

1 DEMETRIOS A. BOUTRIS (CA BAR NO. 124161)  
California Corporations Commissioner  
2 ALAN S. WEINGER (CA BAR NO. 86717)  
Supervising Counsel  
3 MARK E. HARMAN (CA BAR NO. 123362)  
Senior Corporations Counsel  
4 DEPARTMENT OF CORPORATIONS  
320 West 4<sup>th</sup> Street, Suite 750  
5 Los Angeles, California 90013-2344  
Telephone: (213) 576-7590

6 Attorneys for the People of the State of California  
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ORANGE  
10

11 THE PEOPLE OF THE STATE OF )  
CALIFORNIA, by and through the )  
12 CALIFORNIA CORPORATIONS )  
COMMISSIONER, )

14 Plaintiff,

15 v. )

16 DANA S. VALENSKY; MARK A. ELLISON; )  
RICHARD P. WARD; LESLIE M. DOWNEY; )  
17 JANET A. PETERSON; GARY MADDOX; )  
DANIEL A. CATERINO; DON MARTIN; BOB )  
18 COSTES; SCOTT WILLIAMS; DARRELL L. )  
19 WIGGINS; JANET S. RICHARDSON; AL )  
ROBERTS; DOMINIC FELLI; VANGUARD )  
20 ENTERTAINMENT PRODUCTIONS, INC., a )  
California corporation; PACIFIC CAPITAL )  
21 NETWORK.COM, a California corporation; and )  
DOES 1-100, inclusive, )  
22

23 Defendants. )  
24

CASE NO. 02CC15333

COMPLAINT FOR PRELIMINARY  
INJUNCTION; PERMANENT INJUNCTION;  
CIVIL PENALTIES AND ANCILLARY  
RELIEF

VIOLATIONS OF CORPORATIONS CODE  
SECTION 25110  
**(UNQUALIFIED SALES OF SECURITIES)**

VIOLATIONS OF CORPORATIONS CODE  
SECTION 25401  
**(FRAUD IN CONNECTION WITH THE  
OFFER AND SALE OF SECURITIES)**

VIOLATIONS OF CORPORATIONS CODE  
SECTION 25210  
**(UNLICENSED BROKER-DEALER)**

25 Demetrios A. Boutris, California Corporations Commissioner (“Commissioner”), acting to  
26 protect the public from unlawful and fraudulent sales of unqualified securities and unlicensed  
27 broker-dealer activity, brings this action in the public interest in the name of the People of the State  
28 of California. The People of the State of California allege on information and belief as follows:

1 **JURISDICTION AND VENUE**

2 1. The Commissioner brings this action on behalf of the plaintiff, the People of the State  
3 of California, to enjoin the defendants from violating the provisions of the California Corporate  
4 Securities Law of 1968 ("CSL")(Corporations Code sections 25000 et seq.) and to request necessary  
5 equitable and ancillary relief.

6 2. The Commissioner brings this action pursuant to Corporations Code sections 25530 and  
7 25535<sup>1</sup> and Government Code section 11180 et seq., in his capacity as head of the California  
8 Department of Corporations.

9 3. Defendants, and each of them, have transacted and continue to transact business within  
10 Orange County and other counties in California. The violations of law herein have occurred and will  
11 continue to occur, unless enjoined, within Orange County and elsewhere within the state of  
12 California.

13 **DEFENDANTS**

14 4. Defendant Dana S. Valensky is an individual residing and doing business in Orange  
15 County, California. At relevant times hereto, Valensky used several fictitious business names,  
16 including but not limited to, Daval Consulting, Da Val Consulting, DaVal Consulting, Vanguard  
17 Entertainment Production, and Dana S. Valensky Consulting (collectively, "Daval").

18 5. Defendant Vanguard Entertainment Productions, Inc. ("Vanguard") is a California  
19 corporation with its principal place of business in Orange County, California. At relevant times  
20 hereto, Vanguard used the fictitious business name Daval Consulting. Defendant Valensky was the  
21 controlling person of Vanguard. Vanguard and Valensky acted as "independent selling  
22 organizations" and engaged in offers and sales of securities issued by Heart Scan, LLC, Heartscan  
23 Imaging, LLC, Henry Fernandez, Patrick Kavanaugh, Heart Scan Unit Investment Trust aka Heart  
24 Scan Unit Investment Business Trust (the "Heart Scan Trust") and Heartscan Imaging Unit  
25 Investment Trust aka Heartscan Imaging Unit Investment Business Trust (the "Heartscan Imaging  
26 Trust")(collectively referred to as "the Heart Scan Defendants"). As discussed in the Notice of  
27

28 <sup>1</sup> All further statutory references are to the Corporations Code unless otherwise indicated.

