

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

DECCAN VALUE ADVISORS FUND L.P.,
DECCAN VALUE ADVISORS FUND LTD.,
A/D VALUE FUND L.P., and Y/D VALUE
FUND L.P.,

Plaintiffs,

vs.

PANALPINA WORLD TRANSPORT
(HOLDING) LTD., GERHARD FISCHER,
BRUNO SIDLER, MONIKA RIBAR, and
THE ERNST GOHNER FOUNDATION,

Defendants.

Civil Action No.

JURY

COMPLAINT

Plaintiffs, Deccan Value Advisors Fund L.P., Deccan Value Advisors Fund Ltd., A/D Value Fund L.P., and Y/D Value Fund L.P. (together, “Plaintiffs” or the “Funds”), for their Complaint against Panalpina World Transport (Holding) Ltd. (“Panalpina” or the “Company”), Gerhard Fischer, Bruno Sidler, Monika Ribar, and the Ernst Gohner Foundation (collectively, “Defendants”), allege the following upon personal knowledge as to themselves and their own acts and upon information and belief based on the investigation of their counsel as to all other matters:

NATURE OF THE ACTION

1. This action seeks damages caused by Defendants’ material misrepresentations and omissions in connection with Plaintiffs’ purchases of Panalpina shares. Plaintiffs bring claims arising under §§ 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78j(b) and 78t(a), and the rules and regulations promulgated thereunder, including SEC Rule 10b-5, 17 C.F.R. § 240.10b-5 (“Rule 10b-5”), and Texas common law for fraud and negligent misrepresentations.

2. Defendant Panalpina, headquartered in Switzerland, is a provider of inter-continental air and ocean freight forwarding and logistics services and supply chain management solutions. Among the varied services that Panalpina provides are charter transportation for technical and construction materials, spare parts and oversize freight; coastal link services; packaging, warehousing and distribution services; agency, customs and clearing services; and platform supply personnel services. Panalpina describes itself as the market leader in freight forwarding services for the oil and gas industry and has substantial operations in the Southern District of Texas. While Panalpina had been a privately owned company since 1955, its shares first traded publicly after an initial public offering (“IPO”) on September 22, 2005. Since then, Panalpina has been listed on the Swiss Exchange under the symbol “PWTN”.

3. Since its IPO, the Company consistently reported strong profits from its oil and gas operations. Accordingly, Panalpina met or outperformed the consensus estimates of

securities analysts following the Company's IPO. Its stock price concomitantly rose over 300%, from CHF 80 at the time of its IPO to CHF 248 on July 24, 2007.¹

4. In truth, however, the Company, certain of its top officers and/or directors, and its controlling shareholder, misrepresented and omitted material facts regarding Panalpina's oil and gas business. Specifically, Defendants concealed that Panalpina's important operations in Nigeria depended on bribes to customs agents in Nigeria, violating the U.S. Foreign Corrupt Practices Act ("FCPA") and other laws. The Company's illegal practices enabled Panalpina to become the largest forwarder in the oil and gas sector and to report superior profit margins, earnings, and EBITA (earnings before interest, taxes and amortization). The inflated profit margins from Panalpina's Nigerian business also masked the true profitability of Panalpina's other operations. As explained below, the Company has since essentially conceded its violations of the FCPA, publicly reporting, for example, that "Panalpina has certain indications that, in the past, violations of the FCPA may have occurred" and acknowledging in communications with Plaintiffs' representatives that Gerhard Fischer, the Company's long-time CEO and Board Chairman, "knew what was going on. Mr. Fischer ran the company with a tight fist, thwarting all efforts to get into this issue. . . ." When such illegal practices were revealed and the Company was forced to cease them, Panalpina's financial results (and its share price) were materially and negatively impacted. Defendants, however, continued to misrepresent the impact of such termination on Panalpina's financial results. As a result, Plaintiffs and the securities analysts that followed Panalpina were shocked when the Company reported financial results in 2007 and 2008 that were worse than they had been led to believe.

5. Defendants' misrepresentations and omissions about its Nigeria operations from September 22, 2005 to October 30, 2008 (the "Relevant Period") artificially inflated the price for which Plaintiffs paid for their Panalpina shares. This inflation was removed through a series of partial disclosures, beginning on July 24, 2007, with Panalpina's announcement of internal investigations relating to its business practice in Nigeria and reports that the U.S. Department of

¹ "CHF" refers to the Swiss franc, the currency and legal tender of Switzerland.

Justice (“DOJ”) was investigating certain oil and oil-servicing companies. Following this partial disclosure, however, Defendants continued to omit material facts concerning Nigeria and the impact on Panalpina’s business, both when speaking publicly and during direct discussions with Plaintiffs’ representatives about Nigeria and the investigation. The final disclosure occurred on October 30, 2008, when Panalpina unexpectedly announced that operating results were negatively impacted by CHF 77 million due to the withdrawal from Nigeria and the costs associated with ongoing investigations, legal and consulting fees.

6. As a result of Defendants’ material misrepresentations and omissions, Plaintiffs purchased shares at artificially inflated prices and have suffered substantial damages. Since disclosing Panalpina’s potential illegal activities in Nigeria on July 24, 2007, and the subsequent disclosures regarding the material impact of the Nigerian business, Panalpina’s common stock has lost over 78% of its value. By October 30, 2008, the Company’s stock price had fallen from a high of CHF 250 on July 24, 2007, to just CHF 54.05.

JURISDICTION AND VENUE

7. This action arises under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), Rule 10b-5 promulgated pursuant to Section 10(b) by the SEC, 17 C.F.R. § 240.10b-5, and state law.

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1337 and 1367, and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

9. Venue is proper in this District pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa; and 28 U.S.C. § 1391(b) and (c). Substantial acts in furtherance of the alleged fraud and/or its effects have occurred within this District. At all relevant times herein, Panalpina has maintained an office in Laredo, Texas, at 10232 Crossroads Loop, Suite B, Laredo, Texas 78045.

10. In connection with the acts and omissions alleged herein, Defendants directly or indirectly used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and facilities of the securities market.

THE PARTIES

11. Plaintiff Deccan Value Advisors Fund L.P. (“DVA”) is a limited partnership formed in Delaware and registered to do business in Connecticut. DVA’s transactions in Panalpina common stock were directed by Deccan Value Advisors, L.P., headquartered at 15 Valley Drive, Greenwich, Connecticut 06831. DVA purchased Panalpina common stock during the Relevant Period. Plaintiff DVA suffered substantial losses from its purchases of shares of Panalpina stock at artificially inflated prices during the Relevant Period.

12. Plaintiff Deccan Value Advisors Fund Ltd. (“DVAF”) is a limited company formed in the Cayman Islands. DVAF’s transactions in Panalpina common stock were directed by Deccan Value Advisors, L.P. DVAF purchased Panalpina common stock during the Relevant Period. Plaintiff DVAF suffered substantial losses from its purchases of shares of Panalpina stock at artificially inflated prices during the Relevant Period.

13. Plaintiff A/D Value Fund L.P. (“A/D”) is a fund formed in Delaware and registered to do business in Connecticut. A/D’s transactions in Panalpina common stock were directed by Deccan Value Advisors, L.P. A/D purchased Panalpina common stock during the Relevant Period. Plaintiff A/D suffered substantial losses from its purchases of shares of Panalpina stock at artificially inflated prices during the Relevant Period.

14. Plaintiff Y/D Value Fund L.P. (“Y/D”) is a fund formed in Delaware and registered to do business in Connecticut. Y/D’s transactions in Panalpina common stock were directed by Deccan Value Advisors, L.P. Y/D purchased Panalpina common stock during the Relevant Period. Plaintiff Y/D suffered substantial losses from its purchases of shares of Panalpina stock at artificially inflated prices during the Relevant Period.

15. During the Relevant Period, Plaintiffs acquired more than 2 million of the issued shares of Panalpina, making them one of the Company’s largest minority shareholders. Plaintiffs have been investors in Panalpina since March 13, 2006. In investing in Panalpina, Plaintiffs relied upon representations in the Company’s prospectus, annual reports, press releases and other public statements by Defendants. While Defendants repeatedly and in various contexts discussed Panalpina’s oil and gas operations, Defendants omitted the importance of Nigeria to its oil and

gas operations and omitted Panalpina's dependence on violations of the FCPA until March 13, 2008. Even then, Defendants continued to omit material facts concerning the impact of Nigeria on Panalpina's business until October 30, 2008.

16. Defendant Panalpina World Transport (Holding) Ltd. is the holding company of the Panalpina Group, a provider of forwarding and logistics services specializing in intercontinental air freight and ocean freight shipments and associated supply chain management solutions. Panalpina is headquartered at Viadukstrasse 42, 4051 Basel, Switzerland. Panalpina maintains offices in Texas involved in its oil and gas division, including in Houston and Laredo. Panalpina is one of the largest freight forwarders in Houston. Oil and gas business from Houston, where customers like Schlumberger and Transocean were based, provided a substantial amount of Panalpina's revenue from North America.

17. Defendant Gerhard Fischer ("Fischer") was the Chairman of the Board of Directors of Panalpina from 1995 until his retirement on May 15, 2007. Fischer joined Panalpina in 1964. From 1980, he was the managing director of Panalpina Nigeria. He was CEO of the Group for over a decade, from 1987 until 1998. Fischer was also Vice Chairman of the Board of Trustees of the Ernst Gohner Foundation, which owned 100% of Panalpina prior to Panalpina's IPO. In the late 1970s, Gerhard Fischer instigated Panalpina's purchase of Texas-based J.P. Harle Group, which gave Panalpina a leading market position in the oil and gas business. Fischer, as the architect of the Nigerian operations, knew about Panalpina's undisclosed, illegal activities in Nigeria.

18. Defendant Bruno Sidler ("Sidler") was the President and Chief Executive Officer of Panalpina from 1998 until his resignation in or around January 2006. After his resignation, he became President of the Europe, Middle East and African Region for EGL Eagle Global Logistics, a freight forwarder and logistics provider based in Houston.

19. Defendant Monika Ribar ("Ribar"), since October 1, 2006, has served as the Chief Executive Officer of Panalpina. Ribar joined Panalpina in 1991. Prior to becoming CEO on October 1, 2006, she held various positions in the Company, including Chief Financial Officer and Chief Information Officer, and was a member of the Executive Board.

20. Fischer, Sidler and Ribar are referred to herein collectively as the “Insider Defendants.” Because of the Insider Defendants’ positions with the Company, they had access to the adverse undisclosed information about Panalpina’s business, operations, business practices, and business condition, via access to internal corporate documents, conversations and contact with other corporate officers and employees, attendance at management and Board of Directors meetings and committees thereof, and via reports and other information provided to them. Each of the Insider Defendants, by virtue of his/her high level position with Panalpina, was directly involved in the day-to-day operations of the Company at the highest levels and was privy to confidential information concerning the Company and its business, operations and practices, including Panalpina’s business practices in Nigeria, as alleged herein. The Insider Defendants, because of their positions of control and authority as officers and/or directors of the Company, were able to and did control the content of the prospectus, press releases, annual reports and other public statements pertaining to Panalpina during the Relevant Period. Accordingly, each of the Insider Defendants is responsible for the accuracy of the public reports and press releases detailed herein and is therefore primarily liable for the representations contained therein.

21. Defendant the Ernst Gohner Foundation (“Foundation”) owned 100% of Panalpina prior to its IPO. The Foundation acquired 40% of Panalpina in 1969 and held 100% of the Company’s shares by 1983. The Chairman of the Foundation was Wilfried Rutz and its Vice Chairman was Gerhard Fischer, who was also the Chairman and CEO of Panalpina. As Vice Chairman of the Foundation and as Chairman and CEO of Panalpina, Fischer’s knowledge during the Relevant Period is imputed to the Foundation and to Panalpina. Following Panalpina’s IPO, the Foundation maintained 42.64% of Panalpina shares, and three members of its Board of Trustees – Gerhard Fischer, Wilfried Rutz and Roger Schmid – continued as Panalpina Board members. After Fischer’s retirement, Foundation member Rudolf W. Hug became Chairman of Panalpina. Due to the misrepresentations and omissions set forth herein, the Foundation profited from selling shares of Panalpina stock at artificially inflated prices to the public in the IPO for proceeds of over CHF 1 billion. Further, as the seller of Panalpina shares in

the IPO, the Foundation reviewed the offering documents and is responsible for the false and misleading statements made therein.

