

Counsel of Record:
Kelly L. Gibson
Jennifer Chun Barry
Karen M. Klotz
Kingdon Kase
Han Nguyen

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
One Penn Center
1617 JFK Boulevard, Suite 520
Philadelphia, PA 19103
Telephone: (215) 597-3100
Facsimile: (215) 597-2740

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**DONALD A. MILNE III and
INSTAPRIN PHARMACEUTICALS, INC.,**

Defendants,

and

ISLAND RACEWAY & HOBBY, INC.,

Relief Defendant.

Civil Action No. 19-

**COMPLAINT FOR VIOLATIONS OF
THE FEDERAL SECURITIES LAWS**

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) alleges as follows
against defendants Donald A. Milne III (“Milne”) and Instaprin Pharmaceuticals, Inc.

(“Instaprin”) (collectively, “Defendants”), whose last known addresses are set forth below:

Donald A. Milne III
181 North Chestnut Street
North Massapequa, New York 11758-3036

Instaprin Pharmaceuticals, Inc.
2116 Merrick Avenue, Suite 3001
Merrick, New York 11566

SUMMARY OF THE ACTION

1. This matter involves a fraudulent investment scheme orchestrated by Defendant Milne, a convicted felon and securities fraud recidivist, by and through his company Instaprin (formerly SPI Acquisition Corp. (“SPI”)) (also “the company”), a purported pharmaceutical company that Milne claimed was developing a powdered form of aspirin to instantly stop heart attacks and strokes.

2. From at least January 2013 through December 2018, Defendants raised over \$4 million from more than 70 investors – many of whom were elderly and unsophisticated in investment matters – in an unregistered offering by falsely stating that investor funds would be used to pay operating expenses to further Instaprin’s development of a marketable aspirin product. Instead, Milne used the bulk of investor funds for his personal benefit, including, among other things, to pay for a Caribbean vacation, boating expenses, clothing, spa treatments, divorce payments, and to sustain the operations of his remote-controlled toy racecar business, Island Raceway & Hobby, Inc. (“Island Raceway”).

3. In addition to misrepresenting the intended use of investor proceeds, Milne falsely stated in offering documents that he held 16 patents, including some in the pharmaceutical field; he had assembled a board of directors and advisory committees that included world-renowned industry leaders; and Instaprin had millions of dollars in working capital and had made significant steps towards developing a marketable product. These statements, as Milne well knew, were false.

4. In reality, Milne held only three patents, none of which related to pharmaceuticals; many industry leaders listed in the offering documents never served on Instaprin's board or advisory committees; and Instaprin had only a fraction of the alleged millions of dollars in working capital, which it raised under false pretenses. Milne also omitted from the offering documents any mention of his criminal past.

5. To further the scheme, Milne distributed shareholder updates that falsely reported progress towards a product launch, a merger with one of two large pharmaceutical companies, and an initial public offering. These statements, too, were false and were designed to provide investors a false sense of security in their investment and encourage additional investments in Instaprin.

6. Although Milne portrayed himself as an experienced professional in the pharmaceutical industry who was on the cusp of turning his investors' investments into riches, he was, in reality, a convicted felon who preyed on and defrauded unsuspecting investors.

7. By engaging in the conduct described in this Complaint, Defendants violated, and unless restrained and enjoined, will continue to violate, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)]. Relief Defendant Island Raceway has been unjustly enriched, as it received proceeds of the fraud to which it has no legitimate claim.

JURISDICTION AND VENUE

8. The Commission brings this action pursuant to Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)] and Sections 20(b) and 20(d) of the Securities

Act [15 U.S.C. §§ 77t(b) and 77t(d)] to enjoin such acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil money penalties, and such other and further relief as the Court may deem just and appropriate.

9. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa] and Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)].

10. Venue in this district is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] and Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] because certain of the acts, transactions, events, and omissions giving rise to the violations of the federal securities laws alleged herein occurred within the District of New Jersey, including that Defendants made misrepresentations and engaged in deceptive conduct affecting investors residing within the District of New Jersey. Relief Defendant Island Raceway received ill-gotten funds obtained as a result of Defendants' fraudulent scheme that operated within the District of New Jersey.

