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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

11 RAYMOND TYLER, On Behalf of)
Himself and All Others Similarly)
12 Situated,)

13 Plaintiff,)

14 vs.)

15 CP SHIPS LIMITED, RAYMOND R.)
MILES, FRANK J. HALLIWELL, IAN)
16 J. WEBBER and JOHN D. McNEIL,)

17 Defendants)

VIA FAX

Case No.

CLASS ACTION

COMPLAINT FOR VIOLATION OF
THE FEDERAL SECURITIES LAWS

DEMAND FOR JURY TRIAL

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1 **INTRODUCTION**

2 1. This is an action on behalf of purchasers of CP Ships Limited (“CP
3 Ships” or the “Company”) publicly traded securities during the period from January
4 29, 2003 to August 9, 2004 (the “Class Period”). CP Ships is a container shipping
5 company offering its customers door-to-door, as well as port-to-port containerized
6 services for the international transportation of a range of industrial and consumer
7 goods, including raw materials, semi-manufactured and finished goods.

8 2. One of the world’s leading container shipping companies, CP Ships
9 combines the customer focus and market presence of a regional specialist with the
10 scale economies of a global carrier to provide cost efficient and competitive ocean and
11 intermodal transportation service. More than 80% of its activity is North American
12 exports or imports.

13 3. CP Ships’ principle markets are: TransAtlantic, Australasia, Latin
14 America and Asia. Within these markets, CP Ships operates 34 services in 21 trade
15 lanes, most of which are served by two or more of its seven readily recognized brand
16 names: ANZDL, Canada Maritime, Cast, Contship Containerlines, Italia Line, Lykes
17 Lines and TMM Lines. Within the majority of its core trade lanes, CP Ships is the
18 leading carrier. The CP Ships fleet numbers 76 mainly medium size containerships.
19 Total revenue carried in 2003 was 2.2 million teu (twenty-foot equivalent units).

20 4. CP Ships’ stock began trading in October 2001 on the New York Stock
21 Exchange.

22 5. During the Class Period, defendants caused CP Ships’ shares to trade at
23 artificially inflated levels through the issuance of false and misleading financial
24 statements. As a result of this inflation, CP Ships was able to complete a convertible
25 note offering, raising net proceeds of \$200 million on and obtain a new \$525 million
26 credit facility.

1 **FALSE AND MISLEADING STATEMENTS**
2 **DURING THE CLASS PERIOD**

3 18. On January 29, 2003, the Company issued a press release entitled "CP
4 Ships Announces \$34 Million Fourth Quarter Profit." The press release stated in part:
5 CP Ships Limited today announced unaudited fourth quarter 2002
6 operating income before exceptional items of US \$34 million, unchanged
7 from the third quarter and slightly down from \$35 million in fourth
8 quarter 2001. Basic earnings per share before exceptional items was
9 \$0.23 compared with last year's \$0.30 and third quarter's \$0.27.
10 Volume at 550,000 teu was a quarterly record, up 17% from fourth
11 quarter 2001, reflecting both strong growth and the first full quarter of
12 Italia Line. Average freight rates increased 1% from third quarter 2002
13 but were 4% lower than fourth quarter 2001....

14 For the full year, container carryings at 2.0 million teu were 9%
15 higher than 2001, while the average freight rate was down 10%.
16 Operating income before exceptional items was \$83 million compared
17 with \$139 million in 2001. Basic earnings per share before exceptional
18 items and goodwill was \$0.59 compared with \$1.58. Cash from
19 operations before exceptional payments was \$86 million or \$1.02 per
20 share compared with \$210 million or \$2.65 per share in 2001. Return on
21 average capital employed at 6% was down from 13% in 2001. Net
22 income available to common shareholders was \$52 million compared to
23 \$66 million in 2001.

24 In December, the withdrawal from the slot charter agreement with
25 CMA CGM in the Asia-Europe trade was announced, effective early
26 March 2003. Despite recent improvement in freight rates, the service
27 remains unprofitable and CP Ships will therefore exit the Asia-Europe
28 trade at the end of this slot charter. Seasonal weakness in the first

1 quarter will partly offset the expected positive impact of withdrawal on
2 full year 2003 results.

