Plaintiff, Sarit Tamar ("Plaintiff"), by her undersigned counsel, alleges the following upon personal knowledge as to plaintiff and plaintiff's own acts, and upon information and belief based upon the investigation of plaintiff's attorneys as to all other matters. The investigation includes review and analysis of public statements, including publicly filed documents with the Securities and Exchange Commission (the "SEC"), press releases, news articles, and conference calls with analysts conducted by the defendants.

NATURE OF ACTION

1. This is a securities class action, brought under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), and Rule 10b-5 promulgated thereunder by the SEC, on behalf of all persons who purchased or otherwise acquired the common stock of Mind C.T.I., Ltd. ("Mind" or the "Company"), during the period June 8, 2006 through February 27, 2008, inclusive (the "Class Period").
2. The principal business in which Mind purportedly engages is the development, manufacture and marketing of real-time and off-line billing and customer care software and the sale of related services for various types of communication providers, including traditional cable and wireless, Internet protocol or voice over IP and broadband IP network operators, third-generation broadband IP network operators, cable operators, third generation operators and mobile virtual network operators.

3. During the Class Period, defendants issued materially false and misleading statements concerning the Company’s financial condition, cash management, and internal controls over same. In particular, defendants knowingly or recklessly concealed during the Class Period that (a) most of Mind’s reported cash position was comprised of illiquid Auction Rate Securities (“ARSs”) and that (b) internal controls over the monitoring, accounting and reporting of the Company’s investment in cash equivalents and/or short-term investments were materially deficient.

4. Indeed, at and toward the end of the Class Period, defendants gradually revealed and ultimately admitted the foregoing, first by restating the Company’s financial statements for 2006, and ultimately disclosing that almost $23 million of the Company’s originally reported total liquid cash position of approximately $27 million was invested in highly illiquid ARSs. Defendants also admitted that “[i]n connection with restatement, management determined that a material weakness in internal control over financial reporting existed as of December 31, 2006 because at that time we did not have effective controls designed and in place to ensure that our investments were classified in accordance with generally accepted accounting principles (“GAAP”).” Between June of 2006 and July of 2008 the Company had four different Chief Financial Officers (“CFOs”). High turnover by senior financial officers is considered one of the
primary "Risk Factors Relating to Misstatements Arising From Fraudulent Accounting Reporting," according to the American Institute of Certified Public Accountants (the “AICPA”).


5. Moreover, defendants misrepresented the Company’s liquidity and its ability to attract customers, finance current operations, as well to pursue strategic acquisitions. At the end of the Class Period, defendants admitted that because “[t]he stated maturity of these securities is 2046” and “[t]here is currently a very limited market for these auction rate securities,” “[t]his situation leaves us with limited cash resources with which to pursue our acquisition strategy.” (2007 FORM 20-F at 7).

6. The misstatements concerning the concealment of the nature of “Cash and Cash Equivalents” is even more flagrant as Mind’s long-time independent registered accountant and auditor, PricewaterhouseCoopers, doing business in Tel-Aviv, Israel as Kesselman & Kesselman (“PwC”), shortly before the beginning of the Class Period, issued the following statement to its clients and worldwide member firms concerning the proper reporting and classification of ARSs:

   The proper classification of auction rate securities should be based on the contractual maturity of the security, and not the next reset date. Most auction rate securities have maturities that span many years, and such securities will not qualify as cash equivalents. We understand that the approach to classification described above, is consistent with the views of the staff of the Financial Accounting Standards Board [the “FASB"], the Securities and Exchange Commission (SEC), and Public Company Accounting Oversight Board [the “PCAOB”].

(PwC – Capital Markets Accounting Developments Advisory (2005-04) (Mar. 4, 2005))

7. Finally, at the end of the Class Period defendants wrote off $15.2 million of the ARS balance of $20.3 million and “reclassified” the remaining ARS balance of $5.1 million to “Long-term investment and marketable debentures.” (2007 20-F at F-34).
8. During the Class Period the Company's stock traded on the NASDAQ as high as $3.03 per share. At the end of the Class Period, February 27, 2008, Mind's stock closed at $1.68 per share.

JURISDICTION AND VENUE

9. Jurisdiction is conferred by §27 of the Exchange Act, as the claims asserted herein arise under §§10(b) and 20(a) of the Exchange Act. Jurisdiction is also conferred under 28 U.S.C. §§ 1331 and 1337.

10. Venue is proper in this District pursuant to §27 of the Exchange Act. The Company, through its wholly-owned subsidiary Mind C.T.I., Inc. ("Mind NJ"), maintains offices at 777 Terrace Avenue, Hasbrouck Heights, New Jersey, 07604. The Company's common stock is traded on the NASDAQ, which has corporate headquarters located in this District, and many of the securities violations alleged herein occurred within this district. The alleged false and misleading statements and omissions were disseminated in this District through national media and the Internet. The Company maintains a web site where it publishes various statements, including its SEC filings and financial press releases at www.mindcti.com/investors.

11. In furtherance of and in connection with the acts alleged herein, defendants directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephonic communications, the Internet, and the facilities of the NASDAQ market, a national securities exchange.

PARTIES

12. Plaintiff Sarit Tamar purchased Mind common stock, as described in the attached certification of named plaintiff, and was damaged thereby.

13. Defendant Mind is an Israeli corporation incorporated in Industrial Park, Yoqneam, 20692, Israel. The Company operates in the United States through at least two
quarterly earnings conference calls, was quoted in Company press releases, and signed Forms 20-F (annual reports) and 6-K (interim reports) filed with the SEC. As of June 1, 2007 Eisinger held 4.1 million shares of Mind or 19% of the Company’s issued and outstanding common stock. (2006 20-F at 59).

15. Defendant Oren Bryan (“Bryan”) was the Company’s CFO from July 11, 2006 until he was replaced by Rafi Wiesler on February 27, 2008. Bryan, 32 years old on July 11, 2006, and a Certified Public Accountant, previously worked at Dor Chemicals Ltd., a multinational public company from January 2002 until November 2005, when he joined Mind as its financial controller. Prior thereto, he was the controller of a private software company and worked as an auditor for Ernst & Young (Israel). Defendant Bryan spoke at conference calls and signed SEC filings during the Class Period.

16. Defendant Zamir Bar-Zion (“Bar-Zion”) was a director of Mind during the Class Period and a member of the Company’s Board of Directors’ three member audit committee. Bar-Zion purportedly one of three “independent directors” of Mind, has served as such since June 2002. Since May 2006, Bar-Zion has also served as the Managing Director of Investment Banking at Leumi & Co. Investment House in alliance with Jeffries Broadview. Bar-Zion also served as the Managing Director of Investment Banking at Excellence Nessuah/Piper Jaffray from May 2004 to February 2006. Bar-Zion was also a Managing Director for Investment Banking at Nessuah Zannex & Co. from 1998 to 2001. Bar-Zion as of June 2007 served on the boards of Attunity Ltd., Lapidot Cheletz Ltd. and as chairperson of Lpidot Ltd. Bar-Zion has a Masters degree in finance from Pace University and graduated from the Program of Management Development at Harvard University. Bar-Zion signed the false and misleading 2006 Form 20-F/A filed in or about December 2007.
17. Non-defendant PwC, through its member firm Kessler & Kessler LLP ("Kessler") is a worldwide public accounting firm with management offices in, *inter alia*, New York and London. PwC through its member firm Kessler falsely stated that the 2006 20-F was prepared in accordance with GAAP.

18. Defendants Eisinger, Bryan, and Bar-Zion at times, are collectively referred to herein as the "Individual Defendants."

19. Because of the Individual Defendants' positions with the Company, they had access to the adverse undisclosed information about the Company's business, operations, operational trends, financial statements and markets via access to internal corporate documents (including the Company's operating plans, budgets, forecasts and reports of actual operations compared thereto), conversations and connections with other corporate officers and employees, attendance at management and Board of Directors meetings and committees thereof and via reports and other information provided to them in connection therewith.

20. Each of the above officers of the Company, 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, 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.
21. 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, and is, traded on the NASDQ and governed by the provisions of the federal securities laws, the Individual 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, markets, management and earnings, 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 common stock would be based upon truthful and accurate information. The Individual Defendants' misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

22. 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 Mind, each of the Individual Defendants had access to the adverse undisclosed information about Mind's financial condition and performance as particularized herein and knew (or recklessly disregarded) that these adverse facts rendered the positive representations made by or about Mind and its business issued or adopted by the Company materially false and misleading.

23. 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.

24. 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 Mind common stock by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme: (i) deceived the investing public regarding Mind's business, operations, management and the intrinsic value of Mind's common stock; and (ii) caused plaintiffs and other members of the Class to purchase Mind's common stock at artificially inflated prices.

**SUBSTANTIVE ALLEGATIONS**

**Background**

25. Shortly after Mind's IPO in August 2000, the Company invested extraordinary amounts of its proceeds in "cash equivalents," and short-term and long-term investments. Under GAAP, "Cash and Cash Equivalents" is a distinct accounting and reporting category from short-term investments as well as long-term investments. Even before the SEC scrutiny placed on ARSs in 2005 and later years (see below), this distinction was long recognized in the accounting literature as well as by many issuers that reclassified ARSs to "investments" in 2005.

26. Two principal characteristics of cash are its availability as a medium of exchange and its use as a measurement in accounting for other items. Cash includes coins, currency, and certain types of formal negotiable paper that are accepted by the bank for deposit. Formal negotiable paper that is due on demand is classified as cash. Accordingly, bank drafts, cashier's checks, money orders, certified checks, and ordinary checks constitute cash for accounting purposes. Balances on deposit in commercial banks should be considered cash, if subject to
immediate use. Certificates of deposit are classified as cash. However, time certificates of deposit, depending on maturity dates and management intent, are classified as either short-term or long-term investments. Welsch, Zlatkovich & White, *Intermediate Accounting* (4th Ed. 1976); see also *Accounting Research Bulletin* ("ARB") No. 43.

27. Short-term and long-term investments are classified for balance sheet purposes as such depending on whether they are "temporary" or not. Short-term investments are those funds set aside for emergency use on a current basis and invested in marketable securities or investments of short-term excess cash. Long-term investments generally consist of stocks, bonds, and similar securities of another company held on a long-term basis. Funds are invested in long-term assets where they are not directly related to the primary operations of the Company.

