UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

Civil Action No.

RANKO "RON" CUCUZ,
WILLIAM D. SHOVERS,
JESUS BONILLA-VALDEZ,
RONALD LEE KOLAKOWSKI,
and
HLI OPERATING COMPANY, INC., f/k/a
HAYES LEMMERZ INTERNATIONAL, INC.,

Defendants.

COMPLAINT

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

SUMMARY

1. This case involves a financial fraud committed by defendant HLI Operating Company, Inc., formerly known as Hayes Lemmerz International, Inc. ("Hayes"), a publicly-traded automotive parts manufacturer and supplier, and certain of Hayes' former senior executives and employees, including defendants Ranko "Ron" Cucuz ("Cucuz"), William D. Shovers ("Shovers"), Jesus Bonilla-Valdez ("Bonilla"), and Ronald Lee Kolakowski ("Kolakowski") to conceal Hayes' true financial condition and operating results.

2. From fiscal years 1999 to 2001, Hayes and certain of its former senior executives and employees, including the defendants named herein, knowingly or recklessly engaged in a fraudulent accounting scheme, whereby Hayes' financial results were manipulated, to achieve the company's internal corporate earnings targets and to mask its declining operating results. Through

its and other defendants' fraudulent conduct, Hayes improperly reported its results of operations for fiscal years 1999, 2000 and for the first quarter of 2001. Further, upon learning of the fraudulent accounting scheme, Hayes' former senior executives, including certain of the defendants named herein, allowed and covered-up the fraud.

3. Hayes' fraudulent accounting scheme, which was in violation of Generally Accepted Accounting Principles ("GAAP"), occurred within Hayes' North American Wheel Group ("NAWG"), and was carried out through, among others, the following means: (1) inappropriately deferring operating expenses to balance sheet accounts; (2) failing to process vendor invoices; (3) understating employee fringe benefits; and (4) improperly recording certain customer discounts to balance sheet accounts. Certain of Hayes' former employees, including senior officers and accounting personnel, played substantial roles in the accounting scheme in that they knowingly directed, allowed, and/or covered-up the above-listed practices. Each of the means had the net result of falsely understating expenses, thereby overstating net income and understating revenues in Hayes' financial statements and the earnings per share of Hayes' common stock.

4. Specifically, Kolakowski and Bonilla directed NAWG plant personnel to engage in the foregoing improper practices to effectuate the fraudulent accounting scheme. In addition, knowing that NAWG employees were engaging in these improper acts in order to meet the earnings targets Kolakowski and Bonilla demanded from them, Kolakowski and Bonilla allowed and approved such fraudulent conduct.

5. Cucuz and Shovers, upon learning of the fraudulent accounting scheme, failed to take appropriate corrective action, and, in fact, took affirmative steps to conceal and cover-up the widespread fraud at the company. Cucuz and Shovers concealed information about the fraudulent conduct from Hayes' board of directors, audit committee, and outside independent

auditor. Cucuz and Shovers then made affirmative misrepresentations to its outside independent auditor about Hayes' financial statements and caused Hayes to make filings with the Commission which contained material misrepresentations. In addition, Cucuz and Shovers made material misrepresentations about Hayes' financial condition in connection with Hayes' issuance of $300 million of senior notes in a Rule 144A bond offering in June 2001.

6. As a result, Hayes, acting through certain of its former senior officers and employees, including the defendants named herein, each playing a substantial role in the fraudulent accounting scheme, made false filings, containing material misstatements, with the Commission during fiscal years 1999, 2000, and the first quarter of the fiscal year 2001. In addition, while the scheme was ongoing, in June 2001, Hayes engaged in a $300 million Rule 144A bond offering to the investing public, disseminating offering materials containing material misstatements and omissions regarding Hayes' financial condition and operating results.

7. By engaging in the foregoing conduct, Hayes, Cucuz, Shovers, Kolakowski, and Bonilla violated the anti-fraud, internal controls, and books and records provisions of the federal securities laws.

8. Hayes violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77q(a)] and 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), 15 U.S.C. § 77m(a), 15 U.S.C. § 78m(b)(2)(A), and 15 U.S.C. § 78m(b)(2)(B)], and Exchange Act Rules 10b-5 [17 C.F.R. § 240.10b-5], 13a-1 [17 C.F.R. § 240.13a-1], 13a-13 [17 C.F.R. § 240.13a-13], and 12b-20 [17 C.F.R. § 240.12b-20]. Hayes is likely to commit such violations in the future unless the Court enjoins it from doing so. The Commission is seeking an injunction against Hayes for violating these provisions.

