17-734

No. _____

In the Supreme Court of the United States

ANTHONY M. KNIGHT,
Petitioner,

v.

SECURITIES AND EXCHANGE COMMISSION,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

ANTHONY KNIGHT
PO Box 5822
Chula Vista, CA 91912
(516) 849-7324

Petitioner Pro Se

QUESTIONS PRESENTED

1) Whether the SEC can chose, piecemeal, alleged actions in a continuous course of action so as to avoid prosecution being time-barred pursuant to 28 U.S. Code § 2462.

2) Whether a series of judicial errors merits a reversal.

A. Whether defendant can be held liable under Section 17(a)(1); Section 17(a)(2); Section 17(a)(3); Section 10(b) or Section 10b-5 when there is no proof or inadequate proof of materiality.

B. Whether the Court erred in not considering that Appellant's reliance on counsel negated the required element of scienter.

C. Whether an assertion that a defendant is the alter ego of a corporation enables that defendant to be held liable for actions of the corporation.

D. Whether an officer, of a corporation, can be held liable for statements made by same despite not having made the statements and not possessing the ability to control the corporation.

E. Whether the Court erred in admitting the unilaterally conducted, unnoticed, videotaped deposition of Ian Noakes.

F. Whether iShop was exempt from registration due to not having any public offerings.

G. Whether a defendant's past violation of the securities laws, without more, is sufficient to support permanent injunctive relief.

H. Whether, the jury was charged with the determination of damages.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

PETITION FOR WRIT OF CERTIORARI

Anthony M. Knight petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

The decision of the Second Circuit is not yet reported in the Federal Reporter, but is available at App. 1-9. The decision of the District Court is unreported. App. 10-16.

JURISDICTION

The judgment of the Second Circuit was entered on June 7, 2017. The Order Denying Rehearing was entered on August 10, 2017. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

17 C.F.R. § 240.10b-5(a), (c) provides: It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, (a) To employ any device, scheme, or artifice to defraud, (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

17 C.F.R. § 230.506 provides: Exemptions for offers and sales of securities by an issuer that satisfy certain conditions.

17 C.F.R. § 230.502(c) provides: All sales that are part of the same Regulation D offering must meet all of the terms and conditions of Regulation D. Offers and sales that are made more than six months before the start of a Regulation D offering or are made more than six months after completion of a Regulation D offering will not be considered part of that Regulation D offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under Regulation D, other than those offers or sales of securities under an employee benefit plan as defined in rule 405 under the Act (17 C.F.R. § 230.405).

28 U.S.C. § 2462 provides: Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.

Rule 506 provides: Rule 506 of Regulation D is considered a "safe harbor" for the private offering exemption of Section 4(a)(2) of the Securities Act. Companies relying on the Rule 506 exemption can raise an unlimited amount of money. There are actually two distinct exemptions that fall under Rule 506.

Section 10(b) provides: The SEC has the power to enact rules against "manipulative and deceptive practices" in securities trading.

Section 17(a)(1),(2),(3) provides: It shall be unlawful for any person in the offer or sale of any securities or any security-based swap agreement by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly— (1) to employ any device, scheme, or artifice to defraud, or (2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

INTRODUCTION

In 1999, the private placement offering was disseminated, investors signed a subscription agreement acknowledging risks associated with investment, and investments were received. Subsequently, the business failed. No investor ever pursued legal action to recoup investments. Following complaints by a disgruntled former employee, the SEC filed this action on September 20, 2004. The SEC brought this matter on for trial in 2014, ten years after filing its complaint and fifteen years after the factual events at issue. The SEC plead out every other defendant with minimal or no penalties. Due to financial difficulties, Appellant was forced to defend

himself. The jury trial lasted fourteen (14) days and resulted in the judgment against Appellant.

iShopNoMarkup.com ("iShop") was a Nevada corporation formed in August 1999 for the purpose of selling products directly from suppliers to consumers at no markup. iShop received letters of intent from suppliers to list their products on iShop's website. Securities law firm of Smith McCullough provided legal advice regarding compliance with securities laws and drafted and filed iShop's private placement offerings.

The SEC alleged that iShop did not have a working website; products or letters of intent. The SEC's internal investigator, Ms. Daniello, testified that iShop did have a website, that iShop had products and that transactions were taking place on the iShop website with items shipped to customers. iShop's contract with supplier Baker and Taylor called for licensing fees. Ms. Daniello testified that she saw checks from iShop to Baker and Taylor in the amounts of $25,000 and $6,600 for licensing fees. Baker and Taylor testified that iShop had licensed its products. Ingram Micro testified it was the largest supplier of computer products and iShop had licensed its products. Baker and Taylor also licensed products to Amazon.com and had 2.3 mil. products.

Ms. Daniello testified iShop had licensed products from these suppliers; had a website and products, it contracted for goods from suppliers, and those goods were purchased from the website and shipped to iShop's customers *(supra.)*

STATEMENT OF THE CASE

After a fourteen-day trial the jury in the District Court found against Appellant and in favor of the SEC. Petitioner filed a Notice of Appeal on September 15, 2015. On June 7, 2017, the Court of Appeals for the Second Circuit affirmed.

The Court of Appeals held that even if Section 2462 applied, the SEC's claims did not accrue until the alleged violations of the securities laws, the earliest of which was September 21, 1999. See *Gabelli v. SEC*, 133 S. Ct. 1216, 1220–24 (2013) (holding that statute of limitations for SEC enforcement actions begins when fraudulent action occurs). In doing so, the Court failed to consider that iShop's alleged actions were part of an alleged course of action that begin before the statutory period.

The Court rejected Knight's argument that the SEC failed to present sufficient evidence of materiality as to alleged misrepresentations and omissions in two confidential offering memoranda drafted by iShop because the memoranda contained warnings that iShop was a startup and therefore an inherently risky investment. The Court held that general disclosures "about why a security, as described, might perform poorly cannot overcome" proof that the "description of that security was materially inaccurate." *N.J. Carpenters Health Fund v. Royal Bank of Scotland Grp., PLC*, 709 F.3d 109, 126 (2d Cir. 2013).