1 Related Case, filed herewith, Heart Scan, LLC, Heart Scan Trust, Heartscan Imaging, LLC,  
2 Heartscan Imaging Trust, and Orange County Leasing, Inc. were preliminarily enjoined from the  
3 fraudulent offer and sale of securities, and placed under the control of a court-appointed receiver, on  
4 June 27, 2001. On the same date, defendants Fernandez and Kavanaugh were also preliminarily  
5 enjoined from the fraudulent offer and sale of securities. See, Heart Scan, LLC, et al. v. Henry  
6 Fernandez, et al., O.C.S.C. Case No. 01CC01510.

7 6. Defendants Leslie M. Downey, Janet A. Peterson, Janet S. Richardson, Darrell L.  
8 Wiggins, and Scott Williams are individuals residing in Orange County, California. Each of these  
9 individuals was an agent of and employed by Valensky, Vanguard, or Daval to offer and sell the  
10 securities issued by the Heart Scan Defendants. Each of these individuals provided substantial  
11 assistance in furtherance of the acts, practices and schemes of business as further alleged herein.

12 7. Formerly known as Cornerstone Financial, defendant Pacific Capital Network.com  
13 ("Pacific") is a California corporation. Pacific conducted business at 2133 West Chapman Avenue,  
14 Suite A, Orange, CA 92868 and 4500 Campus Drive, Suite 222, Newport Beach, CA 92660. At  
15 relevant times hereto, Pacific acted as an "independent selling organization" and engaged in offers  
16 and sales of securities issued by the Heart Scan Defendants. Defendant Mark A. Ellison is an  
17 individual residing in Orange County, California. At relevant times hereto, Ellison was Chief  
18 Executive Officer of Pacific and a controlling person of Pacific. Defendant Richard "Rich" P. Ward  
19 is an individual residing in Orange County, California. At relevant times hereto, Ward was Chief  
20 Financial Officer and a controlling person of Pacific. On October 9, 2000, the State of Wisconsin  
21 issued an "Order of Revocation of Exemptions" to Ellison, Ward and Pacific.

22 8. Defendants Al Roberts, Don Martin, Bob Costes, Dominic Felli (also known as  
23 Dominic Selli), Gary Maddox, and Daniel A. Caterino are individuals residing in Orange County,  
24 California. Each of these individuals was an agent of and employed by Pacific for the purpose of  
25 offering and selling the securities issued by the Heart Scan Defendants. Each of these individuals  
26 provided substantial assistance in furtherance of the acts, practices and schemes of business as  
27 further alleged herein.

28

1           9. At all relevant times hereto, those defendants named as officers, directors, agents or  
2 employees of the business entity defendants acted in such capacities in connection with the acts,  
3 practices and schemes of business set forth below.

4           10. Each defendant alleged to have committed any act, did and committed the same  
5 pursuant to a common plan and scheme among all named defendants, and did so as the agent for  
6 each and all of his or her co-defendants and pursuant to and in furtherance of such common plan and  
7 scheme.

8           11. Defendants Does 1 through 100 are persons, corporations, partnerships or other  
9 business entities who have done or will do acts otherwise alleged in this Complaint. Plaintiff is  
10 informed and believes, and on such information and belief alleges, that Does 1 through 100  
11 inclusive, at all times mentioned herein have acted and are continuing to act in concert with the other  
12 defendants named herein, and that each of them has participated in the acts and transactions which  
13 are the subjects of this complaint. The true names and capacities of Does 1 through 100, whether  
14 individual, corporate or otherwise, are unknown to plaintiff, who therefore sues these defendants  
15 under such fictitious names, pursuant to the provisions of section 474 of the Code of Civil  
16 Procedure. The plaintiff asks leave of the court to amend the complaint to allege the true names and  
17 capacities of these defendants at such time as the same have been ascertained.

