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

11 MARILYN A. POULOS, Individually  
12 and On Behalf of All Others Similarly  
Situating,

13 Plaintiff,

14 vs.

15 BASIN WATER, INC., PETER L.  
16 JENSEN, MICHAEL M. STARK and  
THOMAS C. TEKULVE,

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 **JURISDICTION AND VENUE**

2 1. Jurisdiction is conferred by §27 of the Securities Exchange Act of 1934  
3 (“1934 Act”). The claims asserted herein arise under §§10(b) and 20(a) of the 1934  
4 Act and SEC Rule 10b-5.

5 2. (a) Venue is proper in this District pursuant to §27 of the 1934 Act.  
6 Many of the false and misleading statements were made in or issued from this District.

7 (b) Basin Water, Inc.’s (“Basin” or the “Company”) principal  
8 executive offices are located at 8731 Prestige Court, Rancho Cucamonga, California.

9 **INTRODUCTION**

10 3. This is a securities class action on behalf of all persons who purchased or  
11 otherwise acquired the common stock of Basin between May 14, 2007 and November  
12 13, 2007 (the “Class Period”), against Basin and certain of its officers and/or directors  
13 for violations of the 1934 Act.

14 4. Basin designs, builds and implements systems for the treatment of  
15 contaminated groundwater.

16 5. During the Class Period, defendants issued materially false and  
17 misleading statements regarding the Company’s business and financial results. As a  
18 result of defendants’ false statements, Basin stock traded at artificially inflated prices  
19 during the Class Period, reaching a high of \$13.06 per share on November 8, 2007.

20 6. On November 14, 2007, before the market opened, the Company issued a  
21 press release entitled “Basin Water, Inc. Reports Third Quarter 2007 Results;  
22 Quarterly Revenues Increase 10% to \$5.3 Million Over Prior Quarter, Takes  
23 Reserve.” The press release stated in part:

24 Basin Water, Inc. today reported financial results for the quarter ended  
25 September 30, 2007.

26 For the third quarter of 2007, revenues of \$5.3 million increased  
27 \$0.5 million when compared to revenues of \$4.8 million in the third  
28 quarter of 2006, a 10% increase. System sales revenues were \$3.8

1 million for the third quarter of 2007, compared to \$3.9 million in the  
2 same period in 2006. Operating contract revenues for the third quarter of  
3 2007 were \$1.6 million, an increase of \$0.7 million, or 77%, over the  
4 third quarter of 2006.

5 While operating contract revenues increased due to newer systems  
6 coming online, many of these systems were under older, legacy contracts  
7 with inadequate contract terms and conditions, and priced many years  
8 before the Company's recently installed business systems and practices  
9 could be applied. As these legacy projects began operating, especially  
10 during the hotter summer months, it became apparent to the Company  
11 that most of these projects would be operating at a loss for some period  
12 of time. As a consequence, during the third quarter, the Company  
13 recorded a \$4.7 million charge to cost of revenues to reserve for future  
14 projected losses. This reserve was due primarily to poorly priced  
15 contracts, increasing waste disposal and salt purchase costs and the  
16 inability to contractually pass increased costs on to our clients.

17 This charge to cost of revenues is in addition to the reserve  
18 previously recorded in the fourth quarter of 2006. The prior reserve was  
19 recorded with the best information available to the company at that time,  
20 and with only a few months of operating data available. The Company  
21 has significantly improved its accounting systems during late 2006 and  
22 during the first half of 2007 including the complete conversion of our  
23 systems to a new general ledger and management reporting system.  
24 Based on the new operating history, especially during the third quarter, it  
25 became apparent that the original reserve was not adequate. The  
26 Company reviewed each contract's financial performance and identified  
27 the future expected losses for all contracts, resulting in this adjusted  
28 reserve balance.



1 million, loss from operations was \$15.9 million versus \$1.7 million and  
2 net loss was \$13.8 million compared to \$3.1 million.

3 \* \* \*

#### 4 Transition Discussion

5 Mike Stark, President and Chief Operating Officer of Basin Water,  
6 commented, “Last quarter I confidently reported that we had essentially  
7 completed our transition efforts on establishing internal business  
8 processes and building the organization to effectively prepare for our  
9 intended growth and profitability. I continue to hold to that confidence.  
10 In 2007 we developed the ability to gather and report financial data at the  
11 project and departmental levels. In 2008 we plan to use this management  
12 information to effectively control and predict our performance. The  
13 completion of these tasks has been extremely important for the company  
14 and ultimately for shareholder value.