9. Cucuz and Shovers violated Section 17(a) of the Securities Act and Sections 10(b) and 13(b)(5) [15 U.S.C. § 78m(b)(5)] of the Exchange Act, Exchange Act Rules 10b-5, 13b2-1 [17 C.F.R. § 240.13b2-1], and 13b2-2 [17 C.F.R. § 240.13b2-2] and aided and abetted Hayes' violations of Exchange Act Sections 13(a), 13(b)(2)(A) and13(b)(2)(B) and Exchange Act Rules 12b-20, 13a-1, and 13a-13. Cucuz and Shovers are likely to commit such violations in the future unless the Court enjoins them from doing so. The Commission is seeking an injunction, an officer and director bar, disgorgement of ill gotten gains with prejudgment interest, and civil money penalties against Cucuz and Shovers.

10. Kolakowski and Bonilla violated Exchange Act Sections 10(b) and 13(b)(5) and Exchange Act Rules 10b-5 and 13b2-1, and aided and abetted Hayes' violations of Exchange Act Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) and Exchange Act Rules 12b-20, 13a-1, and 13a-13. Kolakowski and Bonilla are likely to commit such violations in the future unless the Court enjoins them from doing so. The Commission is seeking an injunction, an officer and director bar, disgorgement of ill gotten gains with prejudgment interest, and civil money penalties against Kolakowski and Bonilla.

JURISDICTION AND VENUE

11. The Commission brings this action pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

12. This Court has jurisdiction pursuant to Securities Act Section 22(a) [15 U.S.C. § 77v(a)] and Exchange Act Sections 21(e) and 27 [15 U.S.C. §§ 78u(e) and 78aa]. Defendants, directly or indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with their acts, transactions, practices, and courses of business alleged herein.

13. Venue is proper in this Court pursuant to Exchange Act Section 27 [15 U.S.C. § 78aa] and Securities Act Section 22(a) [15 U.S.C. § 77v(a)], as many of the transactions, acts, practices, and courses of conduct constituting violations of the federal securities laws occurred within this district.

DEFENDANTS

14. Hayes, a major global manufacturer and supplier of automotive components, is a Delaware corporation headquartered in Northville, Michigan. During the relevant period to this action, Hayes' common stock was registered with the Commission pursuant to Exchange Act Section 12(b) and its common stock traded on the New York Stock Exchange. After the fraud alleged herein was disclosed, Hayes' new senior management restated its financial results for fiscal years 1999, 2000 and for the first quarter of 2001. Hayes also thereafter filed a petition for reorganization under Chapter 11 of the United States Bankruptcy Code. Hayes currently trades on the National Association of Securities Dealers Automated Quotation ("NASDAQ") National Market System under the ticker symbol of "HAYZ."

15. Cucuz, age 62, was Hayes' Chief Executive Officer ("CEO") from approximately October 1992 until approximately August 2001 and Chairman of the Board of Directors from approximately July 1996 until approximately September 2001. Cucuz held these positions during the period in which various fraudulent accounting practices alleged herein occurred. On September 28, 2001, Hayes removed Cucuz as Chairman.

16. Shovers, age 52, was licensed as a Certified Public Accountant and served as Hayes' Chief Financial Officer ("CFO") from approximately February 1993 until approximately late October 2001, when he was reassigned to another position at the company. Shovers held the

CFO position during the period in which various fraudulent accounting practices alleged herein occurred. In June 2003, Hayes terminated Shovers.

17. Bonilla, age 60, was Vice President of Operations for one of the business groups, the Aluminum Wheels Group ("AWG"), within NAWG, from approximately August 2000 until approximately July 2001. From approximately August 1997 to approximately August 2000, Bonilla was an AWG plant manager. Bonilla held these positions during the period in which various fraudulent accounting practices alleged herein occurred. In July 2001, Hayes terminated Bonilla.

18. Kolakowski, age 60, was a Vice President of Hayes, in charge of NAWG from approximately November 1995 until approximately June 2001. Kolakowski held this position during the period in which various fraudulent accounting practices alleged herein occurred. Kolakowski was fired on or about September 30, 2001.

FRADULENT SCHEME

19. During the relevant period to this action, Hayes suffered industry-wide setbacks and NAWG plant production problems. Nonetheless, Hayes' former senior management exerted tremendous pressure on Hayes' employees to achieve high (and unattainable) internal earnings targets. Pressure from the management intensified when, beginning in 1999, Hayes made several acquisitions that generated large debts and resulted in loan covenants linked to Hayes' Earnings Before Interest and Taxes ("EBIT") and Earnings Before Interest Taxes Depreciation and Amortization ("EBITDA").

