

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

Securities and Exchange Commission,

Plaintiff,

vs.

Civil Action No.

Craig N. Cohen,

Defendant.

**COMPLAINT**

Plaintiff, the Securities and Exchange Commission (SEC or Commission), alleges for its complaint as follows:

1. Defendant Craig N. Cohen, a resident of St. Louis, Missouri, was the chief financial officer (CFO) of TALX Corporation (TALX) from approximately 1996 to May 2003. In addition to serving as CFO, Cohen was vice president of TALX's service bureau and software operating division beginning in 1999. Cohen was also the executive vice president of TALX from approximately May 2003 to January 2004, when he resigned from the company. Cohen is a certified public accountant licensed in Missouri.
2. TALX is a Missouri corporation with its principal place of business in St. Louis, Missouri. It provides automated employment verification services and automated employee self-service applications. TALX is a public company whose common stock is traded on the NASDAQ National Market System.

3. As chief financial officer and vice president of particular divisions, Cohen caused false financial statements to be disseminated to the public through public filings and earnings releases. In his capacity as an officer, Cohen was aware of the inaccuracies in the statements and in the accounting practices he supervised or reviewed. Cohen's conduct involved an improper bill and hold transaction; recognizing revenue prematurely; capitalizing costs relating to a license agreement that should have been expensed; and expensing executive bonuses in the wrong period. Cohen also purposely made false statements to auditors to hide the underlying misstatements. The course of conduct Cohen committed allowed TALX to meet its 2001 financial targets. Cohen also benefited financially from the misstatements.

4. Cohen made false statements in Forms 8-K, 10-Q, 10-K, an S-3 registration statement and its amendments, and in earnings releases. Cohen reviewed and signed TALX's false filings with the Commission, drafted and/or reviewed false statements in earnings releases, made misrepresentations to TALX's independent auditors, and signed TALX's management representation letters to TALX's independent auditors which knowingly or recklessly misrepresented that all material transactions were in accordance with Generally Accepted Accounting Standards (GAAP).

5. By this conduct, Cohen violated the anti-fraud provisions of Section 17(a) of the Securities Act of 1933 (Securities Act), Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 [15 U.S.C. §§ 77q(a), 78j(b) and 17 C.F.R. § 240.10b-5] and the internal accounting control provisions of Section 13(b)(5) of the Exchange Act and Rules 13b2-1 and 13b2-2 [15 U.S.C. § 78m(b) and 17 C.F.R. § 240.13b-2]. He also aided and abetted TALX's violations of the periodic reporting and the internal accounting control provisions of Sections 13(a) and 13(b)(2) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13. [15 U.S.C.

§§ 78m(a) and 78m(b)(2), and 17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13].

Unless he is restrained and enjoined, Cohen will make future violations of these provisions.

6. The Commission is authorized by Section 20(b) of the Securities Act and Section 21(d) of the Exchange Act [15 U.S.C. §§ 77t (b) and 78u (d)] to bring an action in district court and seeks an order permanently restraining and enjoining Cohen's violations of the federal securities laws and granting other relief.

7. The Commission also seeks an equitable order requiring Cohen to disgorge all ill-gotten gains he obtained from his fraudulent conduct including the proceeds of his stock sales and all benefits from his employment at TALX such as his salary, bonuses, stock and other remuneration, including prejudgment interest and post-judgment interest.

8. The Commission also seeks an order requiring Cohen to pay third tier civil penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act [15 U.S.C. §§ 77t(d) and 78u(d)(3)].

9. The Commission also seeks an order barring Cohen from being an officer and director of any public company pursuant to the equitable authority of the court, and Section 20(e) of the Securities Act and Section 21(d)(2) of the Exchange Act, as amended [15 U.S.C. §§ 77 t(e) and 78u(d)(2)].

#### JURISDICTION and VENUE

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

11. Venue lies in this Court pursuant to Section 22(a) of the Securities Act and Section 27 of the Exchange Act. Certain of the transactions, acts, practices and courses of business

constituting the violations of law alleged herein occurred within this judicial district. Moreover, Defendant resides in this district.

12. In connection with the transactions, acts, practices, and courses of business described in this Complaint, Defendant, directly or indirectly, has made use of the means or instrumentalities of interstate commerce, of the mails, of the facilities of a national securities exchange, and/or of the means and instruments of transportation or communication in interstate commerce.