28. Prior to 2005, some companies classified ARSs as "Cash and Cash Equivalents" while others classified them as "Investments in Marketable Securities" (either short-term or long-term). ARSs generally are in the form of long-term bonds, including Collateralized Debt Obligations ("CDOs") and preferred stock. After the initial issuance of the securities, the interest rate on the securities is reset periodically, at intervals established at the time of issuance (usually every 7, 28, 35 or 180 days). The frequency of the reset is based on investor market demand. PwC Advisory 2005-04. The stated or contractual maturity dates for these securities, however, are generally from 20 to 30 years. Id.

29. ARSs are bought and sold in the marketplace through a bidding process, sometimes referred to as a "Dutch auction." Existing holders have three choices at the start for the auction: (a) hold at market – the investor does not participate in the auction, but receives the new interest rate once it is set; (b) hold at rate – the investor holds the same position but bids to receive another rate; or (c) sell. Each potential buyer and current holder of the securities "at
rate” specifies the quantity and lowest interest rate they are willing to accept (the “bid rate”). The lowest bid rate at which all potential sellers can sell their positions, and at which holders that are holding securities at rate can hold their positions, becomes the interest rate that is used for all securities until the next auction date. PwC Advisory 2005-04.

30. If an auction fails, because sell orders exceed buy orders, or if it fails for any other reason, existing holders must hold their positions until the next auction date. The investors will receive the maximum interest rate specified in the issuer’s official statement. Investors cannot force issuers to redeem auction rate securities if an auction fails. In light of these impediments, PwC warns: “Investors should have controls and processes in place to monitor reset dates, and to identify if interest rates are fixed, or a failed auction has occurred.” PwC Advisory 2005-04.

31. In 2005, most auctions were run by a single dealer, one of approximately seven or so securities firms. When too few bids came in, the dealer “supported” the auction by entering into the process and placing the final or “clearing bid.” CFO.com, April 25, 2005. This practice of dealer intervention, which began not later than 2005, was at the crux of an SEC investigation. “[P]eople in the market think that [the] investigators are examining dealer practices. By propping up the auction, the dealer winds up on both sides of the transaction, running the auction for the benefit of the issuer and setting the price of the bond for the investors. . . . Investors and regulators are worr[ied] that many auction-rate issues are handled by only one dealer. Suppose the dealer decides to stop supporting the market . . . [?]” Id.1

32. Indeed, as early as 2005 “liquidity issues” were surfacing in the ARS market. “We know demand is going down because spreads are going up.” Id. Between 2001 and 2003, the number of new auction-rate bond issues doubled each year. “But in 2004, only 431 new

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1 The 2005 SEC investigation led to sanctions and cease and desist orders issued to the relatively few brokers involved in running the “Dutch Auction” for ARSs. E.g., Exchange Act Rel. No. 34-53888, 2006 WL 1490228 (May 31, 2006).
bonds raising $44 billion were issued, a measly increase compared to the 100 percent hikes recorded in previous years.”  Id.

33. The risks involved in investing in ARSs were foreshadowed as early as April of 2005 and can be summarized as follows:

A pull-out by too many buyers would lead to a drastic supply-and-demand imbalance. In the extreme, it could spawn failed auctions, which are technically defined as ones lacking the demand needed to sell an entire block of bonds. In that case, treasury managers would have no way of cashing in their long-term bonds except at deep discounts. In effect, buyers would be stuck holding 30-year bonds, not the short-term debt they’d sought. Anderson defines failure more broadly, as the point when a dearth of bidders forces a dealer to “buy the last piece.” There’s no guarantee that dealers will rescue the auction, and Anderson reckons that there may come a day when dealers will blow out, deciding that they were investing too much capital in the process and receiving too low a return. (CFO.com, Apr. 25, 2005 at 1).

34. Thus, given the above risks involved and the nature of the ARSs and the SEC’s scrutiny on such, it was no surprise that “since December [2004], when Ernst & Young first began advising clients to make the change [from Cash to Investments] scores of CFOs have altered the accounting treatment for ARS.” CFO.com at 1. The article continued: “The new interpretation of two accounting standards is now endorsed by the Financial Accounting Standards Board [the “FASB”], the [SEC], and the Public Company Accounting Oversight Board [the “PCAOB”], as well as all the Big Four auditors.2 (The reinterpreted standards of FAS No. 95, Statement of Cash Flows, and FAS No 115, Accounting for Certain Investments in Debt and Equity Securities).” Id.

35. As the April 25, 2005 issue of CFO.com recognized, the change in accounting from “Cash and Cash Equivalents” to either short-term or long-term investments “might turn out to be the latest crimp in corporate treasurers’ use of what’s long been seen as an effective cash

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2 Two of the “Big Four Auditors” were employed by defendants during the Class Period (i.e., PwC and Deloitte Touche Tohmatsu, the latter as Mind’s “internal auditor” under the Companies Act).
management tool...[as ARSs] often helped treasurers squeeze out added return on corporate cash balances.” *Id.* at 1. “Further, some CFOs might not like the look of their employer’s balance sheets after making the accounting change because the alteration reduces cash holdings. Pan speculates that the shift away from cash and cash equivalents may cause some companies to unintentionally break debt covenants tied to cash ratios.” *Id.* at 2.

36. Mind reported in its Form 6-K for the quarter ended March 31, 2006 that it had $6.9 million in cash and $30 million in “Long-Term Bank Deposits.” These two assets alone represented greater than 69% of Mind’s total assets as of March 31, 2006 and were 79% of the total of stockholders’ equity as of the same date. For the year ended 2005, the Company reported $4.1 million in operating income which included $1.3 of “Financial Income - net” or 32% of total operating income.

37. Prior to and during the Class Period, Mind held a lot of cash, as it was receiving steadily decreasing returns from investing it in its operations or other productive endeavors. Accordingly, Mind sought the highest return it could receive in the financial markets. To avoid being locked into a lower interest rate for a potentially extended period of time, in 2006, Mind announced a change in its purported “cash management” activities at the beginning of the Class Period. Specifically, defendants sought to dispose of its structured “Long-Term Bank Deposits” of up to $40 million and ultimately incurred substantial penalties from the banks for doing so.

**False and Misleading Statements Made During The Class Period**

38. On June 8, 2006, the beginning of the Class Period, Mind announced through a press release, “A Change in Cash Management Policy.”

[Mind], a leading provider of convergent end-to-end billing and customer care solutions for medium size service providers worldwide, today announced that it has withdrawn two of its three $10 million structured deposits and placed the cash in risk-free bank deposits. The financial expense arising from the this transaction
is expected to be approximately $1.3 million in this quarter. Mind’s cash position remains strong with over $35 million. . . . [Eisinger] commented: “We believe that when the interest rates were at very low levels, our investment strategy was the right one. By investing in the structured deposits from March 2002 until now, we earned interest in the aggregate amount of approximately $8.5 million, which (after deducting the one-time penalty for withdrawal at this time) is approximately $4 million more than we would have earned had we invested that cash in standard bank deposits during the same period. We now estimate that there is a risk that the long-term bank deposits will continue to bear no interest for the foreseeable future. Therefore, we have decided to reduce the risk by withdrawing two seven-year deposits and converting them to highly-liquid bank deposits.”

39. The preceding statements were false and misleading when made, as defendants did not change its cash management policy from investing in structured investment vehicles such as those indicated in the June 8, 2006 release, and within in a few short months, if not sooner, Mind would invest in highly illiquid ARSs.

40. On June 11, 2006, the next trading day, the Company’s stock price rose slightly from a close on June 8, 2006 of $2.75 per share to close at $2.79 per share on June 11, 2006, the next trading day.

41. On July 11, 2006 it was announced that the former CFO, Shalom Bronstein was replaced by defendant Oren Bryan as CFO.

42. On August 1, 2006 defendants issued Mind’s second quarter 2006 earnings release. Attached thereto were Mind’s financial statements for the quarter ended June 30, 2006. The release made the following false and misleading statement: “[Mind’s] Cash position remains strong with approximately $36 million on the balance sheet on June 30, 2006.”

43. The immediately preceding statement was false and misleading, and made with scienter, as defendants failed to disclose that Mind’s accounting practices, which were in violation of GAAP, resulted in classifying short-term investments in securities such as ARSs as “cash” or “cash equivalents.”
44. On August 2, 2006, defendants filed the August 1, 2006 earnings release and accompanying interim financial statements with the SEC on Form 6-K. The August 2, 2006 Form 6-K was signed by defendant Eisinger and was false and misleading when made for the reasons stated in the immediately preceding paragraph.

45. Also on August 2, 2006, defendants held an earnings conference call with analysts. Defendants Eisinger and Bryan spoke at the conference. Therein, defendants made the following false and misleading statements and omissions:

[Defendant] Bryan: "...our cash position remains strong with $35.7 million as of June 30, 2006."

46. The foregoing statement was false and misleading, and made with scienter, as defendants failed to disclose that Mind’s accounting practices, which were in violation of GAAP, resulted in classifying short-term investments in securities such as ARSs as “cash” or “cash equivalents.”

47. On October 30, 2006, defendants issued Mind’s third quarter financial results in a press release. The release contained Mind’s financial statements and reported “Cash and Cash Equivalents” of $26.6 million as of September 30, 2006 and “Long-Term Bank Deposits” of $10 million. The press release also contained the following statements:

• Strong cash position of approximately $37 million on September 30, 2006.

* * * * *

[We] intend to continue to distribute cash dividends based on factors that include our cash position and our activities. Today, the Board of Directors resolved that the Company should seek the court approval formally required in order to enable a distribution for the year 2006 of approximately $4 million, which is similar to previous years’ average. Under Israeli law, a company with insufficient retained earnings is required to obtain approval from the court for such a distribution in order to ensure that the Company’s creditors are not harmed by the action. In view of the strong cash position of approximately $37 million, the Company
expects to obtain such court approval within eight to twelve week, although there is no guarantee that such approval will not be delayed or denied.

* * *

"Given our strong cash position and our positive operating cash flow, we believe that our dividend policy enhances shareholder value," stated [Eisinger]. "We are well positioned and have the required resources to respond to potentially increasing market needs and at the same time we are focused on targeting potential acquisitions that could benefit the company growth."