20. During the relevant period to this action, Hayes manipulated its financial results -- by inappropriately deferring operating expenses to balance sheet accounts, failing to process vendor invoices, understating employee benefits, and improperly recording certain expenses as assets --

to meet unattainable corporate EBIT and EBITDA targets. These improper accounting acts occurred at the direction of, among others, Kolakowski and Bonilla, or with their knowledge. In addition, upon learning of significant accounting irregularities within NAWG, Cucuz, Shovers, and Kolakowski did not take sufficient and proper action to ensure that Hayes' financial statements were accurate.

21. The foregoing acts, which are described more specifically below, cumulatively resulted in Hayes making material misstatements in its financial statements filed with the Commission during fiscal years 1999, 2000, and the first quarter of the fiscal year 2001.

Fraudulent Expense Accounting

Improper Deferral of Operating Expenses

22. GAAP requires expenses to be recorded in the same time period in which they are incurred. During the relevent period to this action, in contravention of GAAP, Hayes achieved internal EBIT and EBITDA targets by improperly deferring expenses to balance sheet accounts.

23. On the direction of or with the knowledge of certain of Hayes' former management, including Kolakowski and Bonilla, NAWG plant controllers removed operating expenses from plant income statement accounts and shifted them to plant balance sheet accounts via manual journal entries during the month-end closing process. Based upon their experience at Hayes and their discussions with Hayes' plant controllers, Kolakowski and Bonilla knew of the accounting implications of deferring expenses to balance sheet accounts. By improperly deferring expenses to balance sheet accounts, Hayes overstated its assets in some instances and understated its liabilities in other instances.

24. From approximately May 2000 to approximately July 2001, Kolakowski and Bonilla routinely ordered NAWG employees to "hit" the EBIT targets even though the only way the

targets could be reached was by making improper accounting entries that removed expenses from NAWG plant income statements. Despite protests from NAWG employees, Kolakowski and Bonilla knowingly authorized this improper practice to continue at NAWG, as a fradulent device to enable Hayes to "manage" its financial results and to achieve its (and the senior management's) desired EBIT targets. During this period, based upon their discussions with other senior managers at Hayes, both Kolakowski and Bonilla knew or were reckless in not knowing that directing NAWG employees to make improper accounting entries to "hit" the EBIT targets would lead to the preparation and filing of Hayes' financial statements containing false and misleading statements.

25. As Vice President of AWG, Bonilla had business responsibility for the operations of the AWG plants and was held accountable for the plants' financial results, including internal EBIT targets. To achieve the desired EBIT amount, in or about the end of the first quarter of 2001 (March 2001), Bonilla directed two of Hayes' plants to defer, collectively, approximately $530,000 of operating expenses to plant balance sheet accounts to help cover another AWG plant that was going to miss its internal earnings forecast.

26. Even after a July 2001 plant controller meeting during which Hayes' senior management advised the controllers that inappropriately deferring operating expenses to plant balance sheets would no longer be tolerated, Bonilla continued to pressure plant controllers to make their internal earnings targets by improperly adjusting the company's books and records by specific amounts and blocked efforts to correct them.

27. Hayes also inappropriately deferred expenses by improperly recording on the company's books and records costs incurred fulfilling customer orders based on a claim that customers might repay those excessive costs. GAAP permits this type of expenditure to be

recorded as an asset only if there is a contractual provision obligating the customer to repay those costs at the time they are incurred.

28. In contravention of GAAP, Kolakowski and Bonilla instructed certain Hayes' plants to move expenses to balance sheet accounts – some of which were asset accounts – by claiming that these expenses would be reimbursed by customers. These entries had the effect of artificially increasing Hayes' net income. In fact, Kolakowski and Bonilla knew there were no such reimbursement agreements with customers and that the accounting entries were improper.

29. For example, in December 2000, Bonilla instructed a plant controller to defer $1.6 million of freight expenses to an asset account, advising the controller that Hayes sales people would "take care" of the reimbursement. At that time, based upon his knowledge of the customer at issue, Bonilla knew that there was no agreement for repayment for the costs incurred, and had no reasonable basis to believe the customer would, in fact, reimburse these costs. Bonilla thereafter took no action with Hayes' sales people to assure collection of the reimbursement from the customer.