### FACTUAL ALLEGATIONS

#### **A. Background**

13. Between April 2000 and August 3, 2001, TALX placed emphasis on meeting its internal and external financial projections, and highlighted its earnings growth to the market. For example, on October 19, 2000, TALX held an investor conference call and announced the company's earnings for the second quarter. TALX's chief executive officer stated, "We believe that the trend of the last 7 quarters of delivering substantial [earnings per share] increases, and 3 quarters of delivering 50+ % quarter over quarter increases, will continue." Similarly, in a January 17, 2001 press release, TALX announced a 50 % increase in its third quarter earnings per share and a 53 percent increase in its earnings per share for the nine months ended December 31, 2000.

14. By early 2001, TALX began to consider raising additional capital through the sale of its stock to the public in a secondary stock offering. In an April 25, 2001 press release, TALX announced it had met its fourth quarter and year ended March 31, 2001 earnings per share target, and that its earnings per share had grown by more than 50%. TALX then set the stage for a secondary offering by informing the market in its April 26, 2001 investor conference call that

TALX expected its 2001 earnings trend to continue through 2002. Cohen participated in this investor conference call.

15. On June 22, 2001, TALX filed an S-3 registration statement with the Commission. On August 3, 2001, TALX's registration statement became effective and the company offered and sold to the public 2.95 million shares of common stock at the price of \$32 per share, raising approximately \$82 million for the company after costs.

16. On July 18, 2001, TALX reported record first quarter 2002 earnings growth exceeding 50%. Between April 2000 and August 3, 2001, the date of TALX's secondary stock offering, the price of TALX's stock had climbed more than 200%.

**B. Cohen aided and abetted TALX's violations of the reporting provisions by filing false financial statements in Commission reports**

17. In 1996, TALX filed with the SEC a registration statement for the initial public offering of its common stock under the provisions of Section 12(g) of the Exchange Act [15 U.S.C. § 78l (g)]. As a public company which has registered its stock under Section 12(g), TALX is required to file quarterly, annual and current reports with the SEC on Forms 10-Q, 10-K and 8-K. The quarterly and annual reports must contain financial statements prepared in accordance with GAAP.

18. Between July 28, 2000 and February 14, 2001, TALX filed three quarterly reports on Form 10-Q. TALX violated the reporting provisions of Section 13(a) of the Exchange Act and Rules 13a-13 and 12b-20 because, as discussed below, each of these filings contained false and misleading financial statements.

19. On June 28, 2001, TALX filed an annual report on Form 10-K. TALX violated the reporting provisions of Section 13(a) of the Exchange Act and Rules 13a-1 and 12b-20 because, as discussed below, the annual report contained false and misleading financial statements.

20. On July 2, 2001, July 18, 2001, and March 27, 2002 TALX filed current reports on Form 8-K. TALX violated the reporting provisions of Section 13(a) of the Exchange Act and Rules 13a-11 and 12b-20 because the current reports contained false and misleading financial statements.

21. Cohen, as TALX's CFO, was responsible for preparing, or reviewing and approving the financial statements that the company included in the quarterly, annual and current reports filed with the SEC.

22. Cohen provided substantial assistance to TALX's violations of Section 13(a) of the Exchange Act, and Rules 13a-1, 13a-11, 13a-13, and 12b-20 by making or causing to be made false entries in TALX's books and records; preparing, reviewing or approving the financial statements that were included in the filings; and by signing the reports and causing TALX to file the reports knowing they contained materially false information.

23. Cohen knowingly assisted TALX's violations of the reporting provisions because, as TALX's CFO, he was responsible for assuring the company's financial statements were prepared in accordance with GAAP.

**C. Cohen violated the anti-fraud provisions by preparing false and misleading financial statement that were filed with the SEC**

**1. Fraudulent Bill and Hold Transaction**

24. On November 13, 2000, TALX filed its quarterly report on Form 10-Q for the quarter ended September 30, 2000 (referred to herein as September 2000 10-Q). Cohen prepared, or reviewed and approved the financial statements included in the September 2000 10-Q. Cohen fraudulently characterized a transaction with a TALX's Customer Premises System client, Kaiser Permanente (Kaiser), as a "bill and hold" sale. A bill and hold sale may allow the company to immediately recognize revenue from a sales transaction even though the customer has not taken

delivery of the product rather than delaying recognition of revenue until the customer takes possession of the product.