3 In the fourth quarter, CP Ships provided additional sailings in the
4 Asia-Americans trade in response to strong growth in demand. Building
5 on this, a new fixed day weekly service between North East Asia
6 including China and Vancouver BC is now being implemented with five
7 ships. This third Asia-Americas route will strengthen market presence
8 and create further operating efficiencies by using existing organizations
9 in Asia and North America.

10 19. On July 31, 2003, the Company issued a press release entitled “CP Ships
11 Doubles Operating Profit to \$40 Million in Second Quarter 2003.” The press release
12 stated in part:

13 CP Ships Limited today announced an unaudited operating income for
14 second quarter 2003 of US \$40 million, nearly double the \$21 million
15 operating profit in second quarter 2002 and a \$42 million improvement
16 from the \$2 million operating loss before exceptional items of \$10
17 million in first quarter 2003. Basic earnings per share was \$0.32
18 compared with \$0.20 in second quarter 2002 and basic loss per share
19 before exceptional items of \$0.12 in first quarter 2003. *Net income was*
20 *\$29 million compared to \$16 million in the same period 2002 and a net*
21 *loss of \$11 million before exceptional items in the first quarter 2003.*

22 Volume at 558,000 teu was a quarterly record, up 12% from
23 second quarter last year. This reflected the inclusion of Italia Line 5%,
24 the elimination of Asia-Europe services, which were discontinued at the
25 very beginning of the quarter (6%) and underlying growth of 13%.
26 Average freight rate on a comparable basis increased 7% from second
27 quarter 2002 and 5% from first quarter 2003. EBITDA was \$69 million
28

1 and cash from operations before payments related to exceptional items
2 \$23 million in the quarter.

3 Operations returned to normal after a difficult first quarter. The
4 weaker US dollar continued to adversely affect costs despite hedging
5 gains. Fuel price was down from first quarter, but higher than last year.

6 Operating income before exceptional items for the first half 2003
7 was \$38 million compared with \$15 million in the same period last year.
8 Stronger volume up 15%, higher freight rates up 5%, and lower ship
9 network costs other than fuel were partly offset by the adverse effect of
10 the weaker US dollar and higher fuel price. Net income after exceptional
11 items was \$8 million compared with \$5 million.

12 During the quarter, CP Ships took delivery of Canmar Venture, a
13 new 4100 teu ice-strengthened ship and two long-term chartered 4100
14 teu ships under the company's \$800 million ship replacement program.
15 In July the remaining two ice-strengthened ships, one new and one used,
16 were delivered, thereby completing the current ship replacement
17 program.

18 20. On October 29, 2003, the Company issued a press release entitled "CP
19 Ships Operating Profit Up 29% to \$44 Million in Third Quarter 2003." The press
20 release stated in part:

21 CP Ships Limited today announced an unaudited operating income for
22 third quarter 2003 of US \$44 million, up from \$34 million operating
23 profit in third quarter 2002 and a \$4 million improvement from \$40
24 million in second quarter 2003. Basic earnings per share was \$0.37
25 compared with \$0.27 in third quarter 2002 and \$0.32 in second quarter
26 2003. Net income at \$33 million was up compared to \$24 million in
27 third quarter 2002 and up from \$29 million in second quarter 2003.
28

1 ***“This quarter’s operating profit is CP Ships’ strongest since we***
2 ***went public in October 2001.*** Despite an increase in operating costs, it
3 reflects our successful strategy as well as the continuing general
4 improvement in industry conditions,” said CP Ships CEO Ray Miles.

5 Volume at 554,000 teu was up 6% from third quarter last year and
6 11% excluding the Asia-Europe services, which were discontinued in
7 early April. Average freight rates increased 11% from third quarter 2002
8 and 7% from second quarter 2003. EBITDA of \$73 million was a
9 quarterly record.

10 Despite the continuing strong volume and higher freight rates,
11 operating and administrative costs increased compared with third quarter
12 last year. The weaker US dollar continued to adversely affect costs
13 despite hedging gains. Continuing high fuel prices and more expensive
14 ship charter renewals offset ship network efficiencies achieved from the
15 recently completed ship replacement program and schedule restructuring.

16 Operating income before exceptional items for the nine months
17 ended 30th September 2003 was \$82 million compared with \$49 million
18 in the same period last year. Stronger volume up 12%, higher freight
19 rates up 7%, the positive effect of withdrawal from Asia-Europe, and
20 lower ship network costs other than fuel were partly offset by the adverse
21 effect of the weaker US dollar, higher fuel prices, and higher operating
22 costs. Net income was \$41 million compared with \$29 million.