30. In April 2001, Kolakowski also identified $1.7 million of potential freight overcharges at a Hayes' plant. Without even contacting the freight vendor to determine whether these expenses were recoverable, Kolakowski instructed the plant controller to defer these freight expenses to an accounts receivable suspense account on one of the NAWG plants' balance sheet. Even after being advised by Hayes employees that this action was impermissible under GAAP and company policy, Kolakowski insisted that the improper entries be made. Ultimately, at Kolakowski's direction, Hayes improperly deferred $1.1 million of freight expenses, thereby overstating Hayes' earnings for that period.

31. Thereafter, Kolakowski informed Cucuz of this $1.7 million freight expense deferral, and Cucuz stated that he knew such a deferral was inappropriate. Nonetheless, Cucuz took no corrective action.

Intentional Failure to Process Vendor Invoices

32. At Hayes' Somerset plant, one of Hayes' most troubled and underperforming plants, Hayes achieved EBIT targets and masked rising supply costs and declining operating results by failing to process vendor invoices, otherwise known as materials receivers ("receivers"), in Hayes' accounting system.

33. Entering the receivers into Hayes' computer systems created an expense on its books, which was reflected in Hayes' income statement. From mid-2000 through 2001, receivers were periodically "stashed" – literally hidden --in drawers to avoid recording the associated expense. This fraudulent practice caused expenses to not be timely recorded in the period in which they were incurred, which contravened GAAP and circumvented Hayes' internal accounting controls.

34. Kolakowski participated in this fraudulent practice. In or around December 2000, Kolakowski was informed by his accounting personnel that his business division was not going to achieve its earnings targets for the fiscal year 2000. Kolakowski thereafter directed Hayes' accounting personnel to have certain Hayes plants stop recording supply expenses.

35. In or around February 2001, Kolakowski also told a plant controller that the plant needed to devise a "creative" way to achieve earnings targets for the upcoming year, and Kolakowski later directed the Somerset plant controller to stop recording supply expenses during those months when the plant risked missing its earnings targets. That plant controller complied and the Somerset plant stopped recording receivers on at least two occasions during 2001, causing Hayes to understate its expenses for those periods.

36. In September 2000, based upon his discussion with the Somerset plant controller, Bonilla also became aware that the Somerset plant was not recording all of its vendor invoices in 2000. Bonilla, however, took no corrective action regarding this fraudulent practice.

37. Thus, Hayes, Kolakowski, and Bonilla knew that the company was deferring expenses or failing to record supply expenses to achieve earnings targets, but did nothing to ensure that the information provided for Hayes' financial statements were accurate. Hayes, Kolakowski, and Bonilla allowed or caused Hayes' financial statements to be inaccurate.

Underaccrural of Employee Fringe Benefits

38. Hayes' NAWG plants also understated employee fringe benefits accruals to achieve earnings targets. Under GAAP, a company accrues a current period expense for employee benefits – like vacation or sick leave – during the period in which it is earned by an employee. Intentionally understating fringe benefit accruals contravened GAAP and caused Hayes to overstate income and understate liabilities.

39. In or around May 2000, Kolakowski and others learned that at least one of the NAWG plants had underaccrued fringe benefits. Kolakowski, however, would not permit that plant's controller to correct the plant's fringe benefit accrual because it would have caused that plant to miss its monthly earnings targets.

40. This fraudulent practice allowed Hayes to spread the fraudulent entries over numerous accounts and avoid scrutiny by Hayes' internal auditor and outside independent auditor.

Improper Recording of Customer Discounts

41. Hayes also misstated its financial statements by classifying certain customer discounts as assets or reductions to liabilities in order to achieve Hayes' internal earnings forecasts.

42. Hayes historically had agreements with its major customers wherein Hayes agreed to provide discounts to the customers with high-volume and long-term contracts. These agreements were commonly referred to as “giveback programs” at Hayes. Based upon its long-standing business experience, Hayes could reasonably predict an amount by which base sales would be reduced.

43. Pursuant to GAAP, when a contingent liability (such as a customer discount) is probable and can be reasonably estimated, a company is required to record a liability and a reduction to the revenue related to the discounted sales in the period the sale is reported.

44. Contrary to GAAP and Hayes’ own historical practice, during fiscal year 2000 and the first quarter of 2001, Hayes failed to adequately accrue price reductions for discounted sales and did not timely recognize all expected retroactive price reductions in order to meet internal earnings forecasts.