DEFENDANTS

11. **Donald A. Milne III**, age 54, is a resident of Massapequa, New York. Milne was the founder, President, and Chief Executive Officer ("CEO") of Instaprin. Milne also owned and operated Island Raceway, which is described more fully below. In February 1998, Milne pleaded guilty to conspiracy to commit securities fraud, in violation of 18 U.S.C. § 371, in the U.S. District Court for the District of Nevada in *U.S. v. Cozzolino, et al.*, CR-S-96-287-LDG-(LRL) (D. Nev. Sept. 17, 1997), and was sentenced in January 2000 to three years of probation, fined, and ordered to pay restitution to his victims.

12. **Instaprin Pharmaceuticals, Inc.**, formerly known as SPI, is a Delaware corporation formed by Milne in 2012 with an office in Merrick, New York. Instaprin is not

registered with the Commission in any capacity and has never registered an offering or class of securities under the Securities Act or the Exchange Act.

13. At all times relevant to the facts alleged in this Complaint, Instaprin acted by and through Milne, who exercised complete control over the operations of the company, including the offer and sale of securities and the use of investor proceeds.

RELIEF DEFENDANT

14. **Island Raceway & Hobby, Inc.** is a New York corporation formed by Milne in 2011 that operated an indoor racetrack and hobby store for remote-controlled toy cars in Lindenhurst, New York. Milne owned and operated Island Raceway until it ceased operations in or about September 2018.

FACTS

I. BACKGROUND

15. In or about 1998, Milne pleaded guilty to conspiracy to commit securities fraud, in violation of 18 U.S.C. § 371, in the U.S. District Court for the District of Nevada. At the time of the offense, Milne was a broker in a New York boiler room and was accused of accepting bribes and kickbacks in exchange for recommending fraudulently-issued stock in one of two telephone companies to unsuspecting brokerage customers. In 2000, Milne was sentenced to three years of probation, fined, and ordered to pay restitution to his victims.

16. While under federal indictment, Milne helped form Soluprin Pharmaceuticals, Inc. (“Soluprin”) in or about 1999 for the ostensible purpose of developing a fast-acting form of aspirin. By 2010, more than a decade after its formation, Soluprin had no product, no revenue, and no valuable assets.

17. Nevertheless, in or around September 2010, Milne formed SPI for the purported purpose of acquiring Soluprin’s assets. By November 2010, Milne had begun raising funds for

SPI from investors through an unregistered securities offering.

18. To give the appearance of a legitimate company, Milne rented office space and hired a small administrative staff. Milne also opened bank accounts in the company's name and was the only authorized signatory on those accounts.

19. In or around 2014, Milne told investors that SPI would no longer pursue purchasing Soluprin's assets, but instead would develop its own new form of aspirin that could stop heart attacks and strokes instantly. Milne called his new drug "Instaprin."

20. In or about September 2015, Milne obtained a trademark for the name "Instaprin" and notified investors that SPI had changed its name and would now be known as Instaprin.

II. MILNE, BY AND THROUGH INSTAPRIN, FRAUDULENTLY INDUCED INVESTORS TO INVEST MILLIONS OF DOLLARS IN HIS COMPANY AND MISAPPROPRIATED INVESTOR FUNDS

21. Beginning in at least January 2013 and continuing through December 2018, Milne, by and through Instaprin, engaged in a fraudulent scheme to raise money from investors and divert that money for Milne's personal use and benefit.

22. As part of the scheme, Defendants conducted the following four unregistered equity securities offerings (collectively, the "offerings"):

Offering Year	Entity	Units Offered	Price Per Unit	Total Maximum Offering
2013	SPI	100,000 shares of common stock and 100,000 common stock purchase warrants	\$100,000	\$2.5 million
2014	SPI	100,000 shares of common stock and 100,000 common stock purchase warrants	\$100,000	\$2.5 million
2015	SPI	100,000 shares of common stock and 100,000 common stock purchase warrants	\$100,000	\$2.5 million

Offering Year	Entity	Units Offered	Price Per Unit	Total Maximum Offering
2016	Instaprin	33,334 shares of common stock and 20,000 common stock purchase warrants	\$100,000	\$2.5 million

23. Defendants offered and sold common stock and common stock purchase warrants to retail investors residing in New Jersey and other states without disclosing the offerings to the Commission, seeking to register the offerings with the Commission, or otherwise complying with the Securities Act's registration requirements.