23 21. On February 5, 2004, the Company issued a press release entitled “CP
24 Ships Announces Record \$49 Million Profit For Fourth Quarter 2003.” The press
25 release stated in part:

26 CP Ships Limited today announced unaudited fourth quarter 2003
27 operating income of US \$49 million, up from \$34 million before
28 exceptional items in fourth quarter 2002 and up from \$44 million in third

1 quarter 2003. Basic earnings per share was \$0.46 compared with 2002's
2 \$0.23 before exceptional items and third quarter's \$0.37. Net income
3 available to common shareholders was \$41 million, compared to \$23
4 million in fourth quarter 2002.

5 For 2003 overall, operating income before exceptional items was
6 \$131 million compared with \$83 million in 2002. Basic earnings per
7 share before exceptional items was \$1.02 compared with \$0.59. Return
8 on average capital employed at 7.3% was up from 5.7% in 2002. Net
9 income available to common shareholders was \$82 million compared to
10 \$52 million in 2002.

11 ***“With record operating income in the fourth quarter and up***
12 ***nearly 60% for the full year, and record volume and sales revenue for***
13 ***both the quarter and the year, we consider these to be outstanding***
14 ***results,” commented Ray Miles, CEO of CP Ships.***

15 Volume at 569,000 teu was up 3% from fourth quarter 2002 and
16 was the strongest quarterly volume ever. Average freight rates were 1%
17 down from third quarter 2003 but 8% higher than fourth quarter 2002.
18 EBITDA at \$82 million was up from \$64 million in fourth quarter 2002
19 and \$9 million higher than third quarter 2003.

20 For the full year, record container carryings at 2.2 million teu were
21 9% higher than 2002 while average freight rates were up 7% reflecting
22 improved market conditions in most trade lanes.

23 22. On February 16, 2004, the Company issued a press release entitled “CP
24 Ships Succession Plan.” The press release stated in part:

25 Ray Miles, CEO of CP Ships Limited, will become Chairman succeeding
26 Lord Weir after the Annual Meeting on 4th May 2004. Frank Halliwell,
27 who is currently Chief Operating Officer, will step up to become Chief
28 Executive Officer.

1 Lord Weir, the current Chairman, and John McNeil, Chairman of
2 the Audit Committee, reach 70 years of age this year and subject to
3 shareholder approval will stay on the Board for a further year.

4 Ian Webber will continue as CFO.

5 Ray Miles, who will be 60 this year, has been CEO since 1988.
6 Frank Halliwell joined as his deputy in 1991 and they have together led
7 the growth in CP Ships from a single trade lane carrying 100,000 teu per
8 year to last year's 2.2 million teu, executing nine acquisitions and taking
9 the company public in 2001 by listing on the Toronto and New York
10 stock exchanges.

11 It is intended that Ray Miles will work on average two to three
12 days a week. He will be particularly involved in providing strategic
13 direction and leading investor relations.

14 Frank Halliwell, who is 55 years old, has been responsible for the
15 successful integration of CP Ships' acquisitions. As part of the
16 succession plan, he has assumed increasing responsibility over the last
17 several years and already manages the day-to-day operations of the
18 business. Under corporate governance practice, Ray Miles will not be
19 considered an independent director. Therefore, Lord Weir will be
20 appointed Lead Director from May. There will remain six independent
21 directors on a Board of nine. John McNeil will continue to chair the
22 Audit Committee, Lord Weir the Compensation Committee and Peter
23 Dey the Corporate Governance Committee.

24 This summer, the corporate headquarters of CP Ships will move
25 from Trafalgar Square, which building was recently sold, to new offices
26 at Gatwick near London where all of the UK management activities will
27 now be consolidated. Frank Halliwell will in due course be based
28

1 mainly at Gatwick, along with Ian Webber. In general, most of the
2 functions currently managed from Tampa, Florida will remain there.