PERSONAL JURISDICTION

22. The Court has personal jurisdiction over all of the Defendants named herein. All of the Defendants have had minimum contacts with the U.S. and this District, and exercise of jurisdiction over them comports with traditional notions of fair play and substantial justice as each made false and misleading statements that caused Plaintiffs to suffer losses. The Defendants were co-conspirators in the scheme to defraud, and their actions reached into the U.S. and this District. The Insider Defendants and the Foundation prepared and/or approved and disseminated the false and misleading statements alleged herein regarding Panalpina that they knew, or should have known, would cause injury in the U.S. The Insider Defendants and the Foundation had the requisite power to, and did, directly or indirectly control or influence Panalpina and the misleading statements that were issued that they knew would impact American investors. It is believed that the Insider Defendants, based on their positions and employment at Panalpina, personally benefitted by receiving compensation related to Panalpina's business operations in the U.S. and this District.

23. Defendant Panalpina maintains an office in this District, at 10232 Crossroads Loop, Suite B, Laredo, Texas 78045, and has had substantial, systematic and continuous contact with the U.S. and this District. Many of the transactions underlying the fraud alleged herein, including the illegal payments in Nigeria in connection with Panalpina's oil and gas business, involved this District. Many of Panalpina's oil and gas customers prior to and during the Relevant Period were also based in this District. Panalpina shares not only traded on the Swiss Exchange but its shares also traded on the OTT Bulletin Board (OTCBB) in the U.S. Panalpina maintained a website accessible to U.S. investors that contained many of the press releases and annual reports alleged herein to be false and misleading. Panalpina issued press releases, annual reports, and other statements which were disseminated into the U.S., and it also promoted its stock to U.S. investors like Plaintiffs through roadshows, investor conferences, and meetings with investors and analysts in the U.S. For example, Defendant Ribar attended meetings with

Plaintiffs' representatives in New York City on April 2-3, 2008. Emails from Panalpina representatives, including Defendant Ribar and Panalpina's Chairman, Rudolf W. Hug, have also been transmitted to Plaintiffs in the U.S. Panalpina also provided documents, including annual reports, at investor events to Plaintiffs. In addition, Panalpina provided a site tour of its New Jersey warehouse facility in conjunction with an investor event.

24. Defendant Fischer has had substantial, continuous and systematic contact with the U.S. Fischer purposefully directed his activities toward the U.S. by making false and misleading statements alleged herein, which caused Panalpina's stock to trade at artificially inflated prices and caused harm to Plaintiffs when the true facts regarding the Company were disclosed. Fischer, as the Chairman and interim-CEO of Panalpina until his "retirement" during the Relevant Period, was able to, and did, control the content of the Company's press releases and other public statements during the Relevant Period and had the power to influence and control, and did influence and control, the decision making of the Company. Further, Fischer was a co-conspirator in the scheme to defraud that reached into the U.S. and consequently harmed Plaintiffs, investors in Panalpina's stock. Moreover, Fischer had continuous and systematic contacts with this District through Panalpina's conduct of business in this District. Fischer also instigated Panalpina's purchase of J.P. Harle Group, based in Houston, Texas, which gave Panalpina a leading market position in the oil and gas business.

25. Defendant Sidler also has had substantial, continuous and systematic contact with the U.S. Sidler purposefully directed his activities toward the U.S. by making false and misleading statements alleged herein, which caused Panalpina's stock to trade at artificially inflated prices and caused harm to Plaintiffs when the true facts regarding the Company were disclosed. Sidler, as the CEO of Panalpina until his departure from the Company during the Relevant Period, was able to, and did, control the content of the Company's press releases and other public statements during the Relevant Period and had the power to influence and control, and did influence and control, the decision making of the Company. Further, Sidler was a co-conspirator in the scheme to defraud that reached into the U.S. and consequently harmed Plaintiffs, investors in Panalpina stock. Sidler also had continuous and systematic contacts with

this District through Panalpina's conduct of business in this District. After Sidler departed from Panalpina, Sidler became President and CEO of the Europe, Middle East and African Region for EGL Eagle Global Logistics, a freight forwarder and logistics provider based in Houston, Texas.

26. Defendant Ribar also has had substantial, continuous and systematic contact with the U.S. Ribar purposefully directed her activities toward the U.S. by making false and misleading statements alleged herein, which caused Panalpina's stock to trade at artificially inflated prices and caused harm to Plaintiffs when the true facts regarding the Company were disclosed. Ribar, as the CFO and CEO of Panalpina during the Relevant Period, was able to, and did, control the content of the Company's press releases and other public statements during the Relevant Period and had the power to influence and control, and did influence and control, the decision making of the Company. Ribar also participated in meetings with Plaintiffs in the U.S., participated in telephone calls with Plaintiffs in the U.S. and sent emails to Plaintiffs in the U.S., in which she continued to conceal true facts concerning Panalpina's Nigerian business and its effects on the Company. Ribar was a co-conspirator in the scheme to defraud that reached into the U.S. and consequently harmed Plaintiffs, investors in Panalpina stock. Ribar also participated in an executive program at a U.S. university in 1999 and is a member of the Board of Directors of Logitech International S.A., the parent company of Logitech Inc. (USA).

27. Defendant Foundation also has had substantial, continuous and systematic contact with the District and the U.S. The Foundation sold over CHF 1 billion in Panalpina's IPO, and made false and misleading statements alleged herein, which caused Panalpina's stock to trade at artificially inflated prices and caused harm to Plaintiffs when the true facts regarding the Company were disclosed. Additionally, the Foundation, as the owner of 100% of Panalpina prior to its IPO, and the owner of 42% of Panalpina during the Relevant Period, was able to, and did, control the content of the Company's press releases and other public statements during the Relevant Period and had the power to influence and control, and did influence and control, the decision making of the Company. During the Relevant Period, three members of the Foundation sat on Panalpina's seven member Board. Fischer, the Vice Chairman of the Foundation, was the Chairman and CEO of Panalpina. Moreover, the Chairman of the Foundation, Wilfried Rutz,

and the General Manager of the Foundation, Roger Schmid, were members of Panalpina's Board during the Relevant Period. After Fischer's departure, Panalpina's Board for a time consisted of only six members, three of which were also members of the Foundation's Board of Trustees, including Hug (Panalpina's new Chairman), Rutz and Schmid. Further, the Foundation was a co-conspirator in the scheme to defraud that reached into the U.S. The scheme enabled the Foundation to sell its Panalpina shares at artificially inflated prices.

FACTUAL ALLEGATIONS

A. Background

28. Panalpina provides services in intercontinental air and ocean freight forwarding and associated supply chain management solutions. Prior to 2005, Panalpina had four reporting regions: (1) Europe/Africa/Middle East/CIS [Kazakhstan, Russia]; (2) Asia/Pacific; (3) North America; and (4) Central and South America. In 2005, the four reporting regions were reorganized into six regional centers. Unlike its competitor Kuehne + Nagel, Panalpina did not disclose EBITDA by business segment. As noted in an August 8, 2008 ING analyst report, "[t]he fact that Panalpina reports data by geography rather than by business mode (air, sea supply chain management) makes robust earnings forecast very difficult Investors have to ask whether sea containers from China into Hamburg are booked in Asia/Pacific or in Europe/Africa/Middle East/CIS, or elsewhere."

29. Part of Panalpina's business is "offer[ing] a wide variety of supply chain services for the oil and gas sector that far transcend the mere shipment of goods." According to the Company, "Panalpina boasts a 40-year track record in the oil and gas business, which has long been a cornerstone of its service portfolio." Panalpina has a substantial presence in strategically important oil and gas hubs, including cities in the Southern District of Texas.

30. Panalpina's involvement with the oil and gas sector began in the 1960s, with Nigeria playing a key role. From 2000 to 2004, its oil and gas division boosted Panalpina's net profits by 53%. Panalpina provides integrated services to customers who are active in oil and gas exploitation or geophysics, and provide maintenance and supply services to rigs and exploration sites. Panalpina is also called upon by the owners of heavy transport vessels, as well

as the operators of offshore facilities, drilling companies, and major service providers such as Halliburton, Schlumberger and Baker Hughes. One of Panalpina's service offerings is customs clearance. Timeliness is especially important in the oil and gas sector, because delay could easily end up costing a fair amount if production comes to a halt or if the extremely expensive vessels are unable to operate. As noted by Monique Gubler, Managing Director at Panalpina Angola, "There is a lot of money at stake in the oil industry and every minute of lost production gobbles up money."

31. Panalpina conducted extensive business in Nigeria for over forty years before being forced to terminate its operations during the Relevant Period. Ribar's stated explanation for withdrawing from Nigeria was that "foreign companies operate in an ongoing uncertain and hard to assess legal environment in Nigeria. This makes it difficult for Panalpina to offer both a comprehensive service portfolio and at the same time meet the high ethical standards as outlined in Panalpina's Code of Business Conduct." As alleged below, Panalpina was able to expand and profit in Nigeria through undisclosed illicit payments to government officials. By engaging in this illegal conduct, the Company was able to maintain a stronghold in the Nigerian business and achieve large margins where other shipping/forwarding companies could not. As a result of its illegal conduct in Nigeria, Panalpina was able to become and maintain its position as the market leader in oil and gas logistics, a niche specialty with high barriers of entry and consequently better-than-average margins.

32. According to a former Houston-based Panalpina employee who worked for the Company in Moscow, oil and gas provided the "overwhelming majority of company revenue out of North America." Panalpina was, by far, the largest freight forwarder in Houston, with over 300 employees. Within that operation, Texaco had its own department, as did Chevron, Conoco and other big clients. There were also dozens of people assigned to work for the air charter network that derived work from oil and gas. According to this former employee, oil and gas was an enormous profit center; for example, a client would pay \$16 to \$30 per kilo for a shipment that cost Panalpina only \$3 per kilo from the U.S. to Nigeria. Thus, the profits were

“extraordinary.” Similarly, a former senior account manager with Panalpina for four years until April 2007 reiterated that Houston was Panalpina’s bread and butter for the U.S. market.

B. Fraudulent Scheme And Course Of Conduct

33. Before and at all times during the Relevant Period, Defendants engaged in a scheme and course of conduct to defraud Plaintiffs. During the Relevant Period, Defendants publicly promoted the success and profitability of Panalpina, representing that Panalpina was the market leader in the provision of services for the oil and gas industry. Defendants, however, omitted facts necessary to make their statements not false and misleading. Among other things, Defendants concealed that a significant part of Panalpina’s success was attributable to its oil and gas business in Nigeria. For certain years, while Panalpina was still a privately held company, 30% to 50% or more of Panalpina’s total profits were generated in Nigeria. After the IPO, Nigeria continued to play a significant role in Panalpina’s business. Panalpina generated 10% to 15% of its sales from the oil and gas sector and 2% to 3% in Nigeria alone. The profit margins from Panalpina’s Nigerian business vastly exceeded the Company’s average, enabling the Company to boost its earnings, EBITDA and other financial results. The inflated profit margins from Panalpina’s Nigerian business enabled the Company to mask the true profitability of its non-Nigerian operations. Further, Panalpina’s business in Nigeria was important because it enabled the Company to attract new oil and gas customers.

34. During the Relevant Period, Defendants concealed that the Company had engaged in illegal conduct in Nigeria by making payments to Nigerian customs officials in violation of the FCPA. According to a DOJ press release, a “major international freight forwarding and customs clearance company” was involved in at least 378 corrupt payments totaling approximately \$2.1 million to Nigerian customs service officials in connection with services for three subsidiaries of Vetco International Ltd. (“Vetco Gray”), an oil and gas company. According to the DOJ, the corrupt payments were coordinated largely through Vetco Gray’s offices in Houston. Vetco Gray agreed to pay a \$26 million fine, the highest ever in a FCPA prosecution, to the DOJ. The “major international freight forwarding and customs clearance company” was later identified by the *International Herald Tribune*, and is believed to be, Panalpina.

35. In connection with Vetco Gray, Panalpina privately commenced an internal review in January 2007 relating to illegal payments made in Nigeria. Defendants, however, concealed the internal review from investors. It was not until July 24, 2007 that Panalpina disclosed that it had initiated internal investigations regarding the improper payments in Nigeria. Further, it was not until March 13, 2008 that Panalpina acknowledged that there were “certain indications that, in the past, violations of the FCPA may have occurred.”