Second, the Court concluded that, based on the evidence presented at trial, the jury could reasonably have found that Knight failed to make a "complete disclosure to counsel" and therefore properly reject

Knight's reasonable-reliance defense. *Markowski v. SEC*, 34 F.3d 99, 105 (2d Cir. 1994).

Thirdly, the Court found meritless, Knight's contention that, under the Supreme Court's decision in *Janus Capital Grp., Inc. v. First Derivative Traders*, 564 U.S. 135 (2011), he cannot be held liable for the alleged misstatements and omissions in the two memoranda because iShop, not Knight, was the "maker" of the statements in the memoranda. The Court stated that "assuming arguendo that Knight's reading of Janus is correct, and that iShop, not Knight, had ultimate authority over the statements in the offering memoranda, the SEC presented sufficient evidence at trial such that the jury could reasonably conclude that Knight was in fact the "maker" of other fraudulent statements. Moreover, Janus applies only to subsection (b) of Rule 10b-5, not subsections (a) or (c), which address scheme liability. See 17 C.F.R. § 240.10b-5(a), (c); see also *SEC v. Pentagon Capital Mgmt. PLC*, 725 F.3d 279, 287 (2d Cir. 2013) (observing that subsection (b) "was the only subsection at issue in Janus"). Because the jury returned a general verdict as to Rule 10b-5 liability, it could reasonably have concluded that Knight was liable under either of these subsections in addition to under subsection (b). See *Pentagon Capital,* 725 F.3d at 287 (affirming that traders' fraudulent activities independently satisfied the requirement of scheme liability under Rule 10b-5(a) and (c)). Knight's alter-ego argument fails for the same reason."

Further, the Court found that Knight argument that the District Court erred by allowing into evidence the video deposition of Ian Noakes was meritless as

Knight, pro se, failed to cite to the record to demonstrate that Knight's counsel was unaware of the deposition when it was taken. Furthermore, the Court stated that "even if we assume arguendo that the District Court erred, moreover, we conclude that, because the testimony in the video deposition was cumulative of live testimony presented at trial, Knight cannot demonstrate that the jury was "swayed in a material fashion by the error" and, thus, any error was harmless. *Warren v. Pataki*, 823 F.3d 125, 138 (2d Cir. 2016).

Moreover, with regards to, Knight's challenges to the jury's finding that he violated Section 5, arguing that the stock offerings were exempt from registration under Rule 506, 17 C.F.R. § 230.506, the Court held that "despite Knight's challenges to the trial and jury instructions with respect to unaccredited investors who allegedly participated in the stock offerings, the jury could have reasonably concluded that the stock offerings were public offerings and that Knight was therefore ineligible for a Rule 506 exemption on that ground alone. See 17 C.F.R. §§ 230.502(c) and 230.506(b)(1) (limiting the exemption to the registration requirement to where the offer or sale was not promoted "by any form of general solicitation or general advertisement").

The Court found no error in the District Court's choice of remedies.

REASONS FOR GRANTING THE WRIT

A United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court. Furthermore, the Court has decided an important federal question in a way that conflicts with relevant decisions of this Court. Whether the SEC can chose, piecemeal, alleged actions in a continuous course of action so as to avoid prosecution being time-barred pursuant to 28 U.S. Code § 2462.

Here, we have one long stream of continuous action that the SEC has alleged was in violation of various statutes concerning federal securities law. To avoid being time-barred, the SEC attempts to take various portions, of this continuous course of action, and use them to prosecute Petitioner. 28 U.S. Code § 2462 requires action within 5 years. Here, the SEC commenced action after the statute of limitations had expired. It is Petitioner's contention that this is a frequent tactic of the SEC and that same allows the SEC to escape following applicable statutes of limitations in an untold amount of cases. There can be no doubt that this presents an issue of fundamental national importance. This action has not only had dire consequences as applied to Petitioner but also as applied to countless others. This case is of such imperative public importance as to justify granting of Petitioner's Writ of Certiorari.

Petitioner recognizes that a petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law. However, given the sheer enormity of the erroneous

factual findings and misapplications of properly stated rules of law in conjunction with an important federal question, Petitioner respectfully requests that these matters be given due consideration.

Here, Petitioner was held liable under Section 17(a)(1); Section 17(a)(2); Section 17(a)(3); Section 10(b) or Section 10b-5 with little to no proof of materiality. The District Court, failed to consider whether Petitioner's reliance on counsel negated the required element of scienter. The SEC asserted but did not prove that Petitioner was the alter ego of iShop and the Court equated that assertion to Petitioner being liable for all actions of the corporation despite proof to the contrary.

Furthermore, Petitioner, an officer of the corporation, was held liable for statements made by same despite not having made the statements and not possessing the ability to control the corporation. This is clearly in conflict with existing law.

Moreover, the Court erred in admitting a unilaterally conducted, unnoticed, videotaped deposition over counsel's objection. This is also in clear conflict with existing law.

Continuing a series of errors, the Court failed to consider whether iShop was exempt from registration due to not having any public offerings.

Furthermore, the Court ordered permanent injunctive relief despite no past-alleged violations of securities law and failed to charge the jury with the determination of damages.

These errors were far from harmless or isolated. This is a continuous and obvious pattern, which had devastating effects on Petitioner. The District Court so far departed from the accepted and usual course of judicial proceedings as to render its conduct outlandish and the Court of Appeals sanctioned such a departure therefore, necessitating exercise of this Court's supervisory power.

Furthermore, rather than a "mere" claim of error, this case warrants review as this decision will have widespread, deleterious effects, particularly on the conduct of the SEC and particularly for Pro-Se litigants. For instance, here, the SEC presented unnoticed deposition testimony. Over objection, the District Court admitted same. Petitioner does not doubt and this Court cannot doubt that the SEC will continue such egregious practices when they are so successful, particularly against inexperienced pro-se litigants. This case is of crucial importance to not only Petitioner but to every Pro-Se litigant targeted by the SEC. It is worth noting that the SEC did not prove any allegations against the corporation and settled all allegations against all represented litigants. It was only Petitioner, a Pro Se litigant, which the SEC targeted for these actions. It was only Petitioner, a Pro Se litigant that the SEC pursued. Had Petitioner been in the position to afford counsel, one cannot doubt that the SEC would have settled these claims. Those who cannot afford counsel are clearly not only disadvantaged but also pursued when it comes to SEC actions.