45. In July 2000, in response to a Hayes customer reducing its payment to Hayes by $1 million for a giveback program for the first six months of 2000, Hayes reduced a liability account by $1 million rather than recording a reduction to net sales, thereby overstating net sales for the period.

46. Similarly, in December 2000, Hayes recorded a $2 million reduction to a liability account rather than reducing net sales relating to another customer’s giveback program, which again overstated Hayes’ net sales for the period.

47. Further, at another Hayes’ business unit, Hayes failed to properly record a $2 million underpayment by a customer related to its giveback agreement reached in April 2000, and recorded the $2 million as a current asset instead of a reduction to net sales, which overstated Hayes’ net sales for the time period.

HAYES' FORMER SENIOR MANAGEMENT KNOWINGLY ALLOWED AND COVERED-UP FRAUD AND AUTHORIZED $300 MILLION BOND OFFERING

48. As early as March 2001**,** Cucuz and Shovers knew that NAWG plants had improperly deferred expenses. By May 2001, Cucuz and Shovers also knew that there were a material amount of unrecorded and deferred expenses within NAWG plants and business units.

49. Despite the foregoing, Cucuz and Shovers failed to alert Hayes' board of directors, audit committee, and outside independent auditor of the discovered accounting irregularities and failed to perform "materiality review" of Hayes' financial statements in determining the necessary next steps. Cucuz and Shovers, instead, largely ignored and tried to cover-up the fraudulent accounting scheme that had occurred and was continuing to occur at NAWG.

50. For example, in approximately June 2001, when Hayes' corporate controller tried to engage Cucuz about the foregoing accounting issues and provide him with a memorandum detailing the accounting problems, including the magnitude, Cucuz declined to engage in any discussion regarding the accounting problems and refused to even take the memorandum. Cucuz showed no interest in addressing the accounting irregularities that had been brought to his attention by Hayes' controller.

51. As further set forth below, Cucuz and Shovers' knowing or reckless conduct can be summarized as follows: (1) they instructed NAWG plants to "bleed" unrecorded and deferred expenses into the remainder of the year's financial statements in contravention of GAAP; (2) they caused Hayes to make materially false and misleading filings with the Commission; and (3) they made material misrepresentations and omissions to Hayes' outside independent auditor and Hayes' audit committee and board of directors about the fraudulent accounting practices that had occurred within NAWG.

Fiscal Year 2000 Form 10-K

52. Hayes filed with the Commission Hayes' annual report on Form 10-K for fiscal year 2000 on April 30, 2001. Cucuz and Shovers signed the Form 10-K filing. Prior to the filing, however, Cucuz and Shovers had learned that AWG plants had failed to record millions of dollars of expenses.

53. For example, in connection with Hayes' outside independent auditor's audit wrap-up meeting in February 2001, the AWG business unit controller told Shovers that there were $10 to $15 million worth of unrecorded expenses, which were quantitatively material to Hayes' consolidated financial statements, on AWG's balance sheet. In March 2001, Cucuz and Shovers also learned of several additional million dollars of potential accounting irregularities at two AWG plants. Specifically, in March 2001, a power-point presentation entitled "Somerset Improvement Plan" was presented to Hayes' managers, including Cucuz and Shovers, which showed that Somerset had "significant unrecognized expenses on balance sheet."

54. Shortly after the fiscal year 2000 Form 10-K was filed, Cucuz and Shovers were presented with additional information about accounting problems within AWG. In approximately April 2001, Hayes hired a new corporate controller. Shortly after arriving at Hayes, the controller discovered unusual balance sheet account balances at AWG plants, which he reported to Shovers. Thereafter, the controller began investigating the various accounting practices within AWG. Starting in May 2001, the controller presented Shovers with three memoranda that revealed approximately $18 million of potential "accounting problems" within AWG, most of which related to previously deferred operating expenses. Rather than recognize the expenses in a restatement as GAAP required, or as a one-time "charge" as the controller suggested, Shovers attempted to cover-up the problems by requiring minimal monthly reversals

of these deferrals (thereby “bleeding” or spreading the impact throughout the remainder of the year).

55. Shovers shared the information the controller provided with Cucuz and regularly provided Cucuz with updates regarding the controller’s investigation. By late March 2001, Shovers had alerted Cucuz about the accounting problems, but Cucuz did nothing further to inquire of these problems, did not set any deadline for determining the extent of the problems, and did nothing to determine whether these issues warranted disclosure. Cucuz and Shovers took no steps to alert Hayes’ board of directors, the audit committee, Hayes’ outside independent auditor, or investors that the financial statements contained in Hayes’ fiscal year 2000 Form 10-K were false or misleading.

