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10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 NEWPOINT FINANCIAL SERVICES,
18 INC.; JOHN FARAHİ; GISSOU
RASTEGAR FARAHİ; and ELAHEH
AMOUËI,

19 Defendants,

20 and

21 TRIPLE "J" PLUS, LLC,

22 Relief Defendant.

Case No.

CV10 0124

DDP (JEMx)

~~REDACTED~~ TEMPORARY
RESTRAINING ORDER AND
ORDERS: (1) FREEZING ASSETS,
(2) APPOINTING A TEMPORARY
RECEIVER, (3) PROHIBITING THE
DESTRUCTION OF DOCUMENTS,
AND (4) REQUIRING ACCOUNTINGS;
AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION AND
APPOINTMENT OF A PERMANENT
RECEIVER

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY

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1 This matter came to be heard upon the *Ex Parte* Application of Plaintiff
2 Securities and Exchange Commission (“Commission”) for a Temporary
3 Restraining Order And Orders: (1) Freezing Assets, (2) Appointing A Temporary
4 Receiver, (3) Prohibiting The Destruction Of Documents, And (4) Requiring
5 Accountings; And Order To Show Cause Re Preliminary Injunction And
6 Appointment Of A Permanent Receiver (the “Application”).

7 The Court, having considered the Commission’s Complaint, its Application,
8 the Memorandum of Points and Authorities, and the Declarations and other
9 documents filed in support of the Application, and all other evidence and argument
10 presented regarding the Application, finds that:

11 A. This Court has jurisdiction over the parties to, and the subject matter
12 of, this action.

13 B. Good cause exists to believe that defendants NewPoint Financial
14 Services, Inc. (“NewPoint”), John Farahi, Gissou Rastegar Farahi (together, the
15 “Farahis”), and Elaheh Amouei (collectively, the “defendants”), and each of them,
16 have engaged in, are engaging in, and are about to engage in transactions, acts,
17 practices and courses of business that variously constitute violations of Sections
18 5(a), 5(c) and 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C.
19 §§ 77e(a), 77e(c), and 77q(a), and Section 10(b) of the Securities Exchange Act of
20 1934 (“Exchange Act”), 15 U.S.C. §§ 78j(b), and Rule 10b-5 thereunder, 17 C.F.R.
21 § 240.10b-5.

22 C. The Commission has demonstrated a probability of success on the
23 merits in this action and the possibility of dissipation of assets.

24 D. Good cause exists to believe that defendants will continue to engage
25 in such violations to the immediate and irreparable loss and damage to investors
26 and to the general public unless they are restrained and enjoined.

27 E. It is appropriate and the interests of justice require that the
28 Commission’s Application be granted without notice to the defendants as the

1 Commission has set forth in its Application, pursuant to Local Rule 7-19.2, the
2 reasons supporting its claim that notice should not be required, and it appears from
3 specific facts shown by the Declarations filed by the Commission that immediate
4 and irreparable injury, loss, or damage will result if notice to the defendants is
5 given.

6 **I.**

7 IT IS HEREBY ORDERED that the Commission's Application for a
8 Temporary Restraining Order and Orders: (1) Freezing Assets, (2) Appointing A
9 Temporary Receiver, (3) Prohibiting The Destruction Of Documents, And (4)
10 Requiring Accountings; And Order To Show Cause Re Preliminary Injunction And
11 Appointment Of A Permanent Receiver is GRANTED.

12 **II.**

13 IT IS FURTHER ORDERED that the defendants, and their officers, agents,
14 servants, employees, attorneys, subsidiaries and affiliates, and those persons in
15 active concert or participation with any of them, who receive actual notice of this
16 Order, by personal service or otherwise, and each of them, be and hereby are
17 temporarily restrained and enjoined from, directly or indirectly, making use of any
18 means or instruments of transportation or communication in interstate commerce
19 or of the mails, to sell, to offer to sell, or to offer to buy any security, or carrying or
20 causing securities to be carried through the mails or in interstate commerce, by any
21 means or instruments of transportation, for the purpose of sale or delivery after
22 sale, in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C.
23 §§ 77(e)(a) and 77(e)(c).