48. The immediately preceding statements were false and misleading for at least the following reasons: defendants failed to disclose that the Company’s policies included investing in ARSs and other structured investments that were or could be highly illiquid and thus, not available for dividends, cash acquisitions and/or “increasing market needs.”

49. On October 31, 2006, defendants filed with the SEC on Form 6-K the October 30 press release. The 6-K was signed by defendant Eisinger and contained the same false and misleading statements alleged in the immediately preceding two paragraphs.

50. On October 31, 2006, defendants also held a third quarter earnings conference call with analysts. Defendants Eisinger and Bryan spoke at the conference call. Therein, the following statements were made:

[Defendant] Eisinger: [W]e intend to continue to distribute cash dividends based on factors that include our cash position and our activities. Today, the Board of Directors resolved that the Company should seek the court approval formally required in order to enable a distribution for the year 2006 of approximately $4 million, which is similar to previous years’ average. Under Israeli law, a company with insufficient retained earnings is required to obtain approval from the court for such a distribution in order to ensure that the Company’s creditors are not harmed by the action. In view of the strong cash position of approximately $37 million, the Company expects to obtain such court approval within eight to twelve week, although there is no guarantee that such approval will not be delayed or denied.

* * *
Given our strong cash position and our positive operating cash flow, we believe that our dividend policy enhances shareholder value. We are well positioned and have the required resources to respond to potentially increasing market needs and at the same time we are focused on targeting potential acquisitions that could benefit the company growth.

51. The immediately preceding statements were false and misleading for at least the following reasons: defendants failed to disclose that the Company’s policies included investing in ARSs and other structured investments that were or could be highly illiquid and thus, not available for dividends, cash acquisitions and/or “increasing market needs.”

52. During the conference call Defendant Eisinger responded to analysts’ questions concerning Mind’s cash position and investment intentions as follows:

Kevin Dede [analyst, Merriman Curhan Ford & Co.]: O.K. can you give us a little insight on looking at your interest income going forward given the cash balance? I think you have, what a $10 million block where you’re receiving, what —?


Kevin Dede: I’m sorry[?].

[Defendant] Eisinger: We have $10 million that is still in a structure that by November 22\textsuperscript{nd} of this year the bank has a call option, so they can decide if — to release the money to give us say the money or to probably if you look at interest rates now, as the barrier goes when — on November 22\textsuperscript{nd} to 5.5\%, 6 month LIBOR and then we get very high interest. So we expect right now that we will get notice, it’s only . . . three days before notice. But this is what we expect will happen that we will get notice that the $10 million will be released from the account on November 22\textsuperscript{nd}. And this $10 million getting 0% interest right now. So we expect that we’ll be able to get interest on this amount moving forward.

Kevin Dede: And then the balance is roughly what, $27 million and that’s what at a money market rate?

[Defendant] Eisinger: Yes the other — normally the way that we just keep the money in the bank on liquid monthly interest that normal [inaudible – accented language] bank interest. And of course, there is [] from funds that are not — we are not getting daily interest on because we use them for operations. . . . And we expect that moving forward all the, when we had the other ten, we have something like $35 million getting interest.
Kevin Dede: ... [B]ut the contribution from cash is certainly significant for earnings.

53. The immediately preceding statements made by defendant Eisinger were false and misleading when made, and made with scienter, because as later admitted by defendants on February 27, 2008, in a Form 6-K filed on the same date, Mind’s cash and investment management policies at the time the foregoing statements were made, included investing in “28-day auction-rate securities,” a far cry from liquid bank deposits and money markets, as defendants’ disclosures led the market to believe.

54. In or about November 2006, the Mantoloking CDO 2006-1 ARS was created and underwritten by Wall Street firms. Sometime in the fourth quarter of 2006, Mind purchased $22.8 million of the Mantoloking CDO 2006-1A, Class A-2 ARS. Defendants later admitted in their 2007 Form 20-F at the end of the Class Period that this acquisition was “[c]onsistent with the Company’s investment policy guidelines, [because] the auction rate securities investment held by the Company had AAA credit ratings at the time of purchase.” Id. at F-34. (Emphasis added).


[O]n November 20, 2006 all of the Company’s funds became liquid and are now invested in risk-free bank deposits and AAA Bonds.

* * * *

In June 2006, we announced a change in our cash management policy and that we have withdrawn two deposits of $10 million each and converted them into highly liquid bank deposits. . . . On November 20, 2006, the last $10 million deposit was called and no financial expense was incurred. In accordance with our existing cash management policy all of our funds are invested in risk-free bank deposits and AAA bonds bearing interest.
“We intend to increase our marketing and sales activities in 2007, as we see more opportunities in the Americas and Europe. Our strong cash position and our positive operating cash flow enable us to increase the investment required to support the long-term expected, internal growth…” stated Monica Eisenger.

56. The immediately preceding statements contained in the December 6, 2006 press release were false and misleading when made, as defendants failed to disclose that Mind already invested or was about to invest in $22.8 million of ARSs comprised of the Mantoloking CDO 20061A, Class A-2 CDOs with a maturity date of 2046 (the “Mantoloking ARS”). According to the March 4, 2005, Advisory issued by Mind’s auditors PwC, because their liquidity was subject to the highly unpredictable Dutch auction market, ARSs did not qualify as “cash equivalents.” Therefore, ready cash was not available to “increase the investment required to support the long-term expected internal growth.”

57. On February 21, 2007, defendants issued Mind’s 2006 fourth quarter and annual earnings release. Defendants made the following statement therein under the caption “Financial Highlights of Q4 2006[...]: Strong cash position of approximately $38 million as of December 31, 2006.”

58. The preceding statement was false and misleading when made, as defendants knew or were reckless in not knowing that at least $22 million of the $38 million purported “strong cash position” consisted of investments in the Mantoloking ARS and not “cash” or “cash equivalents.” Mind’s Form 6-K, dated February 21, 2007, executed by Eisinger, contained the same knowing or reckless misrepresentation, including the ARS investment within the “cash and cash equivalents” figure of $27.5 million.

59. On the same date, February 21, 2007, defendants held an earnings conference call with analysts. Defendants Eisenger and Bryan attended and spoke at the conference. Defendant
Bryan once again falsely and misleadingly reported that Mind’s “cash position remains strong with approximately $37.6 million as of December 31, 2006.”

60. Defendant Eisinger reiterated the importance of Mind’s liquidity to its business strategy:

“Mind has a strong cash position and intends to maintain a strong cash position in the future as well. It enables us to fund our operations and to invest in our business, and also to look for additional acquisition targets... Our strong cash position and our positive operating cash flow enables us to increase the investments required to support the long-term expected internal growth.”

61. For the reasons stated in paragraph 56 above, this statement was false when made and made with scienter.

62. During the conference call the following exchange took place between defendant Bryan and an analyst:

Gary Wade [analyst with Oppenheimer]: The question I had was just of a housekeeping item. And could you tell me what’s the interest rate you are receiving on your bank deposits and cash balances[?].

[Defendant] Bryan: Our bank deposits are now, with very conservative banks and bank deposits, so it’s between 5.2 and 5.4 million out of our cash is renewable every four weeks and this is under the 5.2, 10 million is closed for year with 5.4. [sic]

63. The immediately preceding statements were false and misleading when made, as “bank deposits” and “cash balances” were not “conservative” as at least $22.8 million of the reported $38 million or 58% was invested in one CDO security or ARS maturing in 2046, the “liquidity” of which was dependent on the highly unpredictable outcome of Dutch auctions. In addition, the Mantoloking ARS that the Company held was not “cash” or “cash equivalents” under GAAP, but either “short-term” or “long-term” “investments.”

64. On May 9, 2007, defendants reported Mind’s 2007 first quarter earnings for the three month period ending March 31, 2007.
65. The May 9, 2007 press release was false and misleading as it included with the reported $24.8 million in "Cash and cash equivalents," the Mantoloking ARS and failed to classify such as either "short-term" or "long-term" investments in securities, as required under GAAP and SEC reporting rules. Moreover, the inclusion of ARS in "Cash & Cash Equivalents" is in direct contravention of the advisory issued in 2005 by Mind's own auditors, PwC. The press release was filed with the SEC in a Form 6-K executed by defendant Eisinger.

66. On May 10, 2007, defendants held a conference call with analysts. Defendants Eisinger and Bryan spoke at the conference call. During the conference call defendant Bryan once again knowingly or recklessly misstated Mind's "strong" cash position, "over $34 million as of March 31, 2007" by misleadingly including ARS in "cash" as did the press release filed on Form 6-K.

67. Defendant Eisinger reiterated:

Regarding our cash position, [I] feel it is strong with over $34 million and do intend to maintain our strong cash position in the future as well. Our strong cash position and our positive operating cash flow enable us to sound [sic] our operation and to invest [in] our business. Our cash position enables us to continually search for acquisition targets.

68. The immediately preceding statement was false and misleading when made, as defendants failed to disclose that at least $22.8 million (or 65%) of the reported "cash" figure of $34 million was not cash, but an investment in the Mantoloking ARS and that the liquidity of such was solely dependent on the highly unpredictable Dutch auction market.

69. As an example of the significance the market placed on the source, nature and distinction of Mind's operational versus interest income, during the May 10, 2007 conference call, the following exchange took place between defendant Eisinger and an analyst of Merriman:

Kevin Dade [analyst with Merriman]: ... [I] was wondering if you could – if you had imagined that the $.20 that you are expecting this year [2007] is still sort of a
consistent mix in income from — banking versus operations? And the same proportion that you saw in the first quarter?

[Defendant] Eisinger: The amount of interest that you [saw] in the first quarter, it will be almost the same a little bit less in the next quarters because of the dividends distribution that we had . . . So yes, this is the way that we build the EPS part from interest on, on occasions apart from the cash flow and the net income generated.

70. The preceding response from defendant Eisinger was false and misleading when made, as defendants failed to disclose that much of the "source" of interest income was not from "banking" — i.e., cash in "risk-free" bank deposits, but rather from the Mantoloking ARS maturing in 2046, which involves significantly different investment and income risks from investments in cash equivalents such as money markets or other short-term bank deposits.

