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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ROBERT GAUTHIER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

BISYS GROUP, INC., LYNN MAGNUM,  
RUSSELL FRADIN, JAMES FOX and  
KEVIN DELL,

Defendants.

**CIVIL ACTION NO.**

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF FEDERAL  
SECURITIES LAWS**

**JURY TRIAL DEMANDED**

Plaintiff, individually and on behalf of all other persons similarly situated, by plaintiff's undersigned attorneys, for plaintiff's Complaint, alleges upon the investigation made by and through plaintiff's counsel, which included, *inter alia*, a review of relevant public filings made by BISYS Group, Inc. ("BISYS" or the "Company") with the Securities and Exchange Commission (the "SEC"), as well as tele-conferences, press releases, news articles, analyst reports, and media reports concerning the Company. This complaint is based upon plaintiff's personal knowledge as to plaintiff's own acts, and upon information and belief as to all other matters, based upon the aforementioned investigation.

## **SUMMARY OF ACTION**

1. This is a class action on behalf of all persons, other than defendants, who purchased BISYS securities during the period from October 23, 2000 to May 17, 2004, inclusive (the "Class Period") to recover damages caused by defendants' violations of the federal securities law.

## **JURISDICTION AND VENUE**

2. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78t(a)] and Rule 10b-5 promulgated thereunder by the SEC [17 C.F.R. § 240.10b-5].

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

4. Venue is proper in this District pursuant to Section 27 of the Exchange Act, and 28 U.S.C. § 1391(b). Many of the acts and practices complained of herein occurred in substantial part in this District and BISYS maintains its corporate headquarters in this District.

5. In connection with the acts alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

## **PARTIES**

6. Plaintiff Robert Gauthier purchased shares of BISYS common stock as set forth more fully in the annexed certificate and suffered economic damages.

7. BISYS is a Delaware corporation with its principal place of business located at 90 Park Avenue, New York, New York 10016. Defendant BISYS supports more than 20,000 financial institutions and corporate clients with products and services. The Investment Services

group provides an array of investment services, including mutual fund, hedge fund, private equity fund and retirement plan services. The Insurance and Education Services group provides an overall solution for life insurance and commercial property/casualty insurance distribution, as well as financial services education and licensing automation. The Information Services group supports approximately 1,450 banks, insurance companies and corporations with information processing, asset retention solutions, specialized back-office services required to support corporate-sponsored cash management programs and check imaging solutions. The Company's clients are located in all 50 states and several international locations, principally western Europe, Bermuda and the Cayman Islands.

8. The defendants listed below served, during the period specified, as senior officers and/or directors of BISYS:

(a) Defendant Lynn Magnum ("Magnum") is, and was at all relevant times, Chairman of the Board of the Company;

(b) Defendant Russell Fradin ("Fradin") is, and was at all relevant times, President, Chief Executive Officer and a Director of BISYS;

(c) Defendant James Fox ("Fox") is, and was at all relevant times, Chief Financial Officer and Executive Vice President of the Company; and

(d) Defendant Kevin Dell ("Dell") is, and was at all relevant times, Executive Vice President, General Counsel, and Secretary of the Company.

9. Defendants Magnum, Fradin, Fox and Dell are referred to herein as the "Individual Defendants." The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of BISYS' quarterly reports, press releases and presentations to securities analysts, money and portfolio managers and

institutional investors, i.e., the market. Each defendant was provided with copies of the Company's reports and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them but not to the public, each of these defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public and that the positive representations which were being made were then materially false and misleading.

10. It is appropriate to treat the Individual Defendants as a group for pleading purposes and to presume that the false, misleading and incomplete information conveyed in the Company's public filings, press releases and other publications as alleged herein are the collective actions of the narrowly defined group of defendants identified above. Each of the above officers of BISYS, by virtue of their high-level positions with the Company, directly participated in the management of the Company, was directly involved in the day-to-day operations of the Company at the highest levels and was privy to confidential proprietary information concerning the Company and its business, operations, products, growth, financial statements, and financial condition, as alleged herein. Said defendants were involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein, were aware, or recklessly disregarded, that the false and misleading statements were being issued regarding the Company, and approved or ratified these statements, in violation of the federal securities laws.

11. As officers and controlling persons of a publicly-held company whose common stock was, and is, registered with the SEC pursuant to the Exchange Act, and was traded on the New York Stock Exchange (the "NYSE"), and governed by the provisions of the federal

securities laws, the defendants each had a duty to disseminate promptly, accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings and present and future business prospects, and to correct any previously-issued statements that had become materially misleading or untrue, so that the market price of the Company's publicly-traded securities would be based upon truthful and accurate information. The Individual Defendants' misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

12. The Individual Defendants participated in the drafting, preparation, and/or approval of the various public and shareholder and investor reports and other communications complained of herein and were aware of, or recklessly disregarded, the misstatements contained therein and omissions therefrom, and were aware of their materially false and misleading nature. Because of their Board membership and/or executive and managerial positions with BISYS, each of the defendants had access to the adverse undisclosed information about BISYS' business prospects and financial condition and performance as particularized herein and knew (or recklessly disregarded) that these adverse facts rendered the positive representations made by or about BISYS and its business issued or adopted by the Company materially false and misleading.

13. The Individual 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 various SEC filings, press releases and other public statements pertaining to the Company during the Class Period. Each Individual Defendant was provided with copies of the documents alleged herein to be misleading prior to or shortly after their issuance and/or had the ability and/or opportunity to prevent their issuance or cause them to be corrected. Accordingly, each of the

Individual Defendants is responsible for the accuracy of the public reports and releases detailed herein and is therefore primarily liable for the representations contained therein.

### **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

14. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of all those who purchased or otherwise acquired the securities of BISYS during the Class Period and who suffered damages (the "Class"). Excluded from the Class are defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns and any entity in which defendants have or had a controlling interest.