First Quarter Form 10-Q for Fiscal Year 2001

56. Cucuz and Shovers also signed Hayes’ quarterly report on Form 10-Q for the first quarter of fiscal year 2001 when they knew it was materially false and misleading. Hayes filed with the Commission Hayes’ Form 10-Q for the first quarter of fiscal year 2001 on June 14, 2001. Cucuz and Shovers had signed the filing on June 12, 2001.

57. Further, in connection with Form 10-Q for the first quarter of fiscal year 2001 and Hayes’ outside independent auditor’s quarterly review, Cucuz and Shovers signed management representation letters on June 1, 2001, confirming “there are no other liabilities or gain or loss contingencies that are required to be accrued or disclosed by SFAS 5” (SFAS 5 is part of GAAP which requires registrants such as Hayes to identify the existence of contingent liabilities and evaluate whether the contingency is probable, reasonably possible or remote and to determine if the amount of liability can be estimated).

58. Prior to the filing of Form 10-Q for the first quarter of fiscal year 2001, Hayes' outside independent auditor questioned Shovers about various apparent accounting errors at AWG, such as increased balance sheet accounts, that the auditor had discovered during its review. Shovers assured the auditor that Hayes was investigating the matter and had taken a $1.1 million reversal to correct the problem. Shovers also represented that AWG's quarterly income statement was "proper." Shovers did not disclose to the auditors that Hayes' investigation into AWG accounting irregularities had thus far revealed approximately $18 million of accounting problems and that Hayes had inappropriately deferred operating expenses.

59. Shortly after the foregoing meeting with Hayes' outside independent auditor (but before the Form 10-Q was filed) in June 2001, Cucuz and Shovers learned that one plant alone had several million dollars of unrecorded operating expenses and other inappropriate accounting entries. Shovers simply instructed that plant to write-off the unrecorded expenses over the remainder of the year, and Cucuz did nothing regarding the accounting irregularities.

Misrepresentations Made in Connection with 144A Bond Offering

60. Cucuz and Shovers also made materially false and misleading representations in connection with Hayes' $300 million bond offering. On June 22, 2001, Hayes issued $300 million of senior notes in a Rule 144A bond offering, which was reported to the Commission in a Form 8-K filed on June 29, 2001.

61. In connection with this offering, Cucuz and Shovers signed representation letters to Hayes' outside independent auditor on June 11, 2001, June 15, 2001, and June 19, 2001, affirming that no events had occurred that would require adjustment to fiscal year 2000 or that should be disclosed in order to keep those financial statements from being misleading.

62. In addition, Hayes' outside independent auditor questioned Hayes management about material unrecorded liabilities or contingencies while making preparation for the bond offering. Certain members of Hayes former management, including Cucuz and Shovers, represented to the auditors that there were no unrecorded liabilities or contingencies. As stated above, all of these foregoing misleading statements by Cucuz and Shovers were made with knowledge that there were at least $18 million of unrecorded expenses and other accounting irregularities within AWG.

63. In addition, Shovers did not even bother to evaluate the materiality of the irregularities to determine whether Hayes' prior year (2000) or first quarter's financial statements were materially misstated based on the $18 million in known irregularities.

64. Shovers not only knew that Hayes' financial statements were materially misstated, but also knew they were the result of fraud. In a June 18, 2001 meeting with AWG plant managers about these issues, Shovers acknowledged that he knew that AWG's accounting in 2000 was poor and that AWG was committing fraud in continuing with such poor accounting. Nonetheless, Shovers subsequently signed the false and misleading representation letters and took no action to inform Hayes' outside independent auditor, Hayes' audit committee, or investors of Hayes' fraudulent accounting practices.

65. Thus, the offering materials provided to investors in connection with the bond offering contained material misstatements and omissions regarding Hayes' financial condition.

Misrepresentations to Hayes' Board of Directors

66. In late July 2001, certain members of Hayes' board of directors requested a meeting with Cucuz and Shovers to discuss Hayes' financial results for the first half of fiscal year 2001, and to review Hayes' forecasts going forward. During the meeting, Cucuz and Shovers briefly

alluded to some unrecorded expenses at one plant, but failed to fully apprise, and indeed misled, the board attendees of all the accounting problems that they knew existed within NAWG.

RESTATEMENT– RESULTS OF FRAUD

67. The foregoing fraudulent conduct, taken cumulatively, materially misstated Hayes' financial statements, and subsequently caused Hayes, under new senior management, to restate its financial results for fiscal years 1999 and 2000, and the first quarter of 2001.