15 We believe that the identification and recording of the reserves  
16 discussed above reflects the last remnants of our previous problems  
17 related to the Company’s capability to properly price and establish  
18 appropriate contracting provisions. The reserves will set aside the past  
19 problems, and allow the future opportunities and growth to be properly  
20 reflected in the Company’s financials.

21 With the transition efforts completed and in place, our financial  
22 house is in order, and with the added capabilities and technical support  
23 provided by our newly announced relationship with Rohm and Haas, we  
24 are poised to complete the transition of this start-up company into a  
25 company capable of strong revenue growth with predictable profitability;  
26 ready to take advantage of the immense market in which we reside.”  
27  
28

1           7.       On this news, Basin's stock declined \$2.29 per share to close at \$8.01 per  
2 share, a one-day decline of 22% on volume of 1.4 million shares, over five times the  
3 average three-month volume.

4           8.       The true facts, which were known by the defendants but concealed from  
5 the investing public during the Class Period, were as follows:

6               (a)     The Company failed to properly account for its reserves for its  
7 legacy system contracts related to its system sales and water service agreement  
8 ("WSA") contracts. In prior years, the Company had entered into certain legacy  
9 contracts with inadequate contract terms and conditions. In many instances, these  
10 contracts were poorly priced as they did not include price escalator clauses, which  
11 resulted in the Company being unable to pass on rising costs such as waste disposal  
12 and salt purchase costs in a timely manner.

13              (b)     The Company's unprofitable legacy business would continue to  
14 weigh on the Company's results for some period of time as the Company was having  
15 difficulty reworking its unfavorable legacy contracts.

16              (c)     Defendants' Class Period statements that by the end of the second  
17 quarter of 2007 the Company had largely completed its internal operational transition  
18 of its business practices and processes and had resolved the bulk of the issues  
19 concerning its legacy contracts were patently false.

20              (d)     Defendants' Class Period statements that as part of the Company's  
21 internal focus on improving operations, management reviewed and projected profits  
22 and losses for each WSA and wrote off the projected losses as of the fourth quarter of  
23 2006 were patently false.

24              (e)     The Company lacked requisite internal controls to ensure that  
25 Company was properly accounting for its reserves for its legacy contracts, and, as a  
26 result, the Company's projections and reported results issued during the Class Period  
27 were based upon defective assumptions and/or manipulated facts.

28



1 information available to them but not to the public, the Individual Defendants knew  
2 that the adverse facts specified herein had not been disclosed to and were being  
3 concealed from the public and that the positive representations being made were then  
4 materially false and misleading. The Individual Defendants are liable for the false  
5 statements pleaded herein at ¶¶18-19.

#### 6 **FRAUDULENT SCHEME AND COURSE OF BUSINESS**

7 16. Defendants are liable for: (i) making false statements; or (ii) failing to  
8 disclose adverse facts known to them about Basin. Defendants' fraudulent scheme  
9 and course of business that operated as a fraud or deceit on purchasers of Basin  
10 common stock was a success, as it: (i) deceived the investing public regarding Basin's  
11 prospects and business; (ii) artificially inflated the price of Basin's common stock; and  
12 (iii) caused plaintiff and other members of the Class to purchase Basin common stock  
13 at inflated prices.

#### 14 **BACKGROUND**

15 17. Basin engages in the design, building, and implementation of systems for  
16 the treatment of contaminated groundwater. The Company offers an ion-exchange  
17 treatment system that reduces groundwater contaminant levels. Its system is installed  
18 at the site of the well to treat varying volumes of water. The Company serves utilities,  
19 municipalities, special districts, real estate developers, and other organizations that  
20 supply water for use in treating groundwater sources. Basin markets its system  
21 through a direct sales force, independent contractors, and strategic partners primarily  
22 in the United States. The Company was founded in 1999.