71. On June 27, 2007, defendants filed on Form 20-F Mind's annual report for 2006 with the SEC. The 2006 20-F was signed by Defendant. Included with the 2006 20-F as exhibits (12.1, 12.2, 13.1 and 13.2) were certifications by the CEO Eisinger and CFO Bryan pursuant to Rules 13a-14(a), 17 C.F.R. §240.13a-14(a) of Section 302 of the Sarbanes-Oxley Act of 2002 ("SOX"), and 18 U.S.C. §1350 adopted pursuant to Section 906 of SOX. As described in detail below, defendants Eisinger and Bryan signed these certificates.3

72. Incorporated by reference into the 20-F was 2006 the audited financial statements. The "Consolidated Balance Sheet Data" section reported $27.571 million under "cash and cash equivalents." The following additional statements were contained in the 2006 20-F, Item 5B, "Operating and Financial Review and Prospects," which is subject to the requirements of SEC Reg. S-K, Item 303, Management's Discussion and Analysis, 17 C.F.R. §229.303".

As of December 31, 2006, we had approximately $37.6 million in cash, cash equivalents and long-term marketable debentures..."

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Cash Deposits. . . . In December 2006, we purchased marketable debentures in the amount of $10 million for 54 months. The debentures mature in one settlement in 2011 and the issuer has a call option in December 2007. The debentures bear interest rate at an annual rate of 5.4% and are presented in our balance sheet among the investment and other non-current assets.

In accordance with our existing cash management policy, all our funds are currently invested in risk-free bank deposits and interest-bearing, investment grade bonds or debentures.

73. The immediately preceding statements were false and misleading when made, and made with scienter, because defendants failed to disclose: (a) as later admitted by defendants in Mind’s 2006 Form 20-F\A (the “2006 20-F\A”) that at “December 31, 2006, we had investments in auction rate securities in the amount of $22.8 million, bearing interest at an annual rate of 5.35% and presented in our balance sheet as current assets;” (b) that such ADRs had a maturity date of 2046 and (c) were CDOs collateralized solely or primarily by 126 structured mortgage finance obligations.

74. The 2006 20-F, at Item 11, “Quantitative and Qualitative Disclosures about Market Risk,” limited disclosed risks to currency exchange fluctuations and contained the following materially misleading statement: “As of December 31, 2006, we did not hold any instruments that are subject to risk arising from changes in equity prices. Also, we did not hold any derivative financial instruments for either trading or non-trading purposes.”

75. The preceding statements were knowingly or recklessly false and misleading when made, as defendants failed to disclose, as later admitted in the 2006 20-F\A that: “At December 31, 2006, we held investments in auction rate securities in the amount of $22.8 million. Auction rate securities are long-term bonds that provide liquidity through a Dutch auction process that resets the applicable interest rate at pre-determined calendar intervals,
generally every 28 days. Although auction rate securities are readily marketable, if an auction were to fail due to adverse conditions in the credit markets or otherwise, we may not be able to sell these securities on the planned reset date, which would lengthen our holding period;” In addition, Item 11 failed to disclose that such ARSs had a maturity date of 2046, and were CDOs collateralized solely or primarily by 126 structured mortgage finance obligations.

76. The discussion in the 2006 20-F, under Item 15, “Controls and Procedures” stated the following:

We carried out an evaluation, under the supervision and with the participation of our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2006. Based on this evaluation, our principal executive and principal financial officer have concluded that our disclosure controls and procedures are effective to ensure that the information required to be included in our periodic reports to the [SEC] is recorded, processed, summarized and reported in a timely manner.

77. The foregoing statement was false and misleading when made and made with scienter, because as defendants subsequently admitted in the 2006 F-20\A: “management determined that a material weakness in internal control over financial reporting existed as of December 31, 2006 because at that time we did not have effective control over financial reporting controls designed and in place to ensure that our investments were classified in accordance with [GAAP].”

78. In addition, statements made in Item 18, Financial Statements, to the 2006 20-F were false and misleading for the following reasons: (a) included in “Cash and Cash Equivalents” reported as $26,571,000 as of December 31, 2006 [F-3], was $22.8 million of ARS, which, as later admitted by defendants should have been classified either as “Short-Term” or “Long-Term Investments” [2006 F-20\A at F-3; 2007 F-20 at F-34]; and (b) defendants failed to disclose that the ARS had a maturity date of 2046 and was a CDO collateralized by 126
structured mortgage finance obligations. See ARB No. 43, Ch. 3A, SFAS Nos. 115 and 133, EITF 96-12.

79. In addition the 2006 20-F at Item 18 misrepresented (at F-6 of the incorporated financial statements initially filed on June 6, 2007), that Net Cash Provided by (used in) Investing Activities was $19.664 million, where, as later admitted by defendants in the 2006 F-20\A, this amount was overstated by $22.8 million “due to the correction of an error in classification of short-term investments in the year 2006 relating to Auction Rate Securities.”

80. The 2006 20-F also contained at Item 19, Exhibit 12.1, Certification of Principal Executive Officer pursuant to 17 C.F.R. §240.13a-14(a) (signed by defendant Eisinger); Exhibit 12.2, Certification of Principal Financial Officer pursuant to 17 C.F.R. §240.13a-14(a) (signed by defendant Bryan) (the “Internal Control Certifications”).

81. Each Internal Control Certification opined that:

Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report . . . Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report. . . The company’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures . . . for the company and have: (a) designed such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the company . . . ; (c) evaluated the effectiveness of the company’s disclosure controls and procedures and presented in this report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and (d) disclosed in this report any change in the company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company’s internal control over financial reporting.
82. The immediately preceding statements were false and misleading when made, because as later admitted by defendants in the 2006 F-20\A: "management determined that a material weakness in internal control over financial reporting existed as of December 31, 2006 because at that time we did not have effective control over financial reporting controls designed and in place to ensure that our investments were classified in accordance with [GAAP]." Id. at 34.

83. The Certification of Principal Executive Officer pursuant to 18 U.S.C. §1350 (signed by defendant Eisinger) and Exhibit 13.2, Certification of Principal Financial Officer pursuant to 18 U.S.C. §1350 (signed by defendant Bryan) and attached to the 2006 20-F stated:

In connection with the annual report filed on Form 20-F for the fiscal year ended December 31, 2006 of Mind C.T.I. Ltd. . . . I certify that:

* the Report complies with requirements of Section 13(a) or 15(d) of the Securities and Exchange Act of 1934; and

* the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

84. The immediately preceding statements were false and misleading when made for the reasons stated at paragraphs 70-79 above.

85. Not later than in or about August 2007, as much later admitted by defendants, "certain auction rate securities experienced multiple failed auctions, beginning in August 2007, as the amount of securities submitted for sale exceeded the amount of purchase orders." 2007 20-F at 6.

87. The release (filed with the SEC on August 8, 2007 on Form 6-K executed by defendant Eisinger) made the following statement: “Cash position of approximately $35.5 million on June 30, 2007.” In addition, the attached “Condensed Consolidated Balance Sheet” reported $25.5 million in “Cash and Cash Equivalents.”

88. The statements quoted in the immediately preceding paragraph were false and misleading when made, because both figures included $22.8 million of the Mantoloking ARS a CDO maturing in 2046 and backed by 126 structured mortgage finance obligations, which should have been classified as either “short-term” or “long-term” investments and not “Cash” or “Cash Equivalents,” in violation of GAAP and SEC reporting rules.

89. On August 8, 2007, defendants held a conference call with analysts at which defendants Eisinger and Bryan spoke. The following statements were made therein:

[Defendant Eisinger]: In the first half of 2007, we experienced a decline in our revenues mainly due to delayed decisions and long sales cycles. . . . [W]e carefully planned our operations and we succeeded in managing our expenses accordingly we generated over $2 million in cash flow from our operations in the first half of 2007. . . .

90. The preceding statement was false and misleading when made, as almost one-third or slightly greater than $600,000\(^4\) of “cash flow from our operations in the first half of 2007,” was in reality investment interest income earned from the risky investment in the Mantoloking ARS, a CDO maturing 2046 and collateralized solely or primarily by 126 structured mortgage finance obligations.

91. Defendant Bryan made the following statements during the August 8, 2007 conference call: “Cash flow from operating activities in the first six months of 2007 amounted to $2.2 million. Our cash position remains strong with approximately $35.5 million as of June 30,

\[4\] $22.8 \text{ million} \times 5.4\% \text{ interest} \times 0.5 \text{ (one half year)} = 621,000.$
2007. These statements were false and misleading when made for the reasons stated in the immediately preceding paragraph and in ¶56, supra.

92. During the conference call Defendant Eisenger made the following statement that also was false and misleading for the reasons stated at ¶90 and ¶56, supra: “Mind holds a strong cash position and intends to maintain the strong cash position in the future as well. Our strong cash position and our positive operating cash flow enable us to fund our operation and to invest in our business. Our cash position also enables us the ongoing search for acquisition targets.”

93. Because investors and analysts were focused upon Mind’s (extremely high) reported cash position, the following exchange took place between defendant Eisenger and Bleight Momentale with Winfield Capital during the August 8, 2007 conference call:

Bleight Momentale: You have roughly about $35 million of cash in balance sheet. Can you tell me what the interest rates are that you are seeing for cash?

[Defendant] Eisinger: The interest rate that we receive is above 5%, it’s between 5.2 to 5.4% and this is monthly renewable kind of interest-based bank account.

Bleight Momentale: Okay and you mentioned that some of the uses of that cash would be to fund I guess organic growth. How much do you think you need to fund organic growth?

[Defendant] Eisinger: I didn’t mean that we are really going to use it. It gives us a strong position, it gives our customers the kind of encouragement that they are dealing with a financially strong company, but as you have seen we’ve been creating cash and we’ve been cash flow positive for a very long time now and we intend to continue to be so. That being said, if we did and if we decide that at some point we find some new area to invest in or some new developments that we would like to do then we have the ability to do that. But in our day-to-day business, we believe that we’ll stay cash flow positive.

94. The statements made by defendant Eisinger in the immediately preceding paragraph were false and misleading when made because: (a) the reported cash balance did not consist of a “monthly renewable kind of interest-bank account,” but instead $22.8 million or almost 90% of the reported $25.5 million reported at June 30, 2007 consisted of relatively
illiquid risky investments in the Mantoloking ARS, a CDO due in 2046 and backed solely by 126
structured mortgages; and (b) because of this, Mind did not have cash available to invest in
“organic growth” or “acquisitions.”