24 **III.**

25 IT IS FURTHER ORDERED that the defendants, and their officers, agents,
26 servants, employees, attorneys, subsidiaries and affiliates, and those persons in
27 active concert or participation with any of them, who receive actual notice of this
28 Order, by personal service or otherwise, and each of them, be and hereby are

1 temporarily restrained and enjoined from, directly or indirectly, in the offer or sale
2 of any securities, by the use of any means or instruments of transportation or
3 communication in interstate commerce or by the use of the mails:

4 A. employing any device, scheme or artifice to defraud;

5 B. obtaining money or property by means of any untrue statement of a
6 material fact or any omission to state a material fact necessary in order
7 to make the statements made, in light of the circumstances under
8 which they were made, not misleading; or

9 C. engaging in any transaction, practice, or course of business which
10 operates or would operate as a fraud or deceit upon the purchaser;

11 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

12 IV.

13 IT IS FURTHER ORDERED that the defendants, and their officers, agents,
14 servants, employees, attorneys, subsidiaries and affiliates, and those persons in
15 active concert or participation with any of them, who receive actual notice of this
16 Order, by personal service or otherwise, and each of them, be and hereby are
17 temporarily restrained and enjoined from, directly or indirectly, in connection with
18 the purchase or sale of any security, by the use of any means or instrumentality of
19 interstate commerce, or of the mails, or of any facility of any national securities
20 exchange:

21 A. employing any device, scheme or artifice to defraud;

22 B. making any untrue statement of a material fact or omitting to state a
23 material fact necessary in order to make the statements made, in the
24 light of the circumstances under which they were made, not
25 misleading; or

26 C. engaging in any act, practice, or course of business which operates or
27 would operate as a fraud or deceit upon any person;

28 in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule

1 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

2 **V.**

3 IT IS FURTHER ORDERED that, except as otherwise ordered by this
4 Court, defendants NewPoint and the Farahis, and the relief defendant Triple “J”
5 Plus, LLC (“Triple ‘J’”), and their officers, agents, servants, employees, attorneys,
6 subsidiaries and affiliates, and those persons in active concert or participation with
7 any of them, who receive actual notice of this Order, by personal service or
8 otherwise, and each of them, be and hereby are temporarily restrained and enjoined
9 from, directly or indirectly transferring, assigning, selling, hypothecating,
10 changing, wasting, dissipating, converting, concealing, encumbering, or otherwise
11 disposing of, in any manner, any funds, assets, securities, claims, or other real or
12 personal property, wherever located, of defendants NewPoint and the Farahis, and
13 the relief defendant Triple “J”, or their subsidiaries or affiliates, owned by,
14 controlled by, managed by or in the possession or custody of any of them.

15 **VI.**

16 IT IS FURTHER ORDERED that, except as otherwise ordered by this
17 Court, an immediate freeze shall be placed on all monies and assets (with an
18 allowance for necessary and reasonable living expenses to be granted only upon
19 good cause shown by application to the Court with notice to and an opportunity for
20 the Commission to be heard) in all accounts at any bank, financial institution or
21 brokerage firm (including any futures commission merchant), all certificates of
22 deposit, and other funds or assets, held in the name of, for the benefit of, or over
23 which account authority is held by defendants NewPoint and the Farahis, and the
24 relief defendant Triple “J”, or any entity affiliated with any of them, including, but
25 not limited to, the accounts set forth below:

26 ///

27 ///

28 ///

INSTITUTION	ACCOUNT HOLDER	ACCOUNT NO. (LAST 4 DIGITS)
Bank of America	John Farahi Gissou Farahi	2989
Bank of America	John Farahi Gissou Farahi	7457
Bank of America	John Farahi Gissou Farahi	0804
Bank of America	John Farahi Gissou Farahi Triple "J" Plus, LLC	4276
Bank of America	Triple "J" Plus, LLC	1410
Bank of America	John Farahi Gissou Rastegar	0684
Bank of America	Gissou Rastegar	2410
Bank of America	Gissou Rastegar	3599
Bank of America	Gissou Farahi	2663
Bank of America	Gissou Farahi	0528
Bank of America	Gissou Farahi	0840
Bank of America	Gissou Farahi	0828
Bank of America	Gissou Farahi	0453
Bank of America	John Farahi Gissou Farahi	0259
Bank of America	John Farahi	1819
Bank of America	John Farahi	1701
Bank of America	John Farahi	1505
Bank of America	John Farahi	1394
Bank of America	John Farahi	1370
Bank of America	PJ Enterprise, LLC	1758
Bank of America Investment Services, Inc.	John Farahi	8370