#### 23 **DEFENDANTS' FALSE AND MISLEADING STATEMENTS ISSUED** 24 **DURING THE CLASS PERIOD**

25 18. On May 14, 2007, Basin reported its first quarter 2007 financial results,  
26 in a release that stated in part:

27 Basin Water, Inc. today reported financial results for the quarter ended  
28 March 31, 2007.

1 For the first quarter of 2007, revenues of \$1.6 million decreased  
2 \$2.1 million when compared to revenues of \$3.7 million in the first  
3 quarter of 2006, a 57% decrease. System sales revenues were \$0.9  
4 million for the first quarter of 2007, compared to \$3.1 million in the  
5 same period in 2006. As previously announced, Basin Water is  
6 transitioning our internal business processes and building the  
7 organization for growth and profitability. The decrease in revenue this  
8 quarter was due to both the timing of the financing of several projects  
9 being delayed into the second quarter of 2007 as well as the inward focus  
10 of the organization on establishing the proper business processes.  
11 Operating contract revenues for the first quarter of 2007 were \$0.7  
12 million, an increase of \$0.1 million over the first quarter of 2006.

13 Gross profit decreased by \$1.4 million during the first quarter of  
14 2007 to a \$0.3 million gross loss compared to a \$1.1 million gross profit  
15 during the first quarter of 2006. The decrease was primarily due to the  
16 timing of the financing on projects delayed into the second quarter of  
17 2007 and the resulting level of field service labor and engineering  
18 overhead costs incurred in the first quarter with lower offsetting  
19 revenues. Additionally, the loss included a \$0.3 million reserve for costs  
20 associated with the final completion of a multi-year project.

21 \* \* \*

22 For the first quarter of 2007 we reported a net loss of \$2.2 million  
23 compared to a net loss of \$0.4 million in the first quarter of 2006.

24 \* \* \*

#### 25 Transition Success

26 The President and Chief Operating Officer of Basin Water, Mike  
27 Stark, commented, "Though this may have been a difficult quarter, we  
28 have actually remained true to the plan we unveiled along with our

1 fourth quarter results. The Company has made tremendous progress on  
2 transitioning from a start-up company to a strong revenue growth  
3 company with predictable profitability. As previously discussed, the  
4 timing of third party financing on several projects has pushed planned  
5 revenues into the second quarter. However, we have also been successful  
6 in transitioning the organization internally. We have remained inwardly  
7 focused to improve the profitability of existing systems and build the  
8 business processes and disciplines needed.

9 “In our young life, Basin Water has proven its ability to sell its  
10 business model; the treatment technology works; and we know the  
11 market is immense and growing. The dilemma we faced at this juncture  
12 was the option of continuing to operate as the startup entity we were –  
13 focused on sales and not focusing on the profitability of each project and  
14 not developing the organization for a national reach – or choosing to  
15 revamp the sales force, design and implement our business systems and  
16 disciplines and prepare and restart in a manageable and predictable way.  
17 We have chosen the latter course, and expect the transition efforts to be  
18 completed in the second quarter. We also expect our organization to  
19 begin providing healthy growth in revenues in the second half of this  
20 year, and we expect to be profitable in the third and fourth quarter.”

#### 21 Acquisition Efforts

22 Mr. Stark continued, “We have also been looking at building our  
23 company by pursuing initiatives designed to improve both our revenue  
24 growth and our profitability. We believe the appropriate acquisitions will  
25 provide us either faster geographic development or complimentary  
26 treatment technologies. Some, as the previously announced agreement  
27 for control of the assets of the West Riverside Canal Company in  
28

1 Southern California, will allow us to leverage our technology and  
2 provide long-term sources of water to clients and municipalities.”

### 3 Stock Repurchase Program

4 Our Chief Executive Officer, Peter Jensen, stated, “We believe  
5 that with our technology, our quality clients and our business model,  
6 Basin Water has an extremely bright future. As a demonstration of that  
7 confidence, and as a result of our strong balance sheet, our Board of  
8 Directors has authorized us to implement a stock repurchase program.  
9 We have been authorized to purchase up to \$10.0 million of our stock  
10 from time to time in the open market. We plan to make these repurchases  
11 using our working capital and will be made in compliance with all  
12 applicable legal requirements.

13 “Our transition efforts are showing marked successes, our  
14 organization is demonstrating its ability to focus on disciplined,  
15 aggressive and creative methods for growing the company. We have all  
16 the tools in place now, and believe the second half of 2007 will  
17 demonstrate to our stockholders that the organization can leverage those  
18 tools and build this company into a profitable company with predictable  
19 revenue growth, taking advantage of a huge market.”