Moreover, this case presents an ideal vehicle to resolve an important question of federal law as well as

correct a miscarriage of justice. The issues were properly preserved and extensively briefed before the Second Circuit. Furthermore, reversal would be outcome determinative as the errors were not harmless.

CONCLUSION

For the forgoing reasons, Petitioner submits that this Court should grant review in this case to reverse the holding of the Second Circuit.

Respectfully Submitted,

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Petitioner Pro Se

APPENDIX

APPENDIX

TABLE OF CONTENTS

APPENDIX A

15-2951-cv
U.S. Securities and Exchange Commission v. Knight

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

15-2951-cv

[Filed June 7, 2017]

U.S. SECURITIES AND EXCHANGE COMMISSION,	)
Plaintiff-Appellee,	)
v.	)
ANTHONY M. KNIGHT,	)
Defendant-Appellant.[+]	)

AMENDED SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to a summary order filed on or after January 1, 2007, is permitted and is governed by Federal Rule of Appellate Procedure 32.1 and this Court's Local Rule 32.1.1.

[+] The Clerk of Court is directed to amend the official caption as set forth above.

When citing a summary order in a document filed with this Court, a party must cite either the Federal Appendix or an electronic database (with the notation "summary order"). A party citing a summary order must serve a copy of it on any party not represented by counsel.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 7th day of June, two thousand seventeen.

PRESENT: JOSÉ A. CABRANES,
GERARD E. LYNCH,
Circuit Judges,

KIYO MATSUMOTO,
District Judge.[*]

FOR PLAINTIFF-APPELLANT:

Martin V. Totaro, Senior Counsel (Sanket J. Bulsara, Deputy General Counsel, John W. Avery, Deputy Solicitor, *on the brief*), Securities and Exchange Commission, Washington, DC.

FOR DEFENDANT-APPELLEE:

Anthony M. Knight, pro se, Chula Vista, CA.

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[*] Judge Kiyo Matsumoto, United States District Court for the Eastern District of New York, sitting by designation.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Denis R. Hurley, *Judge*).

UPON DUE CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the September 3, 2015 judgment is **AFFIRMED**.

Anthony M. Knight cofounded ishopnomarkup.com ("iShop") in 1999. Through a series of unregistered stock offerings in late 1999 through mid-2000, iShop raised approximately $2.3 million from investors. In 2004, the SEC filed a civil enforcement action against Knight, iShop, and others, charging violations of the antifraud provisions of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a); Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b); and Rule 10b-5, 17 C.F.R. § 240.10b-5; and the registration provisions of Sections 5(a) and (c) of the Securities Act, 15 U.S.C. § 77e(a) & (c). Only the claims against Knight proceeded to trial. Following a fourteen-day trial, the jury returned a verdict in favor of the SEC. After trial, Knight moved for a directed verdict or, alternatively, a new trial, which the District Court denied.

On appeal, Knight, proceeding *pro se*, challenges the jury's findings as well as the remedies imposed by the District Court. We address each of his arguments in turn and we assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

"A district court may set aside a jury's verdict pursuant to [Federal Rule of Civil Procedure] 50 only

where there is such a complete absence of evidence supporting the verdict that the jury's findings could only have been the result of sheer surmise and conjecture, or there is such an overwhelming amount of evidence in favor of the movant that reasonable and fair minded men could not arrive at a verdict against him." *Bucalo v. Shelter Island Union Free Sch. Dist.*, 691 F.3d 119, 127–28 (2d Cir. 2012) (internal quotation marks omitted). We review *de novo* the denial of a Rule 50 motion, applying the "same stern standards." *Id.* at 128 (internal quotation marks omitted).[1]

We review a district court's evidentiary rulings for abuse of discretion, but "an erroneous evidentiary ruling warrants a new trial *only* when a substantial right of a party is affected, as when a jury's judgment would be swayed in a material fashion by the error." *Warren v. Pataki*, 823 F.3d 125, 137–38 (2d Cir. 2016) (internal quotation marks omitted and emphasis added).

Knight argues that the SEC's claims were time barred under 28 U.S.C. § 2462, which provides a five-year period in which to bring certain causes of action.

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[1] "We review for abuse of discretion a district court's denial of a motion for a new trial pursuant to Rule 59." *Bucalo*, 691 F.3d at 128. However, Knight's failure to provide the entire trial transcript precludes meaningful review of whether, based on all the evidence submitted at trial, the verdict was "(1) seriously erroneous or (2) a miscarriage of justice." *See ING Global v. United Parcel Serv. Oasis Supply Corp.*, 757 F.3d 92, 99 (2d Cir. 2014). Because Knight's failure to provide transcripts "deprives this Court of the ability to conduct meaningful appellate review," we therefore dismiss his challenge to the denial of his Rule 59 Motion. *Wrighten v. Glowski*, 232 F.3d 119, 120 (2d Cir. 2000).

His argument is meritless. Assuming *arguendo* that Section 2462 applies, the SEC's claims did not accrue until the alleged violations of the securities laws, the earliest of which was September 21, 1999. *See Gabelli v. SEC*, 133 S. Ct. 1216, 1220–24 (2013) (holding that statute of limitations for SEC enforcement actions begins when fraudulent action occurs). Because the SEC's complaint was filed on September 20, 2004, the SEC's claims were not barred by the statute of limitations.

Knight also raises various challenges to the jury's finding that he violated Sections 17(a) and 10(b) and Rule 10b-5. "Section 10(b) of the Exchange Act and Rule 10b-5, which prohibit fraud in the purchase or sale of a security, are violated if a person has (1) made a material misrepresentation or a material omission as to which he had a duty to speak, or used a fraudulent device; (2) with scienter; (3) in connection with the purchase or sale of securities." *SEC v. Frohling*, 851 F.3d 132, 136 (2d Cir. 2016) (internal quotation marks omitted). "Scienter may be established through a showing of reckless disregard for the truth, that is, conduct which is highly unreasonable and which represents an extreme departure from the standards of ordinary care." *Id.* (internal quotation marks and alteration omitted). "The elements of a claim under § 17(a) of the Securities Act, which prohibits fraud in the 'offer or sale' of a security, 15 U.S.C. § 77q(a), are essentially the same as the elements of claims under § 10(b) and Rule 10b-5." *Id.* (internal quotation marks and alteration omitted).