24. Defendants did not distribute audited financial statements to investors in connection with the offerings, and failed to take reasonable steps to verify that all investors were accredited, relying instead upon investors to verify their own accreditation status.

25. To recruit investors, Milne used one or more stock promoters who cold-called prospective investors, many of whom were elderly and unsophisticated in investment matters.

26. If a prospective investor showed interest, Milne followed up with a personal telephone call to falsely tout his credentials and the prospects of the company.

27. Once the investor agreed to participate, Milne mailed or caused to be mailed offering documents that provided wiring instructions for bank accounts in New York which Milne alone controlled. Milne pooled investor funds and deposited them into these same bank accounts.

28. Investor funds were Instaprin's only source of revenue. Therefore, when an investor requested that their shares be sold, Milne repaid the investor with funds raised from other investors ("Ponzi-like payments"). Between 2014 and 2017, Milne made approximately \$82,500 in Ponzi-like payments to individuals who had invested in the company prior to 2014.

29. Milne mailed or caused to be mailed the following offering documents to prospective investors:

- February 1, 2013 “Confidential Private Placement Memorandum” for SPI (“2013 PPM”);
- 2014 “Confidential Private Placement Memorandum” for SPI (“2014 PPM”);
- 2015 “Confidential Private Placement Memorandum” for SPI (“2015 PPM”); and
- 2016 “Confidential Private Placement Memorandum” for Instaprin (“2016 PPM”)

(collectively, “the PPMs”).

30. As the founder, President, and CEO of Instaprin, Milne was the highest-ranking executive and was responsible for the content of the PPMs.

31. Defendants made materially false and misleading statements and omissions in the PPMs concerning, among other things, (1) the maintenance and use of investor proceeds; (2) Milne’s background and qualifications and the composition of the board of directors and advisory committees; and (3) Instaprin’s success in securing high net worth investors and progress in developing a marketable product.

A. Milne Misrepresented the Intended Use of Investor Proceeds and the Maintenance of Investor Funds

32. Milne promised investors in the PPMs that “[e]ach investor check will be deposited in a segregated, non-interest bearing account maintained by the Escrow Agent.” No such escrow account existed. Instead, Milne comingled investor checks in the corporate bank accounts which Milne alone controlled.

33. Milne further stated in the PPMs that “the Company may pay to NASD registered representatives a commission of 10% of the purchase price of each Unit sold, plus a non-accountable allowance equal to 3% of the purchase price of each Unit sold.” Milne enlisted at least one unlicensed individual to solicit funds from investors and paid commissions of up to

20%, double what was disclosed in the PPMs.

34. Milne stated in the PPMs that investor proceeds would be used to pay the “normal day-to-day operating expenses” of Instaprin, as well as “the costs involved in developing and commercializing its products,” including “Batch/stability testing,” “Manufacturing,” “Market/advertising consultant,” and “Salaries/rent/insurance [and] General working capital.” In reality, Milne misappropriated the majority of the funds for his personal use and benefit and used only a small portion of the monies raised on these expenses to give the company the appearance of legitimacy which assisted in perpetuating the fraud.

35. Since June 2014, Milne used at least \$827,586 of investor funds to sustain the operations of his toy racecar business, Island Raceway. Milne frequently wrote checks directly from the company’s bank accounts to pay for Island Raceway’s utilities, rent, and toy racecar inventory. These checks were often written on the same day or within days of receiving new investor funds.

36. Milne also misappropriated investor funds to pay for personal expenses, including a Caribbean vacation, maintenance of a boat, dry cleaning, spa charges, clothing, and his divorce settlement, among other things.

37. These expenses were totally unrelated to Instaprin’s stated business purpose and were contrary to the explicit statements in the PPMs concerning the use of investor proceeds. Milne did not inform investors that their funds would be used to subsidize his toy racecar business or pay for his personal expenses.