15. The members of the Class are so numerous that joinder of all members is impracticable. According to the Company's report filed on Form 10-Q with the SEC on January 28, 2004, a representative point during the Class Period, BISYS had approximately 120,361,155 shares of common stock outstanding. While the exact number of Class members is unknown to plaintiff at this time and can only be ascertained through appropriate discovery, plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by BISYS or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

16. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by defendants' wrongful conduct in violation of federal law that is complained of herein.

17. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

18. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by defendants' acts as alleged herein;

(b) whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business, operations, financial condition and management of BISYS; and

(c) whether defendants acted knowingly or recklessly in making materially false and misleading statements during the Class Period;

(d) whether the market prices of the Company's common stock was artificially inflated or distorted during the Class Period because of defendants' conduct complained of herein; and

(e) whether the members of the Class have sustained damages and the proper measure of such damages.

19. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

## **SUBSTANTIVE ALLEGATIONS**

### **Fraudulent Scheme and Course of Business**

20. Each of the defendants is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of BISYS securities by disseminating materially false and misleading statements and/or concealing material adverse facts. Specifically, the scheme involved the Company's improper recognition of certain revenues and will result in the Company restating its financial statements from the fiscal year ended June 30, 2001 through to the interim results for fiscal 2004. Defendants' fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of BISYS securities was a success, as it: (i) deceived the investing public regarding BISYS' business, operations, management and the intrinsic value of BISYS securities; and (ii) caused plaintiff and other members of the Class to purchase BISYS securities at artificially inflated prices.

## **SUBSTANTIVE ALLEGATIONS**

### **Background Facts**

21. BISYS describes itself as in the business of “support[ing] more than 20,000 financial institutions and corporate clients with products and services. The Investment Services group provides an array of investment services, including mutual fund, hedge fund, private equity fund and retirement plan services. The Insurance and Education Services group provides an overall solution for life insurance and commercial property/casualty insurance distribution, as well as financial services education and licensing automation. The Information Services group supports approximately 1,450 banks, insurance companies and corporations with information processing, asset retention solutions, specialized back-office services required to support corporate-sponsored cash management programs and check imaging solutions. The Company's

clients are located in all 50 states and several international locations, principally western Europe, Bermuda and the Cayman Islands.”

**Materially False And Misleading  
Statements Issued During The Class Period**

22. The Class Period begins on October 23, 2000. On that day the Company issued a press release, “BISYS Reports First Quarter Results; Record Revenues Up 22% EPS in Line With Consensus.” The press release stated in pertinent part as follows:

“The BISYS Group, Inc. (Nasdaq: BSYS) reported results today for the fiscal first quarter ended September 30, 2000.

All per share amounts have been adjusted to reflect the results of a 2-for-1 stock split effected in the form of a dividend, payable on October 20, 2000, to stockholders of record as of October 6, 2000.

For the fiscal first quarter, BISYS reported net income of \$12,912,000 or \$0.22 per diluted share, as compared to net income of \$12,283,000 or \$0.22 per diluted share for the comparable fiscal 2000 quarter. Revenues for the fiscal first quarter increased to \$161,441,000, up 22% from \$132,313,000 in the same period last year.

Results for the first quarter of fiscal 2001 included a one-time write-off of \$2.6 million or \$0.045 per share, net of tax, directly related to the acquisitions of Pictorial and Ascensus. Excluding one-time charges, fiscal 2001 first quarter net earnings and earnings per diluted share would have been \$15,480,000 or \$0.27 per diluted share, an increase in EPS of 22% over the same period last year.”

23. On January 22, 2001, the Company issued a press release entitled, “BISYS Reports Fiscal Second Quarter EPS of \$0.32, Record Revenues Up 22%.” It stated, in pertinent part,

The BISYS Group, Inc. (Nasdaq: BSYS) reported results today for the fiscal second quarter ended December 31, 2000.

All per share amounts have been adjusted to reflect the results of a 2-for-1 stock split effected in the form of a dividend, payable on October 20, 2000, to stockholders of record as of October 6, 2000.

For the fiscal second quarter, BISYS reported net income of \$18,902,000 or \$0.32 per diluted share, as compared to \$14,926,000 or \$0.26 per diluted share for the comparable fiscal 2000 quarter. Revenues for the period increased to \$168,303,000, up 22% from \$138,044,000 for the same period last year.

For the six months, BISYS reported net income of \$31,814,000 or \$0.54 per diluted share compared to net income of \$27,209,000 or \$0.48 per diluted share for the six months ended December 31, 1999. Results for the six months of fiscal 2001 included a one-time write-off of \$2.6 million, or \$0.04 per diluted share, net of tax, directly related to the acquisitions of Pictorial and Ascensus. Excluding one-time charges, net income for the six months ended December 31, 2000, would have been \$34,382,000, or \$0.58 per diluted share, an increase in EPS of 21% over the same period last year. BISYS' six months revenues grew to \$329,744,000, up 22% over fiscal 2000 six months revenue of \$270,357,000.

24. On March 7, 2001, the Company issued a press release entitled, "BISYS Agrees to Sell \$250 Million in Convertible Notes." It stated, in relevant part,

"Following up on its offering announcement of March 6, 2001, The BISYS Group, Inc. announced today that it has agreed to sell \$250 million principal amount of 4% convertible subordinated notes due 2006. Each \$1,000 principal amount of notes will be convertible into 14.9729 shares of BISYS common stock, for a conversion price of \$66.7875 per share. The initial purchasers of these notes will have a 30-day option to purchase up to an additional \$50 million principal amount of notes. The notes will not be redeemable prior to March 2004. The proceeds will be used to repay all outstanding borrowings under BISYS' credit facilities and for general corporate purposes, which may include acquisitions. The offering is scheduled to close on March 13, 2001.

This offering is being made only to qualified institutional buyers and to certain persons in offshore transactions. The notes have not been registered under the United States' or any state's securities laws and may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements."