First, Knight argues that the SEC failed to present sufficient evidence of materiality as to alleged

misrepresentations and omissions in two confidential offering memoranda drafted by Knight because the memoranda contained warnings that iShop was a startup and therefore an inherently risky investment. However, general disclosures "about why a security, as described, might perform poorly cannot overcome" proof that the "description of that security was materially inaccurate." *N.J. Carpenters Health Fund v. Royal Bank of Scotland Grp., PLC*, 709 F.3d 109, 126 (2d Cir. 2013).

Second, Knight asserts that there was insufficient evidence of scienter because he reasonably relied on the advice of counsel when drafting the memoranda. Upon review, we conclude that, based on the evidence presented at trial, the jury could reasonably have found that Knight failed to make a "complete disclosure to counsel" and therefore properly reject Knight's reasonable-reliance defense. *Markowski v. SEC*, 34 F.3d 99, 105 (2d Cir. 1994).

Third, Knight contends that, under the Supreme Court's decision in *Janus Capital Grp., Inc. v. First Derivative Traders*, 564 U.S. 135 (2011), he cannot be held liable for the alleged misstatements and omissions in the two memoranda because iShop, not Knight, was the "maker" of the statements in the memoranda. Assuming *arguendo* that Knight's reading of *Janus* is correct, and that iShop, not Knight, had ultimate authority over the statements in the offering memoranda, the SEC presented sufficient evidence at trial such that the jury could reasonably conclude that Knight was in fact the "maker" of other fraudulent

statements.[2] Moreover, *Janus* applies only to subsection (b) of Rule 10b-5, not subsections (a) or (c), which address scheme liability. *See* 17 C.F.R. § 240.10b-5(a), (c); *see also SEC v. Pentagon Capital Mgmt. PLC*, 725 F.3d 279, 287 (2d Cir. 2013) (observing that subsection (b) "was the only subsection at issue in *Janus*"). Because the jury returned a general verdict as to Rule 10b-5 liability, it could reasonably have concluded that Knight was liable under either of these subsections in addition to under subsection (b). *See Pentagon Capital*, 725 F.3d at 287 (affirming that traders' fraudulent activities independently satisfied the requirement of scheme liability under Rule 10b-5(a) and (c)). Knight's alter-ego argument fails for the same reason.

Fourth, Knight argues that the District Court erred by allowing into evidence the video deposition of Ian Noakes. Knight argues that his attorneys received no notice of the deposition. As the District Court noted, however, SEC counsel taking the deposition stated on the record that Knight's attorneys had advised her that they would not appear. On appeal, Knight cites nothing in the record to refute that statement, which, as the District Court found, implied that counsel was aware of the deposition. Even if we assume *arguendo* that the District Court erred, moreover, we conclude that, because the testimony in the video deposition was cumulative of live testimony presented at trial, Knight

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[2] Accordingly, we need not address whether *Janus* is applicable to Section 17(a)(2), which does not explicitly predicate liability on having "made" a statement. *See* 15 U.S.C. § 77q(a)(2) ("to obtain money or property *by means* of any untrue statement of a material fact or any omission to state a material fact" (emphasis added)).

cannot demonstrate that the jury was "swayed in a material fashion by the error" and, thus, any error was harmless. *Warren*, 823 F.3d at 138.

Knight also challenges the jury's finding that he violated Section 5, arguing that the stock offerings were exempt from registration under Rule 506, 17 C.F.R. § 230.506. "To state a cause of action under Section 5, one must show (1) lack of a [required] registration statement as to the subject securities; (2) the offer or sale of the securities; and (3) the use of interstate transportation or communication and the mails in connection with the offer or sale." *Frohling*, 851 F.3d at 136 (internal quotation marks omitted). "A person not directly engaged in transferring title of the security can be held liable under § 5 if he or she engaged in steps necessary to the distribution of unregistered security issues." *Id.* (internal quotation marks and alteration omitted). A defendant bears the burden of establishing that he was exempt from registration. *SEC v. Cavanagh*, 445 F.3d 105, 111 n.13 (2d Cir. 2006).

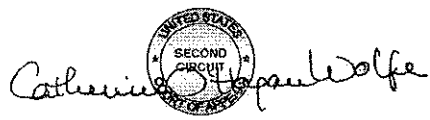
Upon review of the record, we conclude that, despite Knight's challenges to the trial and jury instructions with respect to unaccredited investors who allegedly participated in the stock offerings, the jury could have reasonably concluded that the stock offerings were public offerings and that Knight was therefore ineligible for a Rule 506 exemption on that ground alone. *See* 17 C.F.R. §§ 230.502(c) and 230.506(b)(1) (limiting the exemption to the registration requirement to where the offer or sale was not promoted "by any form of general solicitation or general advertisement").

Finally, we review a district court's choice of remedies for abuse of discretion. *SEC v. Razmilovic*, 738 F.3d 14, 38 (2d Cir. 2013) (civil penalties); *SEC v. Bankosky*, 716 F.3d 45, 47 (2d Cir. 2013) (officer and director bar); *SEC v. First Jersey Sec. Inc.*, 101 F.3d 1450, 1474–76 (2d Cir. 1996) (disgorgement and prejudgment interest). After careful review of the record, we find no error in the District Court's choice of remedies.

CONCLUSION

We have considered all of the arguments raised by Knight and find them to be without merit. For the foregoing reasons, the September 3, 2015 judgment is **AFFIRMED**.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

04-CV-4057(DRH/ARL)

[Filed September 3, 2015]

SECURITIES AND EXCHANGE COMMISSION,	)
Plaintiff,	)
v.	)
ISHOPNOMARKUP.COM, INC, SCOTT W. BROCKOP, ANTHONY M. KNIGHT, and MOUSSA YEROUSHALMI a/k/a MIKE YEROUSH,	)
Defendants.	)

JUDGMENT AS TO DEFENDANT
ANTHONY M. KNIGHT a/k/a ALI HAGHIGHI

The Securities and Exchange Commission having filed a Complaint and Defendant Anthony M. Knight a/k/a Ali Haghighi ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; and a jury trial having been conducted

between September 15, 2014 through October 9, 2014; and the jury having reached a verdict on October 14, 2014, finding that Defendant violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.110-5], and Sections 5 and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77e and 15 U.S.C. § 77q(a)]:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

(a) to employ any device, scheme, or artifice to defraud;

(b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

(a) to employ any device, scheme, or artifice to defraud;

(b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently

restrained and enjoined from violating Section 5 of the Securities Act by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S. C.§ 77h].