36. The misconduct in Nigeria commenced long before Panalpina’s IPO and continued thereafter, reached the top levels of the Company, and was widely known within Panalpina. According to a former Houston-based Panalpina employee who worked in Moscow, Nigeria formed the basis for Panalpina’s oil and gas division. “It was a foundation for that business and has been for decades.” This former employee stated that “Gerhard Fischer was the brainchild of all of this [the Nigerian payments]. The modus operandi they developed in Nigeria came from the top in Switzerland” and was implemented by, among others, Bill Reddick in Houston, a senior vice president of Panalpina USA. According to this former employee, Panalpina paid off Nigerian officials so that they would not have to pay the normal customs imports. No customs valuation invoices were available because the goods were not declared. When certain oil companies asked for proof of payments, receipts were falsified or were not there. A paper trail could be produced, but would be difficult to comprehend and would cover up the extra charges. According to this former employee, “Panalpina had the competitive advantage for years in Nigeria because of the extensive system of payoffs.” Nigeria “ensured their prominence in the market place.” As such, no other forwarder was able to make inroads in Nigeria. This former employee also said that the operational manager and sales director for Panalpina’s oil and gas operations in England, who had previously worked in Houston and was aware of the corrupt payments in Nigeria, resigned from the Company in August 2007 after s/he was asked to sign an ethics statement certifying that s/he had no knowledge or participation in any fraudulent activity.

37. According to the CEO of a Nigerian-based freight forwarding and logistics company founded in 1992, corruption at Panalpina had been going on for decades. Panalpina

came into Nigeria as a logistics company, but discovered that it could make more money as a customs license agent. Such agents were responsible for collection of duty. It was well known to Nigerians in the industry that Panalpina would pay off customs services, circumvent the customs duty and get fraudulent documentation. Given the level of poverty in Nigeria, a Nigerian customs officer in charge of determining duties makes peanuts, and will readily accept a payoff. Given the payments from Panalpina, Nigerian customs officers would fight among themselves over who would be assigned to the Panalpina warehouses. Panalpina's representatives would go around with envelopes every Friday at the ports, amounting to payments of thousands and thousands of dollars a week. Nigerians working at Panalpina were not in positions of authority – they carried out directives. Panalpina's managing directors of the Nigerian operations were Swiss, who knew about the corruption. One of the managers of Panalpina told the CEO of the Nigeria-based freight forwarding company about Panalpina's practices. The Panalpina manager retired and set up a freight forwarding company in Nigeria but found it hard to conduct business and compete against multinationals like Panalpina.

38. Additionally, according to an *International Herald Tribune* article, prosecutors in the Vetco Gray case said that Panalpina paid more than \$2 million in bribes from September 2002 to April 2005 for customer Vetco Gray alone and that Panalpina hid bribes by listing them on invoices as payments for “local processing” or “administrative/transport.” Further, based on the plea agreement dated February 6, 2007, between Vetco Gray and prosecutors, “Agent A” – or Panalpina – “provided services in Nigeria that were neither listed on its published tariff rate sheet for Nigeria nor openly advertised, including an express air courier service, ‘interventions’ and ‘evacuations’” in instances where “(a) goods and equipment were improperly or illegally imported into Nigeria, (b) documentation for imported goods was not in order, (c) there were delays in clearing goods and equipment through the lawful customs process due to the failure to post bonds with sufficient funds to cover duties and tariffs, or (d) infractions of Nigerian customs laws.” The plea agreement stated that “Agent A made corrupt payments to NCS [Nigerian Customs Services] officials to induce these officials to disregard their official duties and responsibilities and to provide preferential treatment and otherwise obtain improper advantages

regarding the customs clearance process.” Among the numerous details in the February 6, 2007 Vetco Gray plea agreement were that “Agent A’s express courier service flights only landed in Nigeria during the night and that all goods were wrapped in black plastic to avoid close scrutiny by customs officers”; that Agent A performed at least 19 “interventions” when its customer was caught violating Nigerian customs rules or their goods were seized by NCS officers; and that Agent A sent falsified invoices to Vetco Gray in Houston.

39. On April 8, 2009, Panalpina officials acknowledged in a conversation with Plaintiffs’ representatives that Fischer likely knew about the illegal payments, stating: “Mr. Fischer was very big in Nigeria, there for 10 years. He was one of only 3-4 people on the Nigerian President’s advisory board. *He knew what was going on.* Mr. Fischer ran the company with a tight fist, thwarting all efforts to get into this issue” During that conversation, Panalpina Chairman Rudolf W. Hug stated: “*Mr. Fischer was part of a culture where bribes to foreign officials could be deducted;* that was before 2003 *The company came into a cultural change late.*”

40. Panalpina officials have also acknowledged that CEO Ribar was aware of or recklessly disregarded the Nigerian risk, having conducted a risk analysis when the Vetco Gray bribe issue came up while she served as CFO in 2006. Ultimately, the risk associated with such bribes was significant enough to cause her to notify Panalpina’s Board in January 2007.

41. In response to Plaintiffs’ question regarding who knew about the alleged corrupt payments, Panalpina’s official also said that “Fischer knew. Sidler does not speak, he refuses to talk – he can invoke [the Swiss version of 5th amendment.]” Panalpina further stated: “We considered going after Fischer, but it was not in the best interests of the Company. Sidler is the same.”

42. CEO Ribar has also acknowledged in a conversation with Plaintiffs on April 2, 2008, that Nigeria was different from places like China and India because “the scale of corruption is different [in Nigeria]. There are lists circulated with prices The amounts were very large. Facilitation payments don’t have an invoice either. But you make it clear this is facilitation” When Plaintiffs asked Ribar when a facilitation payment becomes a bribe,

Ribar replied, “Nobody will tell you what is the right amount.” Additionally, in an April 15, 2008 meeting between representatives for Plaintiffs and Juerg Vogt, an investor relations representative for Panalpina, Vogt acknowledged that it was “[v]ery hard to do outsourced services in Nigeria under the legal framework. It’s very different than other countries. We have found out that by sticking to FCPA rules, extremely difficult.”

43. In Panalpina’s discussion with Plaintiffs’ representatives, Panalpina has also indicated that it was unable to enforce its Code of Conduct, stating, with respect to the corrupt payments in Nigeria, that: “There was a code of ethics, a quality manual given to the GMs. ***But no mechanism to enforce it.*** Local [management] was responsible for compliance. The head of the Houston operation has left.” The fact that Panalpina failed to comply with legal requirements or maintain adequate internal controls, thus enabling the illegal conduct to occur in Nigeria, has also been observed by its employees. For example, according to a former Panalpina account manager in the Midwest Region of the United States, Panalpina did not check for information that the U.S. government required with respect to shipments, such as reviewing the “Denied Party” list or verifying documentation. According to this former employee, “All [Panalpina] needed was more training,” but they did not want to spend the money.

44. In their scheme to defraud, Defendants have failed to disclose these and other highly material facts about Panalpina. Even after Defendants essentially acknowledged that improper conduct relating to Nigeria occurred, they continued to fail to provide transparency regarding Nigeria’s impact on the Company, including Panalpina’s incursion of high legal fees and monitoring costs and the loss of high profit margins. Moreover, the Nigerian issue has caused Panalpina to lose customers. According to an attorney in Lagos, Nigeria, who represents U.S. clients involved in FCPA probes, “All US oil and gas companies have stopped using them.” According to this attorney, U.S. companies are saying “they won’t approach Panalpina with a 10-foot pole.” Also, according to an investor relations representative for Transocean, an offshore oil and gas driller, Transocean stopped doing business with Panalpina in September or October of 2007. Another customer, Nabors, has moved its business from Panalpina.

45. As a result of Defendants' fraudulent scheme and course of conduct, Plaintiffs, which acquired over 2 million shares of Panalpina's stock during the Relevant Period, suffered significant losses as Panalpina's stock price plummeted from the high of CHF 250 on July 24, 2007 – just before Panalpina disclosed that it had initiated internal investigations into business practices in Nigeria – to CHF 54.05 on October 30, 2008, a stunning drop of over 78%.

46. As summed up by an ING March 12, 2009 analyst report, Panalpina's share price suffered "massively during the past one and a half years (the shares lost over 80% in value since mid 2007)" due in part to "the confusing management (and the related public communication) around Panalpina's former Nigerian Oil and Gas business."

C. Defendants' False And Misleading Statements And Material Omissions

47. On September 22, 2005, the Foundation sold 57.36% of Panalpina's shares to the public in a successful IPO on the Swiss Exchange for proceeds of over CHF 1 billion. The remaining shares, or 42.64%, are held by the Foundation. The IPO was oversubscribed by a factor of 14, indicating strong investor demand for the shares of the stock.

48. In connection with its IPO, Panalpina issued a prospectus dated September 6, 2005 ("Prospectus"). The "Risk Factors" section of the Prospectus made no reference to Panalpina's Nigerian operation and only referred to its oil and gas business being 10% of Group revenue. Further, the Prospectus stated that: "The [Panalpina] Group believes that *it is in substantial compliance with applicable laws, rules and regulations.*" The Prospectus also represented that:

Panalpina has long been concentrating on the oil and gas industry and management believes that *the Group is the world's market leader in supply chain solutions for this sector.* The transportation needs of the oil and gas industry require highly complex solutions and specialist skills and, therefore, provide better differentiation potential for freight forwarders. Based on its leading market share and customer relationships, its reputation in the sector and its specialist experience and capabilities (e.g. specialist engineers), Panalpina believes that *it is in a uniquely strong position globally to provide freight-forwarding services for the oil and gas industry.*

* * *

In the oil and gas sector (especially in relation to upstream, i.e. exploration-related activities), *Panalpina has become a global market leader* by providing high quality, safe, and environmentally responsible services. The Group has an established track record as a service provider to this industry, built up over the past 40 years. . . .

49. The above statements in Panalpina's IPO Prospectus were false and omitted material facts. Contrary to Defendants' representations that Panalpina was in substantial compliance with the law, Panalpina had violated the FCPA and other laws by making illegal payments to customs agents who provided freight forwarding and other services in Nigeria. Further, the Prospectus failed to disclose that Nigeria was integral to the Company's oil and gas business and that Panalpina was able to become the market leader in supply chain solutions for the oil and gas sector by engaging in illegal conduct in Nigeria.

50. On November 8, 2005, Panalpina issued a press release in which it reported its results for the first nine months of 2005. According to Panalpina, the Company's net revenue grew 13.7% to CHF 4,967 million, and the growth spread across all regions. Panalpina further reported that it achieved some major business wins in the upstream supply chain for the oil and gas industry in West Africa, CIS and Central Asia. The press release further stated:

"We are pleased with these *convincing nine months results and the continued strong organic growth of our core activities*," commented Panalpina's President and CEO Bruno Sidler. "Thanks to our asset-light business model, we are more flexible than most of our competitors when it comes to meeting the globalization-related fast changing logistics demands of our international customers. In view of the peak season, which just started, and seeing continued results from our ongoing cost control initiatives, we are confident to meet our targets for the business year 2005."

51. The foregoing statements on November 8, 2005 were materially false and misleading because, in announcing Panalpina's superior financial results, Defendants omitted to disclose that Panalpina was able to report extraordinary financial results in part by engaging in illegal conduct in Nigeria, through which the Company was able to achieve greater margins and earnings. Further, Panalpina's Nigerian business enabled the Company to attract new oil and gas

customers. In addition, Panalpina's Nigerian business masked the true profitability of the Company's other operations.

52. On January 4, 2006, Panalpina announced that a manager at Panalpina Airfreight Management LTD, Basel, had hidden losses by manipulating the books and records for over 14 months, and that the manipulated figures were discovered in mid-December 2005. According to the Company, the incident would have a negative impact on the operating results for 2005 of around CHF 22 million and for 2004 of around CHF 11 million. As a result of this incident, Panalpina CEO Bruno Sidler resigned, and Chairman Gerhard Fischer took over the CEO position on an interim basis. According to the press release, "***internal controlling and organizational measures have been strengthened*** to ensure that this remains an isolated incident."

53. The foregoing statement on January 4, 2006 was materially false and misleading because, contrary to representation, Panalpina's internal controls were not strengthened sufficiently because the Company was continuing to allow violations of the FCPA to occur in Nigeria. As set forth above, in late 2006, Ribar conducted a risk analysis of Nigeria and found the Nigerian risks significant enough to bring to the attention of the Panalpina Board.

54. On March 17, 2006, Panalpina issued a press release in which it reported that it had achieved strong results in 2005 by increasing gross revenue by 11.3% and its net forwarding revenue by 13.8% to CHF 6,962 million. Panalpina further reported that:

As in the previous years, Panalpina achieved double digit growth in net forwarding revenue, improving figures by 13.8% to CHF 6 962 million. This positive development was underpinned by dedicated sales initiatives resulting in numerous business wins throughout all key industries. ***A major contribution stems from the oil and gas sector, where Panalpina strengthened its role as global leader in supply chain solutions for this industry.***

* * *

The Group's contribution margin (gross profit) grew by 6.1% ***The sub-region Africa / Middle East / CIS showed a strong performance due to substantial contributions from its oil and gas sector.***

* * *

“With our strategy of primarily organic growth, we will further expand our network and strengthen our market position in selected verticals. *One of our strategic focus industries remains oil and gas, in which we will continue to invest substantially as it is a long-term growth market,*” commented Gerhard Fischer.