	INSTITUTION	ACCOUNT HOLDER	ACCOUNT NO. (LAST 4 DIGITS)
1			
2	Bank Leumi USA	John Farahi Gissou R. Farahi New Point Financial Services, Inc.	2307
3			
4	Bank Leumi USA	John Farahi Gissou Rastegar Farahi	2326
5			
6	Bank of the West	Farahi Family Trust	5672
7	Bank of the West	Farahi Family Trust	6980
8	Citibank	Gissou Rastegar John Farahi	0754
9			
10	Citibank	Gissou Rastegar Farahi	2171
11	City National Bank	Gissou Farahi	9176
12	Interactive Brokers, LLC	Gissou Farahi	5097
13	Interactive Brokers, LLC	Gissou Farahi	2605
14			
15	Interactive Brokers, LLC	Farahi Family Trust	4469
16	Interactive Brokers, LLC	NewPoint Financial Services, Inc.	7871
17			
18	Israel Discount Bank of New York	Farahi Family Trust	3852
19	MF Global Ltd.	Farahi Family Trust	3962
20	Sun West Bank	NewPoint Financial Services, Inc.	1798
21	Sun West Bank	Farahi Family Trust	1841
22	Sun West Bank	Farahi Family Trust	3158
23	Sun West Bank	Farahi Family Trust John Farahi	0510
24			
25	Sun West Bank	Triple "J" Plus, LLC	1819
26	Sun West Bank	Triple "J" Plus, LLC	1820
27	Sun West Bank	Gissou Farahi	2875
28	Sun West Bank	John Farahi	2158

INSTITUTION	ACCOUNT HOLDER	ACCOUNT NO. (LAST 4 DIGITS)
Sun West Bank	NPS1031 Exchange Corporation of California	2271
Sun West Bank	NPS1031 Exchange Corporation of California	0508
Sun West Bank	NewPoint Mortgage Bankers, Inc.	5121
Sun West Bank	NewPoint Financial Services, Inc.	0509
Sun West Bank	Winner's Realty	1808
U.S. Bank	John Farahi Gissou Farahi	0024
U.S. Bank	John Farahi Gissou Farahi	0014
U.S. Bank	Farahi Family Trust	1362
Wells Fargo	John Farahi	3680
Wells Fargo	John Farahi	8453
Wells Fargo	John Farahi Gissou Rastegar	9631
Wells Fargo	Gissou Rastegar Farahi	2171
Wells Fargo	Gissou Rastegar John Farahi	0754

VII.

IT IS FURTHER ORDERED that James H. Donell, is appointed as temporary receiver of NewPoint, and the relief defendant Triple "J", and their subsidiaries and affiliates, with full powers of an equity receiver, including, but not limited to, full power over all funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise controlled), choses in action, books, records, papers and other property belonging to, being managed by or in the possession of or control of NewPoint, and the relief defendant Triple "J", and their subsidiaries and affiliates, and that such receiver is immediately authorized, empowered and directed:

- 1 A. to have access to and to collect and take custody, control, possession,
2 and charge of all funds, assets, collateral, premises (whether owned,
3 leased, occupied, or otherwise controlled), choses in action, books,
4 records, papers and other real or personal property, wherever located,
5 of or managed by NewPoint, and the relief defendant Triple "J", and
6 their subsidiaries and affiliates, with full power to sue, foreclose,
7 marshal, collect, receive, and take into possession all such property;
- 8 B. to have control of, and to be added as the sole authorized signatory
9 for, all accounts of the entities in receivership, and all accounts over
10 which any of their employees or agents have signatory authority, at
11 any bank, title company, escrow agent, financial institution or
12 brokerage firm which has possession, custody or control of any assets
13 or funds of NewPoint, and the relief defendant Triple "J", and their
14 subsidiaries and affiliates, or which maintains any accounts over
15 which NewPoint, and its subsidiaries and affiliates, and/or any of their
16 officers, employees or agents have signatory authority;
- 17 C. to conduct such investigation and discovery as may be necessary to
18 locate, account for and recover all of the assets of or managed by (and
19 to account for and pursue recovery of the losses of) NewPoint, and the
20 relief defendant Triple "J", and their subsidiaries and affiliates, and to
21 engage and employ attorneys, accountants and other persons to assist
22 in such investigation and discovery;
- 23 D. to take such action as is necessary and appropriate to preserve and
24 take control of and to prevent the dissipation, concealment, or
25 disposition of any assets of or managed by NewPoint, and the relief
26 defendant Triple "J", and their subsidiaries and affiliates;
- 27 E. to make an accounting, as soon as practicable, to this Court and the
28 Commission of the assets and financial condition of NewPoint, the

1 relief defendant Triple "J", and the assets under their management,
2 and to file the accounting with the Court and deliver copies thereof to
3 all parties;

4 F. to make such payments and disbursements from the funds and assets
5 taken into custody, control and possession or thereafter received by
6 him or her, and to incur, or authorize the making of, such agreements
7 as may be necessary and advisable in discharging his or her duties as
8 temporary receiver;

9 G. to employ attorneys, accountants and others to investigate and, where
10 appropriate, to institute, pursue, and prosecute all claims and causes of
11 action of whatever kind and nature which may now or hereafter exist
12 as a result of the activities of present or past employees or agents of
13 NewPoint, and the relief defendant Triple "J", and their subsidiaries
14 and affiliates;

15 H. to have access to, monitor, and redirect all mail (including email and
16 facsimile) of NewPoint, and the relief defendant Triple "J", and their
17 subsidiaries and affiliates, in order to review such mail which he or
18 she deems relates to their business and the discharging of his or her
19 duties as temporary receiver;

20 I. to operate and control the content of information posted on any
21 Internet web site maintained by NewPoint, and its subsidiaries and
22 affiliates; and

23 J. to exercise all of the lawful powers of NewPoint, and the relief
24 defendant Triple "J", and their subsidiaries and affiliates, and their
25 officers, directors, employees, representatives, or persons who
26 exercise similar powers and perform similar duties.

27 **VIII.**

28 IT IS FURTHER ORDERED that the defendants, and the relief defendant

1 Triple “J”, and their subsidiaries and affiliates, including all of the other entities in
2 receivership, and their officers, agents, servants, employees and attorneys, and any
3 other persons who are in custody, possession or control of any assets, collateral,
4 books, records, papers or other property of or managed by any of the entities in
5 receivership, shall forthwith give access to and control of such property to the
6 temporary receiver.

7 **IX.**

8 IT IS FURTHER ORDERED that no officer, agent, servant, employee, or
9 attorney of the defendants, or the relief defendant Triple “J”, shall take any action
10 or purport to take any action, in the name of or on behalf of NewPoint or Triple “J”
11 without the written consent of the temporary receiver or order of this Court.

12 **X.**

13 IT IS FURTHER ORDERED that, except by leave of this Court, during the
14 pendency of this receivership, all clients, investors, trust beneficiaries, note
15 holders, creditors, claimants, lessors, and all other persons or entities seeking relief
16 of any kind, in law or in equity, from the defendants, the relief defendant Triple
17 “J”, or their subsidiaries or affiliates, and all persons acting on behalf of any such
18 investor, trust beneficiary, note holder, creditor, claimant, lessor, consultant group,
19 or other person, including sheriffs, marshals, servants, agents, employees, and
20 attorneys, are hereby restrained and enjoined from, directly or indirectly, with
21 respect to these persons and entities:

- 22 A. commencing, prosecuting, continuing or enforcing any suit or
23 proceeding (other than the present action by the Commission) against
24 any of them;
- 25 B. using self-help or executing or issuing or causing the execution or
26 issuance of any court attachment, subpoena, replevin, execution or
27 other process for the purpose of impounding or taking possession of
28 or interfering with or creating or enforcing a lien upon any property or

1 property interests owned by or in the possession of NewPoint or
2 Triple "J"; and

3 C. doing any act or thing whatsoever to interfere with taking control,
4 possession or management by the temporary receiver appointed
5 hereunder of the property and assets owned, controlled or managed by
6 or in the possession of NewPoint or Triple "J", or in any way to
7 interfere with or harass the temporary receiver or his or her attorneys,
8 accountants, employees, or agents or to interfere in any manner with
9 the discharge of the temporary receiver's duties and responsibilities
10 hereunder.

11 **XI.**

12 IT IS FURTHER ORDERED that the defendants, and the relief defendant
13 Triple "J", and their subsidiaries, affiliates, officers, agents, servants, employees,
14 and attorneys, shall cooperate with and assist the temporary receiver and shall take
15 no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the
16 temporary receiver or his or her attorneys, accountants, employees, or agents, in
17 the conduct of the temporary receiver's duties or to interfere in any manner,
18 directly or indirectly, with the custody, possession, management, or control by the
19 temporary receiver of the funds, assets, collateral, premises, and choses in action
20 described above.

21 **XII.**

22 IT IS FURTHER ORDERED that the defendants, and their subsidiaries and
23 affiliates, shall pay the costs, fees and expenses of the temporary receiver incurred
24 in connection with the performance of his or her duties described in this Order,
25 including the costs and expenses of those persons who may be engaged or
26 employed by the temporary receiver to assist him or her in carrying out his or her
27 duties and obligations. All applications for costs, fees, and expenses for services
28 rendered in connection with the receivership other than routine and necessary

1 business expenses in conducting the receivership, such as salaries, rent, and any
2 and all other reasonable operating expenses, shall be made by application setting
3 forth in reasonable detail the nature of the services and shall be heard by the Court.

4 **XIII.**

5 IT IS FURTHER ORDERED that no bond shall be required in connection
6 with the appointment of the temporary receiver. Except for an act of gross
7 negligence, the temporary receiver shall not be liable for any loss or damage
8 incurred by any of the defendants, their officers, agents, servants, employees and
9 attorneys or any other person, by reason of any act performed or omitted to be
10 performed by the temporary receiver in connection with the discharge of his or her
11 duties and responsibilities.

12 **XIV.**

13 IT IS FURTHER ORDERED that representatives of the Commission and
14 any other government agency, are authorized to have continuing access to inspect
15 or copy any or all of the corporate books and records and other documents of the
16 defendants and the other entities in receivership, and continuing access to inspect
17 their funds, property, assets and collateral, wherever located.

18 **XV.**

19 IT IS FURTHER ORDERED that, except as otherwise ordered by this
20 Court, the defendants, and the relief defendant Triple "J", and their officers, agents,
21 servants, employees, attorneys, subsidiaries and affiliates, including the other
22 entities in receivership, and those persons in active concert or participation with
23 any of them, who receive actual notice of this Order, by personal service or
24 otherwise, and each of them, be and hereby are temporarily restrained and enjoined
25 from, directly or indirectly: destroying, mutilating, concealing, transferring,
26 altering, or otherwise disposing of, in any manner, any documents, which includes
27 all books, records, computer programs, computer files, computer printouts,
28 contracts, correspondence, memoranda, brochures, or any other documents of any

1 kind in their possession, custody or control, however created, produced, or stored
2 (manually, mechanically, electronically, or otherwise), pertaining in any manner to
3 the defendants, and their subsidiaries and affiliates.