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the

Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited following the date of entry of this Final Judgment, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of $2,300,000.00, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $2,519,140.23, and a civil penalty in the amount of $ 330,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by paying $ 5,149,140.23 to the Securities and Exchange Commission within 14 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Anthony Knight as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT Defendant is liable for certain costs regarding deposition transcripts in the amount of $24,202.58. Payment of these costs is to be made in the same manner as delineated in Section V herein.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

Dated: 9-3-15

/s/Denis R. Hurley
UNITED STATES DISTRICT JUDGE

APPENDIX C

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Docket No: 15-2951

[Filed August 10, 2017]

U.S. Securities and Exchange Commission,	)
Plaintiff - Appellee,	)
v.	)
Anthony M. Knight,	)
Defendant - Appellant.	)

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10th day of August, two thousand seventeen,

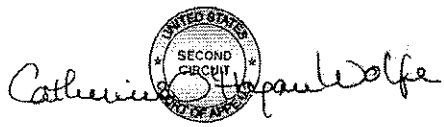
ORDER

Appellant Anthony M. Knight, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the

active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



APPENDIX D

ANTHONY KNIGHT
PO Box 5822
Chula Vista, CA 91910

May 8, 2017

Catherine O'Hagan Wolfe,
Clerk of Court
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: U.S. SEC v. Ishopnomarkup.com, Inc. et al., No. 15-2951

APPELLANT'S RULE 28(j) STATEMENT & RESPONSE TO APPELLEE'S RULE 28(j) STATEMENT

Pursuant to Federal Rule of Appellate Procedure 28(j), I write to inform the Court that, on May 5th, 2017, The Ninth Circuit affirmed the dismissal of plaintiff's suit in *City of Dearborn Heights Act 345 Police & Fire Retirement System v. Align Technology,* No. 14-16814 (9th Cir. 2017), alleging securities fraud under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and SEC Rule 10b-5, 15 U.S.C. 78j(b) and 78t(a), 17 C.F.R. 240.10b-5.

APPELLANT'S RULE 28(j) STATEMENT

In City of Dearborn, Plaintiff alleged that defendants violated the above statutes in connection with statements regarding Align's goodwill valuation of its subsidiary, Cadent. The Ninth Circuit held that the three standards for pleading falsity of opinion statements articulated in *Omnicare, Inc. v. Laborers District Council Construction Industry Pension Fund,* 575 US _ (2015), apply to Section 10(b) and Rule 10b-5 claims; plaintiff has failed to sufficiently plead falsity under any of the three *Omnicare* standards; plaintiff has also failed to sufficiently plead scienter; and, because plaintiff has inadequately alleged a primary violation of federal securities law, plaintiff cannot establish control person liability.

As explained in Appellant's Brief, Respondents have not met the standards required in *Omnicare,* as further expounded in the *City of Dearborn* decision,(supra.)

APPELLANT'S RESPONSE TO APPELLEE'S RULE 28(j) STATEMENT

In their rule 28(j) statement (Docket 119), Appellee's state:

> "U.S. Supreme Court granted certiorari in Kokesh v. SEC (sic.) (No. 16-529). Kokesh involves whether the five-year statute of limitations in 28 U.S.C. §2462 applies to claims for disgorgement. As we explained in our brief, however, "[b]ecause the Commission does not seek any ill-gotten gains obtained outside the limitations period . . . Knight cannot prevail even if Section 2462 applies to disgorgement." SEC Br. 24 n.9 (Doc. 117). We nonetheless update the Court because we noted in

the brief that a certiorari petition had been filed in Kokesh. See id. at 23."

In their Brief the Appellee's state:

"Even if Knight had not waived the defense, it should still be rejected. None of the remedies the Commission obtained resulted from (1) any securities law violations that occurred outside Section 2462's limitations period or (2) any illgotten gains earned outside that timeframe. The Commission filed its complaint on September 20, 2004. *See* SA1-SA22. The two offering memoranda he used... were dated September 21, 1999 and February 3, 2000—both indisputably within the limitations period. *See* SA68-SA89, SA91-SA110. The first round of fundraising began September 21, 1999, the second round began January 7, 2000, and the third round began February 4, 2000—all within the limitations period. *See* SA7-SA8 (Compl. ¶¶25-28, 32-33), SA26 (Answer ¶¶25-28, 32-33). Consequently, no part of any Commission claim—for civil penalties, disgorgement, or injunctive relief—depends in any way on any event that occurred outside the five-year limitations period.Knight states (Br. 17-18) that three individuals invested before September 21, 1999, but the appendix pages he cites as support do not offer any. To the contrary, as the Commission alleged in the complaint, SA6-SA8 (Compl. ¶¶21-34), and as shown throughout trial, *e.g.*, SA535, SA571-SA572, SA581, the September 21, 1999 offering memorandum was "the first offering document given to investors," SA620 (Knight testimony). Relying on that offering memorandum, investors

began pouring money into iShop in December 1999. SA512-SA513. Because the relevant "fraudulent conduct occur[red]" within the five-year limitations period, *Gabelli v. SEC,* 133 S. Ct. 1216, 1220 (2013), none of the Commission's claims is time-barred." (Appellee's Brief *20-21).

According to Plaintiff's witness, Matteo Patisso, Mr. Neissani agreed to invest $50,000 in iShop July 1999.[1] Subsequently, when Neissani made the investment in August 1999, Patisso became the first salaried employee in August 1999.[2] Patisso's salary in August 1999 came from Neissani's investment.[3] There was construction going on, there was furniture coming in [from Neissani's investment].[4] Neissani's investment is documented in the company's investor ledger on August 20th, 1999[5].