25. On April 19, 2001, the Company issued a press release entitled, "BISYS Reports Record Fiscal Third Quarter Results; EPS of \$ 0.41, Revenues up 22%." The press release stated, in pertinent part,

The BISYS Group, Inc., reported record revenues, record earnings, and record earnings per share today for the fiscal third quarter ended March 31, 2001.

For the fiscal third quarter, BISYS reported net income of \$ 24,655,000 or \$ 0.41 per diluted share, as compared to \$ 19,987,000 or \$ 0.35 per diluted share for the comparable fiscal 2000 quarter. Revenues for the period increased to \$ 177,359,000, up 22% from revenues of \$ 145,657,000 for the same period last year.

For the nine months, BISYS reported net income of \$ 56,469,000 or \$ 0.94 per diluted share, compared to net income of \$ 47,196,000 or \$ 0.83 per diluted share for the nine months ended March 31, 2000. Results for the first nine months of fiscal 2001 included a one-time write-off of \$ 2.6 million or \$ 0.04 per diluted share, net of tax, directly related to the acquisitions of Pictorial, Inc. and Ascensus Insurance Services. Excluding one-time charges, net income for the nine months ended March 31, 2001, would have been \$ 59,037,000 or \$ 0.98 per diluted share. BISYS' nine-month revenues grew to \$ 507,103,000, up 22% over fiscal 2000 nine month revenues of \$ 416,014,000.

According to Lynn Mangum, BISYS' chairman and CEO, "We are extremely pleased with our fiscal third quarter. We generated record revenues, record earnings, and record cash flow during a generally unfavorable economic environment. This performance demonstrates the strength of BISYS' businesses in providing essential core services for financial institutions."

26. On July 30, 2001, the Company issued a press release entitled "BISYS Reports Record Fiscal Fourth Quarter Results; Revenue Increases 25% to \$194.7 Million; EPS Rises 20% to \$0.47." The press release stated, in pertinent part:

BISYS Technologies today announced results for its second quarter and six months ended June 30, 2002.

For the second quarter, revenue increased 110% to \$2.1 million versus the second quarter of 2001, exceeding consensus revenue estimates of \$1.9 million. On a sequential quarterly basis, revenue grew 47% versus \$1.5 million in revenue for the first quarter of 2002. For the first six months of 2002, revenue improved 90% to \$3.6 million versus \$1.9 million for the same period a year ago.

Revenue gains for both the quarter and first half were driven primarily by growth in the company's bulk BISYS(R) alloys business, and from strong demand for BISYS coatings products. Growth in bulk alloys mainly reflected defense-related research and development revenues derived from the company's contracts with the U. S. Department of Defense. The growth is also attributable to revenue from prototyping parts for customers working with the company to develop new products in anticipation of mass production. Demand for BISYS coatings remained strong from the oil drilling industry as well as other markets looking for high-performance coatings for wear and corrosion resistance.

For the second quarter, the company reported a loss from continuing operations of (\$4.3) million, or (\$0.11) per share, beating consensus estimates of a loss of (\$0.14) per share, and comparing with a loss of (\$0.7) million, or (\$0.02) per share, for the same period in 2001. For the first six months of 2002, the loss from continuing operations was (\$8.8) million, or (\$0.24) per share, compared with a loss of (\$1.1) million, or (\$0.04) per share, for the same period in 2001. The loss from continuing operations was primarily due to expenditures made in SG&A and R&D to support growth of the company's bulk BISYS alloy business.

27. On October 1, 2001, the Company issued a press release entitled "BISYS Reaffirms Fiscal 2002 EPS Guidance; Revenue and EPS Growth to Exceed 20%." In pertinent part, it stated:

"BISYS (Nasdaq: BSYS), a leading provider of outsourcing services to the financial services sector, announced today that it remains comfortable with Wall Street consensus earnings estimates for its first fiscal quarter ending September 30, 2001.

Lynn Mangum, Chairman and CEO commented, "Through the strength of our business model, especially our high recurring revenue base, coupled with reduced discretionary spending and lower variable costs, we expect to continue delivering our stated 20% EPS growth. However, as a result in large part to market conditions in the investment community as well as the September 11th tragedy, we anticipate a moderate and temporary slowdown in our internal revenue growth. Internal revenue growth for the September quarter should approximate 11.0% with total reported revenue growth including acquisitions totaling approximately 22%."

In addition, the Company has fine-tuned the previously announced non-recurring charge that will be taken in the first fiscal quarter ended September 30, 2001, to \$0.06 per share, net of tax. This non-recurring charge is due primarily to integration activities related to the Company's acquisitions of Universal Pensions, (UPI) and Boston Institutional Group (BIG) which were completed in the June 2001 quarter. Excluding the impact of this non-recurring charge, the Company currently anticipates reporting earnings per share of approximately \$0.37 per share."

28. On October 23, 2001, the Company issued a press release entitled, "BISYS Reports First Quarter Results; EPS in Line With Consensus; Revenues Up 22%; Pro Forma EPS Up 23%." In pertinent part, it stated,

The BISYS Group, Inc. (Nasdaq: BSYS), a leading provider of outsourcing services to the financial services sector, reported results today for the fiscal first quarter ended September 30, 2001.

For the fiscal first quarter, BISYS reported pro forma net income of \$22.9 million as compared to pro forma net income of \$17.4 million for the same period in fiscal 2001. Pro forma amounts exclude restructuring charges and goodwill amortization. Pro forma earnings per diluted share increased 23% to \$0.37 from \$0.30, and revenues for the fiscal first quarter increased to \$196.5 million, up 22% from \$161.4 million in the same period last year.

Actual results for the fiscal first quarters of 2002 and 2001 include restructuring charges of \$4.0 million or \$0.06 per diluted share net of tax and \$2.6 million or \$0.04 per diluted share net of tax, respectively, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity. Reported net income was \$18.9 million or \$0.31 per diluted share for the fiscal 2002 first quarter as compared to \$12.9 million or \$0.22 per diluted share for the comparable fiscal 2001 quarter.