25. Cohen knew the transaction did not meet the requirements of a bill and hold sale under GAAP because among other things the bill and hold was not at the customer's request; there was no valid business purpose for the bill and hold; the customer refused to take title to the TALX products until delivery; and normal billing terms were modified.

26. Despite the failure of the transaction to meet the requirements of GAAP, Cohen caused TALX to fraudulently recognize approximately \$52,000 of income from the transaction in TALX's second quarter that ended September 30, 2000.

## **2. Fraudulent Percentage of Completion Calculations and Inadequate Internal Controls**

27. As part of Cohen's duties as vice president of TALX's service bureau and software operating division, he oversaw and reviewed the revenue from the company's Customer Premises System (CPS) implementation service.

28. TALX recognized CPS implementation service revenue using the percentage-of-completion method of accounting as prescribed by GAAP. Under that method, TALX recognized revenue as it progressed toward completion on CPS projects. However, TALX did not have sufficient internal controls or other accounting policies and procedures in place to measure and record accurately the work performed on CPS projects and therefore to recognize the appropriate amount of service revenue.

29. Cohen knew or was reckless in not knowing about TALX's insufficient internal controls or other accounting policies and procedures. Instead of remedying the breakdown in internal controls, policies, and procedures, he used the insufficient systems to recognize prematurely CPS implementation service revenue and manipulate TALX revenue.

30. As a result of Cohen's actions, TALX overstated CPS service revenue by approximately \$358,000 in 2001. Without this revenue, TALX would have missed its earnings per share targets for the quarters ended September 30, 2000 and December 31, 2000, and for the year ended March 31, 2001, instead of meeting or exceeding its targets as it reported. Cohen fraudulently overstated the amount of revenue that TALX recognized in its Form 10-Q quarterly reports for the quarters ended June 30, 2000, September 30, 2000 and December 31, 2000; and in its Form 10-K annual report for the year ended March 31, 2001.

31. Cohen directly or indirectly caused the company's accounting records to be falsified and caused TALX to make materially false and misleading statements regarding its financial condition.

**a. June 2000 10-Q**

32. On or about June 6, 2000, TALX prepared a "Presentation to Investor of Choice" in which the company forecast its quarterly earnings per share for the quarter ended on June 30, 2000 as \$0.13 per share, for the quarter ended on September 30, 2000 as \$0.18 per share, and for the quarter ended on December 31, 2000 as \$0.25 per share. TALX stated that these earnings per share numbers represented analysts' consensus estimates.

33. On July 28, 2000, TALX filed with the SEC a quarterly report on Form 10-Q for the period ended June 30, 2000 (referred to herein as June 2000 10-Q). This quarterly report contained financial statements that were prepared by Cohen. Cohen signed the June 2000 10-Q as TALX's CFO.

34. In TALX's Consolidated Statements of Earnings financial statement in the June 2000 10-Q, Cohen listed the Customer Premises Systems revenues as \$2,127,000. This statement was false because Cohen overstated these revenues by \$184,000. Contrary to the requirements of



GAAP, he prematurely recognized revenue from TALX's implementation services contracts with Kaiser and other customers.

35. On June 27, 2000, TALX contracted to upgrade Kaiser's existing CPS by providing new hardware, software, and \$491,000 in implementation services. TALX initially projected that it would complete the Kaiser upgrade by December 31, 2000. Using the percentage of completion method, Cohen scheduled the company to recognize revenue from the implementation in three quarters, with \$25,000 of revenue recognized on June 30, 2000; \$233,000 on September 30, 2000; and the final \$233,000 on December 31, 2000.

36. However, as of June 30, 2000, TALX had not started work on the project and should not have recognized any revenue on the implementation services. Cohen was knew or was reckless in not knowing that his calculation of the percentage of completion on the Kaiser contract was wrong because TALX had not completed any work on the Kaiser project.

37. Cohen also overstated revenue earned on other CPS projects by \$159,000 because he knowingly or recklessly recognized more revenue from work on CPS projects than TALX had actually preformed.

38. Cohen knew or was reckless in not knowing that his percentage of completion calculations were wrong, because he was the vice president of the CPS.