3 23. On February 24, 2004, the Company issued a press release entitled “CP
4 Ships Completes Convertible Note Offering Including Option Exercise.” The press
5 release stated in part:

6 CP Ships Limited completed today its previously announced issuance of
7 4% Convertible Senior Subordinated Notes due 2024 in an aggregate
8 principal amount of \$200 million, including the exercise by the initial
9 purchasers of their option to acquire an additional \$25 million principal
10 amount of such notes. The net proceeds of the offering will be used to
11 reduce borrowings under two secured revolving credit facilities which
12 may, subject to availability under such facilities, subsequently be
13 redrawn for general corporate purposes.

14 The 4% Convertible Senior Subordinated Notes due 2024 have not
15 been registered under the Securities Act of 1933, as amended, or any
16 state securities laws, and unless so registered, may not be offered or sold
17 in the United States except pursuant to an exemption from, or in a
18 transaction not subject to, the registration requirements of the Securities
19 Act and applicable state securities laws. This announcement does not
20 constitute an offer to sell or the solicitation of an offer to buy any
21 security and shall not constitute an offer, solicitation or sale in any
22 jurisdiction in which such offering would be unlawful.

23 24. On March 25, 2004, the Company issued a press release entitled “CP
24 Ships Closes on \$525 Million Revolving Credit Facility.” The press release stated in
25 part:

26 CP Ships Limited has closed on a five-year \$525 million secured
27 multicurrency revolving credit facility.

28

1 The new facility, which is secured on 25 owned ships, replaces
2 two secured revolving credit facilities, one for \$175 million in place
3 since August 2001 and one for \$350 million completed in March 2002.
4 It is available for general corporate purposes including capital
5 expenditure and acquisitions.

6 Pricing is linked to credit ratings. Based on CP Ships' current
7 corporate credit ratings of BBB- from Standard & Poor's and Ba2 from
8 Moody's Investor Services, initial borrowings will be at LIBOR+1.10%
9 with a commitment fee of 0.44% payable on the undrawn portion.
10 Should CP Ships draw more than half of the facility, the applicable
11 margin will increase by 0.15%.

12 Citigroup Capital Markets Limited, HSBC Bank plc and ING
13 Bank NV are the mandated lead arrangers. The facility has been placed
14 with a total of 16 banks with extensive experience of lending to the
15 shipping industry.

16 25. On May 3, 2004, the Company issued a press release entitled "CP Ships
17 Expects First Quarter 2004 Results to Improve." The press release stated in part:
18 CP Ships Limited announced today that in the first quarter, overall
19 volume was up 9% on first quarter last year and all market segments
20 grew. Freight rates softened slightly, mostly due to seasonality.

21 "The first quarter is traditionally a difficult one, but we expect to
22 report quarterly results ahead of last year's and maintain our positive
23 outlook for the year as a whole, despite continuing cost pressures," said
24 CEO Ray Miles.

25 26. On May 4, 2004, at the Company's Annual Meeting, incoming
26 Chairman, defendant Miles, made the following remarks:

27 Good morning.
28

1 I am delighted to be speaking with you for the third year in a row
2 about the company's excellent performance.

3 Sales revenue in 2003 was just over \$3 billion, our highest ever.
4 So was volume at 2.2 million teu.

5 Operating income of \$131 million before exceptional items was
6 60% higher than in 2002. In fact, in the fourth quarter 2003 it was \$49
7 million, our highest ever quarterly operating income.

8 Improved conditions in most of our trade lanes was reflected by a
9 7% increase in our freight rates.

10 In September, we completed a four-year \$800 million ship
11 replacement program designed to increase the percentage of owned and
12 long-term committed ships in our fleet to about 70% of our capacity.

13 Why 70%? We believe over time it is cheaper to own or long-
14 term charter ships without undue reliance on the short to medium term
15 charter market. We believe that since 1996 the average cost of
16 chartering a typical 2750 teu ship has been about \$18,500 a day. In
17 comparison, the average cost of ownership over the same time period is
18 about \$14,300 per day. The gap between cost of owning and the cost of
19 chartering a ship represents about one and a half million dollars per year
20 per ship. And you can see with a fleet of 80 ships there's a huge benefit
21 from owning and long-term committing to ships rather than relying on
22 short term charters. So the decision to make a heavy investment in that
23 program was definitely the right decision for the company and we
24 benefit substantially from it now.

25 With a larger percentage of owned ships we can also be assured of
26 having the right specialized ships that we need in many of our trade
27 lanes. And, furthermore, having a proportion of our ships on short to
28

1 medium term charter we have the flexibility to downsize our fleet if we
2 need to.

