its term with only modest price increases (roughly a few percentage points per year) in years three through five and (b) the terms of the contract provided that GM would in some circumstances acquire the right to keep the incentive as it purchased the volumes contemplated by the contract.

77) Further, during fiscal year 2003, GM did not order the minimum amount of pasta contemplated by the contract. As a result, GM agreed to pay AIPC a price increase of $.004/pound on the next 80 million pounds GM purchased for a total of $320,000 (the

"shortfall amount"). GM did not pay $320,000 to AIPC in 2003; it merely agreed to a higher price beginning in 2004.

78) Under GAAP, AIPC should have recognized the shortfall amount in future (post-fiscal year 2003) periods as the sales occurred, but AIPC fraudulently recognized the entire $320,000 as revenue in the last quarter of fiscal year 2003.

O. Bay State Milling Revenue

79) In March 2002, AIPC and Bay State Milling Company ("Bay State") entered into a 10-year agreement for the supply of durum flour to one of AIPC's manufacturing plants. The supply agreement required Bay State to pay AIPC a $1 million "marketing payment."

80) Contrary to GAAP, AIPC recognized fraudulently the full $1 million amount of the payment as revenue in the second quarter of fiscal year 2002. The payment should have been recognized as a reduction of cost of goods sold over the term of the contract.

P. The Packaging Products Receivable

81) In 2002, AIPC filed a lawsuit against Packaging Products Corporation ("PPC") alleging that PPC sold to AIPC defective plastic bags intended to be used to package AIPC pasta. AIPC estimated PPC's liability at approximately $632,000 and, contrary to GAAP, booked a receivable in that amount.

82) In April 2003, the parties agreed to settle the lawsuit for a $300,000 cash payment from PPC. In addition, PPC provided AIPC an option to enter into a supply agreement, on or

before May 2004, whereby PPC would sell packaging material to AIPC at a five percent discount over a three-year period, up to a maximum benefit to AIPC of $300,000.

83) AIPC left on its books $332,000 of the original $632,000 receivable on the basis that it would enter into the supply agreement and take advantage of the discount. It was improper under GAAP to maintain the receivable because of the uncertainty of the future purchases. Further, on of before January 2004, AIPC had determined not to purchase any packaging material from PPC.

84) Instead of writing off the receivable as required by GAAP, AIPC fraudulently amortized the receivable over two years.

Q. Elimination of Compensated Absence Liability

85) Prior to 2004, AIPC's compensated absence policy allowed employees to carry over 80 hours of unused time-off from one year to the next. During fiscal year 2003 and prior fiscal years, AIPC maintained a liability at the end of each reporting period for unused compensated absences that employees could use in the future.

86) For fiscal year 2004, AIPC budgeted the elimination of the liability based on a plan to adopt a "use-or-lose" compensated absence policy that did not permit any carryover of unused time-off. Instead of implementing the use-or-lose policy, AIPC allowed employees to carry over up to 40 hours of unused compensated absences into fiscal year 2005.

87) In the first quarter of 2004, AIPC fraudulently eliminated, contrary to GAAP, the full amount of the liability and thereby reduced expenses and increased income by $670,000.

Because the policy implemented allowed employees to carry over unused time-off into fiscal year 2005, AIPC should have only eliminated approximately $84,000 of its liability in the first quarter of fiscal year 2004.

88) Further, AIPC improperly failed to disclose the one-time $670,000 benefit in its Form 10-Q for the first quarter of fiscal year 2004.

89) As a result of this conduct described in paragraphs 1) through 88), AIPC, directly and indirectly, has engaged in, and unless restrained and enjoined by this Court, will in the future engage in, transactions, acts, practices, and courses of business that violate Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), and 78m(b)(2)(B) and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, 17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13.

FIRST CLAIM FOR RELIEF
(Violations of Section 10(b) of the Exchange Act and Rule 10b-5)
15 U.S.C. § 78 j(b) and 17 C.F.R. § 240.10b-5

90) Paragraphs 1) through 89) are hereby realleged and incorporated by reference.

91) Defendant AIPC directly and indirectly, with scienter, in connection with the purchase or sale of AIPC securities, by use of the means or instrumentalities of interstate commerce or by use of the mails, has employed devices, schemes, or artifices to defraud; has made untrue statements of material fact or 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; or has engaged in acts, practices, or courses of business which have been and are operating as a fraud or deceit upon the purchasers or sellers of such securities.

92) By reason of the foregoing, AIPC violated and unless restrained and enjoined will violate Section 10(b) of the Exchange Act and Rule 10b-5.

SECOND CLAIM FOR RELIEF
(Violations of Section 13(a) of the Exchange Act
and Rules 12b-20, 13a-1, 13a-11 and 13a-13)
15 U.S.C. § 78m(a) and 17 C.F.R. §§ 240.12b-20, 240.13a-1,
240.13a-11, and 240.13a-13

93) Paragraphs 1) through 89) are hereby realleged and incorporated by reference.

94) AIPC, as issuer of a security registered pursuant to Section 12 of the Exchange Act, filed materially misleading annual, quarterly, and current reports with the Commission and failed to file with the Commission, in accordance with rules and regulations the Commission has prescribed, information and documents required by the Commission to keep current information and documents required in or with an application or registration statement filed pursuant to Section 12 of the Exchange Act and annual reports and quarterly reports as the Commission has prescribed.

95) By reason of the foregoing, AIPC violated and unless restrained and enjoined will violate Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13.

THIRD CLAIM FOR RELIEF
(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)

96) Paragraphs 1) through 89) are hereby realleged and incorporated by reference.

97) AIPC failed to make and keep, and directly or indirectly falsified or caused to be falsified, books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the company's transactions and dispositions of its assets and failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable

assurances that transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements.

98) By reason of the foregoing, AIPC violated and unless restrained and enjoined will violate Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Find that the Defendant committed the violations alleged.

II.

Enter an Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently restraining and enjoining defendant, its subsidiaries, officers, directors, agents, servants, employees, and attorneys-in-fact, and all persons in active concert or participation with them, from violating, directly or indirectly, the provisions of law and rules alleged in this complaint.

III.

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

Dated: September 15, 2008

Respectfully submitted,

/s/ Mary S. Brady
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