20 19. On August 14, 2007, Basin reported its second quarter 2007 financial  
21 results, in a release that stated in part:

22 Basin Water, Inc. today reported financial results for the quarter ended  
23 June 30, 2007.

24 For the second quarter of 2007, revenues of \$6.4 million increased  
25 \$1.4 million when compared to revenues of \$5.0 million in the second  
26 quarter of 2006, a 28% increase. System sales revenues were \$5.2  
27 million for the second quarter of 2007, compared to \$4.2 million in the  
28 same period in 2006. As anticipated, the increase in system sales revenue

1 this quarter was due primarily to a third party financing arrangement  
2 whereby Basin Water sold 10 water treatment systems of various  
3 capacities which had previously been placed with customers. The  
4 Company will continue to operate and maintain these systems for its  
5 customers. Operating contract revenues for the second quarter of 2007  
6 were \$1.2 million, an increase of \$0.4 million over the second quarter of  
7 2006.

8 Gross profit decreased by \$1.4 million during the second quarter  
9 of 2007 to breakeven compared to a \$1.4 million gross profit during the  
10 second quarter of 2006. The gross profit earned on the sale of the 10  
11 treatment systems was offset by the costs incurred by the continued  
12 focus on correcting internal legacy projects and the high level of field  
13 service labor and engineering overhead costs incurred in the second  
14 quarter, and unabsorbed manufacturing overhead costs.

15 \* \* \*

16 For the second quarter of 2007, the Company reported a net loss of  
17 \$1.8 million compared to a net loss of \$2.0 million in the second quarter  
18 of 2006.

#### 19 Six Month Results

20 For the six months ended June 30, 2007 compared with June 30,  
21 2006: revenues were \$8.0 million compared to \$8.7 million, loss from  
22 operations was \$5.3 million versus \$0.2 million and net loss was \$3.9  
23 million compared to \$2.4 million.

24 \* \* \*

#### 25 Transition Completed

26 The President and Chief Operating Officer of Basin Water, Mike  
27 Stark, commented, "Over the past three quarters, we have been very  
28 focused on our transition efforts on establishing internal business

1 processes and building the organization to effectively prepare for our  
2 intended growth and profitability. The Company has, for the most part,  
3 completed the transition efforts and we are now organized to pursue  
4 profitable revenue growth beginning in the second half of this year. We  
5 have, in a very short period of time, transitioned from a start-up company  
6 to a company capable of strong revenue growth with predictable  
7 profitability.”

#### 8 Acquisition Efforts

9 Mr. Stark added, “We continue our efforts to build the company  
10 by pursuing initiatives and investigating potential acquisitions designed  
11 to improve both our revenue growth and our profitability. We believe the  
12 appropriate acquisitions will provide us either faster geographic  
13 development or complementary treatment technologies. Other  
14 acquisitions will allow us to leverage our technology and provide long-  
15 term sources of water to clients and municipalities.

16 “We have completed our transition efforts; our organization is  
17 now poised to demonstrate its ability to focus on disciplined, aggressive  
18 and creative methods for growing the company. We have all the tools in  
19 place now, and believe the second half of 2007 will demonstrate to our  
20 stockholders that the organization can leverage those tools and build this  
21 organization into a profitable company with predictable revenue growth,  
22 taking advantage of the immense market in which we reside.”

23 20. Then, on November 14, 2007, before the market opened, the Company  
24 issued a press release entitled “Basin Water, Inc. Reports Third Quarter 2007 Results;  
25 Quarterly Revenues Increase 10% to \$5.3 Million Over Prior Quarter, Takes  
26 Reserve.” The press release stated in part:

27 Basin Water, Inc. today reported financial results for the quarter ended  
28 September 30, 2007.

1           For the third quarter of 2007, revenues of \$5.3 million increased  
2 \$0.5 million when compared to revenues of \$4.8 million in the third  
3 quarter of 2006, a 10% increase. System sales revenues were \$3.8  
4 million for the third quarter of 2007, compared to \$3.9 million in the  
5 same period in 2006. Operating contract revenues for the third quarter of  
6 2007 were \$1.6 million, an increase of \$0.7 million, or 77%, over the  
7 third quarter of 2006.