18           12. Whenever any allegation is made in this Complaint to "defendants" doing any act, the  
19 allegation shall mean the act of each defendant acting individually, jointly and severally and the  
20 conspiring of these defendants to so act.

21           13. Whenever any allegation is made in this Complaint to any of the business entity  
22 defendants doing any act, the allegation shall mean acts done or authorized by the officers, directors,  
23 agents and employees of the business entity defendant while actively engaged in the management,  
24 direction or control of the affairs of the business entity defendant, and while acting within the course  
25 and scope of their employment.

26  
27  
28

**STATEMENT OF FACTS**

1  
2 14. Beginning as early as January 2000, and continuing through at least December 2000,  
3 defendants fraudulently marketed approximately \$6.55 million in investments in the form of trust  
4 units, which are "securities."

5 15. In or about June 2000, defendants Pacific, Valensky, Vanguard and Daval each  
6 executed consulting agreements with Heart Scan, LLC, by which they agreed to provide "services"  
7 as a "finder to assist the Company [i.e. Heart Scan, LLC] in raising equity capital to be utilized in  
8 [its] business operations. . . ." Exhibit B to each "Consulting Agreement" provided that "[t]he  
9 Consultant's compensation and expense reimbursement hereunder shall be a flat fee of forty percent  
10 (40%) of the total equity capital raised through the efforts of the Consultant. . . ."

11 16. On or about June 8, 2000, defendants Ellison and Ward executed the "Consulting  
12 Agreement" with Heart Scan, LLC on behalf of Pacific.

13 17. On or about June 13, 2000, defendant Valensky executed the consulting agreement with  
14 Heart Scan, LLC on behalf of Daval.

15 18. Defendants Ellison, Ward, Pacific, Valensky, Vanguard, and Daval each received a  
16 copy of the prospectus for Heart Scan, LLC.

17 19. Between February 24<sup>th</sup>, 2000, and September 28, 2000, defendant Pacific sold  
18 approximately \$1.2 million in investments and received \$436,617 as "commissions" for the offer  
19 and sale of interests in the Heart Scan Trust.

20 20. Between February 11<sup>th</sup> and September 14<sup>th</sup>, 2000, defendants Valensky, Vanguard and  
21 Daval sold approximately \$2 million in investments and received \$712,269.92 as "commissions" for  
22 the offer and sale of interests in the Heart Scan Trust.

23 21. On or about August 23, 2000, defendants Ellison and Ward, on behalf of defendant  
24 Pacific, executed a "Consulting Agreement" with Heartscan Imaging, LLC, by which Pacific agreed  
25 to provide "services" as a "finder to assist the Company [i.e. Heartscan Imaging, LLC] in raising  
26 equity capital to be utilized in [its] business operations. . . ." Stating "Terms of Compensation",  
27 Exhibit B to each "Consulting Agreement" provided that "[t]he Consultant's compensation and  
28

1 expense reimbursement hereunder shall be a flat fee of forty percent (40%) of the total equity capital  
2 raised through the efforts of the Consultant. . . .”

3 22. Defendants Ellison, Ward and Pacific each received a copy of the prospectus for  
4 Heartscan Imaging, LLC.

5 23. Between August 17, 2000, and December 14, 2000, defendant Pacific sold  
6 approximately \$1.5 million in investments and received \$575,630 as “commissions” for the offer  
7 and sale of interests in the Heartscan Imaging Trust.

8 24. Between August 17<sup>th</sup>, 2000, and December 14, 2000, defendants Valensky, Vanguard  
9 and Daval sold approximately \$1.7 million in investments and received \$710,170 as “commissions”  
10 for the offer and sale of interests in the Heartscan Imaging Trust.