The Company has adopted FAS 142, "Goodwill and Other Intangible Assets," effective July 1, 2001. FAS 142 requires that an intangible asset be amortized over its useful life and that goodwill not be amortized but evaluated for impairment. Accordingly, results for the fiscal first quarter ended September 30, 2001 do not include any goodwill amortization.

29. On January 22, 2002, the Company issued a press release entitled “BISYS Reports Second Quarter Results; Revenues Increase 25% to Record \$210 Million; EPS In Line With Consensus.” The press release stated in part:

“The BISYS Group, Inc. (Nasdaq: BSYS), a leading provider of outsourcing services to the financial services sector, reported results today for the fiscal second quarter ended December 31, 2001.

For the fiscal second quarter, BISYS reported net income of \$26.4 million or \$0.43 per diluted share as compared to net income of \$18.9 million or \$0.32 per diluted share for the same period in fiscal 2001. Excluding goodwill amortization, pro forma net income for the quarter ended December 31, 2000 was \$20.8 million or \$0.35 per diluted share. On a pro forma basis, diluted earnings per share increased 23% for the fiscal second quarter ended December 31, 2001 as compared to the same period last year. Revenues for the fiscal second quarter increased to \$209.9 million, up 25% from \$168.3 million in the same period last year.

Effective July 1, 2001, the Company adopted FAS 142, "Goodwill and Other Intangible Assets." FAS 142 requires that an intangible asset be amortized over its useful life and that goodwill not be amortized but evaluated for impairment. Accordingly, results for the fiscal second quarter and fiscal six months ended December 31, 2001 do not include any goodwill amortization.

"Our three divisions met the growth targets that we outlined in our previous quarter and we achieved margin expansion across the board," said Lynn Mangum, Chairman and Chief Executive Officer. "Insurance and Education Services again recorded the highest growth in revenues and margins and Information Services continued its steady growth. Investment Services, which was most impacted by the market downturn, has begun to regain sales momentum. We remain very excited about the business opportunities before us."

30. On April 17, 2002, the Company issued a press release entitled “BISYS Reports Third Quarter Results -Revenues Up 24% to Record \$221 Million; EPS in Line With Consensus.” In pertinent part, in stated:

“The BISYS Group, Inc. (NYSE: BSG), a leading provider of business process outsourcing solutions to the financial services

sector, today reported results for its fiscal third quarter ended March 31, 2002.

All per share amounts have been adjusted to reflect the results of a 2-for-1 stock split effected in the form of a dividend, payable on February 22, 2002 to stockholders of record as of February 8, 2002.

For the fiscal third quarter, BISYS reported net income of \$33.2 million or \$0.27 per diluted share, as compared to net income of \$24.7 million or \$0.20 per diluted share for the same period in fiscal 2001. Excluding goodwill amortization, pro forma net income for the quarter ended March 31, 2001 was \$26.7 million or \$0.22 per diluted share. On a pro forma basis, diluted earnings per share increased 23% for the fiscal third quarter ended March 31, 2002, as compared to the same period last year. Revenues for the fiscal third quarter increased to \$220.5 million, up 24% from \$177.4 million in the same period last year.

Effective July 1, 2001, the Company had early adopted FAS 142, "Goodwill and Other Intangible Assets." FAS 142 requires that an intangible asset be amortized over its useful life and that goodwill not be amortized but evaluated for impairment. Accordingly, results for the fiscal third quarter and fiscal nine months ended March 31, 2002 do not include any goodwill amortization."

31. On July 30, 2002, the Company issued a press release entitled, "BISYS Reports Record Fiscal Fourth Quarter Results -Revenue Increases 23 Percent to \$239 Million - Record EPS of \$0.30." It stated, in part,

"The BISYS Group, Inc., a leading national provider of business process outsourcing solutions for the financial services sector, today reported results for the fiscal fourth quarter and fiscal year ended June 30, 2002.

For the fiscal fourth quarter, BISYS reported net income of \$37.3 million or \$0.30 per diluted share, as compared to net income of \$28.7 million or \$0.23 per diluted share for the same period in fiscal 2001. Excluding goodwill amortization, pro forma net income for the quarter ended June 30, 2001 was \$30.9 million or \$0.25 per diluted share. On a pro forma basis, diluted earnings per share increased 20 percent for the fiscal fourth quarter ended June 30, 2002, as compared to the same period last year. Revenue for the fiscal fourth quarter increased to \$238.7 million, up 23 percent from \$194.7 million in the same period last year.

BISYS reported net income of \$115.9 million or \$0.94 per diluted share for the year ended June 30, 2002, as compared to net income of \$85.1 million or \$0.71 per diluted share for the year ended June 30, 2001. Actual results for the year ended June 30, 2002 and 2001 include restructuring charges of \$4.0 million or \$0.03 per diluted share net of tax, and \$2.6 million or \$0.02 per diluted share net of tax, respectively, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity. Excluding restructuring charges and goodwill amortization, pro forma net income for the year ended June 30, 2002 was \$119.8 million or \$0.97 per diluted share, as compared to pro forma net income of \$95.8 million or \$0.79 per diluted share for the same period last year, an increase in EPS of 23 percent. BISYS' annual revenue increased to \$865.7 million, up 23 percent over fiscal 2001 revenue of \$701.8 million

According to Lynn Mangum, BISYS' chairman and chief executive officer, "We are extremely pleased with the strategic and financial results of our fourth quarter and fiscal year 2002, which marks the 13th consecutive year that BISYS has generated record revenue and record operating earnings."

32. On September 24, 2002, the Company issued a press release entitled, "BISYS Revises Earnings Guidance for September 2002 Quarter And Announces New \$100 Million Stock Buy Back Program." It stated, in pertinent part,

The BISYS Group, Inc., a leading provider of business process outsourcing solutions for the financial services sector, today revised earnings guidance for its current September 30 fiscal quarter.