95. After Eisinger said, “I didn’t mean that we are really going to use it,” Momentale
requested that defendants consider “potentially returning a vast portion” of the “about $35
million in cash” to shareholders so that they could achieve better than the 5% interest obtained
by Mind. Eisinger gave no substantive response.

96. On October 11, 2007, defendants published a press release entitled “Mind CTI
Acquires the UK Based Omni Consulting Company Limited (Trading as Abacus Billing).” The
release stated that the total price of the acquisition was $3.6 million, £2.88 million in cash, and
up to £720,000 over the next two years, based upon performance.

The Truth Gradually Emerges

97. On November 5, 2007, defendants issued the Mind’s 2007 third quarter earnings
release for the quarter ended September 30, 2007. Attached to the release was Mind’s financial
statements for the quarter.

98. The earnings release contained the following bullet-point “Financial Highlight”:
“Strong Cash Position of approximately $37.4 million on September 30, 2007.”

99. The immediately preceding statement was false and misleading when made and
made with scienter, as “cash” should not have included investment of $22.8 million in the
Mantoloking ARS, a CDO due in 2046 backed solely or primarily by 126 structured mortgage
finance obligations.

100. However, this time, in the attached “Condensed Consolidated Balance Sheet”
under a new caption entitled “Short-term investments,” the Company reported $22.8 million at
both December 31, 2006 and $22.4 million as of September 30, 2006. In addition, the Company now reported for the first time $20.3 million of “Marketable securities” under the caption “Investments and other non-current assets.” The accompanying note 1 to these new entries stated, “See Accounting Treatment of Auction Rate Securities above.”

101. The financial statements attached also now restated the cash flow statement for September 30, 2006, by reporting for the first time under “Cash Flows from Investing Activities” an increase in short-term investments of $22.8 million. The cash flow statement was also restated for 2006 to now report “Cash and Cash Equivalents at December 31, 2006 as $4.8 million, instead of the originally reported inflated figure of $27.6 million. Again, the Cash Flow Statement restated lines referred to the “accompanying Note 1.”

102. The financial statements attached to the November 5, 2007 press release were still false and materially misleading as they failed to disclose that “short-term investments” consisted of the Mantoloking ARS, a CDO due in 2046 and backed solely or primarily by 126 structured mortgage finance obligations.

103. On November 6, 2007, defendants held the Q3 2007 Earnings Call with analysts. Defendants Eisinger and Bryan spoke at this call. Also present and speaking on the call was the managing director of the newly-acquired company, Abacus Billing, Karl Wills.

104. The following statements were made during the conference call: [Defendant] Bryan: Cash flow from operating activities in the first nine months of 2007 amounted to $4.24 million. Our cash position remains strong with approximately $34.7 million as of September 30, 2007.”

105. The preceding statement was false and misleading when made, and made with scienter, as included in the $34.7 million figure was $22.8 million of investments in the
Mantoloking ARS, a CDO due in 2046 and collateralized solely or primarily by 126 structured mortgage finance obligations. Under GAAP and in direct contradiction to defendants’ new, restated financial reporting, this investment should not have been described as “Cash” or a “Cash Equivalent” and, given the failed auctions in August of 2007 in the ARS market, it could not represent a “strong cash position.”

106. Defendant Eisinger responded to an analyst’s question as follows at the November 6, 2007 conference call:

David Schwiebel, [analyst with Harbell]: [A]re you satisfied that the cash you have now is achieving the maximum returns with the minimum risk?

[Defendant] Eisinger: I believe so and the cash we have serves two purposes. One to show our financial strength to potential customers, and second, to enable us to buy companies when we find the right target. And in the meantime, we just try to keep it in bank deposits or something that is risk free.

107. The immediately preceding statements made by defendant Eisinger were false and misleading when made, and made with scienter, because defendants knew at the time Eisinger made them that cash consisted of the Mantoloking ARS, a CDO due in 2046 and backed solely or primarily by 126 structured mortgage finance obligations, for which there was a limited or no market and that the Company already hired or was about to hire a valuation expert to determine whether the Mantoloking ARS’ value was impaired. Indeed, when asked whether a share buy back was considered, defendant Eisinger declined, stating, “we believe that liquidity in the stock is important.”

some light on the shell game defendants had been playing with the 2006 and 2007 financial statements:

*Accounting Treatment of Auction Rate Securities*

On November 5, 2007, the Board of Directors, after discussion with the Company’s independent registered public accounting firm, concluded that the balance sheets and statements of cash flows included in the Company’s Form 20-F for the fiscal year ended December 31, 2006 should be amended in order to correct the classification of auction rate securities on the balance sheet and in the statements of cash flows of the Company. Auction rate securities are long-term bonds that provide liquidity through a Dutch auction process that resets the applicable interest rate at pre-determined calendar intervals, generally every 28 days. This mechanism allows exiting investors either to roll over their holdings, whereby they will continue to own their respective securities, or liquidate their holdings by selling such securities at par. Given the liquid nature of such securities, they had previously been classified as cash equivalents on both the balance sheets and in the statements of cash flows. However, given that such auction rate securities have long-term stated maturities and that the issuers of such auction rate securities are under no obligation to redeem them prior to their stated maturities, the Company has determined that its investments in such securities consisting of $22.8 million as of December 31, 2006, should have been classified as short-term investments, rather than as cash equivalents.

The amendment will have no impact on previously reported results of operations, cash flow from operating activities, total current assets, total assets or stockholders’ equity.

* * *

The recent uncertainties in the credit markets have affected the liquidity of our holdings in auction rate securities, as auctions have been unsuccessful, but at the same time we continue to receive interest every 28 days. While our investments are of high credit quality (AAA/Aaa), at this time we are uncertain as to whether or when the liquidity issues relating to these investments will worsen or improve. We do not believe that it is necessary at this time to adjust the fair value of our portfolio of auction rate securities, but we have decided to classify them as long-term marketable securities on our balance sheet commencing in the third quarter of 2007. As of September 30, 2007, we have a total of $20.3 million in auction rate securities.

109. Even though Mind was belatedly adopting the accounting treatment advocated by its outside auditor in early 2005, the preceding statements were still false and misleading as they
failed to disclose the extent of the risk involved in the ARS held by Mind. In particular the
foregoing statements did not reveal that the ARS held by Mind was the Mantoloking ARS, a
CDO due in 2046 and collateralized by 126 structured mortgage finance transactions. Moreover,
defendants classified the Mantoloking ARS in the financial statements attached to the 2006 3Q
6-K as a “marketable security” carried at cost without taking any impairment charge even though
defendants admitted diminished liquidity and failed ARS auctions.

110. In the same 6-K in the immediately preceding paragraph to the above statements
concerning the “accounting treatment of auction rate securities,” defendant Eisenger was quoted
as saying:

Strong Cash Position of approximately $37.4 million on September 30, 2007.

*     *     *

“[G]iven our strong cash position and our positive operating cash flow, we
believe that our dividend policy enhances shareholder value,” stated Monica. “We
are well positioned and have the required resources to respond to potentially
increasing market needs and at the same time we are focused on targeting
potential acquisitions that could benefit the company growth.”

111. The immediately preceding statement was false and misleading when made, and
made with scienter, as defendants had no good faith or reasonable basis to make such statements
where they knew that Mind’s so-called “strong cash position” at November 6, 2007 consisted
primarily of the illiquid Mantoloking ARS, which impaired value at December 31, 2007 was
determined to be at most $5.1 million. 2007 F-20 at F-35.

112. Defendants intentionally focused the November 6, 2007 conference call on the
Abacus acquisition and repeated their mantra about Mind’s “strong” and “liquid” cash position,
in order to deflect attention from the restated reporting and the initial disclosure of the existence
of unspecified ARS investments. Given the continuing deceptive statements by defendants as
alleged above, the price of the Company's stock rose slightly from its closing price of $2.28 on November 5, 2007 to close at $2.40 per share on November 6th, 7th and 8, 2007 on above average trading volume.

113. Yet another partial disclosure occurred on December 6, 2007, when defendants filed on Form 20-F Mind's formally restated financials for the year ended December 31, 2006. Defendants Eisinger and Bar-Zion signed the restated financials at F-3, defendant Eisinger signed the 2006 20-F and defendants Eisinger and Bryan signed the restated SOX certifications at exhibits 12 and 13.

114. The restated financial statements (Item 18 to the 2006 20-F) were restated by reporting $22.8 million of previously reported "cash and cash equivalents," as "short-term investments" in the "Consolidated Balance Sheet" and increasing net cash used in investing activities by the same amount in Consolidated Statements of Cash Flows."

115. Notwithstanding, the 2006 20-F was still false and misleading as it failed to disclose that the "Auction Rate Securities" consisted of the illiquid Mantoloking ARS, a CDO due in 2046 and collateralized by 126 structured mortgage finance transactions that by the time of the filing of the 2006 20-F had experienced failed Dutch actions.

116. Because the continuing failure to disclose the foregoing information, the price of the Company's stock moved only slightly from its closing price of $2.33 per share on December 5, 2007 to close at $2.31 per share on December 6, 2006.

117. On February 27, 2008, defendants issued a press release entitled, "Mind CTI Announces Q4 2007 Preliminary Unaudited Operating Results." The release included two subheadings – announced simultaneously so that the positive news would counterbalance the negative – "Discusses Auction Preferred Investments" and "Board Declares Cash Dividend."
The 2007 Q4 Release finally disclosed the identity and nature of Mind's ARS investment:

**Auction Rate Investments**

As has been widely described in the world financial press, recent uncertainties in the credit markets have adversely affected the liquidity of auction rate securities as potential buyers have been unwilling to purchase these securities, many of which are guaranteed by insurers adversely affected by the existing conditions in the mortgage securities market. While the liquidity of these investments has been significantly impacted by these conditions, we continue to receive interest payments every 28 days. We are not able to predict whether conditions in the market for these securities will worsen or improve. As of December 31, 2007, we have a total of $20.3 million invested in asset backed auction rate securities and $12.4 million in cash and cash equivalents. As a result of the conditions summarized above, we have been unable to obtain third-party valuations for these securities in a cost-effective and timely manner. The complexity of the valuation is derived by the fact that this security is collateralized by 126 structured finance transactions. We plan to complete an independent valuation in the second quarter, prior to the publication of our audited financial statements. Such valuation may require a charge to earnings for Q4 2007 and 2007 to reflect a material impairment of our long-term investments. However, we believe we have sufficient cash resources to withstand the likely effects of the illiquidity of our auction rate securities on our operations.