68. The fraudulent scheme's material impact on Hayes' income statement is summarized in the following table for fiscal year 2000 and first quarter of fiscal year 2001 (in millions of dollars, except for earnings per share):

	Originally Reported	As Restated	Dollar Overstatement	EPS Impact
Fiscal Year 2000				
Earnings (loss) from operations	$ 95.6	$ (10.4)	$ 106.0	
Net Loss	$ (41.8)	$ (186.2)	$ 144.4	$4.88
Basic Earnings (Loss) per Share (EPS)	$(1.41)	$(6.29)		
1st Quarter FY 2001				
Earnings (Loss) from operations	$ 33.7	$ (12.4)	$ 46.1	
Net Loss	$ (7.6)	$ (63.7)	$ 56.1	$1.97
Basic Earnings(Loss) per Share (EPS)	$(0.27)	$(2.24)		

HAYES' FALSE FILINGS WITH THE COMMISSION

69. On June 14, 2000, September 13, 2000, and December 15, 2000, Hayes filed with the Commission its quarterly reports on Form 10-Q for the quarters ended April 30, 2000, July 31, 2000, and October 31, 2000, respectively ("2000 10-Qs"). The 2000 10-Qs contained unaudited

financial statements in which Hayes materially misstated pre-tax income, and earnings per share. By virtue of the conduct described above, certain of Hayes' former managers, including Cucuz, Shovers, and Kolakowski, knew or were reckless in not knowing that the 2000 10-Q's contained materially false and misleading statements.

70. On May 1, 2001, Hayes filed with the Commission its annual report on Form 10-K for its fiscal year ended January 31, 2001 ("2000 10-K"). The 2000 10-K contained audited financial statements in which Hayes materially misstated revenue, pre-tax income, and earnings per share for the fiscal year. By virtue of the conduct described above, certain of Hayes' former managers, including Cucuz, Shovers, Kolakowski and Bonilla, knew or were reckless in not knowing that the 2000 10-K contained materially false and misleading statements.

71. On June 21, 2001, Hayes filed with the Commission its quarterly report on Form 10-Q for the quarter ended April 31, 2001 ("First Quarter Fiscal 2001 10-Q"). The First Quarter Fiscal 2001 10-Q contained unaudited financial statements in which Hayes materially misstated pre-tax income and earnings per share. By virtue of the conduct described above, certain of Hayes' former managers, including Cucuz, Shovers, Kolakowski and Bonilla, knew or were reckless in not knowing that the 10-Q for the first quarter of 2001 contained materially false and misleading statements.

CLAIMS FOR RELIEF

FIRST CLAIM

(Violation of Securities Act Section 17(a) Against Defendants Hayes, Cucuz, and Shovers)

72. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

73. By engaging in the foregoing conduct, defendants Hayes, Cucuz, and Shovers, in the offer or sale of Hayes securities, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of a national exchange, have, with knowledge or recklessly, directly or indirectly, (a) employed devices, schemes, and 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; or (c) engaged in transactions, practices, or courses of business which operate or would operate as a fraud or deceit upon the purchaser of securities.

74. By reason of the foregoing, defendant Hayes, Cucuz, and Shovers violated Securities Act Section 17(a) [15 U.S.C. § 77q(a)].

SECOND CLAIM

(Violation of Exchange Act Section 10(b) and Exchange Act Rule 10b-5 Against Defendants Hayes, Cucuz, Shovers, Kolakowski, and Bonilla)

75. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

76. By engaging in the foregoing conduct, defendants Hayes, Cucuz, Shovers, Kolakowski, and Bonilla, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of a national exchange, have, with knowledge or recklessly, (a) employed devices, schemes, and artifices to defraud; (b) 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 (c) engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of Hayes securities.

77. By reason of the foregoing, defendants Hayes, Cucuz, Shovers, Kolakowski, and Bonilla violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240. 10b-5].

THIRD CLAIM

(Violation of Exchange Act Section 13(a) and Exchange Act Rules 12b-20, 13a-1, and 13a-13 Against Defendant Hayes)

78. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

79. By engaging in the foregoing conduct, defendant Hayes filed materially false and misleading financial statements with the Commission in Form 10-K filed on May 1, 2001 and filed materially false and misleading financial statements with the Commission in Forms 10-Q filed on June 14, 2000, September 13, 2000, December 15, 2000, and June 21, 2001.