11 25. Some or all of the purchasers and offerees of securities in the form of “units of  
12 interest” in the Heart Scan Trust, issued by Heart Scan, LLC and in the Heartscan Imaging Trust,  
13 issued by Heartscan Imaging, LLC, were solicited to invest by misrepresentations or omissions of  
14 “material” facts. In particular, the following misrepresentations or omissions were made to  
15 prospective investors:

16 a) The prospectus for the unit interests in the Heart Scan Trust falsely stated that  
17 an estimated \$200,000 of an anticipated sale of \$3,000,000 in securities would go to “Syndication  
18 and Organization Costs connected with the preparation of the Private Placement Memorandum and  
19 selling costs.” In fact, sales commissions, which were part of the selling costs, were paid in the  
20 amount of \$1,568,368.49 out of \$3,320,000 total sales or 47.24% of each dollar received from  
21 investors. Investors were not informed that this amount of their invested funds would be used to pay  
22 these sales commissions.

23 b) The prospectus for the unit interests in the Heartscan Imaging Trust falsely  
24 stated that \$75,000, or 2.5% of \$3,000,000 to be raised from investors would be used for “Marketing  
25 and Syndication” fees. In fact, sales commissions, which were part of the marketing and syndication  
26 fees, were paid in the amount of \$1,510,724.83 out of \$3,400,000 or 44.43% of each dollar received  
27 from investors. Investors were not informed that this amount of their invested funds would be used  
28 to pay these sales commissions.

1 c) Neither the prospectus for the unit interests in the Heart Scan Trust nor for the  
2 unit interests in the Heartscan Imaging Trust disclosed the consulting agreements between Heart  
3 Scan, LLC and/or Heartscan Imaging, LLC, and Valensky, Vanguard, Daval and Pacific, which  
4 guaranteed those companies a fee of 40% of the capital raised through their efforts in the sale of unit  
5 interests in the Heart Scan Trust and the Heartscan Imaging Trust.

6 d) The defendants falsely represented that B. Donald "Bud" Grant was an officer  
7 and director of Heart Scan, LLC. In fact, Grant was not an officer or director. Grant had never  
8 authorized or consented to the use of his name or information in this manner.

9 e) The defendants falsely and without authorization represented that Leslie  
10 Trammell was currently serving as an officer and director for Heart Scan, LLC, the entity issuing  
11 unit interests in the Heart Scan Trust. In both a private placement memorandum and a brochure,  
12 prospective investors were also provided a description of Trammell's background and expertise.  
13 This was done without Trammell's knowledge or consent. In fact, Trammell was not an officer or  
14 director. Prospective investors were never informed that Trammell was not serving in that capacity  
15 and had never authorized the use of her name in this manner.

16 f) Investors were not informed that, in June 1999, the Wisconsin Division of  
17 Securities had issued an administrative "Order of Prohibition" to Kavanaugh, finding that he had  
18 violated pertinent provisions of Wisconsin's securities laws. Investors were not informed that, in  
19 October 2000, Wisconsin had issued an "Order of Revocation of Exemptions" to Ellison, Ward and  
20 Pacific.

21 **FIRST CAUSE OF ACTION**

22 OFFER AND SALE OF UNQUALIFIED, NON-EXEMPT SECURITIES IN VIOLATION OF  
23 CORPORATIONS CODE SECTION 25110

24 (Against All Defendants)

25 26. Plaintiff incorporates by reference paragraphs 1 through 25 of this complaint as though  
26 fully set forth herein.

27 27. Section 25110 provides in relevant part as follows:  
28

1 It is unlawful for any person to offer or sell in this state any security in an issuer  
2 transaction . . . unless such sale has been qualified under Section 25111, 25112 or  
3 25113 . . . or unless such security or transaction is exempted or is not subject to  
4 qualification under Chapter 1 (commencing with Section 25100) of this part.

5 28. Commencing as early as January 2000, and continuing thereafter, defendants, and each  
6 of them, have offered and sold securities in the state of California.

7 29. The investments offered and sold by the defendants were "securities" within the  
8 meaning of section 25019 and case law thereunder.

9 30. The sales referred to herein were "issuer transactions" within the meaning of sections  
10 25010 and 25011.

11 31. The defendants "offered and sold" said securities "within the state" of California within  
12 the meaning of sections 25008 and 25017.

13 32. The Commissioner has not issued a permit or other form of qualification authorizing  
14 the Defendants to offer and sell the securities referred to herein in the state of California.

15 33. The offers and sales of securities referred to herein were not exempt from the  
16 requirement of qualification under section 25110.