For the fiscal first quarter ending September 30, BISYS anticipates reporting earnings per diluted share of \$0.20 before restructuring charges as compared to \$0.19 per diluted share for the same period in fiscal 2002, up 5 percent.

In addition, BISYS has finalized the calculation of its previously announced restructuring charge. This charge will be \$0.06 per share, net of tax.

Finally, The BISYS Group, Inc. also announced that its Board of Directors has authorized a new stock buy-back program of up to \$100 million of its outstanding stock. Purchases will occur from time-to-time in the open market to offset the possible dilutive effect of shares to be issued under employee benefit plans, for

possible use in future acquisitions and for other general corporate purposes. This new program supersedes the share purchase program previously authorized by the Board of Directors. Under the former program, BISYS has purchased 4,254,000 shares of its common stock at a total purchase price of approximately \$70 million.

33. On October 21, 2002, the Company issued a press release entitled, “BISYS Reports Fiscal First Quarter Results – Revenue Increases 16 Percent to \$227 Million.” The press release stated, in pertinent part,

“BISYS, a leading global provider of business process outsourcing solutions for the financial services sector, today reported the results of its fiscal first quarter, ended September 30, 2002.

For the fiscal first quarter, BISYS reported net income of \$16.8 million or \$0.14 per diluted share, as compared to net income of \$18.9 million or \$0.15 per diluted share for the same period in fiscal 2002. Actual results for the fiscal first quarters of 2003 and 2002 include restructuring charges of \$7.5 million or \$0.06 per diluted share net of tax, and \$4.0 million or \$0.03 per diluted share net of tax, respectively, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity.

Excluding restructuring charges, pro forma net income was \$24.3 million or \$0.20 per diluted share for the fiscal 2003 first quarter, as compared to \$22.9 million or \$0.19 per diluted share for the comparable fiscal 2002 quarter.

Revenue for the fiscal first quarter 2003 increased to \$227.3 million, up 16 percent from \$196.5 million in the same period last year.”

34. On January 22, 2003, the Company issued a press release entitled, “BISYS Reports Fiscal Second Quarter Results; Revenue Increases 11 Percent to \$233 Million, EPS Increases 9 Percent, Record Cash from Operations Generated .” It stated, in relevant part,

“BISYS, a leading global provider of business process outsourcing solutions for the financial services sector, today reported the results of its fiscal second quarter, ended December 31, 2002.

For the fiscal second quarter, BISYS reported net income of \$28.7 million or \$0.24 per diluted share, an increase of 9 percent from net income of \$26.4 million or \$0.22 per diluted share for the same period in fiscal 2002. Revenue for the quarter was \$233.1 million, an increase of 11 percent from \$209.9 million in the same period last year. Cash from operations for the quarter reached a record-high of more than \$45 million.

BISYS reported net income of \$45.5 million or \$0.37 per diluted share for the six months ended December 31, 2002, as compared to net income of \$45.4 million or \$0.37 per diluted share for the six months ended December 31, 2001. Actual results for the six months ended December 31, 2002 and 2001 include restructuring charges of \$7.5 million or \$0.06 per diluted share net of tax, and \$4.0 million or \$0.03 per diluted share net of tax, respectively, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity. Excluding restructuring charges, pro forma net income for the six months ended December 31, 2002 was \$53.1 million or \$0.44 per diluted share, as compared to pro forma net income of \$49.3 million or \$0.40 per diluted share for the same period last year, an increase in pro forma EPS of 10 percent. BISYS' six months revenue increased to \$460.5 million, up 13 percent over fiscal 2002 six months revenue of \$406.4 million.

According to Dennis Sheehan, president and chief executive officer of BISYS, "Despite the challenges we faced from the continued sluggishness of the financial markets, we were able to generate modest internal revenue growth, and through expense management, deliver our targeted earnings per share."

35. On April 8, 2003, the Company issued a press release entitled, "BISYS Updates Earnings Guidance for March and June 2003 Quarter." It stated, in relevant part,

The BISYS Group, Inc., a leading provider of business process outsourcing solutions for the financial services sector, today updated its earnings guidance for its current March and June fiscal quarters.

For the fiscal quarter ending March 31, BISYS anticipates reporting earnings per diluted share of \$0.27, one cent lower than its previous guidance, and equal to that reported for the same period in fiscal 2002.

This reduction is due primarily to lower than anticipated insurance production in BISYS' "high-end" insurance business during the latter part of the March quarter, as well as continued softness in the education services market. Investment Services, Information Services, and BISSS' core insurance business all generally performed according to expectations.

Dennis Sheehan, president and CEO, commented, "The overall modest internal growth that BISYS has experienced during the last several quarters continued during the March quarter and is expected to continue into our June quarter as well. Based upon current projections, we anticipate modest, sequential earnings growth for our fourth fiscal quarter, ending June 30, with earnings per diluted share ranging from \$0.28 to \$0.30."

36. On July 29, 2003, the Company issued a press release entitled, "BISYS Reports Fiscal Fourth Quarter Results – Revenue Increases to Record \$253 Million – Record Cash from Operations of \$61 Million." The press release stated, in part:

BISYS, a leading provider of business process outsourcing solutions for the financial services sector, today reported the results for its fiscal fourth quarter and the fiscal year ended June 30, 2003.

For the fiscal fourth quarter, BISYS reported net income of \$33.8 million or \$0.28 per diluted share, as compared to net income of \$37.3 million or \$0.30 per diluted share for the same period in fiscal 2002. Revenue for the quarter was \$253.2 million, an increase of six percent from \$238.7 million in the same period last year. Cash from operations for the quarter reached a record of \$61.3 million.