Mike Gumport's investment is documented as having been invested on 27 August 1999.[6] While the Appellee's state in their brief that Appellant has not

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[1] (Exhibit A - Patisso Investigative Testimony P.26).

[2] (Exhibit A - Patisso Investigative Testimony P.28).

[3] (Exhibit A - Patisso investigative testimony p.28).

[4] (Exhibit A - Patisso investigative testimony p.30).

[5] (Exhibit B - iShop's investor ledger also reflected in Plaintiff's Exhibit Plaintiff's Trial Exhibit 127; Exhibit C - iShop's audited financial statements (DX-AAD*34)).

[6] (Exhibit B - iShop's investor ledger also reflected in Plaintiff's Exhibit Plaintiff's Trial Exhibit 127; Exhibit C - iShop's audited financial statements (DX-AAD*34)).

pointed to any investments that took place before Sept. 21, 1999, as supported by the evidence, Neissani and Gumport's investments both predate Appellee's purported cause of action's first accrual date of Sept. 21st, 1999 under Section 2462.

iShop attorney Theresa Mehringer's invoices further indicate that she prepared the investment letter and promissory note for Mike Gumport on August 27, 1999, issued Gumport's shares and options and further revised Gumport's investment letter and promissory note, showing a total of 4.20 billable hours were spent on Gumport's investment documents and share transfers.[7] Ms. Mehringer's bill further indicates she took $5,000 from the trust account towards her bills[8]. This money was taken from Neissani & Gumport's initial investments since it predated Sept. 21st, 1999.

Under Section 2462, the SEC had 5 years from the date that the cause of action first accrued to bring action which it failed to do.

APPELLEE'S OTHER REQUESTS FOR REFLIEF ARE UNWARRANTED AND CONTRADICTED BY STATUTORY & CASE LAW

DISGORGEMENT

Appellees state that Appellant should disgorge the sum of $5.2 mil. as discussed in their Brief. The

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[7] (Exhibit D - Theresa Mehringer's Bill dated 08-31-1999, DX-AAC* 10 under entry 08/27/1999)

[8] (Exhibit D - Theresa Mehringer's Bill dated 08-31-1999, DX-AAC* 10 under entry 08/31/1999)

definition of disgorgement in the dictionary is as follows:

Disgorgement - A remedy requiring a party who profits from illegal or wrongful acts to give up any profits he or she made as a result of his or her illegal or wrongful conduct. The purpose of this remedy is to prevent unjust enrichment.[9]

Per this definition, Appellee's claim of disgorgment is unwarranted alltogether as Appellant did not receive profits of $5.2 mil. to disgorge. Appellee's have not pointed to any facts stating how Appellant has been enriched $5.2 mil.

Unjust Enrichment is defined as:

> "The retention of a benefit conferred by another, that is not intended as a gift and is not legally justifiable, without offering compensation, in circumstances where compensation is reasonably expected. The elements of a cause of action for unjust enrichment are: the enrichment of the party accused of unjust enrichment; that such enrichment was at the expense of the party seeking restitution; and the circumstances were such that in equity and good conscience restitution should be made. An additional requirement is that the party accused of unjust enrichment must know of the benefit conferred; to ensure that the benefit was not foisted on the recipient and is something for which compensation is reasonably expected. Recovery on a theory of unjust enrichment typically occurs

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[9] Legal Infomration Institute - Cornell University Law School at https://www.law.cornell.edu/wex/disgorgement

> where there was no contract between the parties, or a contract turns out to be invalid."[10]

Appellee's have not met the elements of unjust enrichment in showing Appellant was enriched, at the expense of the party seeking restitution and have not shown the circumstances are such that equity required restitution. Appellees have pointed to no benefits that were conferred that the Appellant knows about, enriching appellant, in the sums requested by Appellees, and this is something they have attempted to foist on the Appellant. Furthermore, there were contracts between investors and iShop which make disgorgement due to alleged unjust enrichment inapplicable.

OFFICER & DIRECTOR BAR

Appellee's have also not met any of the elements required for obtaining an officer & director bar against Appellant. On the conterary, Appellant has demonstrated how such a bar contradicts all statutory & case law.[11]

For the foregoing reasons all of Appellee's requests for relief should be denied.

Respectfully Submitted on May 8th, 2017,
San Diego, California,

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[10] Legal Information Institute,Cornell University Law School found at https://www.law.cornell.edu/wex/unjust_ enrichment.

[11] Defendant's Post Trial Motions (Docket 265 & 268)

X /s/Anthony Knight

Anthony Knight - Appellant - Pro Se
PO Box 5822
Chula Vista, CA 91912
(516)849-7324

CC: Martin V. Totaro, Esq.
Appellee's Counsel

EXHIBIT A

[p.26]

agreed to invest the first $50,000 of his own money into Tony Knight's brainchild.

Q. And at this time Mr. Knight told you what the brainchild was?

A. He told me what I wanted to do was connect manufacturers--I wanted to connect manufacturers with the Internet and wipe out all the middlemen and make it possible for the consumer to place an order on the Internet with no markup from any and all manufacturers, and he wanted to include every product under the sun.

Q. Okay. And--

A. This was on the phone.

Q. And you said, at some point, obviously, you became interested in joining this company?

A. At some point I became interested, yeah.

Q. Well, what happened after July, July of '99, when he told you about this idea.

A. I shot the idea down.

Q. You did?

A. Yeah, I didn't believe in the idea. I told him it was already done.

Q. Amazon.com?

A. Yes. I told him Amazon was doing it, I told him--Amazon was the first company that came to

* * *

[p.28]

Q. And what happened there?

A. I listened.

Q. What did they say to you?

A. They said we want to create a company where we connect manufacturers with the consumer and we act as the Internet interface where people can place orders through us.

Q. Okay. And how did you respond?

A. I asked Yousef Neissani if he had a business plan.

Q. Did he?

A. No.

Q. So then what happened?

A. Yousef Neissani told Tony Knight to write a business plan.

Q. And did he?

A. Tony Knight promised he'd have a business plan completed in three days. He stated that the business plan was, this is not verbatim, but something along the line of 7/8ths or 99 percent complete and he just had to tie up a few loose ends.