On February 20, 2008, we filed a Statement of Claim with the Financial Industry Regulatory Authority and commenced an arbitration against the international bank and certain employees thereof that invested these funds on behalf of the Company. The claim alleges, among other things, that the bank was supposed to invest the funds in highly liquid, highly safe, 28-day auction-rate securities, but -- without the Company's authorization -- invested the funds in collateralized debt obligations (CDOs). In particular, the claim alleges that the bank invested the funds in a security called "Mantoloking CDO" without telling the Company that this was a CDO investment until after the purchase had already occurred. The claim also describes how, after the fact, the bank advised that the security, which has a stated maturity date in the year 2046, had been rolled "due to failed auction."

* * *

**Appointment of New CFO**

MIND also announced today the appointment of Rafi Wiesler, 56, as the Company's new Chief Financial Officer (CFO). Mr. Wiesler replaces Oren Bryan who served at MIND since 2005 and as CFO since mid 2006 and who now intends to pursue other business opportunities.
119. Upon this highly-disconcerting disclosure, on February 27, 2008, the price of the Company stock fell 29 cents a share or 15% from its previous day's close of $1.97 per share to $1.68 per share on unusually high trading volume of 382,400 shares.

120. On April 9, 2008, defendants issued a press release filed on Form 6-K the following day entitled, "Mind CTI Updates on Company Held Auction Rate Securities." The Form 6-K was signed by defendant Eisenger and made the following statements:

As previously announced, as of December 31, 2007, we have a total of $20.3 million invested in asset backed auction rate securities called "Mantoloking CDO" . . . While the liquidity of these investments has been significantly impacted by market conditions, we continue to receive interest payments every month. We are not able to predict whether conditions in the market for these securities will worsen or improve. Recently we were advised that the Mantoloking CDO #564616AB6 has been downgraded to A3 by Moody's and on CreditWatch with negative implications. The security is still rated AAA by S&P. Obligations rated A by Moody's are considered upper-medium grade and are subject to low credit risk.

121. Again, defendants coupled negative news – unknown impairment, future uncertainty and a downgrade by Moody's, with positive information – interest continues to be paid monthly, the Mantoloking ARS is still "AAA" rated by S&P. On this mixed news, the price of the stock inched slightly higher to close at $1.28 per share from its previous day's close of $1.25 per share on April 9, 2008.

122. Just one week later, on April 17, 2008, defendants filed on Form 6-K a press release dated April 15, 2008 entitled "Mind CTI Updates on Company Held Auction Rate Securities." The release made the following statements:

We were advised that the Mantoloking CDO #564616AB6 has been downgraded to BBB by S&P. The security is still rated A3 and on CreditWatch with negative implications by Moody's. The investment grade rating BBB by S&P estimates adequate capacity to meet financial commitments. Adverse economic conditions are more likely to lead to a weakened capacity of the issuer to meet its financial commitments.
123. On this news, the price of the Company's stock inched lower from April 15, 2008 when it closed at $1.27 per share to close at $1.24 per share on April 18, 2008.

124. On May 15, 2008, defendants filed on Form 6-K a release dated May 14, 2008 announcing "Q1 2008 Preliminary Unaudited Operating Results." The fallout from the ARS debacle apparently led to yet another shake up of senior financial management, with Mind yet again replacing its CFO. The 6-K contained the following statements and was signed by defendant Eisinger:

**Auction Rate Securities**
As previously announced, we continue to receive interest payments every month on the held ARS, which is now rated BBB by S&P and A3 with CreditWatch with negative implications by Moody's.

**Appointment of New CFO**
MIND also announced today the appointment of Itay Barzilay, 34, as the Company's new Chief Financial Officer (CFO). Itay comes to MIND after holding several financial management positions since 2003 at Avaya (US). Prior to Avaya he served as a Consultant for the Corporate Finance Group at Ernst & Young (Tel Aviv, Israel). Itay is a Certified Public Accountant and holds a B.A. degree in Accounting and Economics from Tel Aviv University and an M.B.A. degree from New York University, Stern School of Business.

**Appointment of New Board Member**
Mr. Rimon Ben-Shaoul, who served on the Company's Board of Directors since 2002, resigned lately in order to pursue other business opportunities. MIND and Monica Eisinger personally express their profound gratitude and appreciation to Rimon for his significant contribution to the company.

125. Between May 14, 2008 and May 16, 2008, the price of the Company's stock traded between $1.24 and $1.27 per share to close at $1.24 per share on May 16, 2008.

126. On June 4, 2008 defendants filed on Form 6-K, signed by defendant Eisinger, a press release dated June 3, 2008 entitled, "Mind CTI Updates on Company Held Auction Rate Securities." The release made the following statements:

We were advised that the Mantoloking CDO #564616AB6 has been downgraded to BBB by S&P. The security is still rated A3 and on CreditWatch with negative implications by Moody's.
The investment grade rating BBB by S&P estimates adequate capacity to meet financial commitments. Adverse economic conditions are more likely to lead to a weakened capacity of the issuer to meet its financial commitments.

127. On this news, the price of the Company’s stock fell from its June 3, 2008 closing price of $1.17 per share to $1.10 per share on June 4, 2008 on above average trading volume.

128. On July 1, 2008, Mind’s Form 20-F for year ended December 31, 2007 was filed with the SEC. Defendant Eisinger signed the 2007 20-F

129. Therein, the 20-F reported that the Company took an “impairment charge” of $15.2 million to the Mantoloking ARS carrying value of (principal) of $20.3 million for the fourth quarter of 2007. Id. at F-35. The remaining principal value of $5.1 million was “reclassified” from “Short-Term Investments” to “Long-term Investment and Marketable Debentures.” F-34. In addition, the Company made the following statements concerning the Mantoloking ARS:

The Company accounts for its available-for-sale securities in accordance with SFAS No. 115, “Accounting for Certain Investments in Debt and Equity Securities.” At December 31, 2007, all of the Company’s long-term securities are reported at fair value. Due to the lack of availability of observable market quotes on the Company’s investment of auction rate securities, the fair value was estimated by an independent appraiser. The valuation model considered the structure of the security, the quality of the collateral and the default risks, and the liquidity determinations affecting the security.

Historically, given the liquidity created by auctions, the Company’s auction rate securities were presented as current assets under short-term investments in the Company’s balance sheet. Given the auction rate securities held by the Company at December 31, 2007 have experienced multiple failed auctions as the amount of securities submitted for sale has exceeded the amount of purchase orders, the Company’s auction rate securities are illiquid until there is a successful auction. Accordingly, the entire amount of such remaining auction rate securities has been reclassified from current to non-current assets and is presented among the long-term assets in the Company’s balance sheet as of December 31, 2007.

This sentence is, of course, is blatantly false. The $22.8 original principal amount of the Mantoloking ARS was carried as “Cash or Cash Equivalents” and was not classified to “Short-term Investments” until the third quarter of 2007.
130. In stark contrast to earlier statements made, particularly those contained in the February 27, 2008 6-K and June 4, 2008 6-K (which discussed an arbitration initiated by Mind against the bank that allegedly sold the Mantoloking ARS without revealing its nature to defendants), the 2007 20-F went on to now admit that defendants knew of the name and nature of the ARS at the time of its purchase in the fourth quarter of 2006:

The Company holds an investment of $20.3 million par value in auction rate security called “Mantoloking CDO 2006-1A, Class A-2” (hereinafter — the “Security”) which is secured by collateralized debt. Consistent with the Company’s investment policy guidelines, the auction rate securities investment held by the Company had AAA credit ratings at the time of purchase. With the liquidity issues experienced in the global credit and capital markets as described above, the Security held by the Company at December 31, 2007 have experienced multiple failed auctions. As of June 26, 2008, the Security is rated Ba1 by Moody’s and on Credit-Watch with negative implications. The security is rated BBB by Standard & Poor’s.


131. In addition, the 20-F on page 6 of the 137 page 2007 20-F belatedly posted a warning to investors concerning risks involved in investing in ARSs:

We have invested material funds in auction rate securities, whose value has been materially impaired and may be further impaired and whose liquidity may limit our ability to pursue acquisitions.

At December 31, 2007, we had an investment in the amount of $20.3 million in auction rate securities. Auction rate securities include long-term bonds that provide liquidity through a Dutch auction process that resets the applicable interest rate at pre-determined calendar intervals, generally every 28 days. This mechanism allows existing investors either to roll over their holdings, whereby they will continue to own their respective securities, or liquidate their holdings by selling such securities at par. The auctions have historically provided a liquid market for these securities as investors historically could readily sell their investments at auction. With the liquidity problems recently experienced in global credit and capital markets, certain auction rate securities experienced multiple failed auctions, beginning in August 2007 as the amount of securities submitted for sale exceeded the amount of purchase orders. The estimated fair value of our auction rate security as of December 31, 2007 was $5.1 million. Accordingly, we have recorded an impairment charge for 2007 in the amount of
$15.2 million in respect of our auction rate security. If uncertainties in credit markets continue or if such markets deteriorate further, we may incur additional impairments to our auction rate security.

[2007 20-F at 6]

132. Indeed, the November 2006 Offering Circular for the Mantoloking ARS warned defendants of the foregoing risks. The Offering Circular, 195 pages in length, contained no less than 33 pages of “Risk Factors” concerning the “Mantoloking CDO 2006-1.” Thus, if defendants simply revealed the name of the ARS earlier, the market may have known of and been able to independently evaluate the risks involved in purchasing Mind stock, as the Offering Circular is readily accessible.

133. The 2007 20-F revealed that the investment in the Mantoloking ARS, $22.8 million represented 83% of Mind’s reported cash balance as of December 31, 2006, 42.4% of Mind’s assets as of the same date, and 47.6% of Mind’s shareholders’ equity as December 31, 2006. The write-off alone, $15.2 million, wiped out all of 2007 pre-tax earnings of $3.4 million, and turned it into a pre-tax loss of almost $12 million.