8           While operating contract revenues increased due to newer systems  
9 coming online, many of these systems were under older, legacy contracts  
10 with inadequate contract terms and conditions, and priced many years  
11 before the Company's recently installed business systems and practices  
12 could be applied. As these legacy projects began operating, especially  
13 during the hotter summer months, it became apparent to the Company  
14 that most of these projects would be operating at a loss for some period  
15 of time. As a consequence, during the third quarter, the Company  
16 recorded a \$4.7 million charge to cost of revenues to reserve for future  
17 projected losses. This reserve was due primarily to poorly priced  
18 contracts, increasing waste disposal and salt purchase costs and the  
19 inability to contractually pass increased costs on to our clients.

20           This charge to cost of revenues is in addition to the reserve  
21 previously recorded in the fourth quarter of 2006. The prior reserve was  
22 recorded with the best information available to the company at that time,  
23 and with only a few months of operating data available. The Company  
24 has significantly improved its accounting systems during late 2006 and  
25 during the first half of 2007 including the complete conversion of our  
26 systems to a new general ledger and management reporting system.  
27 Based on the new operating history, especially during the third quarter, it  
28 became apparent that the original reserve was not adequate. The

1 Company reviewed each contract's financial performance and identified  
2 the future expected losses for all contracts, resulting in this adjusted  
3 reserve balance.

4 During the first half of 2007, management put in place internal  
5 business processes to assure that new prospective contracts are properly  
6 priced and appropriate price adjustments were provided for in relation to  
7 increases in the cost of providing services. Management believes that  
8 contracts subsequent to the development of these business practices are  
9 and will provide gross margins inline with expectation, and with the  
10 necessary contract language to assure that increasing costs not in the  
11 control of the Company can be appropriately billed to our customers. As  
12 a result of these reserves, the Company believes the future gross margins  
13 on the older contracts should have minimal adverse impact on the  
14 company's financial results going forward, and as newer, properly priced  
15 contracts come online, we expect the contract revenue gross margins will  
16 rise accordingly.

17 Additionally, we recorded a reserve of \$0.7 million to cost of  
18 revenues in the third quarter for three large, older projects due to delays,  
19 contractual issues and unexpected problems specific to these systems.  
20 However, excluding the effect of these three large systems, our gross  
21 margin for standard systems of 17% for the third quarter is beginning to  
22 reflect the impact of newer, properly priced systems and the Company  
23 believes that margins for system sales will continue to approach targeted  
24 levels.

25 \* \* \*

26 Transition Discussion

27 Mike Stark, President and Chief Operating Officer of Basin Water,  
28 commented, "Last quarter I confidently reported that we had essentially

1 completed our transition efforts on establishing internal business  
2 processes and building the organization to effectively prepare for our  
3 intended growth and profitability. I continue to hold to that confidence.  
4 In 2007 we developed the ability to gather and report financial data at the  
5 project and departmental levels. In 2008 we plan to use this management  
6 information to effectively control and predict our performance. The  
7 completion of these tasks has been extremely important for the company  
8 and ultimately for shareholder value.

9 We believe that the identification and recording of the reserves  
10 discussed above reflects the last remnants of our previous problems  
11 related to the Company's capability to properly price and establish  
12 appropriate contracting provisions. The reserves will set aside the past  
13 problems, and allow the future opportunities and growth to be properly  
14 reflected in the Company's financials.

15 With the transition efforts completed and in place, our financial  
16 house is in order, and with the added capabilities and technical support  
17 provided by our newly announced relationship with Rohm and Haas, we  
18 are poised to complete the transition of this start-up company into a  
19 company capable of strong revenue growth with predictable profitability;  
20 ready to take advantage of the immense market in which we reside.”

21 21. On this news, Basin's stock collapsed \$2.29 per share to close at \$8.01  
22 per share, a one-day decline of 22% on volume of 1.4 million shares, over 5 times the  
23 average three-month volume.

24 22. The true facts, which were known by the defendants but concealed from  
25 the investing public during the Class Period, were as follows:

26 (a) The Company failed to properly account for its reserves for its  
27 legacy system contracts related to its system sales and WSA contracts. In prior years,  
28 the Company had entered into certain legacy contracts with inadequate contract terms

1 and conditions. In many instances, these contracts were poorly priced as they did not  
2 include price escalator clauses, which resulted in the Company being unable to pass  
3 on rising costs such as waste disposal and salt purchase costs in a timely manner.