Q. Okay. So did he?

A. Well, at that point, I believed him, that that would happen, and I agreed to accept the first salaried employee position for the company.

* * *

[p.30]

A. Port Washington.

Q. And is that where you set up shop?

A. Correct.

Q. So what did ishop do at this point to start building its company?

A. It was one big blur after that, actually, but--what did we start doing. Well, the first thing, what did they do? I don't know what they were doing, I know what I was doing.

Q. What were you doing?

A. I started off basically in construction. I was putting the place together.

Q. Okay, and what else? What about this business plan? Was it ever finished by Mr. Knight?

A. No, with the first couple of weeks, the place was coming together. There was construction going on. There was furniture coming in. We were putting furniture together. Tony Knight said that he had to work from home to complete the business plan. So an entire month went by, and I was basically managing construction crews while Yousef Neissani and myself

were waiting for a business plan to be completed. The business plan was never completed. It's still not done.

Q. So what was the purpose of the business

* * *

EXHIBIT B

[*Fold-Out Exhibit, see next page*]

1 certificate

I shop

[redacted]

	Date Issued	First Name	Last Name	Street Address	City	State	Zip	Phone H	Phone Other	# shares	Share Amt			Date Inv	Date Acc
	20-Aug-99	Yousef	Neissani							50,500,000					
	Cancelled on 10/8/1999 Reissued to certificate 4 to 8									(50,500,000)					
	08-Oct-99	Anthony	Knight							50,500,000					
	Cancelled on 10/8/1999 Reissued to certificate 9 to 11									(50,500,000)					
	27-Aug-99	Mike	Gumport							500,000	$ 0.001	$	2,500		
	08-Oct-99	Yousef	Neissani							45,342,107					
	Cancelled on 2/7/2000 Reissued to certificate 172 to 175									(45,342,107)					
	08-Oct-99	Azita	Neissani							4,842,107	from yousef				
	08-Oct-99	Abraham	Neissani							105,262	from yousef				
7	08-Oct-99	Nicole	Neissani							105,262	from yousef				
8	08-Oct-99	Stepanie	Neissani							105,262	from yousef				
9	08-Oct-99	Anthony	Night							50,500,000	$ 0.001	Compensation			
		Issue cert # 10								(500,000)					
		Issue cert # 11								(500,000)					
10	08-Oct-99	Lisa	Casagrande							500,000	From Anthony				
11	08-Oct-99	Peter	Modaemzaden							500,000	From Anthony				
12	11-Oct-99	Silvio	Di Lucia	53 Kirkwood Road	Port Washington	NY	11050	516-883-0860		26,315	$ 0.19	$	5,000	9/27/99	9/30/99
13	11-Oct-99	David	Sabanos	18 Peconic Lane	Selden	NY	11784			94,736	$ 0.19	$	18,000	9/30/99	9/30/00
14	11-Oct-99	Michael	Ellis	6805 Cardinal Cove Drive	Mound	MN	55364	612-475-5500		52,631	$ 0.19	$	10,000	9/30/99	9/30/99
15	11-Oct-99	Zoheir	Aghravi	440 E 59th St	NY	NY		212-644-9687		26,315	$ 0.19	$	5,000	10/12/99	10/12/99
16	11-Oct-99	Joseph & Lida	Esrail	8 Ridge Dr. East	Great Neck	NY	11021	212-564-8800		100,000	$ 0.19	$	19,000	10/12/99	1/12/99
17	11-Oct-99	Enrico & Linda	Casagrande	46-16 Marthon Pkwy	Little Neck	NY	11363			131,756	$ 0.19	$	25,000	10/1/99	
18	11-Oct-99	Kerry & Linda	Dean	29707 24th Ave So.	Federal Way	WA	98003	206-626-2053		26,315	$ 0.19	$	5,000	10/25/99	10/25/99
19	10-Dec-99	Homayoon	Moosazadeh	3 Parkside Dr.	Dix Hills	NY	11746			40,000	$ 0.19	$	7,600	10/15/99	11/9/09
20	10-Dec-99	Paul	Jacobson	4044 W. Lake Mary Blvd	Lake Mary	FL	32746	800-335-8806		15,166	$ 0.19	$	2,882	10/25/99	10/20/99
21	10-Dec-99	Maxime	Ebezam	1025 E 14th St.	Brooklyn	NY	11230	718-252-1175		26,315	$ 0.19	$	5,000	10/22/99	10/22/99
22	10-Dec-99	Chattanoga MFG Inc.		1407 Broadway Suite 307	NY	NY	10018	212-921-7900		53,000	$ 0.19	$	10,070	10/21/99	10/21/99
23	10-Dec-99	Maurice	Harouman	44 E. 32nd St.	NY	NY	10016	212-686-4262		100,000	$ 0.19	$	19,000	10/21/99	10/21/99
24	10-Dec-99	Anthony	Lahni	1925 Harting Ave	Bronx	NY	10461			50,000	$ 0.19	$	9,500	10/26/99	10/26/99
25	10-Dec-99	Silvana	Anello	1958 Hurting Ave	Bronx	NY	10469	206-626-2053		80,000	$ 0.19	$	15,200	10/26/99	10/25/99
6	10-Dec-99	Michael	Ahoot	212 Kings Point Road	Kings Point	NY	11024	516-829-4955	212-563-5555	26,500	$ 0.19	$	5,035	11/2/99	12/29/99
7	10-Dec-99	Kambiz	Yaghoobian	266 W. 37th St 19th Floor	NY	NY	10018	212-971-0065		26,500	$ 0.19	$	5,035	11/5/99	11/8/99
1	10-Dec-99	Fikri	Akdemir	205 Harwood Place	Paramus	NJ	07652	201-599-0838		26,315	$ 0.19	$	5,000	11/4/99	11/4/99
	10-Dec-99	Hamid	Darouvar	25 Woodhill Lane	Glen Head	NY	11545			26,500	$ 0.19	$	5,035	11/5/99	11/9/99
	10-Dec-99	Norman	Schreiber	191N Elm Street	Massapequa	NY	11784	516-799-6777		26,315	$ 0.19	$	5,000	11/16/99	11/16/99
	10-Dec-99	Kenneth	Schreiber	191 N Elm St.	Massapequa	NY	11758	516-799-6777		29,473	$ 0.19	$	5,600	shr s/b 39473	
	10-Dec-99	Gerald	Healy	33-07 164th St	Flushing	NY	11358	718-939-1768		26,315	$ 0.19	$	5,000		
	10-Dec-99	Hank & Sherry	Ulrich	22 Oak Point Drive N.	Bayville	NY	11709	516-628-1444		26,315	$ 0.19	$	5,000	11/16/99	11/17/99
	10-Dec-99	Christopher & Dina	Ulrich	28 Pine Road	Syosset	NY	11791	516-677-0899		105,263	$ 0.19	$	20,000	11/12/99	11/17/99
	10-Dec-99	Maureen	Michel	2017 70th St.	Brooklyn	NY	11223	718-232-0380		68,421	$ 0.19	$	13,000	11/22/99	11/22/99
	10-Dec-99	Mr. & Mrs.L	Weisen	38 Carlton Ave	Port Washington	NY	11050	516-883-1580		52,631	$ 0.19	$	10,000	11/19/99	11/22/99
	10-Dec-99	Parangias	Sadaghatpou	28 Birchwood Lane	Great Neck	NY	11024	212-302-5112		26,500	$ 0.19	$	5,035	11/29/99	11/30/99
	10-Dec-99	Michael	Kamali	5 Creek Road	Great Neck	NY	11024			26,315	$ 0.19	$	5,000	11/29/99	11/29/99
	10-Dec-99	John	Choriatis	1636 Devonwood Drive	Rochester Hills	MI	48306	248-650-0715		26,315	$ 0.19	$	5,000	11/30/99	12/2/99
	10-Dec-99	Robert G.	Damshick	50 Firwood Road	Port Washington	NY	11050	516-944-2562		26,315	$ 0.19	$	5,000	11/24/99	11/26/99
	10-Dec-99	Norman	Perez	89-95 Caldwell Ave	Maspeth	NY	11378	718-899-0716		38,157	$ 0.19	$	7,250	11/26/99	11/29/99
	10-Dec-99	Robert	Graff	359 Harrison Ave	Massapequa	NY	11758	516-409-9369	516-799-1207	26,315	$ 0.19	$	5,000	11/29/99	11/29/99
	10-Dec-99	Alex	Parasadayan	10 Ebony Glade	Laguna Niguel	CA	92677	949-240-0648		30,000	$ 0.19	$	5,700	11/26/99	11/29/99