38. Milne knew that the statements to investors concerning the intended use of investor proceeds were false and misleading because Milne himself diverted investor funds to himself or Island Raceway, all for his own personal benefit.

B. Milne Misrepresented His Background and Membership of the Board of Directors and Advisory Committees

39. In the PPMs, Milne portrayed himself as an experienced professional in the pharmaceutical industry who held “16 patents,” including some related to “pain management therapies.” In reality, Milne held only three patents, none of which relate to pain management or pharmaceuticals.

40. While touting his purported credentials as a 25-year veteran in the world of investment banking, Milne failed to disclose to investors, in the PPMs or otherwise, that he was a convicted felon who pleaded guilty to conspiracy to commit securities fraud in connection with a fraudulent offering.

41. Milne also represented in the PPMs that he had assembled “a very strong world renowned board of directors and medical advisory board,” that included industry leaders in fields of science and finance. Specifically:

- the PPMs listed a former executive at Bear Stearns with “more than 30 years of experience in the investment banking sphere” as a board member and principal shareholder (“Board Member 1”);
- the PPMs listed a former “Special Assistant to the Minister of Industry Science and Technology for Canada” who had “over fifteen years of experience in corporate finance” as a member of the “Business Advisory Committee” (“Committee Member 1”);
- the 2014 and 2015 PPMs listed “one of the leading attorneys in the area of drug formation” and “a former Examiner in the United States Patent and Trademark Office examining patent applications in the chemical arts” as patent counsel (“Patent Counsel”); and
- the 2014, 2015, and 2016 PPMs listed a medical doctor and “the former chairman of the appropriations committee at the National Institute of Health” as a member of the “Medical/Science Advisory Board” (“Board Member 2”).

42. Contrary to the representations in the PPMs, Board Member 1, Committee Member 1, and Board Member 2 were not directors, advisors, and/or shareholders of Instaprin. In fact, these individuals had no involvement with Instaprin whatsoever. Likewise, Patent Counsel was not the patent attorney for Instaprin, and had retired from the practice of law in 2010.

43. Milne, who was ultimately responsible for the PPMs' content, knew that the PPMs omitted his criminal history, misstated the number and type of patents he held, and fabricated board and committee membership.

44. Milne fabricated the membership of the board and advisory committees to dupe unsuspecting investors and give the false appearance that Instaprin had legitimate business operations and had garnered the interest of established industry leaders.

C. Milne Misrepresented Instaprin's Ability to Attract High Net-Worth Investors and Its Progress in Developing a Marketable Product

45. In the 2014 and 2015 PPMs, Milne stated that the company had "accepted investment capital from 5 separate investors for an aggregate of 2.5 million dollars" in the second quarter of 2013. In reality, Defendants had raised only \$260,000 from five investors during that period.

46. Milne further stated in the 2014 and 2015 PPMs that the company had \$4.3 million and \$2.3 million in working capital, respectively. In reality, the available funds in the company's bank accounts – the only source of working capital – did not exceed \$48,000 in any month in 2014, and \$127,000 in any month in 2015.

47. In the 2016 PPM, Milne stated that Instaprin had "entered into a clinical research contract with . . . and [*sic*] FDA compliant Clinical Research organization . . . in Princeton, New Jersey to complete a human clinical trial." Instaprin had no such contract. In fact, Instaprin

never began a human clinical trial of any product.

D. Milne Misrepresented in Shareholder Updates that Instaprin Was Negotiating With “Big Pharma” and Was on the Verge of a Product Launch and Lucrative Public Offering

48. To perpetuate the fraud and induce additional investment from existing investors, Milne distributed shareholder updates that falsely stated Instaprin was engaged in serious negotiations with “big pharma” and was on the verge of a product launch and lucrative public offering.

49. Between April 3, 2014 and September 14, 2018, Defendants distributed to investors the following documents, all of which were on Instaprin letterhead and signed by Milne as CEO:

- Investor Letter dated April 3, 2014 (“2014 Investor Letter”);
- Update letter for 2014 (“2014 Update”);
- Update dated May 2015 (“May 2015 Update”);
- Update for year-end 2015 (“2015 Update”);
- Update dated April 2016 (“2016 Update”);
- Interim Update dated November 2017 (“2017 Update”);
- Interim Update dated March 2018 concerning “Product launch and/or Acquisition” (“March 2018 Update”); and
- Update dated May 2018 (“May 2018 Update”)

(collectively, “shareholder updates”).