3 Indeed, since completing that substantial ship investment program,
4 we made further commitments to charter on a long-term basis a further
5 nine ships with delivery commencing in late 2005 and through 2006.
6 These ships are about 4250 teu they will closely match in size the 11
7 ships of that size we already have in our fleet. Together, these 20 ships
8 by 2005-2006 will provide capacity to meet our growth expectations for
9 our trades and will be the workhorses of our fleet over the years to come.

10 Last year we took major steps to strengthen our brand franchises.
11 We introduced Lykes Lines into the Australia/New Zealand trades for
12 the first time and extended ANZDL's services to the US East Coast for
13 the first time.

14 Canada Maritime launched an Asia service, also for the first time
15 in its history. We further expanded in Asia with both the Lykes Lines
16 and TMM Lines brands adding new services between Asia and the
17 Pacific Northwest.

18 We also completed the restructuring of our round-the-world
19 service offered mainly by Contship Containerlines. And we restructured
20 our Australia-West Coast North America ship network marketed under
21 the ANZDL brand.

22 I am pleased to report that all these initiatives have been
23 successful and will continue to contribute to the company's performance
24 this year.

25 *Since the beginning of 2004, we have strengthened our*
26 *investment capacity by replacing two revolving credit facilities totaling*
27 *\$525 million with one facility for the same amount on more flexible*
28

1 *terms. Also, we successfully raised \$200 million through the issue of*
2 *convertible senior subordinated notes.*

3 *As a result of these two initiatives, we now have ample capacity*
4 *to grow the business in the future. As you know, effective today I will*
5 *step down as CEO to become Chairman. It has been an extraordinary*
6 *experience leading CP Ships during its first years as a publicly traded*
7 *company, and indeed since I joined as CEO in 1988, 16 years ago.*

8 I look forward very much to my new role, which will keep me
9 closely involved with the company's strategic direction and with investor
10 relations.

11 27. Also on May 4, 2004, at the Company's Annual Meeting, incoming CEO,
12 defendant Halliwell, made the following remarks:

13 This is an exciting time to be leading CP Ships. *As Ray discussed,*
14 *our performance was strong in 2003. Next week we expect to report*
15 *first quarter results that will be ahead of last year's first quarter.*

16 As your new CEO my priority is to carry on the CP Ships success
17 story and continue to build shareholder value.

18 How do we plan to do this? By continuing to implement our
19 successful business strategy based upon:

20 Strong well-known brands and multibranding of our product;

21 Focus on regional markets;

22 Continuous cost reduction even at the top of the business cycle;

23 Selective pursuit of acquisitions.

24 *Our business priorities for 2004 are clearly defined.*

25 *We plan for steady organic growth, partly as a result of last*
26 *year's substantial service enhancements and partly as a result of*
27 *further service improvements scheduled for this year.*
28

1 In key regions, we also plan to leverage our already strong
2 positions by offering selective value-added services to our existing
3 customers as a natural extension of our core container shipping services.

4 Our acquisition last month of Montreal-based ROE Logistics will
5 help us achieve this for our Montreal and Vancouver gateway customers.

6 We are evaluating similar opportunities in other key regions.

7 It is important to emphasize that CP Ships does not intend to offer
8 global logistics services or compete with our large logistics and freight
9 forwarding customers. This is a regionally-focused strategy designed to
10 support our branded shipping services.

11 In addition, we aim to increase freight rates by benefiting from the
12 current tight supply/demand situation in most of our trade lanes.

13 We continue to evaluate acquisition candidates that, like our Italia
14 Line acquisition, fit our business model, a model based on:

15 Strong earnings potential;

16 Strong customer relations;

17 A good geographic fit with our existing services;

18 And an opportunity for trade lane economies.

19 At the same time, there are challenges to face.

20 Despite signs of recent strengthening, the weak US dollar remains
21 a cost concern as does the price of fuel. To help mitigate the effects of
22 both we have hedging programs in place. We also remain committed to
23 cutting costs throughout the business.

24 Cost reduction is embedded in the CP Ships culture. In 2003 we
25 exceeded our target of \$80 million in annualized cost savings, achieving
26 \$100 million.

27 This year, although there are fewer opportunities for cost cutting,
28 our target is to reduce costs by \$35 million on an annualized basis.