BISYS reported net income of \$111.8 million or \$0.92 per diluted share for the year ended June 30, 2003, as compared to net income of \$115.9 million or \$0.94 per diluted share for the year ended June 30, 2002. Actual results for the year ended June 30, 2003 and 2002 include restructuring charges of \$7.5 million or \$0.06 per diluted share net of tax, and \$4.0 million or \$0.03 per diluted share net of tax, respectively, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity. Excluding restructuring charges, pro forma net income for the year ended June 30, 2003 was \$119.4 million or \$0.98 per diluted share, as compared to pro forma net income of \$119.8 million or \$0.97 per diluted share for the same period last year. BISYS' annual revenue increased to \$958.4 million, up 11 percent over fiscal 2002 annual revenue of \$865.7 million. Cash

from operations for fiscal year 2003 was \$179.8 million, an increase of \$50.9 million, or 39 percent, over the previous year.

The company has included the above pro forma information concerning restructuring charges to assist investors in analyzing BISYS' results of operations. The company has elected to provide this information to enable investors to perform meaningful comparisons of past, present, and future operating results, and as a means to emphasize the results of core, ongoing operations.”

37. On September 24, 2003, the Company issued a press release entitled, “BISYS Updates Earnings Guidance for September 2003 Quarter and June 2004 Fiscal Year; Schedules Conference Call for Thursday, September 25.” The press release stated, in part:

“The BISYS Group, Inc. (NYSE: BSG), a leading provider of business process outsourcing solutions for the financial services sector, today updated its earnings guidance for its current September quarter and its fiscal year ending June 30, 2004.

For the fiscal quarter ending September 30, BISYS anticipates reporting earnings per diluted share of \$0.15, before restructuring and other charges, which is seven cents per share lower than its previous guidance and five cents per share lower than that reported for its September 2002 quarter.

This reduction in anticipated earnings is due primarily to lower than anticipated revenue from its life insurance business, and to a lesser extent continued softness in its education services division, and some delay in new client installations in its retirement services business.

The Company also announced that, absent an improvement in general market conditions that accelerates the internal growth of its life insurance and education services revenues and/or an acceleration of new business signings in its Investment Services group, earnings per diluted share for its fiscal year ending June 30, 2004, before restructuring charges, is likely to be in the range of \$0.80 to \$0.85.”

38. On October 21, 2003, the Company issued a press release entitled, “BISYS Reports Fiscal First Quarter Results – Revenue Increases Four Percent to \$237 Million.” The press release stated, in pertinent part,

“BISYS, a leading provider of business process outsourcing solutions for the financial services sector, today reported the results of its fiscal first quarter ended September 30, 2003.

For the fiscal first quarter, BISYS reported net income of \$4.8 million or \$0.04 per diluted share, as compared to net income of \$16.8 million or \$0.14 per diluted share for the same period in fiscal 2003. Actual results for the fiscal first quarter of 2004 include restructuring, impairment, and other charges of \$0.11 per diluted share or \$13.1 million, including a net tax charge of \$0.5 million, primarily related to the integration, consolidation, and reorganization of certain business operations, particularly in the Company's European Fund Services division and the Insurance and Education Services group. Actual results for the fiscal first quarter of 2003 include restructuring charges of \$0.06 per diluted share or \$7.5 million, net of a tax benefit of \$4.5 million, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity.

Excluding restructuring, impairment, and other charges, pro forma net income was \$17.9 million or \$0.15 per diluted share for the fiscal 2004 first quarter, as compared to \$24.3 million or \$0.20 per diluted share for the comparable fiscal 2003 quarter.

Revenue for the fiscal first quarter 2004 increased to \$237.4 million, up four percent from \$227.3 million in the same period last year.”

39. On January 21, 2004, the Company issued a press release entitled, “BISYS Reports Fiscal Second Quarter Results; Revenue Increases 13 Percent to Record \$263 Million - Internal Revenue Growth Improves Across All Business Groups - Net Cash Provided by Operating Activities Increases 29 Percent to \$58.8 Million.” The press release stated, in part:

“BISYS, a leading provider of business process outsourcing solutions for the financial services sector, today reported the results of its fiscal second quarter ended December 31, 2003.

For the fiscal second quarter, BISYS reported net income of \$20.0 million or \$0.17 per diluted share, as compared to net income of \$28.7 million or \$0.24 per diluted share for the same period in fiscal 2003. Actual results for the fiscal second quarter of 2004 include restructuring charges of \$1.4 million or \$0.01 per diluted share net of tax, primarily related to the implementation of the reorganization plan for certain business operations as announced in

September 2003. Excluding restructuring charges, pro forma net income was \$21.4 million or \$0.18 per diluted share for the fiscal 2004 second quarter, in line with analysts' consensus expectations.

Revenue for the quarter was \$263.3 million, an increase of 13 percent from \$233.1 million in the same period last year. Net cash provided by operating activities was \$58.8 million, an increase of more than 29 percent from \$45.4 million in the same period last year.

BISYS reported net income of \$24.9 million or \$0.21 per diluted share for the six months ended December 31, 2003, as compared to net income of \$45.5 million or \$0.37 per diluted share for the six months ended December 31, 2002. Actual results for the six months ended December 31, 2003 include restructuring, impairment, and other charges of \$14.5 million or \$0.12 per diluted share net of tax, primarily related to the integration, consolidation, and reorganization of certain business operations, particularly in the Company's European Fund Services division and the Insurance and Education Services group. Actual results for the six months ended December 31, 2002 include restructuring charges of \$7.5 million or \$0.06 per diluted share net of tax, related to the integration, consolidation, and relocation of certain business operations, primarily as a result of acquisition activity.”

40. On January 28, 2004, the Company issued a press release entitled, “BISYS Generates Near-Record New Client Sales of Bank Outsourcing Services in FY’04 Second Quarter – Seven Banks Nationwide Select BISYS to Provide Outsourced Information Processing Services.” The release stated, in part,

“BISYS, a leading provider of business process outsourcing solutions for the financial services sector, today announced near-record new client sales of its bank outsourcing services during its quarter ended December 31, 2003. A total of seven banks located throughout the United States selected BISYS to provide enterprise-wide information processing outsourcing services and technology. These financial institutions, which collectively process with five different BISYS competitors, will leverage BISYS' relational database core processing platform and a variety of its integrated ancillary products to improve their operational efficiencies and customer service.