50. The shareholder updates contained numerous misrepresentations designed to cause investors to believe that Instaprin was progressing towards a product launch and public offering, including that:

- the drug Instaprin was “FDA approved” (2014 Investor Letter and 2014 Update);

- Instaprin had a “patented formulation which is produced under a trade secret process” (May 2015 Update);
- Instaprin had a contract with a Princeton-based clinical research company to conduct the FDA approved clinical trial (2015 Update, May 2015 Update, and 2016 Update);
- the American Heart Association had contacted Instaprin “to discuss our company, its research and the successful completion of our first FDA compliant Instaprin formulation” (May 2015 Update); and
- Instaprin had retained a New York-based accounting firm “to complete a full financial audit in compliance with the SEC under the GAAP and FASB accounting guidelines” in preparation for a public offering (May 2015 Update).

51. In reality, the drug Instaprin was not FDA approved, patented, or undergoing clinical trials with any clinical research company. Additionally, the American Heart Association had no knowledge of Milne or Instaprin, and Milne had not contracted with the New York-based accountant to audit Instaprin. These statements, as Milne well knew, were false and were designed to give investors the false sense that their investment was being used to fund research and development of a pharmaceutical product, and not pay for Milne’s personal expenses and fund his toy racecar business.

52. As a result, Milne gave investors the false impression that Instaprin had developed a FDA-approved patented drug that had drawn the attention of a world-renowned non-profit organization that funds cardiovascular research. This simply was not true.

53. Milne also falsely touted negotiations for joint ventures with “big pharma . . . and the possibility of an acquisition before we put a single product on a retail shelf.”

54. Specifically, Milne informed investors in the 2017 Update and March 2018 Update that Instaprin had “expended considerable capital to pursue a potential merger with Pfizer and or Johnson & Johnson as well as other serious potential partners.” Milne continued to falsely tout in both the March 2018 Update and May 2018 Update that the company was

“negotiating in good faith negotiations [*sic*] to complete a business venture with Johnson & Johnson and or Pfizer” and that “a deal is immanent [*sic*] in the very near term.”

55. None of these statements were true. Johnson & Johnson and Pfizer did not enter into negotiations with Milne or Instaprin concerning any kind of joint venture or possible acquisition.

56. Milne lied to investors by touting a potential early “sell out . . . at \$20 to \$30/share or a 200 to 300+ million valuation” as a result of the negotiations with Johnson & Johnson and Pfizer.” He also lied to investors about the possibility of holding onto their investment for another year on the false premise that he could go “back to the deal table in a year at the billion dollar level.”

57. Through these statements, Milne represented to investors that they stood to gain a windfall on their initial investment. In reality their money was gone, having been spent by Milne.

E. The Extent of Defendants’ Fraud

58. Between January 2014 and December 2018, Defendants defrauded approximately 70 investors in 24 different states, including New Jersey, out of approximately \$3,347,775. To date, no money has been repaid to those investors.

59. Between June 2014 and December 2018, Island Raceway wrongfully received approximately \$827,586 of investor funds which Milne diverted from Instaprin.

III. TOLLING OF THE STATUTE OF LIMITATIONS

60. Defendants Milne and Instaprin agreed to toll any statute of limitations applicable to the claims alleged herein during the period from January 1, 2019 through June 1, 2019.

DEFENDANTS VIOLATED THE FEDERAL SECURITIES LAWS

61. At all relevant times, Milne owned, operated, and controlled Instaprin.

62. The common stock and common stock purchase warrants offered and sold by Defendants (the “Securities”) were securities within the meaning of the Securities Act and Exchange Act.

63. Defendants sold the Securities to individual members of the general public in multiple states, including New Jersey, and the offerings exceeded \$1 million.

64. Many of the investors in the Securities were financially unsophisticated and did not have access to the kind of information that would have been available in a registration statement.