4 (b) The Company's unprofitable legacy business would continue to  
5 weigh on the Company's results for some period of time as the Company was having  
6 difficulty reworking its unfavorable legacy contracts.

7 (c) Defendants' Class Period statements that by the end of the second  
8 quarter of 2007 the Company had largely completed its internal operational transition  
9 of its business practices and processes and had resolved the bulk of the issues  
10 concerning its legacy contracts were patently false.

11 (d) Defendants' Class Period statements that as part of the Company's  
12 internal focus on improving operations, management reviewed and projected profits  
13 and losses for each WSA and wrote off the projected losses as of the fourth quarter of  
14 2006 were patently false.

15 (e) The Company lacked requisite internal controls to ensure that  
16 Company was properly accounting for its reserves for its legacy contracts, and, as a  
17 result, the Company's projections and reported results issued during the Class Period  
18 were based upon defective assumptions and/or manipulated facts.

19 23. As a result of defendants' false statements, Basin's stock price traded at  
20 inflated levels during the Class Period. However, after the above revelations seeped  
21 into the market, the Company's shares were hammered by massive sales, sending  
22 them down more than 38% from their Class Period high.

23 **BASIN'S FALSE FINANCIAL REPORTING**  
24 **DURING THE CLASS PERIOD**

25 24. In order to inflate the price of Basin's stock, defendants caused the  
26 Company to falsely report its results for the first three quarters of 2007 by failing to  
27 adequately accrue reserves for unprofitable contracts, which overstated the  
28 Company's cost of revenue and net income.

1           25.    The results for the first three quarters of 2007 were included in Forms 10-  
2 Q filed with the SEC. The results were also included in press releases disseminated to  
3 the public.

4           26.    Basin improperly accounted for its reserves for its unprofitable legacy  
5 system contracts such that its previous financial statements were not a fair  
6 presentation of Basin's results and were presented in violation of Generally Accepted  
7 Accounting Principles ("GAAP") and SEC rules.

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

17           28.    With respect to accounting for contingencies, GAAP, as set forth in  
18 FASB Statement of Financial Accounting Standard (SFAS) No. 5, *Accounting for*  
19 *Contingencies*, ¶8, states:

20           An estimated loss from a loss contingency . . . shall be accrued by a  
21 charge to income if *both* of the following conditions are met:

22           a.    Information available prior to issuance of the financial  
23 statements indicates that it is probable that an asset had been impaired or  
24 a liability had been incurred at the date of the financial statements. It is  
25 implicit in this condition that it must be probable that one or more future  
26 events will occur confirming the fact of the loss.

27           b.    The amount of loss can be reasonably estimated.

28 (Footnote omitted, emphasis in original.)

1           29. The Company failed to properly account for its reserves for its legacy  
2 system contracts related to its system sales and WSA. In prior years, Basin had  
3 entered into certain legacy contracts with inadequate contract terms and conditions. In  
4 many instances, these contracts were poorly priced as they did not include price  
5 escalator clauses, which resulted in the Company being unable to pass on rising costs  
6 such as waste disposal and salt purchase costs in a timely manner. Basin was well  
7 aware of these problems but failed to fully reserve for these unprofitable contracts.  
8 Indeed, the Company took a \$3.7 million reserve due to these contracts in the fourth  
9 quarter of 2006. Thereafter, the Company assured the market that the problems  
10 associated with the legacy contracts had been fully addressed with this reserve charge.

11           30. Ultimately, on November 14, 2007, before the market opened, Basin  
12 announced that it would be taking an additional reserve of \$5.4 million to its cost of  
13 revenue – a \$4.7 million charge for future projected losses associated with its legacy  
14 contracts and a \$0.7 million charge for problems related to three specific legacy  
15 contracts. The market was surprised by these charges as they had thought that the  
16 Company was fully reserved for legacy system contract shortfalls. Further, these  
17 charges called into question whether the Company had their operating costs under  
18 control.