134. The Mantoloking ARS Offering Circular on its face stated that it was a “CDO.” Thus, there is no credibility to defendants’ assertion in the February 27, 2008 6-K that they were unaware of such. The Offering Document specifically contained risk warnings concerning liquidity:

Limited Liquidity. There is currently no market for the Offered Securities. Although the Initial Purchaser may from time to time make a market in Offered Securities, the Initial Purchaser is under no obligation to do so. If the Initial Purchaser commences any market-making, it may discontinue the same at any time. There can be no assurance that a secondary market for any of the Offered Securities will develop, or if a secondary market does develop, that it will provide the holders of such Offered Securities with liquidity of investment or that it will continue for the life of the Offered Securities. In addition, the Offered Securities are Subject to certain transfer restrictions and can only be transferred to certain

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6 The Offering was underwritten by Merrill Lynch & Co.
transferees as described under “Transfer Restrictions.” Consequently, an investor in the Offered Securities must be prepared to hold its Offered Securities for an indefinite period of time or until the Stated Maturity of the Notes (or in the case of the Preference Shares, the liquidation of the Issuer).

Risk of Loss. An investment in securities such as the Offered Securities involves a high degree of risk that the purchaser of a Note or Preference Share may lose some or all of their investment.

(Mantoloking CDO 2006-1, Ltd., Mantoloking CDO 2006-1, LLC, including “Class A-2 Second Priority Senior Secured Floating Rate Notes due 2046” at 1 and 11).

135. In light of investors’ focus on Mind’s cash position, conference call after conference call, and defendants’ proud assertions that it was strong and liquid, it belies belief that no one in senior management – not Eisinger or any of Mind’s many CFOs – ever looked at the confirmations to see what tens of millions of investors’ dollars were purchasing.

136. On July 1, 2008, the price of the Company’s shares traded in the $1.00 range and since then had fallen below a dollar.

RECKLESS DISREGARD OF GAAP AND SEC REPORTING REQUIREMENTS

137. GAAP consists of those principles recognized by the accounting profession as the conventions, rules, and procedures necessary to define accepted accounting practice at the particular time. Regulation S-X, 17 C.F.R. § 210.4-01(a)(1), provides that financial statements that are not prepared in compliance with GAAP are presumed to be misleading and inaccurate.

138. GAAP “recognize[s] the importance of reporting transactions and events in accordance with their substance.” AU § 411.06. GAAP should be applied consistently. AU § 420.01 (“The report shall identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.”).
139. SEC Rule 13a-13 requires issuers to file quarterly reports. SEC Rule 12b-20 requires that periodic reports contain such further information as is necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

140. The SEC has stated, in Securities Act Release No. 6349 (September 8, 1981), that:

... it is the responsibility of management to identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company.

141. In addition, as noted by the SEC in Accounting Series Release 173, it is important that the overall impression created by the financial statements be consistent with the business realities of the company's financial position and operations.

142. During the Class Period, defendants also violated SEC disclosure rules as they failed to disclose the existence of known trends, events or uncertainties that they reasonably expected would have a material, unfavorable impact on net revenues or income or that were reasonably likely to result in the Company's liquidity decreasing in a material way, in violation of Item 303 of Regulation S-K under the federal securities laws (17 C.F.R. § 229.303), and that failure to disclose the information rendered the statements that were made during the Class Period materially false and misleading.

143. Defendants were required to disclose, in the Company's financial statements, the existence of the material facts described herein. The Company failed to make such disclosures. Defendants knew, or were reckless in not knowing, the facts which indicated that all of the Company's interim financial statements, press releases, public statements, and filings with the SEC, which were disseminated to the investing public during the Class Period, were materially false and misleading for the reasons set forth herein. Had the true financial position and results
of operations of the Company been disclosed during the Class period, the Company’s common stock would have traded at prices well below that which it did.

144. As a result of Minds’ accounting improprieties discussed herein, the Company’s financial condition and cash flows were continually misstated throughout the Class Period. Mind’s misstatements of its financial statements throughout the Class Period are material. The SEC Staff Accounting Bulletin No. 99 – Materiality (“SAB No. 99”) specifically addresses misstatements and materiality:

[Registrants] must make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the registrant and must maintain internal accounting controls that are sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP. . . . Accordingly, failure to record accurately immaterial items, in some instances, may result in violations of the securities laws.

145. SAB No. 99 expresses the SEC’s view “that exclusive reliance on certain quantitative benchmarks to assess materiality in preparing financial statements . . . is inappropriate.” SAB No. 99 reiterates the FASB’s concept of materiality stating that a matter is “material” if there is a substantial likelihood that a reasonable person would consider it important. FASB Statement of Concepts (“FASCON”) No. 2.

146. Finally, SFAS No. 154, Accounting Changes and Error Corrections, and Accounting Principles Board Opinion No. 20 (“APB No. 20”), which was superceded by SFAS No. 154 in 2006, governs when an issuer must restate previously issued financial statements due to material errors therein. Restatements are only to be made when material. SFAS No. 154 at 10.

148. SFAS No. 154, as did APB 20, defines “Error in previously issued financial statements,” as follows:

An error in recognition, measurement, presentment, or disclosure in financial statements resulting from mathematical mistakes, mistakes in the application of GAAP, or oversight or misuse of facts that existed at the time the financial statements were prepared.


**Fundamental GAAP Violations**

149. The Company’s financial statements issued during the Class Period also violated the following fundamental GAAP principles, among others:

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

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

152. The principle that financial reporting should provide information about an enterprise’s financial performance during a period; investors and creditors often use information about the past to help in assessing the prospects of an enterprise; thus, although investment and
credit decisions reflect investors expectations about the future enterprise performance, those expectations are commonly based, at least partly, on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);

153. The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it; 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 in general (FASB Statement of Concepts No. 1, ¶50);

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

155. The principle of completeness, which means 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);

156. 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; the best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (FASB Statement of Concepts No. 2 ¶¶ 95, 97);

157. The principle that disclosure of accounting policies should identify and describe the accounting principles followed by the reporting entity and the methods of applying those principles that materially affect the determination of financial position (APB Opinion No. 22, ¶12);
158. The principle that if no accrual is made for a loss contingency, then disclosure of the contingency shall be made when there is a reasonable possibility that a loss or an additional loss may have been incurred (Statement of Financial Accounting Standards No. 5, ¶10);

159. The principle that contingencies and other uncertainties that affect the fairness of presentation of financial data at an interim date shall be disclosed in interim reports in the same manner required for annual reports (APB Opinion No. 28, ¶22);

160. The principle that disclosures of contingencies shall be repeated in interim and annual reports until the contingencies have been removed, resolved, or have become immaterial (APB Opinion No. 28, ¶22);

161. The principle that management should provide commentary relating to the effects of significant events upon the interim financial results (APB Opinion No. 28, ¶32);

162. In addition, Regulation S-X (17 C.F.R. § 210), which “sets forth the form and content of and requirements for financial statements required to be filed [with the SEC]” applies to interim financial statements. 17 C.F.R. §§ 210.1-01(a)(2), 210.10.

163. “The term ‘financial statements’ as used in [Regulation S-X] shall be deemed to include all notes to the statements and all related schedules.” 17 C.F.R. § 210.1-01(b). Thus, “the interim financial information shall include disclosures either on the face of the financial statements or in accompanying footnotes sufficient so as to make the interim financial information presented not misleading.” 17 C.F.R. § 210.10(a)(5).

164. “[D]isclosure shall be provided where events subsequent to the end of the most recent fiscal year have occurred which have a material impact on the registrant. . . . Notwithstanding the [foregoing], where material contingencies exist, disclosure of such matters shall be provided even though a significant change since year end may not have occurred.” 17
C.F.R. § 210.01(a)(5). "Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented." 17 C.F.R. § 210.01(b)(8).

165. Mind's financial statements issued during the Class Period violated the foregoing principles and regulations.

**Material Weakness In Internal Controls and Duties And Responsibilities Under SOX**

166. Section 13(b)(2)(B) of the Exchange Act requires every issuer that has securities registered pursuant to Section 12 of the Exchange Act, such as Mind, to devise and maintain a system of internal accounting controls sufficient to reasonably assure, among other things, that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP. Defendants violated Section 13(b)(2)(B) of the Exchange Act by, among other things, failing to maintain the required internal accounting controls necessary to reflect the true cash position and investment risk profile of Mind and to prepare Mind's financial statements in accordance with GAAP.

167. See also AICPA's Generally Accepted Auditing Standards definition of "Material Weakness" in internal controls:

A material weakness is a condition that precludes the entity's internal control from providing reasonable assurance that material misstatements in the financial statements in the financial statements will be prevented or detected on a timely basis.

_Id._ at § 501.55.

168. As alleged herein, defendants admitted to material weaknesses in internal controls during the Class Period.

169. Further, in an effort to protect investors from corporate wrongdoing by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, § 302
of the Sarbanes–Oxley Act of 2002, 15 U.S.C.A. § 7241, entitled “Corporate responsibility for financial reports” directs that the SEC shall promulgate regulations requiring that, in relevant part, “for each company filing periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 . . . the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer’s knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer’s knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer’s internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer’s auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer’s ability to record, process, summarize, and report
financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.


(a) Certification of periodic financial reports.--Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) Content.--The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of... 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.


a. A statement of management’s responsibility for establishing and maintaining adequate internal control over financial reporting for the company;
b. A statement identifying the framework used by management to conduct the required evaluation of the effectiveness of the company’s internal control over financial reporting;

c. Management’s assessment of the effectiveness of the company’s internal control over financial reporting as of the end of the company’s most recent fiscal year, including a statement as to whether or not the company’s internal control over financial reporting is effective. The assessment must include disclosure of any ‘material weaknesses’ in the company’s internal control over financial reporting identified by management. Management is not permitted to conclude that the company’s internal control over financial reporting is effective if there are one or more material weaknesses in the company’s internal control over financial reporting; and

d. A statement that the registered public accounting firm that audited the financial statements included in the annual report has issued an attestation report on management’s assessment of the registrant’s internal control over financial reporting.

Id.

172. The PCAOB adopted the long-standing auditing provision that a company has a control deficiency “when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis.” Notice of Filing of Proposed Rule on Auditing Standard No. 2, An Audit of Internal Control Over Financial Reporting Performed In Conjunction With an Audit of Financial Statements, File No. PCAOB-2004-03 (Apr. 8, 2004). Further, the PCAOB believes that a “deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.” Id.