17 34. The defendants, and each of them, offered and sold, or directly or indirectly controlled  
18 other co-defendants, by knowingly inducing or by knowingly providing substantial assistance to  
19 other co-defendants, to engage in the offer and sale of unqualified, non-exempt, securities in  
20 violation of section 25110.

21 35. Unless enjoined by this Court, the defendants will continue to violate section 25110.

22 **SECOND CAUSE OF ACTION**

23 MISREPRESENTATION OR OMISSION OF MATERIAL FACTS IN VIOLATION OF  
24 CORPORATIONS CODE SECTION 25401

25 (Against All Defendants)

26 36. Plaintiff realleges and incorporates by reference paragraphs 1 through 35 of this  
27 Complaint as though fully set forth herein.

28 37. Section 25401 states as follows:



1 It is unlawful for any person to offer or sell a security in this state or buy or offer to  
2 buy a security in this state by means of any written or oral communication which  
3 includes an untrue statement of a material fact or omits to state a material fact  
4 necessary in order to make the statements made, in the light of the circumstances  
5 under which they were made, not misleading.

6 38. In offering and selling the securities referred to herein, Defendants directed, made or  
7 directly or indirectly controlled other co-defendants, by knowingly inducing or by knowingly  
8 providing substantial assistance to other co-defendants, to make untrue statements and/or  
9 misrepresentations, or to omit to state, material facts to some or all of the investors. The  
10 misrepresentations or omissions included, without necessarily being limited to, the following:

11 a) The prospectus for the Heart Scan Trust falsely stated that an estimated \$200,000,  
12 or 6.67%, of an anticipated sale of \$3,000,000 in securities would go to “Syndication and  
13 Organization Costs connected with the preparation of the Private Placement Memorandum and  
14 selling costs.” In fact, sales commissions, which were part of the selling costs, were paid in the  
15 amount of \$1,568,368.49 out of \$3,320,000 total sales or 47.24% of each dollar received from  
16 investors. Investors were not informed that this amount of their invested funds would be used to pay  
17 these sales commissions.

18 b) The prospectus for the Heartscan Imaging Trust falsely stated that \$75,000, or  
19 2.5%, of \$3,000,000 to be raised from investors would be used for “Marketing and Syndication”  
20 fees. In fact, sales commissions, which were part of the marketing and syndication fees, were paid  
21 in the amount of \$1,510,724.83 out of \$3,400,000, or 44.43% of each dollar received from investors.  
22 Investors were not informed that this amount of their invested funds would be used to pay these sales  
23 commissions.

24 c) Neither the prospectus for the Heart Scan Trust nor for the Heartscan Imaging  
25 Trust disclosed the consulting agreements between Heart Scan, LLC and/or Heartscan Imaging,  
26 LLC, and defendants Valensky, Vanguard, Daval and Pacific, which guaranteed those companies a  
27 fee of 40% of the capital raised through their efforts in the sale of units of interest in the Heart Scan  
28 Trust and the Heartscan Imaging Trust.

1           d) The defendants falsely represented that B. Donald “Bud” Grant was an officer and  
2 director of Heart Scan, LLC. In fact, Grant was not an officer or director. Grant had never  
3 authorized or consented to the use of his name or information in this manner.

4           e) The defendants falsely and without authorization represented that Leslie  
5 Trammell was currently serving as an officer and director for Heart Scan, LLC, the entity issuing  
6 unit interests in the Heart Scan Trust. In both a private placement memorandum and a brochure,  
7 prospective investors were also provided a description of Trammell’s background and expertise.  
8 This was done without Trammell’s knowledge or consent. In fact, Trammell was not an officer or  
9 director. Prospective investors were never informed that Trammell was not serving in that capacity  
10 and had never authorized the use of her name.

11           f) Investors were not informed that, in June 1999, the Wisconsin Division of  
12 Securities had issued an administrative “Order of Prohibition” to Kavanaugh, finding that he had  
13 violated pertinent provisions of Wisconsin’s securities laws. Investors were not informed that in  
14 October 2000, Wisconsin had issued an "Order of Revocation of Exemptions" to Ellison, Ward and  
15 Pacific.

16           39. The misstatements and omissions referred to herein were "material facts" within the  
17 meaning of section 25401 since they concerned matters which a "reasonable investor" would  
18 consider in deciding whether to invest.