55. Further, Panalpina’s Annual Report for fiscal year 2005 (“2005 Annual Report”) issued in April 2006 emphasized the Company’s significant growth in revenues and earnings, stating:

In 2005, the Company raised its gross revenues by 11.3% while net revenues surged by 13.8% to CHF 6,962 million. Net earnings rose by a very sizeable 20.3% to CHF 120.3 million. These increases were almost entirely attributable to organic growth and reflect the positive business trend in the forwarding and logistics sector.

56. The foregoing statements on March 17, 2006 and in the 2005 Annual Report were false and misleading because Defendants failed to disclose that Panalpina was able to report strong financial results in part by engaging in illegal conduct in Nigeria in violation of the FCPA. In addition, Panalpina’s Nigerian business masked the true profitability of the Company’s other operations. The foregoing statements were also false and misleading because Defendants omitted to disclose the importance of Nigeria to the Company’s oil and gas sector, which enabled the Company to become the global leader in supply chain solutions for this industry.

57. On May 4, 2006, Panalpina issued a press release in which it reported “impressive” financial results for the first quarter of 2006. According to the press release, “[c]ontinued organic growth and substantial business wins under favorable market conditions lead to *increases in net forwarding revenue by 20.6% and in EBIT even by remarkable 145.3%.*” The press release also specifically emphasized the contribution of Panalpina’s oil and gas business, stating: “*The globally buoyant oil and gas supply chain business contributed to an increased profitability especially in Europe.*” It further stated that, “[i]n particular, *the company is convinced that it will continue to profit from gradually increasing exploration efforts in the global oil and gas sector, where Panalpina is the world market leader for specialized transport and logistics solutions.*”

58. These statements on May 4, 2006 were false and misleading for failing to disclose that Panalpina was able to report impressive financial results and profits in the oil and gas supply chain business in part by bribing customs agents in Nigeria, in violation of the FCPA and its own Code of Conduct. Further, Panalpina's Nigerian business masked the true profitability of the Company's other operations.

59. On June 28, 2006, Panalpina announced that CFO Monika Ribar was designated the Company's new CEO and would take office on October 1, 2006.

60. On August 10, 2006, Panalpina issued a press release announcing its financial results for the first half of 2006. According to the press release, Panalpina "continued its excellent performance during the first six months of 2006. While net forwarding revenue went up 15.5%, EBIT increased by 68.6% and net earnings by 58.2%." The press release further stated:

"We are pleased to present *very convincing half-year results, which are the outcome of our unabated performance in all areas. This includes promising new business wins from various customers* in the broad variety of industries that we serve," commented Gerhard Fischer, Chairman of Panalpina.

61. The foregoing statements on August 10, 2006 were false and misleading because Defendants failed to disclose that Panalpina was able to report such excellent financial results in part by engaging in illegal conduct in Nigeria. Further, they failed to disclose that Panalpina's Nigerian business enabled the Company to attract new oil and gas customers. In addition, Panalpina's Nigerian business masked the true profitability of the Company's other operations.

62. On October 10, 2006, Panalpina announced that Monika Ribar had officially taken over as CEO of the Panalpina Group, and that Jurg Honegger, the COO, had been appointed the CFO. The press release stated that Honegger's marketing and sales responsibilities would be handed over to John Klompers, who was appointed Chief Marketing and Sales Officer, responsible for global marketing and sales, global account management and growth in the Group's key industries including oil and gas.

63. On October 30, 2006, Panalpina issued a press release to announce its financial results for the first nine months of 2006. According to the press release:

On track for a record year due to *unabated growth and strong profitability for the first nine months.*

The global transport and logistics group Panalpina persistently continues its solid performance and posts excellent results for the first nine months of 2006. Fueled by favorable world market conditions, substantial new business wins and successful cost management, both Ebitda, Ebit and net earnings have already reached the full-year results level of 2005.

Monika Ribar, Chief Executive Officer of Panalpina, comments: *“We are very satisfied with the development of the first nine months of 2006, not only in view of these convincing figures as such, but also because we manage to keep delivering what we forecast.* This consistent performance, which is even above our recently raised targets, proves the soundness of our business model and the strong commitment of our staff, which justifies our positive outlook regarding the full-year results.

* * *

Throughout all of the Group’s strategic key industries – namely the oil and gas, the automotive, the healthcare, the retail and fashion, and the hi-tech sectors – Panalpina contracted substantial new business and further enlarged its customer base. *Once more, an excellent performance was achieved in the booming supply chain (up-stream) services for the global oil and gas industry.*

64. The foregoing statements on October 30, 2006 regarding Panalpina’s superior financial results and its oil and gas business were false and misleading when made because Defendants concealed that Panalpina was able to report superior performance in its supply chain services for the oil and gas industry in part by engaging in misconduct in Nigeria, where it had made illegal payments to customs officials; that Nigeria constituted a significant part of Panalpina’s business; and that Panalpina was able to achieve greater margins and earnings in part due to its illegal practices in Nigeria. In addition, Panalpina’s Nigerian business masked the true profitability of the Company’s other operations.

65. On March 15, 2007, Panalpina issued a press release announcing its financial results for year 2006. According to the press release:

Panalpina, the global freight transport and logistics group, continues its solid organic growth and posts excellent results for the year 2006 due to a strong performance and further improved profitability. The Group increased its net forwarding revenue by

11.3% to CHF 7,735 million, boosted net earnings by an impressive 52.5% to CHF 184 million and created more than 700 new jobs worldwide.

“These very convincing figures mark a clear record in the history of Panalpina,” commented Chairman Gerhard Fischer, “and are further proof of the success of the Group’s strategy. In a macroeconomic environment generally favorable to the transport and logistics industry, we have again successfully transformed our asset-light business model into attractive services for our highly demanding worldwide customers.”

All targets met and partly exceeded

Monika Ribar, Chief Executive Officer, is “especially pleased with the fact that the results have even exceeded our ambitious budget figures. Profitability has substantially improved and top-line growth was solid. We look back on an excellent year in which the dedicated performance of our employees in all regions has further strengthened Panalpina’s position as one the global leaders in the industry.”

* * *

A further excellent performance was achieved in the global oil and gas sector, where Panalpina clearly defended its position as the world market leader for dedicated logistics services.

66. Further, Panalpina issued its Annual Report for fiscal 2006 (“2006 Annual Report”) in April 2007 which represented that “[Panalpina] has been the global market leader in the provision of logistics solutions for the worldwide oil and gas industry’s supply chain.” The 2006 Annual Report also stated:

In 2006, the Group generated 57.1% of its net forwarding revenues in Europe/Africa/Middle East/CIS

Net forwarding revenue in Europe/Africa/Middle East/CIS increased from CHF 3,929 million in 2005 to CHF 4,418 million respectively at 12.4% *further developments of the oil and gas sector in the African countries . . . led to the sustained growth that started the previous year.* The 10.6% increase in net forwarding revenue in North America (2005 CHF 1,536 million to 1,699 million in 2006) was primarily due to the overall business volume increases, *high activities in the oil and gas sector* but also in the mining sector.

* * *

The substantial increase of the contribution margin (gross profit) in this region in 2006 can be explained by different factors: on the one hand, the ***further development and expansion of the oil and gas sector from existing customers out of the traditional African oil and gas countries***, but also from emerging energy producing geographical areas like Central Asia (Kazakhstan, Azerbaijan, a.s.f.).

* * *

The North American region continued on the growth path it engaged on during 2005 to the difference that the margin erosion stopped and even reversed slightly to end the year with positive results. ***Important contributors to these gains are multinational accounts in the different industry verticals but mainly in the oil and gas sector*** as well as the mining sector.

* * *

When comparing the Ebit of 2005 and the current year for the region Europe/Africa/Middle East/CIS, it needs to be noted that the previous year results were impacted by the one-time incident in the air freight division Panalpina Airfreight Management Ltd. of CHF 22.4 million. Despite this impact, ***the performance of this region was the strongest ever***, driven by the overall economic growth in Europe, the increased volumes traded with Asia, the ***booming oil and gas and mining sectors*** investing in further developments . . .

* * *

Two business areas turned in the strongest growth in this reporting region [the North America reporting region], the first being the oil and gas industry. Houston, one of the four global hubs, benefited from increased investment activity in this sector. Supply chain management was the other main area in which marked growth was achieved in all market segments.

* * *

Having been concentrating on the oil and gas industry for four decades, ***Panalpina is today's global market leader in supply chain solutions for this sector*** . . . The continued high level of oil prices, geopolitical constraints, new technologies and rising concession costs have led many oil companies to make enormous long-term investments and commitments, which ***positively impacts Panalpina's growth opportunities in the oil and gas sector***. The management believes that further growth opportunities will come from relatively untapped markets such as Russia, Central Asia, and North Africa, where Panalpina has already established its presence in order to capitalize on these developments.

67. Panalpina's 2006 Annual Report further stated that its Code of Conduct prohibited bribery, as follows:

During the year under review, pre-existing internal policies were consolidated into a groupe-wide Code of Business Conduct. This comprehensive set of regulations contains guidelines that are mandatory for all employees. Topics covered include how to handle conflicts of interest, the avoidance of insider transactions, fair competition and dealing, *the prohibition of bribery*, the prevention of discrimination and harassment in the workplace, health and safety regulations and much more. Conforming to the latest standards and based on a mission statement from the Board of Directors and the Executive Board, the code of conduct increases transparency within the company – as well as the risk-awareness of every individual employee. In a number of ways, it reinforces the corporate culture that is already a traditional part of the company's operations.

68. The foregoing statements on March 15, 2007 and in the 2006 Annual Report regarding Panalpina's superior financial results and its robust oil and gas business were false and misleading when made because Defendants failed to disclose that Panalpina was able to report such extraordinary financial results by engaging in illegal conduct in Nigeria; that Panalpina's illegal practices in Nigeria enabled the Company to become the largest forwarder in the oil and gas sector; that Panalpina was able to achieve greater margins and earnings as a result of its illegal practices in Nigeria; and that Panalpina's Nigerian business enabled the Company to attract new oil and gas customers. Further, Panalpina's Nigerian business masked the true profitability of the Company's other operations. Additionally, Defendants failed to disclose that although Panalpina's Code of Conduct prohibited bribery, Panalpina lacked adequate internal controls to prevent illegal bribes in Nigeria, and that such illegal conduct had occurred.

69. The foregoing statements were also false and misleading because Defendants concealed that Panalpina had made at least 378 corrupt payments of \$2.1 million to Nigerian customs officials in connection with providing services for its customer, Vetco Gray. Although Panalpina had begun an internal review relating to the illegal payments in Nigeria in January 2007 because of the DOJ investigation of Vetco Gray, Defendants also concealed this material fact.

70. On May 10, 2007, Panalpina announced the Company's first quarter 2007 results and the retirement of Gerhard Fischer, the Chairman of Panalpina's Board, who had been with Panalpina for 42 years and served at various positions at Panalpina, including as CEO. Panalpina's press release stated:

Excellent first-quarter figures crown the career of *retiring Chairman Gerhard Fischer*

Thanks to a *strong first-quarter momentum and further significantly enhanced profitability*, the global transport and logistics group Panalpina continues its very successful development. While *gross profit increased by 18.9%, Ebit grew by a remarkable 93.9% and net earnings even by 109.0%*.

"Our solid performance and continued efforts to further improve profitability met with a soaring demand from global markets, culminating in March to become the so far strongest month in the Company's history," commented Chief Executive Monika Ribar. "These very satisfying figures, which are even above our expectation, were positively impacted by an overall growth of customer business, the full deployment of business wins already contracted in 2006 and 2007 and a very favorable development of project-related business."

New business in all industry verticals

In each of the *oil and gas*, the automotive, the healthcare, the retail and fashion, and the hi-tech sectors, which are Panalpina's strategic key industries, *further interesting new contracts were signed.*

71. The foregoing statements on May 10, 2007 regarding Panalpina's superior financial results and its oil and gas business were false and misleading when made because Defendants omitted to disclose that Panalpina's extraordinary financial performance was due in part to Nigeria, which enabled Panalpina to achieve greater margins and earnings as well as attract new oil and gas customers. Further, Panalpina's Nigerian business masked the true profitability of the Company's other operations. Additionally, the foregoing statements were false and misleading because Panalpina failed to disclose that illegal payments to customs agents occurred in Nigeria, and that the Company had begun an internal review in January 2007.