1 Our ship networks are always under review to identify
2 opportunities to increase efficiency and maximize service profitability.

3 We continue to look for opportunities to consolidate backroom
4 activities that support our branded services. Our marine and inland
5 operations, container logistics, accounting, insurance and information
6 services are all examples of backroom activities that were previously
7 brand-specific and are now consolidated.

8 Regarding information systems, in 2003 we made good progress
9 reducing the number of information systems inherited from acquisitions.
10 By the end of this year we expect to have one system, meaning one
11 single operational system, one single financial system.

12 28. On June 1, 2004, the Company issued a press release entitled “CP Ships
13 Strengthens Executive Management.” The press release stated in part:

14 Following the appointment of Frank Halliwell as CEO by the Board of
15 Directors in early May, CP Ships today announced a restructured
16 executive management team.

17 Alan Boylan is joining CP Ships as Executive Vice President
18 Commercial for Montreal Gateway, Australasia and Middle East/India.
19 He was previously Senior Vice President responsible for ocean freight
20 activities at Exel, the global logistics company. He joined the shipping
21 industry in 1974 as a marine economist with Ocean Transport & Trading,
22 an Exel predecessor company. He will be based in Gatwick, UK.

23 Juan Manuel Gonzalez has been promoted to EVP Commercial for
24 Americas-Pacific and Gulf/Atlantic. He was formerly Senior Vice
25 President Americas-Pacific. He is based in Tampa, Florida.

26 Glenn Hards has been promoted to EVP Operations responsible
27 for corporate planning, ship networks, marine operations and container
28

1 fleet. He previously served as VP Alliances and will work from both
2 Gatwick and Tampa.

3 The fourth member of the executive management team reporting
4 to Mr. Halliwell is CFO Ian Webber, who will be based in Gatwick when
5 CP Ships moves its corporate headquarters from central London later in
6 the year.

7 “We know Alan Boylan well from working closely with him as a
8 key customer. His industry experience and knowledge of our business
9 will be a tremendous asset. *With this new structure in place, we have*
10 *an exceptionally strong executive team which better positions us to*
11 *manage our business more efficiently and remain competitive in a*
12 *challenging marketplace,”* Mr. Halliwell said.

13 Frank Halliwell was appointed CEO on 4th May 2004 after
14 serving as Chief Operating Officer. At the same time, former CEO Ray
15 Miles became Chairman and former Chairman Lord Weir became Lead
16 Independent Director.

17 ***On 11th May, CP Ships reported first quarter 2004 operating***
18 ***income of \$16 million, its strongest first quarter profit since its public***
19 ***listing in 2001.***

20 29. On August 5, 2004, the Company issued a press release entitled “CP
21 Ships Postpones Second Quarter 2004 Reporting Date Until 16th August 2004.” The
22 press release stated in part:

23 CP Ships Limited announced today that it is postponing the release of its
24 second quarter 2004 financial results, originally scheduled for 9th
25 August 2004, until 16th August 2004.

26 30. Then, on August 9, 2004, the Company issued a press release entitled
27 “CP Ships Will Restate Previously Reported Financial Results.” The press release
28 stated in part:

1 Further to its 5th August announcement that the release of its second
2 quarter 2004 financial results has been rescheduled to 16th August, CP
3 Ships Limited announced today that in conjunction with the release of
4 second quarter 2004 results it *will restate previously reported financial*
5 *results.*

6 As announced in May, CP Ships began implementing a new SAP
7 financial accounting system in January. *The implementation has*
8 *revealed some deficiencies in former systems and related business and*
9 *accounting processes, for which corrective action has been taken and*
10 *continues. These deficiencies resulted in insufficient accruals for*
11 *certain costs and also a number of balances from 31st December 2003*
12 *that need to be written off.* There is no effect on cash.

13 The main effect will be on 2003. *The estimated negative*
14 *restatement of 2003 net income is between \$22 million and \$27 million*
15 *which will be in addition to the \$8 million restatement of 2003 net*
16 *income announced on 11th May 2004 in the first quarter 2004 report.*
17 *Net income for 2003, which after the \$8 million restatement was*
18 *reported at \$74 million, would become between \$47 million and \$52*
19 *million.*

20 To a lesser extent, 2002 will be affected with an estimated
21 downward revision of net income of about \$7 million. Net income for
22 2002 had been reported at \$52 million.