19           40. Some or all of the defendants' misrepresentations and omissions of material fact took  
20 place "within the state" of California within the meaning of section 25008.

21           41. The defendants, and each of them, made or directly or indirectly controlled other co-  
22 defendants by knowingly inducing, or by knowingly providing substantial assistance to other co-  
23 defendants to make untrue statements and/or omit to disclose statements, to some or all of the  
24 investors, of material facts in connection with the offer and sale of securities in violation of section  
25 25401.

26           42. Unless enjoined, the defendants will continue to violate section 25401.  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**THIRD CAUSE OF ACTION**

**UNLICENSED BROKER-DEALER ACTIVITY IN VIOLATION OF CORPORATIONS CODE**

**SECTION 25210**

(Against All Defendants)

43. Plaintiff incorporates by reference paragraphs 1 through 42 of this Complaint as though fully set forth herein.

44. Section 25210 provides in pertinent part:

(a) Unless exempted . . . no broker-dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state unless the broker-dealer has first applied for and secured from the commissioner a certificate, then in effect, authorizing that person to act in that capacity.

(b) No person shall, on behalf of a broker-dealer licensed pursuant to Section 25211, or on behalf of an issuer, effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state unless that broker-dealer and agent have complied with any rules as the commissioner may adopt for the qualification and employment of those agents.

45. Section 25004, in relevant part, defines broker-dealer as ". . . any person engaged in the business of effecting transactions in securities in this state for the account of others . . . ."

46. Beginning as early as January 2000, defendants Valensky, Vanguard, Daval, and Pacific, their officers, agents and employees, and each of them, engaged in the business of effecting transactions in securities in the State of California by offering or selling the securities of the Heart Scan Defendants.

47. The Heart Scan Defendants hired defendants Valensky, Vanguard, Daval, and Pacific to market and solicit members of the public to invest in units of the Trusts. Between January 2000, and December 2000, defendants Valensky, Vanguard, Daval, and Pacific raised at least \$6.5 million from investors.

1           48. The Heart Scan Defendants paid defendants Valensky, Vanguard, Daval, and Pacific  
2 compensation and other remuneration for effecting transactions in the securities in the form of units  
3 in the Trusts.

4           49. The employees working for defendants Valensky, Vanguard, Daval, and Pacific as  
5 sales agents received part of the compensation paid by the Heart Scan Defendants for their offers and  
6 sales of units in the Trusts.

7           50. Defendants Valensky, Vanguard, Daval, and Pacific, and their officers, agents and  
8 employees, have not applied for and secured from the Commissioner a broker-dealer certificate.

9           51. Defendants Valensky, Vanguard, Daval, and Pacific, and their officers, agents and  
10 employees, are not exempt from the provisions of section 25210 requiring broker-dealers to obtain a  
11 certificate from the Commissioner.

12           52. The defendants, and each of them, directly or indirectly controlled other co-defendants,  
13 by knowingly inducing or by knowingly providing substantial assistance to other co-defendants, to  
14 act as unlicensed broker dealers and/or unlicensed agents by engaging in the business of effecting  
15 transactions in, or inducing or attempting to induce the purchase or sale of securities, in the form of  
16 units in the Heart Scan Trusts, in violation of section 25210.

17           53. Unless enjoined by this Court, the defendants will continue to violate section 25210.

18                                       **PRAYER**

19           WHEREFORE, plaintiff prays for judgment as follows:

20           1. For an order of preliminary injunction and a judgment of permanent injunction,  
21 enjoining defendants Vanguard, Valensky, Pacific, Ellison, Ward, Roberts, Downey, Peterson,  
22 Maddox, Caterino, Martin, Costes, Williams, Wiggins, Richardson, Felli, and such Does as may be  
23 subsequently named, and their officers, directors, successors in interest, agents, employees, attorneys  
24 in fact, and all persons acting in concert or participating with them, or any of them, from directly or  
25 indirectly:

26                       a) Violating Corporations Code section 25110, by offering to sell, selling,  
27 arranging for the sale of, issuing, engaging in the business of selling, negotiating for the sale of, or  
28 otherwise in any way dealing or participating in the offer or sale of, any security of any kind,