39. As a result of Cohen's overstatement of revenues, he falsely reported TALX's diluted earnings per share as \$0.13 in the June 2000 10-Q rather than at \$0.11 per share if the overstated revenues had not been included. Cohen had a motive to overstate TALX's revenues so that the company's earnings per share would meet the analysts' projections of \$0.13 per share for the quarter ended September 30, 2000 that had been presented to investors by TALX on June 6,

2000. Cohen's executive bonus was based, among other things, upon TALX's meeting the earnings per share projections.

40. Cohen also included or caused to be included TALX's false financial statements for the quarter ended June 30, 2000 in the company's earnings release issued on July 20, 2000, discussed the June 30, 2000 false financial results in a July 21, 2000 conference call with the investment community, and included the results on TALX's website at [www.talx.com](http://www.talx.com).

**b. September 2000 10-Q**

41. On November 13, 2000, TALX filed with the SEC its September 2000 10-Q. This quarterly report contained financial statements that were prepared, or reviewed and approved by Cohen. Cohen signed the September 2000 10-Q as TALX's CFO.

42. In TALX's Statements of Earnings financial statement in the September 2000 10-Q, Cohen listed the Customer Premises Systems revenues as \$2,347,000. This statement was false because Cohen overstated these revenues by \$274,000. Contrary to the requirements of GAAP, he prematurely recognized revenue from TALX's implementation services contracts with Kaiser and other customers.

43. In the September 2000 10-Q, Cohen recognized \$233,000 in revenue on the Kaiser contract using the original schedule of completion for the project. However, he fraudulently overstated this amount by \$190,000 because the project was not over 47 percent complete as of that date.

44. Cohen also overstated revenue earned on other CPS projects by \$84,000 because he knowingly or recklessly recognized more revenue from work on CPS projects than TALX had actually preformed.

45. Cohen knew or was reckless in not knowing that his percentage of completion calculations were wrong, because he was the vice president of the CPS.

46. As a result of Cohen's overstatement of revenues, he falsely reported TALX's diluted earnings per share as \$0.19 in the September 2000 10-Q rather than at \$0.16 per share if the overstated revenues had not been included. Cohen had a motive to overstate TALX's revenues so that the company's earnings per share would meet the analysts' projections of \$0.18 per share for the quarter ended September 30, 2000 that had been presented to investors by TALX on June 6, 2000. Cohen's executive bonus was based, among other things, upon TALX's meeting the earnings per share projections.

47. Cohen also included or caused to be included TALX's false financial statements for the quarter ended September 30, 2000 in the company's earnings release issued on October 18, 2000, discussed the false financial results in an October 19, 2000 conference call with the investment community, and included the results on TALX's website at [www.talx.com](http://www.talx.com).

**c. December 2000 10-Q**

48. On February 14, 2001, TALX filed with the SEC a quarterly report on Form 10-Q for the period ended December 31, 2000 (referred to herein as December 2000 10-Q). This quarterly report contained financial statements that were prepared, or reviewed and approved by Cohen. Cohen signed the December 2000 10-Q as TALX's CFO.

49. In TALX's Statements of Earnings financial statement in the December 2000 10-Q, Cohen listed the Customer Premises Systems revenues as \$1,558,000. This statement was false because Cohen overstated these revenues by \$229,000. Contrary to the requirements of GAAP, he prematurely recognized revenue from TALX's implementation services contracts with Kaiser and other customers.

50. In the December 2000 10-Q, Cohen recognized the remaining \$233,000 of revenue from the implementation services on the Kaiser contract. However, he fraudulently overstated this amount by \$218,000 because the project was only 12 percent complete as of that date.

51. Cohen also overstated the amount of revenue recognized on the other Customer Premises Systems projects by \$11,000.

52. Cohen knew or was reckless in not knowing that the percentage of completion calculations that he used to calculate revenue for the Kaiser project and other CPS projects were wrong, because he was the vice president of CPS.

53. Cohen also included TALX's false financial statements for the quarter ended December 31, 2000 in the company's earnings release issued on January 17, 2001, discussed the false financial results in a January 18, 2001 conference call with the investment community, and included the results on TALX's website at [www.talx.com](http://www.talx.com).

**d. 2001 10-K**

54. On June 28, 2001, TALX filed with the SEC an annual report on Form 10-K for its fiscal year ended March 31, 2001 (referred to herein as 2001 10-K). This annual report contained financial statements prepared by Cohen. Cohen signed the 2001 10-K as TALX's CFO and Vice President of Application Services and Software.