The new bank clients include a Michigan-based billion dollar holding company that is chartering a bank, an Ohio-based \$600 million community bank, and market-leading financial institutions in California, Kentucky, Massachusetts, and New Jersey. Each of these new clients ultimately selected BISYS based on the superior technology provided by its relational core processing platform, its extensive suite of integrated ancillary products, and its reputation for excellent client service and support. Each client will initially incorporate a variety of BISYS' ancillary solutions, including Internet and telephone banking and data warehousing solutions.

According to Bill Neville, president of BISYS Information Services, "BISYS' focus on technology and service is the foundation for our growth. Our outstanding sales success during the quarter strengthens BISYS' position as a market leader in bank outsourcing services, and the momentum these sales establish support our ongoing commitment to research, product development, and marketing in order to continually enhance our product offering and our competitive position. Being selected as the outsourcer-of-choice by these diverse banks after extensive competitive evaluations demonstrates the flexibility of our solutions and our commitment to delivering high-quality services to our clients. As the banking industry evolves and consumer demands for personalized service increase, we will continue to provide the innovative products and services our clients need to better serve their customers. Our fundamental goal is to maintain our position as an industry leader, to encourage technological innovation within BISYS, and to continue forging strategic alliances with technology companies developing solutions that complement BISYS' industry-leading platforms."

Michael Langenkamp, executive vice president of new business for BISYS Banking Solutions, said, "Our relational core processing solution was a key to our success during this past quarter. The banking industry's demand for innovative products and services that successfully leverage advancing technology requires us to provide a flexible processing solution with broad capabilities. BISYS' comprehensive outsourcing solutions enable our bank clients to maximize their customer relationships with enhanced service levels, easy data access and comprehensive views of each customer relationship, the ability to tailor their product offerings based on customer-specific needs, and the sophisticated capabilities to conduct direct marketing campaigns and efficiently manage sales leads and service requests."

41. On April 22, 2004, the Company issued a press release entitled, "BISYS Reports Fiscal Third Quarter Results; Revenue Increases 11 Percent to Record \$272 Million." The press release stated, in pertinent part,

BISYS, a leading provider of business process outsourcing solutions for the financial services sector, today reported the results of its fiscal third quarter ended March 31, 2004.

For the fiscal third quarter, BISYS reported net income of \$3.2 million or \$0.03 per diluted share, as compared to net income of \$32.5 million or \$0.27 per diluted share for the same period in fiscal 2003. Revenue for the quarter was \$272.3 million, an increase of 11.2 percent from \$244.8 million in the same period last year.

Actual results for the third quarter of fiscal 2004 include an additional provision in the Life Insurance division of \$15.5 million or \$0.13 per diluted share net of tax for a change in estimated losses in the commissions receivable portfolio and restructuring, impairment and other charges of \$6.8 million or \$0.06 per diluted share net of tax, primarily for the integration, consolidation, and reorganization of certain business operations, particularly in the Company's European Fund Services division and the Insurance and Education Services group. Included in the aforementioned \$6.8 million charge is \$3.1 million net of tax, for estimated additional contractual obligations in the Life Insurance division. Excluding the additional loss provision and the restructuring, impairment and other charges, pro forma net income was \$25.5 million or \$0.21 per diluted share for the third quarter of fiscal 2004.

According to Russ Fradin, BISYS' president and CEO, "During our fiscal third quarter, we generated solid internal revenue growth of five percent compared to the year ago period and strong cash flow. Our largest business group, Investment Services, experienced strong revenue growth compared to the year ago period, and improved operating earnings on a sequential basis compared to our second fiscal quarter ended December 31, 2003. Our Information Services group grew both revenue and operating earnings compared to the year ago period. While our Insurance and Education Services group has underperformed, principally because of the performance of our Life Insurance Services division, we are taking the actions necessary to position the division for future growth, and we expect our Life Insurance results to improve in fiscal year 2005. For the company in total, we believe that our strong revenue growth and consistent cash

flows demonstrate the fundamental strength of our business, and that our sound strategic positioning will provide opportunities for future growth."

42. The above statements made by the defendants were each materially false and misleading because they failed to disclose and misrepresented the following adverse facts:

- a. that BISYS' financial statements were materially false and misleading;
- b. that the Company was improperly valuing its receivables in violation of Generally Accepted Accounting Principles; and
- c. that, as a result of the foregoing, defendants lacked a reasonable basis for their positive statements about the Company and their earnings projections.

### **THE TRUTH EMERGES**

43. On May 17, 2004, the Company issued a press release entitled, "BISYS Provides Update on Fiscal Third Quarter Results; Delays Filing of Third Quarter Form 10-Q; Will Restate Results of Certain Prior Periods; Reaffirms Guidance for Fourth Fiscal Quarter." It stated, in relevant part,

"BISYS, a leading provider of business process outsourcing solutions for the financial services sector, today provided an update on its previously reported results of operations for the quarter ended March 31, 2004.

Based upon a continuing review and analysis of commissions receivable in its Life Insurance division, BISYS has determined that the previously reported adjustment of \$24.7 million (\$15.5 million net of tax) to commissions receivable in its Life Insurance division will be increased to approximately \$70 million to \$80 million (approximately \$44 million to \$50 million net of tax).