EXHIBIT C

ISHOPNOMARKUP.COM, INC. AND SUBSIDIARY
(A Development Stage Company)
STATEMENT OF STOCKHOLDERS' EQUITY

	Common Stock		Additional Paid-in	Deficit Accumulated During Development	Treasury Stock		
	Shares	Amount	Capital	Stage	Shares	Amount	Total
Balance, August 20, 1999 (inception)	-	$ -	$ -	$ -	-	$ -	$ -
Issuance of common stock for services							
- on October 8, 1999 at $0.001 per share	50,500,000	50,500	-	-	-	-	50,500
- on January 15, 2000 at $0.19 per share	171,895	172	32,488	-	-	-	32,660

	Common Stock		Addi-tional Paid-in	Deficit Accumulated During Development	Treasury Stock		
	Shares	Amount	Capital	Stage	Shares	Amount	Total
- on February 15, 2000 at $0.19 per share	387,263	387	73,193	-	-	-	75,580
- on March 13, 2000 at $0.19 per share	500,000	500	94,500	-	-	-	95,000
Issuance of common stock for cash							
- on August 27, 1999	1,000,000	1,000	1,500	-	-	-	2,500
- on October 8, 1999	50,343,425	50,343	-	-	-	-	50,343
- on October 11, 1999	458,070	458	86,542	-	-	-	87,000

	Common Stock		Addi-tional Paid-in	Deficit Accumulated During Development	Treasury Stock		
	Shares	Amount	Capital	Stage	Shares	Amount	Total
- on December 10, 1999	1,159,681	1,160	219,182	-	-	-	220,340
- on December 12, 1999	38,157	39	7,211	-	-	-	7,250
- on December 22, 1999	1,438,458	1,439	271,872	-	-	-	273,311
- on December 23, 1999	26,315	26	4,973	-	-	-	4,999
- on December 26, 1999	33,333	33	24,966	-	-	-	24,999
- on December 30, 1999	40,000	40	7,560	-	-	-	7,600
- on January 13, 2000	7,333	7	5,493	-	-	-	5,500
- on January 15, 2000	131,578	132	24,868	-	-	-	25,000
- on January 18, 2000	1,820,717	1,821	344,123	-	-	-	345,944

	Common Stock		Addi-tional Paid-in	Deficit Accumulated During Development	Treasury Stock		
	Shares	Amount	Capital	Stage	Shares	Amount	Total
- on February 2, 2000	105,260	105	19,895	-	-	-	20,000
- on February 10, 2000	115,260	115	-	-	-	-	115

The accompanying notes are integral part of these consolidated financial statements.

EXHIBIT D

iShopNoMarkup.Com, Inc. Page: 2
08/31/99
2463–001M
Statement No: 1

		Hours	
08/24/99			
TMM	Revise offering document.	0.60	
08/27/99			
TMM	Revise offering document; telephone calls w/Tony re: questions/changes to Business section & re: Gumport options & shares: prepare investment letter & promissory note: revise Gumport & Knight letters re: director position.	4.20	
08/30/99			
TMM	Telephone call w/Tony; review & finalize Gumport agreements & e-mail to Tony; revise offering memo.	1.60	
08/31/99			
TMM	Revise offering memo; telephone call w/Tony: send e-mail to Tony.	2.40	

	For Current Services Rendered	29.20	5,110.00

Recapitulation

Timekeeper	Hours	Hourly Rate	Total
Theresa M. Mehringer	29.20	$175.00	$5,110.00

	Photocopy charges.	2.70
	Postage charges.	0.66
	Telecopier charges.	3.75
	Total Expense Thru 08/31/99	7.11
	Total Current Work	5,117.11
08/31/99	Transfer from Trust Account Balance.	-5,000.00
	Total Balance Due	$117.11

Balance Held in TRUST IS