72. On May 15, 2007, Rudolf W. Hug, a Trustee of the Foundation, was elected the new Chairman of the Group. Fischer retired.

73. On July 24, 2007, after the close of the market, Panalpina issued a press release disclosing that it had decided to conduct internal investigations after one of Panalpina's customers entered into a plea agreement with U.S. authorities for allegedly making improper payments to Nigerian officials to secure preferential customs treatment. According to the press release, other Panalpina customers have announced to U.S. authorities the review of their business practices related to Nigeria. Panalpina also disclosed that U.S. authorities had extended the scope of their review to Panalpina's documents related to services into Nigeria, Kazakhstan and Saudi Arabia for a limited number of customers. According to the Panalpina press release, "Panalpina's Board of Directors and Executive Board are committed to ensure adherence to its Code of Business Conduct, which prohibits improper payments in all countries in which the Group offers its services."

74. Just hours after Panalpina's press release on July 24, 2007, the *Dow Jones Newswires* reported that the DOJ was conducting a criminal inquiry of eleven oil and oil-services companies and had asked them to detail their relationship with Panalpina, focusing on potentially illegal payments to customs agents who provided freight forwarding and other services, including in Nigeria, and that a civil investigation by the SEC was also underway. According to the article, the DOJ's criminal fraud section asked each of these oil and oil-services companies to detail their relationship with Panalpina and to list the countries where Panalpina provided them with services in the past five years and to specify what they paid for those services, citing concerns about payments that may violate the FCPA. On July 25, 2007, this article was also published on the *Wall Street Journal*.

75. Following the news regarding Panalpina's internal investigations into potential illegal payments in Nigeria, Panalpina's stock price plunged on high volume, falling from the closing price of CHF 248 on July 24, 2007, to as low as CHF 223 on July 25, 2007, or 10%. However, the slide reversed when Defendants assured analysts and investors that the *Wall Street Journal* report erroneously implicated Panalpina because it was not the target of the DOJ's probe

and was only asked to provide information. As a result of the Company's assurances, Panalpina's stock price recovered to close at CHF 243.10 on July 25, 2007, a drop of 2% from the day before.

76. Based on Defendants' assurances, the July 25, 2007 analyst report by Jefferies International recommended Panalpina as a "Buy," stating:

Investment Summary

We reiterate our Buy recommendation on the back of disproportionately negative market reaction to news flow that appears to *erroneously and directly implicate PWTN in a criminal investigation.*

Event

Announcement last night that business practices in certain countries are under both external and internal investigation.

Key Points

- US investigation into questionable customer practices. Last night, PWTN announced that US authorities requested documents related to a customer that allegedly bribed Nigerian officials in exchange for preferential customs treatment. Authorities are also looking at dealings of 'a limited number' of customers in Kazakhstan and Saudi Arabia. Other PWTN customers have announced their intent to review their own practices related to Nigerian imports.
- ***PWTN not under investigation despite WSJ language.*** A WSJ article highlights a US criminal investigation of potentially illegal payments made by 11 Oil/Services companies' to 'customs agents who provided forwarding services.' This article appears to directly implicate PWTN and to contradict PWTN's statement. ***PWTN confirm that they are clearly not the focus of the DOJ investigation.***
- ***Too early for conclusions; internal investigation also underway.*** Per the PWTN press release, the investigation is at an early stage and no conclusions can yet be drawn regarding potential remedies to be sought from PWTN and/or its customers by US

authorities. PWTN has hired external forensic accounting experts to gather facts and report conclusions to the Audit Committee (none yet delivered). They are prepared to take immediate measures as required.

- ***Per PWTN: low probability of provisioning; dividend not at risk. Management's current assessment is that the probability of material provisioning as a result of this investigation is low.*** Additionally, the thought process surrounding the timing/scope of potential special dividend payment has not changed. PWTN estimates resolution of this issue anywhere from several weeks to several months.

77. Although Defendants disclosed that Panalpina had decided to conduct internal investigations into the making of improper payments to Nigerian officials, they concealed that an internal review had already begun in January 2007 in connection with at least 378 corrupt payments of \$2.1 million to Nigerian officials with respect to Vetco Gray, which paid an extraordinary fine of \$26 million to the DOJ. Further, contrary to the representation that Panalpina was “committed to ensure adherence to its Code of Conduct,” Panalpina in fact lacked mechanisms for enforcement. Additionally, Defendants failed to disclose that, contrary to representations that there was low probability of provisioning and that Nigeria was immaterial, Nigeria was in fact material and there was high probability of provisioning. The effect on Panalpina’s business was material because Nigeria constituted a significant part of Panalpina’s oil and gas business, and it was a significant factor in enabling Panalpina to achieve greater profit margins and earnings.

78. On August 9, 2007, Panalpina issued a press release to announce its financial results for the first six months of 2007. The press release represented that Panalpina had ***“continued its solid organic growth, further improved its profitability and increased market shares in all respects. While gross profit rose by 17.5%, EBIT grew by 53.5% and net earnings by 56.4%.”*** The press release further stated that:

“I am very satisfied with Panalpina’s figures for the first half of 2007,” comments Chief Executive Monika Ribar. “After an exceptionally outstanding first quarter, we are in a position to

report further convincing results that are in line with our ambitious growth targets. I am especially pleased that we were able to expand gross profit at a faster rate than our turnover, while the month of June even showed the highest gross revenue in the Company's history. This solid development was underpinned by favorable market conditions and continued demand from our customers, but it also proves the soundness of Panalpina's business model and the outstanding performance of our dedicated staff around the globe."

* * *

Continued positive outlook

The Group expects a further solid macroeconomic environment and foresees the developments in Europe / Africa / Middle East / CIS as well as in Apac to more than offset any possible economic slowdown that might be encountered in the US. As a consequence of the positive effects of growing globalization, Panalpina rates the overall market trends as extremely favorable and is confident in meeting its targets for 2007.

79. Following Panalpina's announcement of its financial results on August 9, 2007, analysts continued to recommend the Company. For example, Credit Suisse, which rated Panalpina "outperform," stated in its analyst report on August 9, 2007, that "Outlook remains positive: Overall Panalpina is confident to meet its 2007 targets (>9% GP growth; EBITDA /GP margin 20-22%; NWC intensity of 4-5%) and expects the positive developments in Europe/Africa/Middle East/CIS as well as in Apac to more than offset any possible economic slowdown in the US."

80. Similarly, an analyst report from Helvea dated August 10, 2007 reported: "Overall, Panalpina considers overall market trends to be extremely favourable and management is confident of meeting its targets for 2007. Its outlook thus remains bullish and confirms our view. We continue to believe that Panalpina will easily achieve all of its 2007 financial targets." With respect to the Nigerian investigation, Helvea wrote: "***Panalpina disclosed no more news about the current investigation. . . .*** It is impossible for us, at this stage, to estimate the impact on Panalpina, but ***we do not believe it will be material.***"

81. Likewise, a Landsbanki analyst report, which rated Panalpina a "buy" and raised its target price to CHF 280, wrote that "[l]ast week's sell-off offers a ***buying opportunity,***" and

that with respect to the investigation into the business practices in Nigeria, Panalpina confirmed it had not been indicted by U.S. authorities in the conference call with analysts. The report further stated that “Panalpina has initiated an internal investigation into the issue. The company has not booked any provisions as it has not been charged with anything in the current process. A conclusion on the publicly available information is difficult, but there is also the likelihood of Panalpina being indicted. Still, we think *the monetary risk of any potential related charge would be limited in scope.*”

82. The foregoing statements on August 9, 2007 concerning Panalpina’s business and financial condition were false and misleading when made. While Defendants continued to report strong growth in Panalpina’s revenues and profitability throughout the Relevant Period, they failed to disclose that (1) Panalpina had relied on its oil and gas business in Nigeria in part to help fuel its growth and report strong revenue and profits; (2) Nigeria was material to the Company’s business and financial results; (3) Panalpina was able to dominate the Nigerian business and thereby increase its revenue and profits by providing illegal payments to customs agents and other government officials in violation of the FCPA and Panalpina’s own Code of Conduct; (4) as a result of Panalpina’s illegal conduct in Nigeria, it would likely have to suspend or terminate its business in Nigeria, thereby materially and negatively impacting the Company; and (5) due to Panalpina’s involvement in the making of illegal payments in Nigeria, the monetary risk of charges was high. Further, the foregoing statements were false and misleading because Defendants failed to disclose that the materiality of Nigeria to the Company’s business and financial results helped mask the true profitability of Panalpina’s other operations. The foregoing statements were also false and misleading because Defendants continued to conceal that Panalpina had been implicated as the “major international freight forwarding and customs clearance company” that made at least 378 corrupt payments of \$2.1 million to Nigerian Customs Service officials for its customer, Vetco Gray, in which Vetco Gray agreed to pay a \$26 million fine to the DOJ. Defendants also failed to disclose that in August 2007, another one of Panalpina’s customers, Transocean Incorporated, a Houston-based offshore-drilling contractor,

expanded an internal probe that focused on whether Panalpina has complied with local laws and the FCPA.

D. The Partial Disclosure Of Financial Impact Of Suspension Of Bribes In Nigeria

83. On September 20, 2007, before Panalpina's first ever Investors' Day, Panalpina issued a press release announcing that it had suspended part of its service business in Nigeria, including its temporary importation services for oil and gas customers, and that the suspension would negatively impact the Company's EBITDA by CHF 20 to 30 million. According to the press release:

Panalpina suspends disputed services in Nigeria and confirms 2007 annual targets.

Panalpina, one of the world's leading suppliers of forwarding and logistic services, has suspended part of its service offering in Nigeria including its temporary importation services for oil and gas customers. The announcement is made today at Panalpina's Investor Day in London. *The suspension of these services and its potential impact on certain global agreements with oil and gas customers is expected to have an effect on the group's Ebitda; for the current fiscal year this is estimated to be between CHF 20 to 30 million. Despite this impact, the Company has confirmed its positive outlook and financial guidance for 2007.*

84. After the issuance of the September 20, 2007 press release, Panalpina's stock price dropped over 16%, from the closing price of CHF 239.50 on September 19 to CHF 200 on September 20, 2007, as investors reacted to the negative news concerning the impact of the suspension of certain of the Company's Nigerian business on its financial results.

85. As *Dow Jones* reported following Panalpina's September 20, 2007 announcement:

Today's announcement *was a surprise to the market*, Kepler Equities analyst Roger Steiner said, "*given recent contacts and discussions with the company.*"

The forecast EBITDA impact seemed high, Steiner said, "*especially assuming that this figure is likely only for four months.*"

86. The Oppenheimer Research analyst report dated September 21, 2007 similarly expressed surprise over Nigeria, stating:

Panalpina's suspension of the [Nigerian] business and the financial impact was a surprise. The profitability of the business was much higher than expected – the company had not given a clear cut profitability for the earnings contribution. Management stated that in the remaining months of 2007 the EBITDA impact is some CHF20m to CHF30m while the impact in the following year is CHF40m to CHF50m. Therefore 2008e figures already assume some positive impact from business wins and cost cutting as the number is not three times the 2007e amount (for four months). *The business in Nigeria stands for some 3% of sales and the total Oil and Gas vertical generates some 15% of group sales.* Management clearly stated that in other countries like Kazakhstan or Saudi Arabia – which were earlier discussed in the context of the US Department of Justice – there is no need for similar action. *The topic translates into a reduction of our 2007e EPS forecast by some 8% and roughly 15% in 2008e (2009e still 4%).*

87. A September 21, 2007 Bear Stearns analyst report also questioned management's explanation: "***Why such a big downgrade coming from Nigeria?*** One of the puzzles arising out of yesterday's Investors' Day (given varying answers to the question) was '***why is the potential EBITDA impact so large, if Nigeria represents a relatively small part of the overall business (e.g., 2%-3% of turnover)?***'"

88. Even after Panalpina's September 20, 2007 announcement of suspension of its Nigerian business, however, analysts continued to recommend the stock. Morgan Stanley, for example, noted in its analyst report on September 21, 2007 that "Panalpina's internal investigations have so far not shown any wrongdoing by the group." Landsbanki also stated in its September 21, 2007 analyst report that "On the announcement of the suspension of certain services in Nigeria, and related P&L impacts, Panalpina's stock dropped by over 16% yesterday on huge volumes. We think the company has taken the right decision and consider the sell-off a buy opportunity." Further, although several analysts discussed the fact that Vetco Gray had been found to be paying bribes to customs officials to accelerate clearance in Nigeria and was subject to the largest criminal fine in U.S. history after it admitted to paying a total of \$2.1 million in bribes, the analysts did not associate the Vetco Gray situation with Panalpina due to the Company's continued concealment.