55. In TALX's Statement of Operations in the 2001 10-K, Cohen listed the Customer Premises Systems revenues as \$6,882,000. This statement of revenues was false. The \$6,882,000 in revenues is the sum of the overstated revenues from the June 2000 10-Q, September 2000 10-Q, December 2000 10-Q and adjustments to revenue for the quarter ended March 31, 2001. The net result of these adjustments was that Cohen fraudulent overstated

TALX's CPS revenues in the 2001 10-K by \$358,000 because he prematurely recognized revenue from TALX's CPS contrary to the provisions of GAAP.

56. Cohen knew or was reckless in not knowing that the percentage of completion calculations that he used to calculate revenue for the Kaiser project and other Customer Premises Systems projects were wrong, because he was the vice president of CPS. Although Cohen included 100 percent of the \$491,000 in revenue from the Kaiser contract in the 2001 10-K, he knew or was reckless in not knowing that the Kaiser implementation was not complete. On March 27, 2001, Cohen received an email stating that Kaiser was willing to pay only 20% of the total \$491,000 implementation fee because the job was only 20% complete.

57. Cohen also included or caused to be included TALX's false financial statements for the year ended March 31, 2001 in the company's earnings release issued on April 25, 2001, discussed the false financial results in an April 26, 2001 conference call with the investment community, and included the results on TALX's website at [www.talx.com](http://www.talx.com). Cohen also included TALX's false financial statements for the year ended March 31, 2001 in the company's Forms 8-K filed on July 2, 2001, July 18, 2001, and March 27, 2002.

### **3. Fraudulent Capitalization of Katz License Costs**

58. Beginning in 1995, Ronald A. Katz and his attorneys sent correspondence to TALX offering it licenses to use Katz's patented technology. In August 2000, Katz sent a letter to TALX alleging that it was infringing on his patents.

59. In January 2001, TALX chief executive officer assigned Cohen to negotiate a license agreement with Katz.

60. Prior to beginning negotiations, Cohen contacted TALX's accountants, KPMG, to discuss TALX entering into a licensing agreement with Katz. KPMG told Cohen that any payments made to Katz for past use of the patents must be expensed when TALX paid for them.

61. Katz's standard license agreement required payment of an Entry Fee representing payment for the license to use the technology in the future and a Release Fee representing payment for past use of Katz's patents.

62. On January 24, 2001, TALX offered in a letter reviewed by Cohen to pay Katz an Entry Fee, and Release Fee. TALX offered to pay a Release Fee of \$660,000 based on TALX's revenues in 1999 and 2000.

63. Katz requested that TALX expand the Release Fee calculation to include revenue from the years 1996 to 2001. Cohen prepared for Katz a spreadsheet setting forth TALX's 1996 to 2001 revenue for lines of business that Katz asserted had used the patents. Cohen calculated a total Release Fee of \$1,511,657 for the years 1996 through 2001 based on the royalty rates provided by Katz.

64. After the parties agreed in principle that TALX would pay approximately \$1.5 million as a Release Fee, Cohen took deliberate steps to remove all references in the license agreement that showed this payment was for TALX's past use of the patents.

65. The term "Release Fee" was changed to "License Entry and Covenant Option Fee" even though Katz had agreed to waive his standard Entry Fees. And the parties agreed to delete from the agreement, based on Cohen's request, the definition of License Entry fee as "the total amount of the royalty that would have accrued for activities of Licensee . . . for the period prior to the Effective Date." However, Katz's attorney sent Cohen an email stating "we have deleted [the

language] on the understanding that we nevertheless agree it is an accurate description of the concept.”

66. On or about March 13, 2001, TALX entered into a license agreement (“Katz License”) that included a payment from TALX to Katz of approximately \$1.5 million for the license fee.

67. The \$1.5 million included payment for TALX’s past use of patented technology from 1996 through 2001, and therefore should have been reported as an operating expense as required by GAAP.

68. However, Cohen knew or was reckless in not knowing that the \$1.5 million for the Katz License plus related attorney fees of approximately \$100,000 was fraudulently listed as an asset on the Balance Sheet in TALX’s 2001 10-K, rather than as an operating expense on TALX’s Consolidated Statement of Operations.

69. By capitalizing the payment, Cohen caused TALX fraudulently to overstate its pretax income by approximately \$1.6 million or 49% in fiscal year 2001. Had TALX properly expensed the \$1.6 million, TALX would have fallen short of the 50% earnings growth rate previously announced in TALX’s January 17, 2001 earnings release.