65. Defendants failed to take reasonable steps to verify that all investors were accredited, relying instead upon investors to verify their own accreditation status.

66. Defendants did not distribute audited financial statements to investors before the sale of the Securities.

67. The Securities are not subject to any other regulatory scheme that significantly reduced the risks inherent in their purchase.

68. Defendants offered to sell and sold the Securities when no registration statement was on file with the Commission and the Securities were not exempt from the registration requirements of the Securities Act.

69. In connection with these sales or offers to sell, Defendants carried or caused to be carried through the mails or in interstate commerce, by the means or instruments of transportation, securities for the purpose of sale or for delivery after sale when no registration statement was filed or was in effect as to the securities.

70. During the period from January 2013 through December 2018, Defendants continuously offered and sold the Securities.

71. The investments were all in a common enterprise run by Defendants, with the expectation of profits to be derived solely from the efforts of Defendants. Investors played no role in the management or operations of the business described herein.

72. Investors provided Defendants an investment of money—approximately 70 investors gave Defendants at least \$3,347,775 in the last five years.

73. Milne pooled investors' money into bank accounts and represented that he would use those funds to operate Instaprin and develop a marketable product.

74. Investors made their investment with a reasonable expectation of profits to be derived solely from Defendants' supposed ability to generate profits without any participation by any of its investors.

75. Defendants engaged in the conduct described herein, including the offer and sale of the Securities, by use of the means or instruments of transportation or communication in interstate commerce, the instrumentalities of interstate commerce, and/or by use of the mails.

76. Milne and Instaprin, by and through Milne, knowingly made material untrue statements and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

77. A reasonable investor would consider the misrepresented facts and omitted information described herein—including, among other items, misrepresentations and omissions regarding the use of investors' money to pay for Milne's personal expenses and subsidize his toy racecar business, using investor money to pay existing investors, the fabricated membership of Instaprin's board of directors and advisory committees, and Milne's federal felony conviction for

conspiracy to commit securities fraud—important in deciding whether or not to purchase the securities.

78. The untrue statements of material fact and material omissions described herein were made in the offer or sale and in connection with the purchase or sale of securities.

79. In connection with the conduct described herein, Defendants acted knowingly or recklessly. Defendants knew or were reckless in not knowing that they were making material misrepresentations and omitting to state material facts necessary to make certain statements not misleading under the circumstances.

80. Defendants obtained money or property by means of untrue statements of material fact and omission of material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. Investors sent money directly to the Defendants, and Milne took the money for his own use and benefit.

81. Defendants used devices, schemes, and artifices to defraud investors, and engaged in acts, transactions, practices, or courses of business that operated as a fraud or deceit upon the investors. In addition to the numerous misrepresentations discussed herein, among other things, Defendants misled investors as to the nature of their investments, used investor funds to repay earlier investors who asked that their shares be sold, and misappropriated investors' funds for Milne's personal use and benefit.

82. Island Raceway benefited from Defendants' fraudulent scheme. In the past five years, Defendant Milne diverted to Island Raceway at least \$827,586 that came from investors who were told that they were investing in Instaprin. Island Raceway did not provide anything of value in exchange for these funds.

83. These transfers of funds to Island Raceway were part and in furtherance of the Securities laws violations alleged herein. Therefore, Island Raceway has been unjustly enriched.

FIRST CLAIM FOR RELIEF
(Violations of Section 17(a) of the Securities Act)
(Against Milne and Instaprin)

84. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 83, inclusive, as if they were fully set forth herein.

85. By engaging in the conduct described above, Defendants knowingly or recklessly, in the offer or sale of securities, directly or indirectly, by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails:

- a. employed devices, schemes, or artifices to defraud;
- b. obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or
- c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

86. By engaging in the foregoing conduct, Defendants Milne and Instaprin violated and, unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF
(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder)
(Against Milne and Instaprin)

87. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 83, inclusive, as if they were fully set forth herein.