ADDITIONAL SCIENTER ALLEGATIONS

173. Defendants admitted at the end of the Class Period that at the time of purchase or shortly thereafter of the Mantoloking ARS they were aware of its name, credit rating, and the fact that the security was indeed a CDO. Notwithstanding, not until the defendants became
aware of the August 2007 failures in the ARS auction market did defendants decide to gradually disclose, beginning in November 2007 that Mind was even carrying an ARS on its balance sheet.

174. Defendants admitted as well that the classification of the ARS as "Cash or Cash Equivalents" was a misstatement when Mind restated its 2006 financial statements to reveal that it was indeed carrying such investments.

175. Defendants also admitted that the ARS was compliant with Mind’s investment policy guidelines in the 2007 20-F where it disclosed:

The Company holds an investment of $20.3 million par value in auction rate security called “Mantoloking CDO 2006-1A, Class A-2” (hereinafter – the “Security”) which is secured by collateralized debt. Consistent with the Company’s investment policy guidelines, the auction rate securities investment held by the Company had AAA credit ratings at the time of purchase. With the liquidity issues experienced in the global credit and capital markets as described above, the Security held by the Company at December 31, 2007 have experienced multiple failed auctions. As of June 26, 2008, the Security is rated Ba1 by Moody’s and on Credit-Watch with negative implications. The security is rated BBB by Standard & Poor’s.


176. Finally, defendants admitted that its risk warnings were deficient during the Class Period, when it added one directly related to the ARS and the ARS auction market.

APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE MARKET

177. With respect to plaintiff’s claims brought under the Exchange Act and Rule 10b-5, plaintiffs will rely upon the presumption of reliance established by the fraud-on-the-market doctrine in that, among other things:

(a) Defendants made public misrepresentations or failed to disclose material facts during the Class Period;

(b) the omissions and misrepresentations were material;
(c) the Company's securities traded in efficient markets;
(d) the misrepresentations alleged would tend to induce a reasonable investor
to misjudge the value of the Company's securities; and
(e) plaintiffs and other members of the Class purchased Mind's common
stock between the time defendants misrepresented or failed to disclose material facts and the
time the true facts were disclosed, without knowledge of the misrepresented or omitted facts.

178. At all relevant times, the markets for Mind's common stock were efficient for the
following reasons, among others:
(a) during the Class Period, Mind enjoyed a substantial daily trading volume
on two large stock exchanges, the NASDAQ average daily trading volume during the Class
Period was approximately 47,000 shares;
(b) a number of securities analysts followed and reported on the Company's
common stock during the Class Period;
(c) there were numerous market makers for Mind common stock during the
Class Period;
(d) as a regulated issuer, Mind filed periodic public reports with the NASD
and SEC; and
(e) as demonstrated by the events alleged herein, the movement of Mind's
stock price shows a cause and effect relationship between unexpected corporate events or
financial releases and an immediate response in stock price.

LOSS CAUSATION/ECONOMIC LOSS

179. During the Class Period, as detailed herein, Defendants engaged in a scheme to
deceive the market and a course of conduct that artificially inflated Mind's stock price and
operated as a fraud or deceit on Class Period purchasers of Mind stock. During the Class Period, defendants achieved a façade of stable revenue results, success, growth, liquidity and strong future business prospects by:

- Disseminating statements defendants knew lacked a reasonable basis;
- Disseminating statements defendants knew were false and misleading regarding, inter alia, the Company’s cash position, risk profile and internal controls, and compliance with securities laws.

180. Defendants’ false and misleading statements and forecasts caused Mind stock to trade at artificially inflated levels, reaching as high as $3.03 per share, throughout the Class Period.

181. From November 2007, to February 27, 2008, defendants were forced to gradually publicly disclose Mind was not the financially sound company investors had been led to believe it was during the Class Period. Defendants revealed that a substantial portion of Mind’s purportedly riskless and liquid cash position was in reality an ARS collateralized by 126 CDOs that was illiquid and that the Company lacked sufficient accounting internal controls to report such in compliance with GAAP. When the fraud was fully revealed the artificial inflation of Mind’s common stock evaporated, and its price per share fell 15% from its previous trading day’s closing price of $1.97 per share, to close at $1.68 per share, damaging investors on unusually high trading volume of 382,400 shares.

182. The timing and magnitude of Mind’s stock price decline negates any inference that the loss suffered by plaintiff and other Class members was caused by changed market conditions, macroeconomic or industry factors or Company-specific facts unrelated to the defendants’ fraudulent conduct.
NO STATUTORY SAFE HARBOR EXISTS FOR
DEFENDANTS’ STATEMENTS

183. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the false statements pleaded in this complaint. The specific statements pleaded herein either were not identified as “forward-looking statements” when made or were not accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. 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 authorized and/or approved by an executive officer of Mind who knew that those statements were false when made.

CLASS ACTION ALLEGATIONS

184. Plaintiff brings this action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of a Class consisting of all persons who purchased or otherwise acquired Mind common stock from June 8, 2006 through February 27, 2008 inclusive (the “Class Period”), and who were damaged thereby. Excluded from the Class are defendants, members of the immediate family of each of the defendants, any subsidiary or affiliate of Mind and the directors, officers, and employees of Mind or its subsidiaries or affiliates, or any entity in which any excluded person has a controlling interest, and the legal representatives, heirs, successors, and assigns of any excluded person.

185. The members of the Class are so numerous that joinder of all members is impracticable. 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 thousands
of members of the Class. Record owners and other members of the Class may be identified from records maintained by the Company and/or its transfer agents and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

186. Plaintiff’s claims are typical of the claims of the other members of the Class as all members of the Class were similarly affected by defendants’ wrongful conduct in violation of federal securities law that is complained of herein.

187. 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.

188. 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:

(i) whether the federal securities laws were violated by defendants’ acts and omissions as alleged herein;

(ii) whether defendants participated in and pursued the common course of conduct complained of herein;

(iii) whether documents, press releases, and other statements disseminated to the investing public and the Company’s shareholders during the Class Period misrepresented material facts about the business, operations, financial condition and prospects of Mind;

(iv) whether statements made by defendants to the investing public during the Class Period misrepresented and/or omitted to disclose material facts about the business, operations, value, performance, and prospects of the Company;

(v) whether the market price of Mind common stock during the Class Period
was artificially inflated due to the material misrepresentations and failures to correct the material misrepresentations complained of herein; and

(vi) the extent to which the members of the Class have sustained damages and the proper measure of damages.

189. 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 suit as a class action.

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

190. Plaintiff repeats and realleges each and every allegation contained above.

191. Each of the defendants: (a) knew or recklessly disregarded material adverse nonpublic information about the Company's financial results and then existing business conditions, which was not disclosed; and (b) participated in drafting, reviewing and/or approving the misleading statements, releases, reports, and other public representations of and about the Company.

192. During the Class Period, defendants, with knowledge of or reckless disregard for the truth, disseminated or approved the false statements specified above, which were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
193. Defendants have violated § 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and a course of business that operated as a fraud or deceit upon the purchasers of Mind common stock during the Class Period.

194. Plaintiff and the Class have suffered damage in that, in reliance on the integrity of the market, they paid artificially inflated prices for Mind common stock. Plaintiff and the Class would not have purchased Mind common stock at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by defendants’ false and misleading statements.

195. As a direct and proximate result of defendants’ wrongful conduct, plaintiff and the Class suffered damages in connection with their respective purchases of the Company’s common stock during the Class Period.

SECOND CLAIM
Violations of Section 20(a) Of The Exchange Act
Against the Individual Defendants

196. Plaintiff repeats and realleges each and every allegation contained above.

197. The Individual Defendants acted as controlling persons of the Company within the meaning of § 20(a) of the Exchange Act. By reason of their senior executive positions they had the power and authority to cause the Company to engage in the wrongful conduct complained of herein.

198. By reason of such wrongful conduct, the Individual Defendants are liable pursuant to § 20(a) of the Exchange Act. As a direct and proximate result of their wrongful
conduct, plaintiff and the other members of the Class suffered damages in connection with their purchases of Mind common stock during the Class Period.

**PRAYER FOR RELIEF**

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

A. Determining that this action is a proper class action and certifying plaintiff as class representative under Rule 23 of the Federal Rules of Civil Procedure;

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**

Dated: August 12, 2008

Respectfully submitted,

[Signature]

William B. Federman, WP9124
FEDERMAN & SHERWOOD
10205 North Pennsylvania Avenue
Oklahoma City, OK 73120-4117
Telephone: (405) 235-1560
Facsimile: (405) 239-2112

whf@federmanlaw.com
Attorneys for Plaintiff
Plaintiffs Certification of Investment of
MIND C.T.I., Ltd. [NASDAQ: MNDO]

1. I hereby certify that the following is true and correct to the best of my knowledge, information and belief:

   1. I have reviewed the Complaint in this action and authorize the filing of this Certification.

   2. If chosen, I am willing to serve as a representative party on behalf of the class (the "Class") as defined in the Complaint, including providing testimony at deposition and trial (if necessary). I am willing to participate on an executive committee of shareholders.

   3. Plaintiffs transaction in MIND C.T.I., Ltd. [NASDAQ: MNDO] security that is the subject of this action is:

      Attached hereto as Exhibit "A"

   4. I did not purchase these securities at the direction of my counsel, or in order to participate in a lawsuit under the Securities Exchange Act of 1934.

   5. During the three-year period preceding the date of this Certification, I have not sought to serve, nor have I served, as a representative to any party or on behalf of any class in any action arising under the Securities Exchange Act of 1934.

   6. I will not accept any payment if chosen to serve as a representative party on behalf of the Class beyond my pro rata share of an award to the Class, or as otherwise ordered and approved by the Court.


________________________________________________________
Signature

SPARIT TEMAR
Name (please print)

Dear Address

________________________________________________________________
City

Telephone Number

State Zip:

Cell Number

E-Mail Address

Signed under penalty of perjury, this 12 day of August, 2009.

Return to:
William B. Federman
FEDERMAN & SHERWOOD
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Website: www.federmanlaw.com
## EXHIBIT A

**SARIT TAMAR Transactions in MIND C.T.I., Ltd.**

<table>
<thead>
<tr>
<th>Trade Date</th>
<th>Transaction</th>
<th>Quantity</th>
<th>Price</th>
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<td>Buy</td>
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