1 including but not limited to the securities described in this Complaint, unless such security or  
2 transaction is qualified or exempted or not subject to qualification;

3           b)       Violating Corporations Code section 25401, by offering to sell or selling  
4 any security of any kind, including but not limited to, the securities described in this Complaint, by  
5 means of any written or oral communication which includes any untrue statement of material fact or  
6 omits or fails to state any material fact necessary in order to make the statements made, in the light  
7 of the circumstances under which they are made, not misleading, including but not limited to the  
8 misrepresentations and omissions alleged in this Complaint;

9           c)       Violating Corporations Code section 25210, by effecting any transaction  
10 in, or inducing or attempting to induce the purchase or sale of, any security in California, including  
11 but not limited to the securities described in this Complaint, without having first applied for and  
12 secured from the commissioner a certificate, then in effect, authorizing the defendants to conduct  
13 business as broker-dealers, unless exempt;

14           d)       Removing, destroying, mutilating, concealing, altering, transferring, or  
15 otherwise disposing of, in any manner, any books, records, computer programs, computer files,  
16 computer printouts, correspondence, brochures, manuals, or other writings or documents of any kind  
17 as defined in California Evidence Code section 250 relating to the transactions course of conduct as  
18 alleged in this Complaint;

19           e)       Transferring, changing, disbursing, selling, dissipating, converting,  
20 pledging, assigning, foreclosing or otherwise disposing of any real property or personal property in  
21 their possession or under their control, or in the possession of, or under the control of any of the  
22 defendants, which property or other assets were derived or emanated from directly, or indirectly, the  
23 sale and issuance of securities as alleged in this Complaint, without leave of the Court; and

24           f)       Withdrawing, transferring, changing, disbursing, dissipating, converting,  
25 pledging, or assigning any funds or other assets which were derived or emanated, directly or  
26 indirectly, from the offer sale of securities as alleged in this Complaint, from any accounts at any  
27 bank, savings and loan association, broker-dealer or any other financial institution in the name of  
28 any of the defendants, or controlled by any of the defendants, without leave of the Court.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. For a Final Judgment requiring defendants Vanguard, Valensky, Pacific, Ellison, Ward, Roberts, Downey, Peterson, Maddox, Caterino, Martin, Costes, Williams, Wiggins, Richardson, Felli, and such Does as may be subsequently named, individually, jointly and severally, to disgorge to all known investors all benefits received, including but not limited to, salaries, commissions, fees, profits and any other remuneration, derived directly or indirectly, from the actions or practices which constitute violations of the California Corporate Securities Law.

3. For a Final Judgment requiring defendants Vanguard, Valensky, Pacific, Ellison, Ward, Roberts, Downey, Peterson, Maddox, Caterino, Martin, Costes, Williams, Wiggins, Richardson, Felli, and such Does as may be subsequently named, individually, jointly and severally, to rescind each and all of the unlawful transactions alleged in this Complaint, as shall be determined by this Court to have occurred, and further requiring the defendants and such Does as may be subsequently named, individually, jointly and severally, to pay full restitution to each person determined to have been subject to the defendants' acts or practices which constitute violations of the Corporate Securities Law, in an amount of at least \$6.55 million or according to proof. In addition, to pay either the contracted rate of interest or the legal rate of interest in the amounts invested by the investors from the dates of their investments to the date of judgment herein.

4. For a Final Judgment requiring defendants Vanguard, Valensky, Pacific, Ellison, Ward, Roberts, Downey, Peterson, Maddox, Caterino, Martin, Costes, Williams, Wiggins, Richardson, and Felli, and such Does as may be subsequently named, and each of them, to pay to the Department of Corporations \$25,000 as a civil penalty for each act in violation of the Corporate Securities Law, as authorized by Corporations Code section 25535, according to proof;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

5. For a final judgment that plaintiff recovers his costs and expenses incurred for any examination or investigation by the Commissioner and reasonable attorneys' fees from all defendants; and

6. For such other and further relief as this Court may deem necessary and proper.

Dated: October 2, 2002

DEMETRIOS A. BOUTRIS  
California Corporations Commissioner

By: \_\_\_\_\_  
MARK E. HARMAN  
Senior Corporations Counsel  
Attorneys for Plaintiff