4 **XVI.**

5 IT IS FURTHER ORDERED that defendants NewPoint and the Farahis, and
6 the relief defendant Triple "J", shall, within five days of the issuance of this Order,
7 each prepare and deliver to the Commission a detailed and complete schedule of all
8 their assets, including all real and personal property exceeding \$5,000 in value, and
9 all bank, securities, futures and other accounts identified by institution, branch
10 address and account number. The accounting shall include a description of the
11 source(s) of all such assets. Such accounting shall be filed with the Court and a
12 copy shall be delivered to the Commission's Los Angeles Regional Office. After
13 completion of the accountings, the defendants shall produce to the Commission's
14 Los Angeles Regional Office, at a time agreeable to the Commission, all books,
15 records and other documents supporting or underlying their accounting.

16 **XVII.**

17 IT IS FURTHER ORDERED that the defendants, and their officers, agents,
18 servants, employees, attorneys, subsidiaries and affiliates, including the other
19 entities in receivership, shall, within 24 hours of the issuance of this Order, cause
20 to be prepared and delivered to the temporary receiver, a detailed and complete
21 schedule of all desk top computers, laptop computers and/or personal digital
22 assistants ("PDA") owned and/or used by them in connection with their business.
23 In the case of the individual defendants, they shall, within 24 hours of the issuance
24 of this Order, prepare and deliver to the temporary receiver, a detailed and
25 complete schedule of all desk top computers, laptop computers and/or PDA's
26 owned, controlled or used by them for any purpose. The schedules required by this
27 section shall include at a minimum the make, model and description of each
28 computer and/or PDA, along with its location, the name of the person primarily

1 assigned to use the computer and/or PDA, all passwords necessary to access the
2 computer and/or PDA, and all passwords necessary to access and use the software
3 contained on the computer and/or PDA. The temporary receiver shall be
4 authorized to make an electronic, digital or hard copy of all of the data contained
5 on the computers and/or PDAs.

6 **XVIII.**

7 IT IS FURTHER ORDERED that the defendants, and their officers, agents,
8 servants, employees, attorneys, subsidiaries and affiliates shall, within 24 hours of
9 the issuance of this Order, cause to be prepared and delivered to the temporary
10 receiver a detailed and complete schedule of all passwords, usernames,
11 identification numbers and similar information for all web sites, email accounts,
12 and all accounts at any bank, financial institution or brokerage firm operated by or
13 to which the defendants have access.

14 **XIX.**

15 IT IS FURTHER ORDERED that this Temporary Restraining Order shall
16 expire at 10 o'clock 9 .m. on Jan 15, 2010, unless, for good
17 cause shown, it is extended or unless the parties against whom it is directed
18 consent that it may be extended for a longer period.

19 **XX.**

20 IT IS FURTHER ORDERED that at 10 o'clock 9 .m. on
21 Jan 15, 2010, or as soon thereafter as the parties can be heard, the
22 defendants, and each of them, shall appear before the Honorable
23 Dean D. Pregerson, Judge of the United States District Court for the
24 Central District of California, to show cause, if there be any, why a preliminary
25 injunction should not be granted and a permanent receiver not appointed in
26 accordance with the prayer for relief contained in this Complaint filed by the
27 Commission. Any declarations, affidavits, points and authorities, or other
28 submissions in support of, or in opposition to, the issuance of such an Order shall

1 be filed with the Court and delivered to the Commission's Los Angeles office and
2 the offices of the defendants and/or their attorneys no later than 5 o'clock
3 P.m. on Jan. 12, 2010. Any reply papers shall be filed with the Court
4 and delivered to opposing counsel no later than 5 o'clock P.m. on
5 Jan. 14, 2010. Service of all such papers shall be by electronic mail,
6 facsimile, or personal service.

7 **XXI.**

8 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over
9 this action for the purpose of implementing and carrying out the terms of all orders
10 and decrees which may be entered herein and to entertain any suitable application
11 or motion for additional relief within the jurisdiction of this Court.

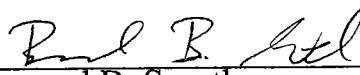
12
13 IT IS SO ORDERED.

14
15 DATED: January 8, 2010

16
17
18 

19 UNITED STATES DISTRICT JUDGE

20
21 Presented by:

22 
23 Bernard B. Smyth
24 John M. McCoy III
25 Attorneys for Plaintiff
26 Securities and Exchange Commission
27
28