89. Panalpina's September 20, 2007 announcement continued to conceal Panalpina's wrongdoing and failed to provide transparency regarding the full impact that the Nigerian investigation and the Nigerian suspension was having on Panalpina's business and its financial results, including the fact that the Nigerian issue required the Company to incur increased costs and legal expenses and caused the Company to lose customers. By including only consolidated numbers for the Nigerian impact, Defendants obscured whether the negative impact to EBITDA were one-time or recurring. Further, by omitting gross profit information, Defendants obscured the true profitability of the non-Nigerian business. As a result, Panalpina's stock price continued to trade at artificially inflated prices.

90. On November 1, 2007, Panalpina announced its financial results for the first nine months of 2007, reporting growth in gross profit by 16.4%, EBIT by 33.1% and net earnings by 33.3%. In its press release, Panalpina provided no news on the ongoing internal or external investigations regarding Nigeria, and assured investors that the suspension of certain services in Nigeria had limited impact on the Company's financial results, stating:

Financial impact of suspended services confined to forecasted range

The effect from the suspension of certain services in Nigeria and related costs (including legal and advisory fees of CHF 2 million) impacted the Group's Ebitda in the third quarter by CHF 7.5 million. ***The company is therefore confident that the total Ebitda impact will be confined to the earlier forecast range of CHF 20 to 30 million for the full year 2007 and CHF 40 to 50 million for 2008. Moreover, the Ebit 2007 suffered from a one-time goodwill impairment of CHF 11.3 million related to the Nigerian subsidiary.*** Panalpina's resolute efforts to further strengthen its worldwide compliance organization and staff training initiatives are progressing according to plan.

91. The foregoing statements continued to be false and misleading when made because, while Panalpina gave the impression that the financial impact of Nigeria was limited by its previous forecasts, the impact on the Company was much greater than represented because Panalpina was losing large U.S. oil and gas customers, including Transocean, due to the DOJ investigation. Furthermore, unbeknownst to investors, Nigeria had boosted the Company's profit margins and earnings, and suspension of the Nigerian business greatly affected the Company's

results. Additionally, Defendants continued to conceal the increasing costs, including high legal costs, related to Nigeria, and whether the negative impact to EBITDA was one-time or recurring. Further, by omitting gross profit information, Defendants obscured the true profitability of the non-Nigerian business.

92. On November 16, 2007, Panalpina announced that Jurg Honegger, its CFO, had resigned for personal reasons.

93. On November 29, 2007, during a conference call hosted by investment Bear Stearns, Panalpina CEO Monika Ribar continued to deny suggestions of wrongdoing in investigations into Panalpina's business practices, saying "*[t]here is nothing wrong with our internal controls and information systems.*"

94. Ribar's statement, however, was false and misleading when made because the Company in fact did not have adequate internal controls and information systems. As Panalpina representatives later admitted to Plaintiffs, there was no mechanism to enforce the Company's Code of Conduct. Further, according to a former Panalpina account manager in the Midwest Region of the United States, Panalpina did not comply with U.S. regulations by failing to check information or verify documentation as required with respect to its shipments.

95. On January 21, 2008, Panalpina announced that John Klompers, Chief Marketing and Sales Officer and a member of the Company's Board, was leaving Panalpina to pursue other professional challenges after having been with the Company for 13 years. In the same press release, Panalpina also announced the appointment of a Corporate Compliance Officer which had been created as part of the strengthening of the Company's existing compliance programs and organization.

E. The March 13, 2008 Partial Disclosure And Additional Misleading Statements

96. On March 13, 2008, Panalpina issued a press release announcing its disappointing 2007 annual results of CHF 210.6 million, below average forecast of CHF 222 million. In the press release, the Company acknowledged that violations of the FCPA may have occurred, and disclosed that Panalpina had decided not to resume services in Nigeria, as follows:

Full compliance of all operations on a going-forward basis

During 2007, Panalpina completed the review of its entire range of services and simultaneously implemented its Group-wide and standardized Code of Business Conduct including intensive training programs on all staff levels. These efforts were designed to bring, on a going-forward basis, all Group companies into full compliance with the US Foreign Corrupt Practices Act (FCPA). Furthermore, as *Panalpina has certain indications that, in the past, violations of the FCPA may have occurred*, the Audit Committee has instructed an external law firm to investigate the Group's past compliance with the FCPA and has agreed with the US Department of Justice on investigation plans in a limited number of selected countries. This investigation is not expected to be completed before the end of 2008.

* * *

As previously announced, Panalpina suspended parts of its service offering in Nigeria in 2007. Based on the findings of the above mentioned review, the Group has decided not to resume these services and to definitely reduce its service portfolio. This decision will require a reorganization of the Nigerian business entity, a process which is based on a business plan defining Panalpina's future activities and service offering in this country. Panalpina will, however, continue to support its customers which operate in Nigeria and will also maintain its growth strategy in the oil and gas industry, in which the Group holds a leading position globally. In 2007, the total impact of the suspension on Panalpina's global network and customer relations was CHF 23.8 million on Ebitda level and thus confined to the earlier communicated bandwidth.

Long-term business development initiative

For 2008, management estimates the *overall financial impact of the adjusted service portfolio and its enhanced compliance efforts to negatively affect the Group's Ebitda by between CHF 60 and 80 million.*

97. As noted by a JPMorgan analyst report dated March 13, 2008:

Panalpina missed consensus forecasts Margin was at the bottom end of company target (20.0% EBITDA/Gross Profit vs. 20-22% targeted), with a *CHF 23.8m impact from the Nigeria issue. Suspended Nigeria services not to be resumed.* Panalpina now states '*violations of the US Foreign Corrupt Practices Act may have occurred*' *Company outlook significantly weakened* []: The company targets an EBITDA/Gross Profit margin of 21.0% for 09 (below the upper end of the 07 target range

of 20-22%). *Fallout from the Nigeria issue is a driver of lower targets, with the company revising upward the EBITDA impact of the Nigeria issue to CHF 60-80m (from CHF 50m) for 08.* For 07, the impact came in at CHF 23.8m (vs. a previous CHF 20-30m company expectation).

98. Following the foregoing disclosures regarding Panalpina's violations of the FCPA, termination of services in Nigeria, and the negative financial impact on the Company, Panalpina's stock price plunged over 23%, from the closing price of CHF 169.50 on March 12, 2008, to CHF 130.00 on March 13, 2008.

99. The foregoing statements on March 13, 2008 continued to lack transparency, however, because Defendants failed to disclose the full extent of the impact that Nigeria had on the Company. Among other things, the press release failed to disclose that Panalpina was suffering from increasing costs and expenses, including substantial reorganization costs, related to the DOJ's investigation and the termination of services in Nigeria; that it had lost major oil and gas customers like Transocean as a result; and that Panalpina was incurring high legal and monitoring expenses.. Additionally, by including only consolidated numbers for the Nigerian impact, Defendants obscured whether costs were one-time or recurring.

100. On April 2, 2008, representatives of Plaintiffs attended a meeting with Ribar and others in New York. Ribar evaded certain questions, and continued to conceal the full impact of Nigeria on the Company, including the loss of customers and increased costs associated with its termination. On April 3, 2008, Plaintiffs' representatives again met with Ribar who, again, failed to disclose material information concerning the effects of Nigeria. On both occasions, Ribar did not provide clear explanation of the Nigerian impact, several times stating "I have to check my figures" or "I have to go back and look at the figures." On April 15, 2008, Plaintiffs' representative participated in a telephone call with Juerg Vogt, investors relations representative for Panalpina, who also continued to omit material information concerning the business and financial effect Nigeria had on the Company.

101. On April 18, 2008, Panalpina announced an anticipated decline in first quarter 2008 profits of nearly 40% from the same period a year ago in part related to Nigeria. According

to the Company, “[t]he profit decline of the 2008 first quarter result embodies the group-wide impact of the adjusted Nigerian business, as already announced, including related legal fees.”

102. Following this announcement, Panalpina shares again dropped, falling over 9%, declining from CHF 130.50 on April 17, 2008, to CHF 118.50 on April 18, 2008.

103. As noted by a Jefferies International Ltd. analyst report dated April 21, 2008, Panalpina’s first quarter net income decline by 40% was substantially larger than analysts’ estimates of 25%. Further, the Jeffries International April 25, 2008 analyst report criticized the lack of transparency from Panalpina’s management regarding Nigeria or its effects on the Company: “With market confidence in mgmt appearing to be at a low, a chance has again emerged to provide a clear, detailed picture of profit development in Q1, underlying expectations for the balance of the year and, at last, *a transparent representation of discontinued [operations] loss expectations*. This is the challenge that mgmt faces next week.”

104. In April 2008, Panalpina issued its Annual Report for fiscal 2007 (“2007 Annual Report”). The 2007 Annual Report contained an interview with Rudolf W. Hug (new Chairman) and Ribar. In the interview, Ribar stated:

So you have achieved the financial targets you set?

Monika Ribar: Yes, we have increased our profitability again and met our announced financial guidance. Gross profit growth was well above our target of “at least 9%”, and we also met our goal of achieving an Ebitda/gross profit margin of 20 to 22%, although at the lower end of the stated range. *This is a satisfactory result, given the negative impact of the suspended services in Nigeria on the operating result*. With the exception of this problem area, all regions produced a satisfactory to excellent performance and the growth posted by our three core activities has been very gratifying, as Mr. Hug has already mentioned.

105. Panalpina’s 2007 Annual Report also contained discussions concerning the impact of Nigeria on the Company, stating:

West Africa

Business activities in Nigeria were less gratifying. In the course of an investigation by the US Department of Justice regarding possible violations of the US Foreign Corrupt Practices Act, the Group suspended certain local services in 2007. These measures affected, among other things, the entire ships agency business. *The respective impact on the Group’s business was substantial*

both in the regions at origin of the transports and in Nigeria. Further it impacted individual oil and gas customer relations in Nigeria and elsewhere. As a consequence of this reduction of its service offering, Panalpina will have to reorganize its structures in Nigeria to an extent that will be further evaluated during 2008.

North America

New business also in the oil and gas segment

In the year under review, gross profit in the region was impacted by the suspension of parts of its service portfolio in Nigeria and related businesses with US oil and gas customers. The results were further affected by legal fees in connection with the investigation of US authorities which was still underway at the end of the reporting year. Panalpina nevertheless succeeded in gaining valuable new orders from US companies in this key industry, which is testimony to the Company's excellent service quality and customer loyalty.

106. The foregoing statements made in April, 2008 continued to be false and misleading. Defendants failed to disclose that Panalpina had actually lost major customers. Further, although Defendants acknowledged that the Company's financial results were negatively affected by legal fees, they failed to disclose that due to extensive wrongdoing and investigations relating to Nigeria, the legal fees and other costs incurred with termination of the Nigerian business were increasing, amounting to tens of millions in Swiss francs, and were impacting the Company's profits.

107. In April 2008, Panalpina revised its Code of Conduct. The revised Code of Conduct stated that "Panalpina does not permit facilitation payments or so-called 'grease' money to be made to government officials to secure or speed up routine legal government actions, even if such payments are small in amount."

108. On April 29, 2008, in line with its pre-announcement on April 18, 2008, Panalpina reported a 39.7% drop in first-quarter net profit due to charges linked to Nigeria. The Company also announced some management changes, including the departure of Chief Operating Officer of Panalpina, Jorg Eggenberger, from the Company by "mutual agreement."

109. On July 2, 2008, Plaintiffs' representatives spoke with CEO Ribar by telephone from the United States. Ribar again concealed material facts concerning Nigeria, including that the Company was incurring substantial and increasing monitoring costs for the DOJ and other

legal costs related to Nigeria, and that Panalpina's financial performance was being negatively impacted. In the conversation, Ribar also noted that "on a constant currency basis, we are nicely on guidance."

110. On July 30, 2008, the Company announced that its first half net profit fell 29% as costs from its terminated Nigerian operations weighed on earnings. The press release disclosed certain additional facts concerning the effect of Nigeria on the Company, including:

Net earnings (CHF 76.7 million) were once again impacted by the situation in Nigeria. Panalpina intends to withdraw its domestic service portfolio from Nigeria, which is planned to be taken over by local investors.