70. To cover-up his fraud, Cohen misrepresented to TALX’s independent auditors the nature of the payment for the Katz License, and did not tell the auditors that it was for claimed past use of the patented technology. As to this transaction and all of the other fraudulent financial misstatements, Cohen signed TALX’s management representation letters and knowingly or recklessly misrepresented to KPMG that all material transactions were in accordance with GAAP.

#### **4. Fraudulently Expensed Bonuses**

71. In early April 2001, Cohen determined that if 2001 year-end executive bonuses were paid according to TALX's bonus plan, TALX would miss its fourth quarter and annual 2001 earnings per share targets.

72. Cohen prepared a proposal showing that if he, and two other TALX executives each gave up half of their full bonuses for fiscal year 2001, TALX would meet its financial targets. At the time, Cohen also proposed that TALX's "reinstate" the forfeited bonuses in fiscal year 2002.

73. On or about April 12, 2001, Cohen and the two other TALX executives voluntarily gave up half of their fiscal 2001 bonuses, in aggregate totaling approximately \$158,000. As a result, TALX met its 2001 earnings per share targets. One month later, on or about May 15, 2001, TALX paid "special" bonuses of \$158,000 to the executives.

74. GAAP requires that administrative salaries be expensed in the period of the event when the cost occurred. The special bonuses should have been expensed in fiscal 2001, but Cohen caused TALX to fraudulently expense the bonuses in fiscal 2002. As a result, TALX overstated its fiscal 2001 income by \$158,000, or 5%.

75. In the 2001 10-K, Cohen included the \$2,128,000 of fraudulently overstated revenues in his calculation of TALX's Earnings from Continuing Operations Before Income Tax Expense. As a result of his fraudulent overstatement of revenues, Cohen reported the Diluted Earnings Per Share as \$0.45 per share rather than at \$0.32, the amount if the fraudulent revenue had not been included.

76. As a result of Cohen's fraudulent accounting regarding the bill and hold transaction, prematurely recognizing revenue on the Customer Premises Systems projects, capitalizing the Katz License, and expensing the executive bonuses in the wrong period, described above, in the



June 2000 10-Q, September 2000 10-Q, December 2000 10-Q and 2001 10-K, Cohen violated the anti-fraud provisions of Section 10(b) of the Exchange Act and Rule 10b-5.

77. Cohen sold shares of TALX stock shortly after announcement of the financial results in the 2001 10-K, which he knew or was reckless in not knowing were false. He had a gain of approximately \$485,000 from his TALX stock sales.

**D. Cohen Prepared False Financial Statements for TALX Registration Statement**

78. On June 22, 2001, TALX filed an S-3 registration statement with the Commission to sell approximately 2,740,000 of common shares in a secondary offering to the public. On July 13, 2001, TALX filed amendment no. 1 to its registration statement. On July 31, 2001, TALX filed amendment no. 3 to its registration statement. Cohen signed the registration statement and each amendment as TALX's CFO.

79. On August 3, 2001, TALX's registration statement became effective and the company offered and sold to the public 2.95 million shares of common stock at the price of \$32 per share, raising approximately \$82 million for the company.

80. Cohen included the financial statements from TALX's 2001 Form 10-K as part of the registration statement, and in amendments no.1 and no.3. As discussed above, Cohen made false statements in these financial statements.

81. Cohen knew or was reckless in not knowing that the financial statements he included in the registration statement, and amendments no. 1 and no. 3 were false because he caused TALX to fraudulently overstated revenue and income by improperly recognizing revenue on the Customer Premises Systems contracts, improperly capitalizing the Katz License, and improperly deferring the expense of the executive bonuses.

82. Cohen violated Section 17(a) of the Securities Act by making false statements in the financial statements included in TALX's registration statement, and amendments 1 and 3.

**FIRST CLAIM FOR RELIEF**  
**(Section 17(a) (1) of the Securities Act)**  
**[15 U.S.C. § 77q (a) (1)]**

83. Plaintiff repeats and realleges paragraphs 1 through 82 above.

84. Cohen directly and indirectly, with scienter, in the offer or sale of TALX securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, employed a device, scheme, or artifice to defraud.

85. By reason of the foregoing, Cohen violated and unless restrained and enjoined will violate Section 17(a) (1) of the Securities Act.