88. By engaging in the conduct described above, Defendants knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by use of the means or instrumentalities of interstate commerce or of the mails or of any facility of a national securities exchange:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of material fact, or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

89. By engaging in the foregoing conduct, Defendants violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

THIRD CLAIM FOR RELIEF
(Violations of Section 5(a) and 5(c) of the Securities Act)
(Against Milne and Instaprin)

90. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 83 of the Complaint, inclusive, as if they were fully set forth herein.

91. Defendants, by engaging in the conduct described above, directly or indirectly, with respect to a security for which no registration statement was filed or in effect, and in the absence of any applicable exemption from registration:

- a. carried or caused to be carried through the mails or in interstate commerce, by means or instruments of transportation, such security for the purpose of sale

and/or for delivery after sale; and

- b. made use of a means or instrument of transportation or communication in interstate commerce or of the mails to offer to sell such security through the use or medium of a prospectus or otherwise.

92. By engaging in the foregoing conduct, Defendants violated, and unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and (c)].

FOURTH CLAIM FOR RELIEF
(Unjust Enrichment)
(Against Relief Defendant Island Raceway & Hobby, Inc.)

93. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 83, inclusive, as if they were fully set forth herein.

94. Between June 2014 and December 2018, Milne diverted at least \$827,586 of investor funds to Island Raceway via direct money transfers and by regularly paying its rent, utilities, and other expenses related to the operation of his remote-controlled toy racecar business.

95. Island Raceway obtained investor funds described above as part of, and in furtherance of, the securities law violations alleged above.

96. Island Raceway has no legitimate claim to these ill-gotten gains, which are proceeds of the securities fraud alleged above, and it is not just, equitable, or conscionable for it to retain the funds.

97. Accordingly, Island Raceway is liable as a relief defendant for unjust enrichment and must disgorge the amount of its ill-gotten gains.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment:

I.

Permanently restraining and enjoining Defendants Milne and Instaprin from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§77e(a) and (c)];

II.

Ordering Defendants Milne and Instaprin to disgorge any and all ill-gotten gains, together with prejudgment interest, derived from the activities set forth in this Complaint;

III.

Ordering Defendants Milne and Instaprin to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and/or Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78(u)(d)(3)];

IV.

Ordering Relief Defendant Island Raceway to disgorge all ill-gotten gains to which it does not have a legitimate claim that it received as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon; and

V.

Granting such other and further relief as this Court may determine to be just and necessary.

Respectfully submitted,

s/ Karen M. Klotz

Kelly L. Gibson
Jennifer C. Barry
Karen M. Klotz
Kingdon Kase
Han Nguyen

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
1617 John F. Kennedy Boulevard, Suite 520
Philadelphia, PA 19103
Telephone: (215) 597-3100
Facsimile: (215) 597-2740
Email: klotzk@sec.gov

Dated: May 29, 2019

LOCAL CIVIL RULE 11.2 CERTIFICATION

Pursuant to Local Civil Rule 11.2, I certify that the matter in controversy alleged in the foregoing Complaint is not the subject of any other civil action pending in any court, or of any pending arbitration or administrative proceedings.

Dated: May 29, 2019

s/ Karen M. Klotz

Kelly L. Gibson
Jennifer Chun Barry
Karen M. Klotz
Kingdon Kase
Han Nguyen

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
1617 JFK Boulevard, Suite 520
Philadelphia, PA 19103
Telephone: (215) 597-3100
klotzk@sec.gov

DESIGNATION PURSUANT TO LOCAL CIVIL RULE 101.1(f)

Pursuant to Local Civil Rule 101.1(f), because the Securities and Exchange Commission (“Commission”) does not have an office in this district, the United States Attorney for the District of New Jersey is hereby designated as an eligible alternative to the Commission to receive service of all notices or papers in the action at the following address:

David Dauenheimer
Deputy Chief, Civil Division
Assistant U.S. Attorney
970 Broad Street
Newark, New Jersey 07102
Email: david.dauenheimer@usdoj.gov
(973) 645-2700

Dated: May 29, 2019

s/ Karen M. Klotz
Kelly L. Gibson
Jennifer Chun Barry
Karen M. Klotz
Kingdon Kase
Han Nguyen

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
1617 JFK Boulevard, Suite 520
Philadelphia, PA 19103
Telephone: (215) 597-3100
klotzk@sec.gov