19           31. Due to these accounting improprieties, the Company presented its  
20 financial results and statements in a manner which violated GAAP, including the  
21 following fundamental accounting principles:

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

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

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

5 (d) The principle that financial reporting should provide information  
6 about how management of an enterprise has discharged its stewardship responsibility  
7 to owners (stockholders) for the use of enterprise resources entrusted to it was  
8 violated. To the extent that management offers securities of the enterprise to the  
9 public, it voluntarily accepts wider responsibilities for accountability to prospective  
10 investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

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

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

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

25 (h) The principle that conservatism be used as a prudent reaction to  
26 uncertainty to try to ensure that uncertainties and risks inherent in business situations  
27 are adequately considered was violated. The best way to avoid injury to investors is to  
28

1 try to ensure that what is reported represents what it purports to represent (FASB  
2 Statement of Concepts No. 2, ¶¶95, 97).

3 32. Further, the undisclosed adverse information concealed by defendants  
4 during the Class Period is the type of information which, because of SEC regulations,  
5 regulations of the national stock exchanges and customary business practice, is  
6 expected by investors and securities analysts to be disclosed and is known by  
7 corporate officials and their legal and financial advisors to be the type of information  
8 which is expected to be and must be disclosed.

### 9 **LOSS CAUSATION/ECONOMIC LOSS**

10 33. By misrepresenting its financial statements, the defendants presented a  
11 misleading picture of Basin's business and prospects. Thus, instead of truthfully  
12 disclosing during the Class Period that Basin's business was not as healthy as  
13 represented, Basin falsely overstated its net income.

14 34. These claims of profitability caused and maintained the artificial inflation  
15 in Basin's stock price throughout the Class Period and until the truth was revealed to  
16 the market.

17 35. Defendants' false and misleading statements had the intended effect and  
18 caused Basin stock to trade at artificially inflated levels throughout the Class Period,  
19 reaching as high as \$13.06 per share.

20 36. On November 14, 2007, defendants were forced to publicly disclose that  
21 Basin would be required to take a large reserve to properly account for its legacy  
22 contracts, causing its stock to drop to \$8.01 per share.

23 37. As a direct result of defendants' admissions and the public revelations  
24 regarding the truth about Basin's overstatement of income and its actual business  
25 prospects going forward, Basin's stock price plummeted more than 22%, falling from  
26 \$10.30 per share on November 13, 2007 to \$8.01 per share on November 14, 2007 – a  
27 one-day drop of \$2.29 per share. This drop removed the inflation from Basin's stock  
28

1 price, causing real economic loss to investors who had purchased the stock during the  
2 Class Period.

3 **COUNT I**

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

6 38. Plaintiff incorporates ¶¶1-37 by reference.

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

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

13 (a) employed devices, schemes and artifices to defraud;

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

17 (c) engaged in acts, practices and a course of business that operated as  
18 a fraud or deceit upon plaintiff and others similarly situated in connection with their  
19 purchases of Basin common stock during the Class Period.

20 41. Plaintiff and the Class have suffered damages in that, in reliance on the  
21 integrity of the market, they paid artificially inflated prices for Basin common stock.  
22 Plaintiff and the Class would not have purchased Basin common stock at the prices  
23 they paid, or at all, if they had been aware that the market prices had been artificially  
24 and falsely inflated by defendants' misleading statements.

25 **COUNT II**

26 **For Violation of §20(a) of the 1934 Act**  
27 **Against All Defendants**

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



1 (f) the extent of damage sustained by Class members and the  
2 appropriate measure of damages.

3 47. Plaintiff's claims are typical of those of the Class because plaintiff and  
4 the Class sustained damages from defendants' wrongful conduct.

5 48. Plaintiff will adequately protect the interests of the Class and has retained  
6 counsel who are experienced in class action securities litigation. Plaintiff has no  
7 interests which conflict with those of the Class.

8 49. A class action is superior to other available methods for the fair and  
9 efficient adjudication of this controversy.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, plaintiff prays for judgment as follows:

12 A. Declaring this action to be a proper class action pursuant to Fed. R. Civ.  
13 P. 23;

14 B. Awarding plaintiff and the members of the Class damages, including  
15 interest;

16 C. Awarding plaintiff reasonable costs and attorneys' fees; and

17 D. Awarding such equitable/injunctive or other relief as the Court may deem  
18 just and proper.

19 **JURY DEMAND**

20 Plaintiff demands a trial by jury.

21 DATED: December 27, 2007

COUGHLIN STOIA GELLER  
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DARREN J. ROBBINS  
DAVID C. WALTON  
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