80. By reason of the foregoing, Hayes violated Exchange Act Section 13(a) [15 U.S.C. § 78 m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. § 240.12b-20, 13a-1 and 13a-13].

FOURTH CLAIM

(Violation of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act Against Defendant Hayes)

81. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

82. By engaging in the foregoing conduct, defendant Hayes failed to keep books, records, and accounts which accurately and fairly reflected the transactions and disposition of its assets, in violation of Section 13(b)(2)(A) of the Exchange Act, and failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that Hayes' transactions are recorded in a manner to permit the preparation of financial statements in conformity with generally accepted accounting principles, in violation of Section 13(b)(2)(B) of the Exchange Act.

83. By reason of the foregoing, Hayes violated 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

(Violation of Exchange Act Section 13(b)(5) and Exchange Act Rules 13b2-1 and 13b2-2 Against Defendants Cucuz and Shovers)

84. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

85. By engaging in the foregoing conduct, Cucuz and Shovers knowingly circumvented Hayes' system of internal accounting controls and each knowingly falsified, or caused to be falsified, Hayes' books and records, in violation of Exchange Act Section 13(b)(5) [15 U.S.C. § 78m(b)(5)] and Exchange Act Rules 13b2-1 [17 C.F.R. § 240.13b2-1] and 13b2-2 [17 C.F.R. § 240.13b2-2].

86. In addition, by engaging in the foregoing conduct, Kolakowski and Bonilla knowingly circumvented Hayes' system of internal accounting controls and each knowingly falsified, or caused to be falsified, Hayes' books and records, in violation of Exchange Act Section 13(b)(5) [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

SIXTH CLAIM

(Violation of Exchange Act Section 13(b)(5) and Exchange Act Rule 13b2-1 Against Defendants Kolakowski and Bonilla)

87. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

88. By engaging in the foregoing conduct, Kolakowski and Bonilla knowingly circumvented Hayes' system of internal accounting controls and each knowingly falsified, or caused to be falsified, Hayes' books and records, in violation of Exchange Act Section 13(b)(5) [15 U. S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

SEVENTH CLAIM

(Aiding and Abetting Hayes' Violations of Exchange Act Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) and Exchange Act Rules 12b-20, 13a-1 and 13a-13 Against Defendants Cucuz, Shovers, Kolakowski, and Bonilla)

89. The Commission repeats and incorporates by reference paragraphs 1 through 71 of this Complaint.

90. By engaging in the foregoing conduct, Cucuz, Shovers, Kolakowski, and Bonilla provided substantial assistance to Hayes and aided and abetted Hayes's violation of Exchange Act Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) and Exchange Act Rules 12b-20, 13a-1 and 13a-13.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Commission respectfully requests that this Court:

(a) permanently restrain and enjoin defendant Hayes from violating, directly or indirectly, Securities Act Section 17(a), Exchange Act Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) and Exchange Act Rules 10b-5, 12b-20, 13a-1 and 13a-13;

(b) permanently restrain and enjoin defendants Cucuz and Shovers from violating, directly or indirectly, Securities Act Section 17(a), Exchange Act Sections 10(b) and 13(b)(5), and Exchange Act Rules 10b-5, 13b2-1, and 13b2-2, and permanently restrain and enjoin Cucuz and Shovers from aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) and Exchange Act Rules 12b-20, 13a-1 and 13a-13;

(c) permanently restrain and enjoin defendants Kolakowski and Bonilla from violating, directly or indirectly, Exchange Act Sections 10(b) and 13(b)(5), and Exchange Act Rules 10b-5 and 13b2-1, and permanently restrain and enjoin Kolakowski from aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) and Exchange Act Rules 12b-20, 13a-1 and 13a-13;

(d) impose civil monetary penalties against defendants Cucuz, Shovers, Kolakowski, and Bonilla pursuant to Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)];

(e) prohibit defendants Cucuz, Shovers, Kolakowski, and Bonilla from acting as an officer or director of any issuer that has a class of securities registered pursuant to Exchange Act Section 12 [15 U.S.C. § 78l], or that is required to file reports pursuant to Exchange Act Section 15(d) [15 U.S.C. § 78o(d)], pursuant to Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)(2)];

(f) order defendants Cucuz, Shovers, and Bonilla to disgorge ill-gotten gains, with prejudgment interest, including, but not limited to, salaries, bonuses, and other benefits wrongfully obtained as a result of their fraudulent conduct; and

(g) grant such other relief as the Court may deem just and appropriate.

Respectfully submitted,

Dated: April 25, 2006
Washington, D.C.

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