23 Furthermore, first quarter 2004 net income will be revised
24 downward by about \$6 million from the \$8 million originally reported.

25 Nonetheless, CP Ships considers that net income for the year 2004
26 will be higher than 2003 net income, as originally reported before any
27 restatements, of \$82 million. Management has been conducting a
28 thorough review of the financial statements which has involved Internal

1 Audit and the external auditors PricewaterhouseCoopers and, for this,
2 more time is needed. The review, to be completed to the satisfaction of
3 the Audit Committee of the Board of Directors, is planned to be achieved
4 in time to report second quarter 2004 results and restated prior periods on
5 16th August.

6 *Pending completion of the review and publication of revised*
7 *financial statements, investors should not rely on previously reported*
8 *financial statements and related PricewaterhouseCoopers reports for*
9 *the years 2003 and 2002 nor on financial statements for first quarter*
10 *2004.*

11 **CP SHIPS' FALSE FINANCIAL** 12 **REPORTING DURING THE CLASS PERIOD**

13 31. In order to inflate the price of CP Ships' securities, defendants caused the
14 Company to falsely report its results for 2002-2003 through improper failure to accrue
15 costs. The Company subsequently admitted it would restate its 2002-2003 results,
16 eliminating \$30-\$35 million in improperly reported net income for 2003 and \$7
17 million in net income for 2002.

18 32. CP Ships reported the following amounts for 2002-2003:

| | 2002 | 2003 |
|---------------|--------|--------|
| 19 Net Income | \$52 M | \$74 M |

20
21 33. The 2002-2003 results were included in Form 10-Ks/10-Qs filed with the
22 SEC. The results were also included in press releases disseminated to the public.

23 34. CP Ships has now admitted that it inappropriately failed to record costs
24 included in its 2002-2003 results, and will restate those results to remove some \$30-
25 \$42 million in improperly reported income that its 2002-2003 financial statements
26 were not a fair presentation of CP Ships' results and were presented in violation of
27 Generally Accepted Accounting Principles ("GAAP") and SEC rules.
28

1 35. GAAP are those principles recognized by the accounting profession as
2 the conventions, rules and procedures necessary to define accepted accounting
3 practice at a particular time. SEC Regulation S-X (17 C.F.R. §210.4-01(a)(1)) states
4 that financial statements filed with the SEC which are not prepared in compliance
5 with GAAP are presumed to be misleading and inaccurate, despite footnote or other
6 disclosure. Regulation S-X requires that interim financial statements must also
7 comply with GAAP, with the exception that interim financial statements need not
8 include disclosure which would be duplicative of disclosures accompanying annual
9 financial statements. 17 C.F.R. §210.10-01(a).

10 36. FASB Statement of Concepts No. 5, ¶87, describes the fundamental
11 requirement to record expenses:

12 An expense or loss is recognized if it becomes evident that
13 previously recognized future economic benefits of an asset have been
14 reduced or eliminated, or that a liability has been incurred or increased,
15 without associated economic benefit.

16 37. During the Class Period, CP Ships improperly failed to record required
17 costs even though these costs had been incurred.

18 38. Ultimately, on May 11, 2004 and August 9, 2004, CP Ships announced
19 that its 2002-2003 results would be restated to correct for insufficient accruals for
20 certain costs and also a number of balances from December 31, 2003 that need to be
21 written off.

22 39. The fact that CP Ships will restate its financial statements for 2002-2003
23 is an admission that the financial statements originally issued were false and that the
24 overstatement of revenues and income was material. Pursuant to GAAP, as set forth
25 in Accounting Principles Board Opinion (“APB”) No. 20, the type of restatement
26 announced by CP Ships was to correct for material errors in its previously issued
27 financial statements. *See* APB No. 20, ¶¶7-13. The restatement of past financial
28 statements is a disfavored method of recognizing an accounting change as it dilutes
confidence by investors in the financial statements, it makes it difficult to compare

1 financial statements and it is often difficult, if not impossible, to generate the numbers
2 when restatement occurs. *See* APB No. 20, ¶14. Thus, GAAP provides that financial
3 statements should only be restated in limited circumstances, *i.e.*, when there is a
4 change in the reporting entity, there is a change in accounting principles used or to
5 correct an error in previously issued financial statements. CP Ships' restatement was
6 not due to a change in reporting entity or a change in accounting principle, but rather
7 to errors in previously issued financial statements. Thus, the restatement is an
8 admission by CP Ships that its previously issued financial results and its public
9 statements regarding those results were false.