BISYS has also determined that the adjustment requires a restatement of its financial results for each of the fiscal years ended June 30, 2003, 2002 and 2001, as well as its interim results for fiscal 2004, to reflect the impact of the adjustment on each of the periods presented. The Company intends to file its Form 10-Q for the quarterly period ended March 31, 2004, as soon as practicable. According to Jim Fox, BISYS' executive vice president and CFO,

"The adjustment to commissions receivable in our Life Insurance division is larger than we had previously anticipated, and after further analysis requires that we restate our previously reported results to appropriately reflect the impact of the adjustment on prior periods. We look forward to presenting our restated historical financial results as soon as practicable, and expect the substantial majority of the final adjustment, including the \$24.7 million previously reported in our third fiscal quarter of 2004, to relate to fiscal years prior to 2003."

### **MISLEADING FINANCIAL STATEMENTS AND PUBLIC DISCLOSURES**

44. During the Class Period, the defendants caused the Company to violate generally accepted accounting principles ("GAAP") and SEC rules by improperly recording transactions and improperly recognizing revenue included in its 2001 to interim 2004 results such that the results were not a fair presentation of BISYS' financial condition and operating results.

45. These results were included in Form 10-Q's and 10-K's filed with the SEC as well as published in press releases.

46. The Company's financial information was neither prepared in conformity with GAAP nor was it a fair and accurate presentation of the Company's operations and financial position due to the Company's improper accounting.

47. The Company's published financial results violated GAAP and the following principles:

a. The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements. (APB No. 28, 10);

b. The principle that financial reporting should provide information that is useful to present to potential investors and creditors and other users in making rational investment, credit, and similar decisions. (FASB Statement of Concepts No. 1, 34);

c. The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events, and circumstances that change resources and claims to those resources. (FASB Statement of Concepts No. 1, 40);

d. The principle that financial reporting should provide information about an enterprise's financial performance during a period. (FASB Statement of Concepts No. 1, 42);

e. The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners for the use of enterprise resources entrusted to it, and to the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public. (FASB Statement of Concepts No. 1, 50).

f. The principle that financial reporting should be reliable in that it represents what it purports to represent (FASB Statement of Concepts NO. 2, 58-59);

g. The principle that completeness, meaning that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions. (FASB Statement of Concepts No. 2, 79); and

h. The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered (FASB Statement of Concepts No. 2, 95).

48. The adverse information concealed by defendants during the Class Period and detailed above was in violation of Item 303 of Regulation S-K under the federal securities law

(17 C.F.R. 229.303). This regulation sets forth the requirements of management's discussion and analysis of financial condition and results of operations including detailed and accurate discussion pertaining to any material changes affecting the state of or trend of a company's liquidity and its capital resources. Moreover, this regulation requires that the Company describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations.

49. In addition, defendants' concealment of the adverse information set forth in this complaint during the Class Period caused the financial statements it made to be in violation of SEC Regulation S-X, which states that "financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate." SEC Regulation S-X also requires that interim financial statements, i.e., Form 10-Q's, must also comply with GAAP. 17 C.F.R. §210.10-01(a).

### **SCIENTER ALLEGATIONS**

50. As alleged herein, defendants acted with scienter in that defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding BISYS, their control over, and/or receipt and/or modification of BISYS' allegedly materially misleading statements and/or their associations with the Company which made them privy to confidential proprietary information concerning BISYS, participated in the fraudulent scheme alleged herein.

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

51. At all relevant times, the market for BISYS securities was an efficient market for the following reasons, among others:

- (a) BISYS' stock met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market;
- (b) As a regulated issuer, BISYS filed periodic public reports with the SEC and the NYSE;
- (c) BISYS regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and
- (d) BISYS was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

52. As a result of the foregoing, the market for BISYS' securities promptly digested current information regarding BISYS from all publicly available sources and reflected such information in BISYS' stock price. Under these circumstances, all purchasers of BISYS securities during the Class Period suffered similar injury through their purchase of BISYS securities at artificially inflated prices and a presumption of reliance applies.

### **NO SAFE HARBOR**

53. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. Many of the specific statements pleaded herein were not identified as “forward-looking statements” when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of BISYS who knew that those statements were false when made.

### **FIRST CLAIM**

#### **Violation Of Section 10(b) Of The Exchange Act And Rule 10b-5 Promulgated Thereunder Against All Defendants**

54. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

55. During the Class Period, defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including plaintiff and other Class members, as alleged herein; and (ii) cause plaintiff and other members of the Class to purchase BISYS securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

56. Defendants: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for BISYS securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. All defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

57. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of BISYS as specified herein.

58. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of BISYS' value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about BISYS and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of BISYS securities during the Class Period.

59. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of his/her responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was comprised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

60. 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 available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing BISYS' operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by defendants' misstatements of the Company's business, operations and earnings throughout the Class Period, 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.

61. 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 BISYS securities was artificially inflated during the Class Period. In ignorance of the fact that the market prices of BISYS' publicly-traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by defendants, or upon the integrity of the market in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by defendants but not disclosed in public statements by defendants during the Class Period, plaintiff and the other members of the Class acquired BISYS securities during the Class Period at artificially high prices and were damaged thereby.

62. At the time of said misrepresentations and omissions, plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had plaintiff and the other members of the Class and the marketplace known the truth regarding the true financial position, operating conditions and expenses that BISYS was experiencing, which were not disclosed by defendants, plaintiff and other members of the Class would not have purchased or otherwise acquired their BISYS securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

63. By virtue of the foregoing, defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

64. As a direct and proximate result of defendants' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

## **SECOND CLAIM**

### **Violation Of Section 20(a) Of The Exchange Act Against the Individual Defendants**

65. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

66. The Individual Defendants acted as controlling persons of BISYS within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants 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 plaintiff contends are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

67. In particular, each of these defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is 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.

68. As set forth above, BISYS and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of

the Exchange Act. As a direct and proximate result of defendants' wrongful conduct, plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

WHEREFORE, plaintiff prays for relief and judgment, as follows:

(A) Determining that this action is a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and plaintiff's counsel as Lead Counsel;

(B) Awarding compensatory damages in favor of plaintiff and the other Class members 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;

(C) Awarding plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(D) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: June 29, 2004

WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP

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