**SECOND CLAIM FOR RELIEF**  
**(Sections 17(a) (2) and 17(a) (3) of the Securities Act)**  
**[15 U.S.C. § 77q (a) (2) and (3)]**

86. Plaintiff repeats and realleges paragraphs 1 through 82 above.

87. Cohen directly and indirectly, in the offer or sale of TALX securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, 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; or engaged in transactions, practices, or courses of business which have been or are operating as a fraud or deceit upon the purchasers of TALX securities.

88. By reason of the foregoing, Cohen violated and unless restrained and enjoined will violate Sections 17(a) (2) and (a) (3) of the Securities Act.

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

89. Plaintiff repeats and realleges paragraphs 1 through 82 above.

90. Cohen directly and indirectly, with scienter, in connection with the purchase or sale of TALX securities, by use of the means or instrumentalities of interstate commerce or by use of the mails, employed devices, schemes, or artifices to defraud; 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.

91. By reason of the foregoing, Cohen violated or alternatively aided and abetted TALX's violations of, and unless restrained and enjoined will violate or aid and abet violations of Section 10(b) of the Exchange Act and Rule 10b-5.

**FOURTH CLAIM FOR RELIEF**  
**(Violations of Section 13(b) (5) of the Exchange Act and Rule 13b2-1)**  
**[15 U.S.C. § 78m (b) (5) and 17 C.F.R. § 240.13b2-1]**

92. Plaintiff repeats and realleges paragraphs 1 through 82 above.

93. Cohen knowingly circumvented or knowingly failed to implement a system of internal accounting controls, knowingly falsified books, records, or accounts and directly or indirectly falsified or caused to be falsified books, records or accounts described in Section 13(b)(2) of the Exchange Act.

94. By reason of the foregoing, Cohen violated, and unless restrained and enjoined will violate Section 13(b) (5) of the Exchange Act and Rule 13b2-1.

**FIFTH CLAIM FOR RELIEF**  
**(Section 13(a) of the Exchange Act and**  
**Exchange Act 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]**

95. Plaintiff repeats and realleges paragraphs 1 through 82 above.

96. Cohen aided and abetted TALX, an issuer of a security registered pursuant to Section 12 of the Exchange Act, in filing materially misleading annual, periodic and quarterly reports with the Commission and failing 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.

97. By reason of the foregoing, Cohen aided and abetted TALX's violations of, and unless restrained and enjoined will aid and abet violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13.

**SIXTH CLAIM FOR RELIEF**  
**(Section 13(b) (2) of the Exchange Act)**  
**[15 U.S.C. § 78m (b) (2)]**

98. Plaintiff repeats and realleges paragraphs 1 through 82 above.

99. Cohen aided and abetted TALX's failure to make and keep books, records, and accounts, which, in reasonable detail, must accurately and fairly reflect the company's transactions and dispositions of its assets and TALX's failure 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.

100. By reason of the foregoing, Cohen aided and abetted violations of, and unless restrained and enjoined will aid and abet violations of Section 13(b) (2) of the Exchange Act.

**SEVENTH CLAIM FOR RELIEF  
(Violations of Exchange Act Rule 13b2-2)  
[17 C.F.R. § 240.13b2-1]**

101. Plaintiff repeats and realleges paragraphs 1 through 82 above.

102. Cohen made materially false or misleading statements, 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, to TALX's independent auditors in connection with an audit or examination of TALX's financial statements or in the preparation or filing of TALX's documents or reports filed with the Commission.

103. By reason of the foregoing, Cohen violated, and unless restrained and enjoined will violate Exchange Act Rule 13b2-2.

**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 from violating, directly or indirectly, the provisions of law and rules alleged in this complaint.

**III.**

Order that Defendant disgorge all ill-gotten gains received and any benefits in any form derived from the illegal conduct alleged herein, plus pre- and post-judgment interest.

**IV.**

Order Defendant to pay third tier civil penalties, plus post-judgment interest, pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t (d)] and Section 21(d) (3) of the Exchange Act [15 U.S.C. § 78u (d) (3)].

**V.**

Order pursuant to Exchange Act Section 21(d) (2), as amended by Section 305 of the Sarbanes-Oxley Act. [15 U.S.C. 78u (d) (2)], or pursuant to the equitable authority of the court, that Defendant be permanently barred from being an officer or director of any public company.

**VI.**

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

Dated:

Respectfully submitted,

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