10 40. Due to these accounting improprieties, the Company presented its
11 financial results and statements in a manner which violated GAAP, including the
12 following fundamental accounting principles:

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

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

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

24 (d) The principle that financial reporting should provide information
25 about how management of an enterprise has discharged its stewardship responsibility
26 to owners (stockholders) for the use of enterprise resources entrusted to it was
27 violated. To the extent that management offers securities of the enterprise to the
28

1 public, it voluntarily accepts wider responsibilities for accountability to prospective
2 investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

3 (e) The principle that financial reporting should provide information
4 about an enterprise's financial performance during a period was violated. Investors
5 and creditors often use information about the past to help in assessing the prospects of
6 an enterprise. Thus, although investment and credit decisions reflect investors'
7 expectations about future enterprise performance, those expectations are commonly
8 based at least partly on evaluations of past enterprise performance (FASB Statement
9 of Concepts No. 1, ¶42);

10 (f) The principle that financial reporting should be reliable in that it
11 represents what it purports to represent was violated. That information should be
12 reliable as well as relevant is a notion that is central to accounting (FASB Statement
13 of Concepts No. 2, ¶¶58-59);

14 (g) The principle of completeness, which means that nothing is left out
15 of the information that may be necessary to insure that it validly represents underlying
16 events and conditions was violated (FASB Statement of Concepts No. 2, ¶79); and

17 (h) The principle that conservatism be used as a prudent reaction to
18 uncertainty to try to ensure that uncertainties and risks inherent in business situations
19 are adequately considered was violated. The best way to avoid injury to investors is to
20 try to ensure that what is reported represents what it purports to represent (FASB
21 Statement of Concepts No. 2, ¶¶95, 97).

22 41. Further, the undisclosed adverse information concealed by defendants
23 during the Class Period is the type of information which, because of SEC regulations,
24 regulations of the national stock exchanges and customary business practice, is
25 expected by investors and securities analysts to be disclosed and is known by
26 corporate officials and their legal and financial advisors to be the type of information
27 which is expected to be and must be disclosed.

28

1 **FIRST CLAIM FOR RELIEF**

2 **For Violation of §10(b) of the 1934 Act**
3 **and Rule 10b-5 Against All Defendants**

4 42. Plaintiff incorporates ¶¶1-41 by reference.

5 43. During the Class Period, defendants disseminated or approved the false
6 statements specified above, which they knew or recklessly disregarded were
7 materially false and misleading in that they contained material misrepresentations and
8 failed to disclose material facts necessary in order to make the statements made, in
9 light of the circumstances under which they were made, not misleading.

10 44. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

11 (a) Employed devices, schemes, and artifices to defraud;

12 (b) Made untrue statements of material facts or omitted to state
13 material facts necessary in order to make statements made, in light of the
14 circumstances under which they were made not misleading; or

15 (c) Engaged in acts, practices, and a course of business that operated
16 as a fraud or deceit upon plaintiff and others similarly situated in connection with their
17 purchases of CP Ships publicly traded securities during the Class Period.

18 45. Plaintiff and the Class have suffered damages in that, in reliance on the
19 integrity of the market, they paid artificially inflated prices for CP Ships publicly
20 traded securities. Plaintiff and the Class would not have purchased CP Ships publicly
21 traded securities at the prices they paid, or at all, if they had been aware that the
22 market prices had been artificially and falsely inflated by defendants' misleading
23 statements.

24 46. As a direct and proximate result of these defendants' wrongful conduct,
25 plaintiff and the other members of the Class suffered damages in connection with their
26 purchases of CP Ships publicly traded securities during the Class Period.

1 (d) Whether defendants knew or recklessly disregarded that their
2 statements were false and misleading.

3 **PRAYER**

4 WHEREFORE, plaintiff prays for judgment as follows: declaring this action to
5 be a proper class action; awarding damages, including interest; awarding reasonable
6 costs, including attorneys' fees, and such other relief as the Court may deem proper.

7 **JURY DEMAND**

8 Plaintiff demands a trial by jury.

9 DATED: August 12, 2004

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