* * *

Europe/Africa/Middle East/CIS and North America suffered gross profit declines by -5.6% and -9.1% respectively compared to last year's period. Both regions suffered more than others due to Nigeria-related issues and negative currency effects . . .

* * *

[A]ir freight declined by 8.8%, mainly due to rising fuel costs and decreasing demand. Furthermore, *air freight was more strongly affected by the terminated Nigerian services* and fuel surcharges which were passed on to the customers, in many cases with a certain time lag. The margins were under heavy pressure particularly from global customers.

* * *

The operating results were negatively impacted by expenses in relation to Nigeria as well as the legal proceedings in connection with alleged violations of the anti-trust regulations in the forwarding industry by an amount totaling CHF 39.5 million. Legal and consulting fees of CHF 16.3 million are included in the aforementioned amount. As a consequence, Ebitda decreased by 24.6% compared to the same period in the previous year.

* * *

The Board of Directors and the Executive Board of Panalpina have decided to withdraw from the domestic business in Nigeria by the end of 2008. The company will continue to offer transportation services up to arrival port / airport Nigeria, including flight operations and coastal shipping services but will terminate all local and domestic services . . .

* * *

Monika Ribar explains, “In view of the Group’s future development, the withdrawal from Nigeria is in the company’s best interest”. She emphasizes that it has not been an easy decision to make. ***“Admittedly foreign companies operate in an ongoing uncertain and hard to assess legal environment in Nigeria. This makes it difficult for Panalpina to offer both a comprehensive service portfolio and at the same time meet the high ethical standards as outlined in Panalpina’s Code of Business Conduct”***, she continues to explain. With the emerging solution customer demands can be fulfilled even after Panalpina’s withdrawal from the domestic and local business.

* * *

Due to these anticipations and taking into account that the situation in Nigeria will impact the results three months longer than originally planned, Panalpina redefines its financial targets. For 2008, the company adheres to a gross profit increase of 4% but adjusts the Ebitda/Gross Profit margin downwards to 16%.

111. Following these additional disclosures regarding the Company’s admitted failure to meet the standards in its Code of Conduct in Nigeria and the negative impact that the terminated business in Nigeria had on the Company’s business and financial results, Panalpina’s stock dropped approximately 8%, from CHF 93.85 on July 29, 2008, to CHF 86.60 on July 30, 2008.

112. Nevertheless, the foregoing statements in July, 2008 continued to mislead investors as Defendants continued to fail to provide transparency on the true costs and financial impact to the Company relating to Nigeria. Among other things, Defendants failed to disclose that the Company was incurring substantial monitoring charges for the DOJ, and that the Company’s performance was being negatively impacted because Nigeria had boosted its profit margins and earnings, and had concealed the true profits from Panalpina’s other operations.

113. As noted by a Vontobel analyst report on July 31, 2008: “While management is sticking to its guidance for 4% currency adjusted gross profit growth in FY08, the EBITDA/gross profit margin guidance was reduced to 16% from 17.5-18.5% previously. For FY09, Panalpina has reduced its EBITDA/gross profit margin guidance massively from

previously over 21% to between 17.0-18.0%. *The reasons for the margin downgrade are later-than-previously anticipated cost reductions related to Nigeria, higher-than-previously anticipated legal expenses and challenging cost-saving targets for the group.* Although the company has not provided a formal guidance on gross profit growth in FY09, the lower margin clearly points to slower growth expectations for the underlying business relating both to Nigeria and the general deterioration in macroeconomic conditions.”

114. Credit Suisse’s August 4, 2008 analyst report, in discussing Panalpina’s first half of 2008 financial results, similarly stated: “On the EBITDA and EBIT lines the company reported a decline of -24.6% and -27.1% to SFr 131.6m and 108.1m. *The decline has mainly to do with the negative impacts from the suspension of its services in Nigeria.* Adjusted by Nigeria the EBITDA and EBIT remained roughly unchanged versus the prior first half year. The group’s EBIT was also negatively affected by non-recurring items such as legal and consulting fees of SFr 16.3m and termination expenses of SFr 2m. Adjusted by these non-recurring items the group’s EBITDA and EBIT margins declined from 19.5% to 17% and 17% to 14.8%.”

115. On August 8, 2008, ING’s analyst report decried Panalpina’s lack of transparency over the course of the last year, stating: “*Our earnings revisions for Panalpina have been significant during the course of the past year, and – while we are convinced that the greatest negative revisions are now behind the company – earnings visibility is still low, as is earnings transparency. The fact that Panalpina reports data by geography rather than by business mode (air, sea, supply chain management) makes robust earnings forecasts very difficult.* The region Europe/Africa/Middle East/CIS mixes seafreight into Rotterdam, airfreight into Heathrow, Contract Logistics in Nigeria (suspended and to be divested), and almost everything in terms of a freight management business. Investors have to ask whether sea containers from China into Hamburg are booked in Asia/Pacific or in Europe/Africa/Middle East/CIS, or elsewhere. Our view is that a *lack of transparency* leads to valuation discounts, specifically if coupled with a problematic track record.”

116. On August 5, 2008 and August 12, 2008, Plaintiffs’ representatives participated in a call transmitted into the U.S. with Ribar and other Panalpina representatives. Ribar continued

to conceal material facts concerning Nigeria, including that the Company was incurring substantial and increasing monitoring charges for the DOJ and that the Company's legal expenses were increasing significantly.

117. On October 10, 2008, Panalpina issued a press release announcing "Smooth withdrawal from Nigeria." According to the press release:

The withdrawal from the Nigerian domestic business has proceeded smoothly and according to plan. After the announcement of this step by the Panalpina management in July, intensive discussions with customers, Nigerian investors and employee representatives were held. These resulted in swift implementation of the plans. "It was very important for us to ensure that the discontinuation of the domestic services would have as little impact on customers and employees as possible", explains CEO Monika Ribar. "I am convinced that we have worked out a solution which meets these expectations", she continued.

118. The above statement on October 10, 2008 was false and misleading because, contrary to Defendants' representation, the withdrawal from the Nigerian domestic business had disrupted Panalpina's operations. Among other things, the Company had to contend with customer contracts in Nigeria and loss of customers.

119. On October 30, 2008, Panalpina further announced the impact of Nigeria on its financial results for its first nine months of 2008. According to the Company, "Europe/Africa/Middle East/CIS and North America suffered gross profit declines by -5.1% and -8.5%, respectively, compared to last year's period. *Both regions suffered more than others due to Nigeria-related issues*, currency fluctuations and the global economic decline. . . . *The operating results were negatively impacted by CHF 77 million including one-time expenses due to the withdrawal from Nigeria as well as costs associated with ongoing investigations; legal and consulting fees of CHF 26 million are included in the aforementioned amount.* As a consequence, Ebitda decreased by 25.7% compared to the same period in the previous year."

120. Following these additional disclosures on October 30, 2008 relating to the financial impact of Nigeria, Panalpina's stock price fell further, to close at CHF 54.05.

121. On March 12, 2009, Panalpina reported net revenue of CHF 8.9 billion for 2008. The Company reported that 2008 net profit was down 46%, citing negative currency effects and the consequence of the withdrawal from the domestic business in Nigeria. The Company also reported that EBITDA was negatively impacted by CHF 100 million, including one-time expenses due to the withdrawal from Nigeria as well as costs associated with ongoing investigations, legal and consulting fees.

SCIENTER

122. As alleged herein, each of the Insider Defendants acted with scienter. Nigeria was a critical part of the Company's oil and gas business, and Nigeria played a significant role in enabling Panalpina to become the largest forwarder in the U.S. By making improper payments to officials in Nigeria, Panalpina was able to gain an advantage over competitors who did not engage in such illegal conduct, earn greater profit margins and earnings, and attract major oil and gas customers. In addition, Panalpina's high margins and profitability in Nigeria enabled the Company to mask the true profitability of its other operations. Moreover, a major part of Panalpina's Nigerian business depended on the oil and gas business in the U.S. Because Nigeria was important to Panalpina's core business, Insider Defendants were aware of important transactions and circumstances relating to Nigeria.

123. The Insider Defendants were Panalpina's highest ranking officers. Defendant Fischer was the Chairman and CEO of the Company until his retirement on or about May 2007. Fischer was aware that illegal payments were being made in Nigeria and the importance of the Nigerian business to the Company. Fischer was the architect of the Nigerian business and its practices. According to *Moving Forward: The Panalpina Book* (self published by Panalpina), "[Fischer] knew the Nigerian market better than anyone" Additionally, in an April 8, 2009 meeting between representatives of Panalpina and Plaintiffs, Panalpina admitted that Fischer "knew what was going on Mr. Fischer was part of a culture where bribes to foreign officials could be deducted Fischer knew." Fischer's knowledge is imputed to Panalpina and to the Foundation.

124. Likewise, Defendant Ribar, who became CEO after Sidler departed from the Company and interim-CEO Fischer retired, was aware of the illegal conduct involving Panalpina's Nigerian business and the materiality that the Nigerian business had on the Company and its financial results. In 2006, while CFO, Ribar began a risk analysis into the Vetco Gray bribes, which showed that Nigeria was a significant risk, and she notified the Board. Further, in January 2007, the Company commenced an internal review. Yet, Ribar continued to conceal this material information from Panalpina investors until after the close of the market on July 24, 2007, when Panalpina disclosed that it had initiated internal investigations.

125. Defendant Sidler also knew or recklessly disregarded the illegal payments in Nigeria. Sidler had been with Panalpina since 1980. As Panalpina's President and CEO for eight years, from 1998 until 2006, and having worked at Panalpina Nigeria in 1985, Sidler was aware of or recklessly disregarded the illegal practices in Nigeria. According to Panalpina representatives, Sidler has refused to talk to the Company about Nigeria by invoking the Swiss equivalent of the Fifth Amendment. Sidler resigned as CEO during the Relevant Period following an investigation into "serious misconduct" by a high ranking manager that cost the Company an estimated \$25.6 million.

126. The Foundation, likewise, was aware of the illegal Nigerian conduct. Prior to Panalpina's IPO, with ongoing illegal conduct in Nigeria, the Foundation owned 100% of Panalpina. Even following the IPO, the Foundation still owned over 42% of Panalpina's stock, and three members of its Board of Trustees – Gerhard Fischer, Wilfried Rutz and Roger Schmid – continued as Panalpina Board members. Rutz was the Foundation's Chairman, and Fischer was its Vice Chairman. Because Fischer served as the agent for the Foundation while simultaneously serving as Chairman and CEO of Panalpina, the Foundation was an insider of the Company. When Fischer "retired" during the Relevant Period, Rudolf Hug – another Foundation member – became the Chairman of Panalpina. After Fischer's departure from Panalpina, Panalpina's Board for a time consisted of six instead of seven members, half of whom were also members of the Foundation's Board of Trustees. Moreover, one of Panalpina's Board members, Rutz, participated in a meeting with Plaintiffs concerning Panalpina in his capacity as the

representative of the Foundation. As a result of the misrepresentations and omissions about Panalpina, the Foundation was able to profit by unloading over half of its Panalpina shares during Panalpina's September 2005 IPO for proceeds of over CHF 1 billion at prices artificially inflated by the fraud.

127. The Insider Defendants, by virtue of their receipt of information reflecting the true facts regarding Panalpina and its business practices in Nigeria, their control over and/or receipt of Panalpina's allegedly materially misleading statements, as well as their experience in and knowledge of how Panalpina conducted business in Nigeria, were active and culpable participants in the fraudulent scheme alleged herein. The Insider Defendants knew or recklessly disregarded the falsity and misleading nature of the information about Panalpina, which they caused to be disseminated to the investing public.

128. Further, information from former employees indicates that the illegal practice was widespread and was known in the highest ranks of the Company, including by Fischer, Sidler, and Ribar.

129. Additionally, the numerous management changes corroborate the allegations of scienter. Among other things, Fischer "retired" during Panalpina's internal review of the bribes and shortly before Panalpina's internal investigations into the bribes was announced. Additionally, Jurg Honegger, the Chief Financial Officer of Panalpina, resigned in November 2007; Jorg Eggenberger, the former regional CEO of Panalpina's Africa/Middle East/Central Asia/CIS division and the Chief Operations Officer of Panalpina during the Relevant Period, departed from the Company in April 2008 "by mutual agreement"; and John Klompers, the Regional CEO, Europe/Africa/ME/CIS, Chief Marketing & Sales Officer, and a member of Panalpina's Executive Board, resigned in January 2008 after 13 years with the Company.

LOSS CAUSATION

130. As a result of Defendants' material misrepresentations and omissions concerning Nigeria, Panalpina's stock price was artificially inflated at all times during the Relevant Period. When the true facts were disclosed concerning Panalpina in a series of partial disclosures, Panalpina's stock price declined, causing Plaintiffs to suffer losses.

131. By concealing, misrepresenting and omitting the material facts alleged herein, and allowing the illegal conduct in Nigeria to take place, Panalpina outperformed analysts' consensus expectations in four of the six reporting occasions following its IPO. Its stock price concomitantly rose over 300%, from CHF 80 at the time of its IPO to CHF 248 on July 24, 2007.

132. On July 24, 2007, Panalpina issued a press release in which it disclosed that it had initiated internal investigations relating to Nigeria. Although Panalpina disclosed that it was conducting internal investigations, it did not admit to any wrongdoing or disclose the magnitude of the impact of Panalpina's Nigerian business. Instead, Defendants assured investors that Panalpina was not the target of the DOJ's probe and was only asked to provide information. As such, the Company's stock price, while it fell as low as CHF 223, rebounded to CHF 243.10 on July 25, 2007. However, the stock price continued to be artificially inflated because Defendants failed to disclose material facts regarding Nigeria.

133. On September 20, 2007, when Panalpina announced that it had suspended its services in Nigeria and that the suspension would impact the Company's EBITDA between CHF 20 to 30 million, the Company's stock price dropped approximately 16%, from CHF 239.50 the day before the announcement to CHF 200.00 on September 20, 2007.

134. On March 13, 2008, Panalpina acknowledged that it "had certain indications that, in the past, violations of the FCPA may have occurred" and announced that it would not resume the services in Nigeria. Panalpina estimated a negative earnings impact of CHF 60-80 million due to the discontinuation of suspended Nigerian services. As a consequence, Panalpina's stock price dropped over 23%, from CHF 169.50 to CHF 130.00.

135. On April 18, 2008, Panalpina announced a decline of 40% in first quarter 2008 profits due in part to Nigeria. Panalpina shares fell 9.2% on this news to CHF 118.50.

136. On July 30, 2008, Panalpina further reported that its operating results for the first half of 2008 were negatively impacted by Nigeria. Panalpina also reported that its Board of Directors and its Executive Board decided to withdraw from the domestic business in Nigeria by the end of 2008. Upon this disclosure, Panalpina stock price dropped approximately 8%, from CHF 93.85 to CHF 86.60.

137. On October 30, 2008, Panalpina further disclosed that its operating results were negatively impacted by CHF 77 million due to Nigeria. By October 30, 2008, Panalpina's stock had dropped to CHF 54.05.

138. Since disclosing Panalpina's internal investigations into Nigeria on July 24, 2007, and the subsequent disclosures of Panalpina's wrongdoing and the material impact Nigeria had on the Company's financial results, Panalpina's common stock has lost over 78% of its value. Plaintiffs, who purchased approximately 2 million shares in the Company, have suffered significant losses as a consequence of Defendants' fraud.

**APPLICABILITY OF PRESUMPTION OF RELIANCE:
FRAUD ON THE MARKET DOCTRINE**

139. At all relevant times, the market for Panalpina's publicly traded common stock was on an efficient market for the following reasons:

(a) Panalpina's common stock was listed and actively traded on the Swiss Exchange, the U.S. Over-the-Counter Market, and various other markets;

(b) As a regulated issuer, Panalpina filed periodic reports with the Swiss Exchange;

(c) Panalpina regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of annual reports and press releases which were carried by the media, newswires and on the Internet, including in the U.S.; and

(d) Panalpina was followed by numerous analysts who wrote reports which were published, distributed and entered the public market.

140. As a result of the foregoing, the market for Panalpina's publicly traded common stocks promptly digested current information with respect to the Company from publicly available sources and reflected such information in Panalpina's stock price.

FIRST CLAIM
**(For Violations Of Section 10(b) Of The Exchange Act And Rule 10b-5
Promulgated Thereunder Against All Defendants)**

141. Plaintiffs incorporate and reallege each of the foregoing paragraphs as though fully set forth herein and further allege as follows.

142. Defendants, individually and/or in concert, by the use of means or instrumentalities of interstate commerce and/or of the United States mail (1) employed devices, schemes, and artifices to defraud; (2) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; (3) deceived the Plaintiffs, as alleged herein; (4) artificially inflated and maintained the market price of Panalpina securities; and (5) caused Plaintiffs to purchase Panalpina securities at artificially inflated prices and suffer losses. Defendants were primary participants in the wrongful and illegal conduct charged herein.

143. Additional facts supporting the Insider Defendants' liability include the following: (i) each was a high level executive and/or director; (ii) by virtue of his or her responsibilities and activities as a senior executive officer and/or director of the Company, each had contact with other members of the Company's management team, and access to internal reports, and other data and information about the Company's financial condition and performance at all relevant times; and (iii) each was aware of the Company's dissemination of information to the investing public, which they knew or recklessly disregarded was materially false and misleading the truth of the information they disseminated.

144. The Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were readily available to them. The Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Panalpina's financial condition and results of operations and business practices from Plaintiffs and the investing public and supporting the artificially inflated price of its securities. As demonstrated by their concealment of the illegal acts in Nigeria and the effect of such illegal acts in Nigeria on Panalpina's financial performance, the Defendants, if they did not have actual knowledge of the misrepresentations and omissions

alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

145. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Panalpina securities was artificially inflated and caused loss to Plaintiffs when Panalpina's stock price fell in response to the issuance of partial corrective disclosures and/or the materialization of risks previously concealed by the Defendants.

146. By virtue of the foregoing, the Defendants each violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

147. This claim was brought within two years after the discovery of the fraud and within five years of the making of the statements alleged herein to be materially false and misleading.

148. As a direct and proximate result of the Defendants' wrongful conduct, Plaintiffs suffered damages in connection with their purchases of the Company's securities.

SECOND CLAIM
**(For Violations Of Section 20(a) Of The Exchange Act Against
The Insider Defendants And The Foundation)**

149. Plaintiffs incorporate and reallege each of the foregoing paragraphs as though fully set forth herein and further allege as follows.

150. This claim is asserted against the Insider Defendants and the Foundation.

151. The Insider Defendants and the Foundation were, and acted as, controlling persons of Panalpina within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high level positions with the Company, stock ownership, participation in and/or awareness of the Company's operations and/or intimate knowledge of the Company's actual performance, the Insider Defendants and the Foundation had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements which Plaintiffs contend are false and misleading. The Insider Defendants and the Foundation were provided with or had unlimited access to copies of the Company's press releases, annual reports, and other statements

alleged by Plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the false statements and material omission or cause such misleading statements and omissions to be corrected.

152. In addition, the Insider Defendants and the Foundation had direct involvement or power to control the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

153. As set forth above, the Insider Defendants and the Foundation violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their controlling positions, the Insider Defendants and the Foundation are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the Insider Defendants' and the Foundation's wrongful conduct, Plaintiffs suffered damages in connection with their purchases of the Company's securities.

THIRD CLAIM
(For Common Law Fraud Against All Defendants)

154. Plaintiffs incorporate and reallege each of the foregoing paragraphs as though fully set forth herein and further allege as follows.

155. Defendants, and each of them, made material representations and omitted facts necessary to make their statements not false and misleading, including those contained in Panalpina's IPO prospectus, press releases, annual reports, telephone calls, meetings and other disclosures made by Defendants, as described above.

156. Defendants failed to timely disclose Panalpina's illegal acts in Nigeria, the fact that such illegal acts inflated Panalpina's financial results, the materiality of Nigeria to the Company's financial performance, and the negative effect the termination of business in Nigeria had on the Company's financial results, as alleged above. Defendants made these statements intending that they would be relied upon by prospective and existing investors in Panalpina securities, like the Plaintiffs, and which were relied upon by the Plaintiffs in making their investment decisions.

157. When Defendants made the representations and failed to disclose information they had a duty to disclose, as set forth herein, Defendants had knowledge of the falsity of their statements and representations and knew that they were failing to disclose material facts which they had a duty to disclose.

158. Defendants made the misrepresentations and omitted the material facts with the intent to defraud Plaintiffs and to induce Plaintiffs to purchase and hold Panalpina securities.

159. At the time these misrepresentations were made and the material facts not disclosed, and at the time that Plaintiffs took the actions herein alleged, Plaintiffs were ignorant of the true facts. If Plaintiffs had known the true facts, they would not have invested in or continued to hold Panalpina securities.

160. Plaintiffs reasonably relied on Defendants' representations in investing in and continuing to hold Panalpina securities and their reliance was justified since the Defendants concealed the true facts.

161. As a direct and proximate result of the wrongful conduct of each of the Defendants, Plaintiffs have suffered economic losses and other general and specific damages, all in an amount to be determined according to proof.

FOURTH CLAIM
(For Aiding And Abetting Common Law Fraud Against All Defendants)

162. Plaintiffs incorporate and reallege each of the foregoing paragraphs as though fully set forth herein and further allege as follows.

163. Defendants, directly or indirectly, employed devices, schemes, or artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; and/or engaged in acts, practices or courses of business which operated as a fraud or deceit upon Plaintiffs.

164. Defendants, and each of them, engaged in the conduct described herein which rendered substantial assistance to, encouraged and/or aided and abetted the fraud with the intent to induce Plaintiffs into acquiring Panalpina's securities.

165. Plaintiffs did not know of the omissions and misstatements described above when they purchased Panalpina shares. In reliance on the superior knowledge of the Defendants, Plaintiffs were induced to purchase the shares. In investing in Panalpina, Plaintiffs relied, among other things, upon statements made by or authorized by Defendants in the Prospectus, press releases, annual reports, meetings, telephone calls and other statements made by Defendants.

166. As a result of Defendants' aiding and abetting the common law fraud, Plaintiffs suffered damages in an amount to be determined at trial.

FIFTH CLAIM
(For Negligent Misrepresentation Against All Defendants)

167. Plaintiffs incorporate and reallege each of the foregoing paragraphs as though fully set forth herein and further allege as follows.

168. Defendants, and each of them, negligently made material misrepresentations to Plaintiffs which were false and misleading, including those contained in Panalpina's IPO prospectus, press releases, annual reports, meetings, telephone calls and other disclosures made by Defendants, described above.

169. Defendants failed to disclose Panalpina's illegal acts in Nigeria, the fact that such illegal acts inflated Panalpina's financial results, the materiality of Nigeria to the Company's financial performance, and the negative effect the termination of the Nigerian business and these illegal acts had on the Company's financial results. Defendants made these statements intending that they would be relied upon by prospective and existing investors in Panalpina securities, like the Plaintiffs, and which were in fact read and relied upon by the Plaintiffs in making their investment decisions.

170. When Defendants, and each of them, made the representations, as set forth herein, Defendants had no reasonable ground for believing them to be true. Defendants made positive assertions in a manner not warranted by the information in their possession. Defendants made these assertions to induce the reliance of Plaintiffs and to induce Plaintiffs to purchase and hold Panalpina securities.

171. At the time these misrepresentations were made and the material facts not disclosed, and at the time that Plaintiffs took the actions herein alleged, Plaintiffs were ignorant

of the true facts. If Plaintiffs had known the true facts, they would not have invested in or continued to hold Panalpina securities.

172. Plaintiffs reasonably relied on these representations in investing and continuing to hold Panalpina securities and their reliance was justified.

173. Defendants, and each of them, engaged in conduct, herein described, which rendered substantial assistance to, encouraged and/or aided and abetted the others' conduct.

174. With knowledge of the unlawful purpose of the fraud, Defendants, and each of them, entered into an agreement to accomplish the aforesaid scheme, and by their actions took steps to further that scheme.

175. As a direct and proximate result of the wrongful conduct of each of the Defendants, Plaintiffs have suffered and will continue to suffer economic losses and other general and specific damages, all in an amount to be determined according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

- i) Awarding compensatory damages in favor of Plaintiffs against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- ii) Awarding punitive and exemplary damages;
- iii) Awarding Plaintiffs their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- iv) Such other and further relief as the Court may deem just and proper.

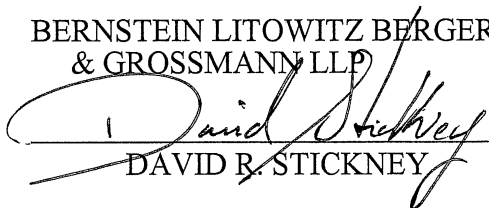
DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

Dated: July 23, 2009

Respectfully submitted,

BERNSTEIN LITOWITZ BERGER
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